



NOVA SCOTIA  
BARRISTERS' SOCIETY

## MEMORANDUM TO COUNCIL

**From:** Emma Halpern, Equity Officer

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**Date:** January 23, 2015

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**Subject:** Equity Office Monitoring Report

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**For:**

<b>Approval</b>	<input type="checkbox"/>
<b>Introduction</b>	<input type="checkbox"/>
<b>Information</b>	<input checked="" type="checkbox"/>

### History

The Society created the Race Relations Committee in 1990 in response to the recommendations from the Marshall Commission of Inquiry. In presenting the newly formed committee to Council, the Chair, Jamie Saunders, expressed his view that the Society must be responsive to the various racial, ethnic, and historical backgrounds of the public and the members and the Society must be vigilant to react quickly to acts or omissions which threaten fundamental human rights and dignities.<sup>1</sup> This perspective continues to resonate today through the Society's commitment to cultural competence education and to advocating for enhanced access to legal services and to the justice system for equity-seeking and economically disadvantaged Nova Scotians.<sup>2</sup>

In response to a request from the Race Relations Committee and in support of a number of findings from the Marshall Commission the Society created its Equity Office in 1997. The equity program was determined to be necessary to support the public interest and to assist the legal profession in examining and overcoming some long-standing historic issues and challenges, particularly in relation to racial and gender equity within the profession. In fact, because of Nova Scotia's unique history, The Nova Scotia Barristers' Society was the first law society in Canada to develop a full-time, permanent Equity Officer position. There are currently equity programs in seven Canadian provinces.

The primary role of the Equity Officer, at the inception of this office, was to build liaison programs with the African Nova Scotian and Mi'kmaq communities and to address the issue of retention of women in the legal profession. This work was undertaken with the support of the Race Relations Committee (now the Racial Equity Committee) and the Gender Equality Committee (now the Gender Equity Committee).

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<sup>1</sup> Nova Scotia Barristers' Society Council Minutes: Friday, March 23, 1990

<sup>2</sup> Nova Scotia Barristers' Society 2013-2016 Strategic Framework  
<http://nsbs.org/sites/default/files/cms/menu-pdf/strategicframework.pdf>

In 2004 when the *Legal Profession Act* came into force, s.4 (1) articulated the Society's purpose: "to uphold and protect the public interest in the practice of law".<sup>3</sup> Then in 2010, this section was further amended to include:

- 4(2) (d) seek to improve the administration of justice in the Province by
- (i) regularly consulting with organizations and communities in the Province having an interest in the Society's purpose, including, but not limited to, organizations and communities reflecting the economic, ethnic, racial, sexual and linguistic diversity of the Province...<sup>4</sup>

And with this change it became all the more clear that protecting the public interest required the Society to regularly consult with equity-seeking communities<sup>5</sup> who have been traditionally marginalized by the justice system. Over the past 17 years, the Equity Office has played a crucial role in upholding the public interest in the practice of law by seeking to improve the administration of justice by working closely with diverse communities and building equity and diversity values and principles into the policies, programs and procedures of the Society and for its members. Included in this work are initiatives to ensure that both the law and the practice of law reflect Nova Scotia's diverse population, including African Nova Scotian, Mi'kmaq and other equity-seeking communities.

The Equity Office assists in fulfilling the Society's regulatory functions of maintaining public confidence in the regulation of the profession, upholding the public interest in the practice of law and seeking to improve the administration of justice in relation to equity and diversity.

Under the direction of the Executive Director, the Equity Office, through its [mandate](#) promotes the interests of equity-seeking groups in Nova Scotia by:

- Seeking to improve the administration of justice;
- Addressing issues of racism, sexism and other forms of discrimination in the legal profession; and
- Ensuring that the legal profession adequately reflects the public it serves.

The Equity Office actively addresses this mandate by advising the Society on equity issues and providing advice on how these can be incorporated into Society policies and activities; promoting membership in the legal profession and the provision of legal services by members of equity-seeking group; and working on projects and initiatives aimed at improving the administration of justice by promoting enhanced access to legal services and to the justice system for equity-seeking groups.<sup>6</sup>

As discussed above, The Marshall Commission was the catalyst for the creation of the Race Relations Committee which supported and advocated for the creation of the Equity Office. The Marshall Commission was a defining moment for the justice system in Nova Scotia and ultimately the findings and recommendations from the Marshall Commission have shaped and changed this Province's understanding of justice in the public interest.

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<sup>3</sup> Legal Profession Act S.N.S. 2004, c 28, as amended by S.N.S. 2010, c 56  
<http://nsbs.org/sites/default/files/cms/menu-pdf/legalprofessionact.pdf>

<sup>4</sup> Ibid

<sup>5</sup> *Equity-seeking groups include women, Aboriginal peoples, racialized peoples, persons with disabilities and persons seeking equality on the basis of their sexual orientation and gender identity.*

<sup>6</sup> Mandate of the Equity Office, Legal Professions Act s. 4 (2)(d), 9(1)  
[http://nsbs.org/sites/default/files/cms/menu-pdf/2013-05-24\\_eq\\_mandate.pdf](http://nsbs.org/sites/default/files/cms/menu-pdf/2013-05-24_eq_mandate.pdf)

The finding of the Commission deeply impacted Nova Scotia's legal community and significant changes came about as a result of the Marshall Commission findings and recommendations. In particular, the Society clearly acknowledged the existence of discrimination in the legal profession and made concrete commitments to refuse to tolerate discrimination in the future. F.B. Wickwire QC in a 1991 Society Report on the Marshall Commission made the following statement: "our commitment as the governing body of the legal profession in Nova Scotia is firm: to do all that we can to eliminate discrimination in the justice system".<sup>7</sup> This sentiment shaped the decision to support the Equity Committees, the Equity Office and future decisions relating to equality and discrimination. In the years following the Marshall Commission, the Society's commitment to addressing discrimination was far reaching and touched on every aspect of the legal system from legal education to access to justice. Through the Equity Office and Equity Committees, the Society continues to recognize, support, and work towards accomplishing many of the Marshall Commission recommendations including, support of the Indigenous Blacks and Mi'kmaq Initiative, advocating for a diverse judiciary, encouraging sensitivity and understanding for the concerns of equity-seeking law students and lawyers, increasing awareness of systemic discrimination among lawyers, and working closely with diverse communities on access to justice challenges and issues.<sup>8</sup>

In fact, as I sit and write this report today, I have just returned from a two-day workshop on the recommendations from the Marshall Commission. It has been 25 years since the Commission published their report and much has changed. It is because of the Marshall Commission that we