



# The Advocates' Society La Société des plaideurs

April 11, 2024

VIA EMAIL: [FinanceMinister@novascotia.ca](mailto:FinanceMinister@novascotia.ca)  
[JUSTMIN@novascotia.ca](mailto:JUSTMIN@novascotia.ca)

The Honourable Allan MacMaster, M.L.A.  
Minister of Finance and Treasury Board  
Department of Finance and Treasury Board  
7<sup>th</sup> Floor, Provincial Building  
1723 Hollis Street, P.O. Box 187  
Halifax, Nova Scotia B3J 2N3

The Honourable Brad Johns, M.L.A.  
Attorney General and Minister of Justice  
Department of Justice  
1690 Hollis Street, P.O. Box 7  
Halifax, Nova Scotia B3J 2L6

Dear Ministers:

**RE: Funding for Justice in Budget 2024-2025**

The Advocates' Society writes to express our serious concerns about the funding allocated to the justice system in Nova Scotia's 2024-2025 budget released on February 29, 2024.

As you know, The Advocates' Society is a not-for-profit organization representing approximately 5,500 diverse lawyers and students across the country—unified in their calling as advocates. As the leading national association of litigation counsel in Canada, The Advocates' Society and its members are dedicated to promoting a fair and accessible system of justice, excellence in advocacy, and a strong, independent, and courageous bar. A core part of our mission is to provide policymakers with the views of legal advocates on matters that affect access to justice and the administration of justice.

While we appreciate that funding for justice has increased by approximately \$15 million in absolute terms (from \$453.5 million to \$468.7 million) in the 2024-2025 budget, we also note that the Government's projected spending on justice constitutes an estimated 2.8% of total departmental expenses – a smaller proportion of government spending than at any other time in the last decade. We also note that the majority of the increase in funding is being dedicated to Public Safety and Security, and in particular, the Provincial Policing Program. While we acknowledge the importance of community safety to the rule of law and public confidence in the justice system, this is at a time when Nova Scotia's justice system is facing numerous other pressing issues that – if left neglected – will soon reach crisis proportions, if they have not already.

For example, in recent letters to your Government (attached hereto), The Advocates' Society highlighted that a crisis of delay is plaguing our civil and family courts and that significantly more resources are required to diminish these delays. The Advocates' Society appreciates the modest additional \$4 million in funding for court services and staff included in the 2024-2025 budget. Unfortunately, we are skeptical that this investment will suffice to resolve the endemic delays in our civil and family courts, which severely impact access to justice for Nova Scotians.

In addition, there have been recent calls for greater funding for Nova Scotia Legal Aid, in particular to raise the pay rates for lawyers who accept legal aid certificates, and the amount of preparation time for which they can bill. The pay rates have not changed since 2014, when they were raised by \$10/hour to \$70/hour for lawyers with less than 5 years of experience, \$80/hour for lawyers with 5-plus years of experience, and \$95/hour for homicide offences when lawyers have 10-plus years of experience.<sup>1</sup> Nova Scotia Legal Aid's 2022-2023 Annual Report notes that these tariffs are some of the lowest in Canada; and private bar lawyers reported to Legal Aid that they stopped taking legal aid certificates because "[t]ariff rates offered [...] were too low and the number of preparation hours being provided was insufficient to pay lawyers for the time they needed to expend on files."<sup>2</sup> The Advocates' Society's had understood that your Government intended to review the fees paid to lawyers who do legal aid work by March 2024.<sup>3</sup> However, this has not occurred, and the estimated expenditure for Nova Scotia Legal Aid has declined by a little under \$1 million in the 2024-2025 budget. We fail to see how rates will be raised with the new budget for Legal Aid.

The Advocates' Society also notes that the estimated spending on Correctional Services in 2024-2025 has declined by just under half a million, and there has been no appreciable increase in full-time equivalents, at a time when lockdowns at the Central Nova Scotia Correctional Facility (known as the Burnside Jail) have become routine owing to "chronic staffing shortages" caused by the wages and conditions of employment for Corrections staff.<sup>4</sup>

These are simply a few examples of the ways in which Nova Scotia's justice system is showing the strain of a lack of resources, impacting the rights of residents in this province and their access to justice. We encourage your Government to work to address these concerns by allocating more funding to the justice system on an urgent basis.

Thank you for your attention to this letter. I invite you to contact The Advocates' Society with any questions.

Yours sincerely,



Michelle M. Kelly, K.C.  
Chair, Atlantic Advisory Committee

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<sup>1</sup> *Legal Aid General Regulations and Tariff of Fees*, N.S. Reg. 77/77.

<sup>2</sup> Nova Scotia Legal Aid, [Annual Report 2022-23](#), at pp. 32-33.

<sup>3</sup> Michael Gorman, "[Justice Department reviewing fees paid to lawyers who take on legal aid cases](#)" *CBC News* (March 29, 2023).

<sup>4</sup> Blair Rhodes, "[Staff shortages at Nova Scotia jails prompt Charter challenges by inmates](#)" *CBC News* (May 19, 2023); Blair Rhodes, "[Judges say chronic staffing shortages plaguing N.S. jail must be addressed](#)" *CBC News* (July 17, 2023); Keith Doucette, "[Judge rules lockdowns due to staff shortages at Nova Scotia jails are unlawful](#)" *CBC News* (January 15, 2024); Sean Mott, "[Union for N.S. jail workers says better wages will help staff shortages](#)" *CTV News* (January 18, 2024).

**Attachments:**

1. Letter to the Hon. Brad Johns re: The Advocates' Society's Call for Action on Delay in the Civil and Family Justice System (July 25, 2023)
2. Letter to the Hon. Allan MacMaster re: Prioritizing Funding for Civil and Family Justice in Budget 2024 (January 25, 2024)

**CC:** Dominique Hussey, President, The Advocates' Society  
Vicki White, Chief Executive Officer, The Advocates' Society



# The Advocates' Society La Société des plaideurs

July 25, 2023

VIA EMAIL: [JUSTMIN@novascotia.ca](mailto:JUSTMIN@novascotia.ca)

The Honourable Brad Johns, M.L.A.  
Attorney General and Minister of Justice of Nova Scotia  
Department of Justice  
1690 Hollis Street, P.O. Box 7  
Halifax, Nova Scotia B3J 2L6

Dear Minister:

## **RE: The Advocates' Society's Call for Action on Delay in the Civil and Family Justice System**

Lengthy delay in the delivery of civil and family justice is a critical barrier to access to justice for Canadians. The Advocates' Society is deeply concerned that if justice system stakeholders do not come together and act urgently to resolve the problem of delay, the civil justice system may fail and lose the confidence of the public.

To galvanize policymakers and stakeholders to mobilize, The Advocates' Society recently published a national call to action entitled [Delay No Longer. The Time to Act Is Now](#). In the report, The Advocates' Society calls on the federal, provincial and territorial governments to urgently dedicate additional resources to the civil and family justice system, and calls on all stakeholders in the justice system, including governments, the courts, the bar and the public, to take immediate and concerted action to solve the endemic delays plaguing the delivery of civil and family justice across Canada. (The call to action is attached to this letter for your convenient reference. Please note a French translation is forthcoming.)

The call to action starts with a reminder to stakeholders as to why the civil justice system matters to every Canadian individual, family, and business, as well as to our society at large. The Advocates' Society believes a reminder is necessary because – despite the severity of the current situation – the civil justice crisis has only recently started to garner the attention it deserves from the media, the public, and policymakers.<sup>1</sup> We hope that by shining a light on this crisis, we will generate real change. The call to action then sets out the scope and impact of delays in the resolution of civil and family matters before the courts. In addition to the impact on individual litigants and their access to justice, we describe how delay negatively affects the rule of law, the conduct of litigation, and public confidence in the justice system, potentially leading to the privatization of civil justice.

The call to action emphasizes that the civil and family justice system has been chronically underfunded for decades. The Advocates' Society believes it is time for governments to remedy this longstanding circumstance and make real, forward-looking investments in the civil and family justice system to bring it on par with other critical democratic institutions. Without allocating more money to justice, delay and

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<sup>1</sup> See e.g. CBC News, "[Canada's backlogged civil and family courts in 'crisis,' according to lawyers group](#)" (July 10, 2023).

backlogs simply cannot be remedied and will continue to grow. Judicial resources and court staff are identified as two key funding priorities, to help the courts cope with current backlogs and caseloads.

We understand that support and cooperation from court leadership and the bar will be necessary in implementing any solutions to address the problem of delay in the civil justice system. The Advocates' Society is writing to the Chief Justices of the Nova Scotia Courts under separate cover.

The Advocates' Society looks forward to working with stakeholders to facilitate meaningful change on the issue of delay in civil and family justice. We welcome you to reach out should you wish to connect regarding the issue of delay, or regarding any other issues with which The Advocates' Society may be able to assist.

Yours sincerely,



Dominique T. Hussey  
President



Michelle M. Kelly, K.C.  
Chair, Atlantic Advisory Committee

**Attachments:**

1. The Advocates' Society, *Delay No Longer. The Time to Act Is Now.* (June 29, 2023)

**CC:** Sheree Conlon, K.C., Treasurer, The Advocates' Society  
Vicki White, Chief Executive Officer, The Advocates' Society

**More about The Advocates' Society**

Established in 1963, The Advocates' Society is a not-for-profit organization representing approximately 5,500 diverse lawyers and students across the country—unified in their calling as advocates. As the leading national association of litigation counsel in Canada, The Advocates' Society aims to create a community of advocates who aspire to excellence in all aspects of the profession. We do so by providing skills-based professional development, publishing best practices, and fostering mentorship and collegiality among advocates. As the voice of advocates in the justice system, we are also dedicated to promoting a fair and accessible system of justice and a strong, independent, and courageous bar. The Advocates' Society intervenes in court cases that impact the profession, and makes submissions to governments, regulators, and other organizations on legislation and policy that impact access to justice, the administration of justice, the independence of the bar and the judiciary, the practice of law by advocates, and equity, diversity, inclusion, and reconciliation with Indigenous peoples in the justice system and legal profession. For more information about The Advocates' Society, please visit our website at <https://www.advocates.ca/>.



# The Advocates' Society La Société des plaideurs

January 25, 2024

VIA EMAIL: [budget@novascotia.ca](mailto:budget@novascotia.ca)

The Honourable Allan MacMaster, M.L.A.  
Minister of Finance and Treasury Board  
Department of Finance and Treasury Board  
7th Floor, Provincial Building  
1723 Hollis Street, P.O. Box 187  
Halifax, Nova Scotia B3J 2N3

Dear Minister:

## **RE: Prioritizing Funding for Civil and Family Justice in Budget 2024**

The Advocates' Society calls on the Government of Nova Scotia to urgently dedicate additional resources to the civil and family justice system in Budget 2024, in order to improve access to justice for Nova Scotians.

### ***Why does the civil and family justice system matter?***

Broadly speaking, the Canadian justice system deals with three main types of cases – criminal prosecutions, civil disputes, and family matters. While an effective and well-resourced criminal justice system is essential to the maintenance of a just society in Canada, The Advocates' Society wishes to highlight that the civil and family justice system is equally critical to every person, family, organization and business in Canada, to the peaceful and democratic society in which we live, and to the health of our economy. Nearly all Canadians will experience at least one civil or family justice issue in their lifetime.<sup>1</sup> The civil and family courts can resolve these disputes between people, businesses and governments in a just and fair way. The resolution, or lack thereof, of these issues by the justice system can alter the course of an individual's life – affecting health, family, work and finances.

### ***What is the problem?***

Canada's civil and family justice system is unfortunately in crisis, nationwide. Delay has become endemic in civil and family courts across Canada. Many Canadians, their families (including children), and businesses wait months or years to have basic civil, commercial, and family disputes heard and decided by the courts. This lengthy delay in the delivery of justice is a critical barrier to access to justice for Canadians. Access to timely justice can be the difference between having a roof over one's head, putting food on the table, being safe from a violent ex-spouse, keeping a business going – or not. Justice delayed is justice denied, and for many, the consequences of justice being delayed are life-altering. Delays in the

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<sup>1</sup> Trevor C. W. Farrow *et al.*, "Everyday Legal Problems and the Cost of Justice in Canada: Overview Report" (2016), online: <https://www.fcj-fcj.org/sites/default/files/Everyday%20Legal%20Problems%20and%20the%20Cost%20of%20Justice%20in%20Canada%20-%20Overview%20Report.pdf>

court system compromise access to justice, damage the rule of law, impact the economy,<sup>2</sup> and deeply undermine public confidence in the administration of justice.

Delays can also have a profound impact on individuals' health. The anxiety and worry that comes about from being engaged in legal proceedings is well documented. At a time when our health systems are already taxed, the impact of delayed access to justice will only serve to compound pressure on our healthcare systems, including our mental health system.

### ***How can the Government help fix this problem?***

The civil and family justice system has been chronically underfunded for decades. It is time for governments to remedy this longstanding neglect and make real, forward-looking investments in the civil and family justice system commensurate with investments made in and attention afforded other critical democratic institutions. Delay and backlogs simply cannot be remedied, and will continue to grow, without allocating more dollars to justice. Key funding priorities include investments in judicial resources, court staff (including recruitment, training, and retention), technology, court facilities, legal aid, and data collection and analysis so continuous improvements can be made and measured.

Delay in the civil justice system is negatively affecting the rights of thousands of Canadian individuals, families, businesses and other organizations. The Advocates' Society encourages your Government to address this issue and prioritize funding for the civil and family justice system in Budget 2024. Below, I have linked The Advocates' Society's full call to action to stakeholders regarding delay in the civil justice system, entitled *Delay No Longer. The Time to Act Is Now*. I invite you to contact The Advocates' Society should you have any questions.

Thank you for the opportunity to make these submissions.

Yours sincerely,



Michelle M. Kelly, K.C.  
Chair, Atlantic Advisory Committee

#### **Links:**

1. The Advocates' Society, [Delay No Longer. The Time to Act Is Now](#). (*aussi disponible en français*)

**CC:** The Honourable Brad Johns, M.L.A., Attorney General and Minister of Justice of Nova Scotia  
Vicki White, Chief Executive Officer, The Advocates' Society

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<sup>2</sup> See Carolyn Gruske, "[Court delays hamper dispute resolution](#)" *Lexpert* (November 23, 2023).

### **More about The Advocates' Society**

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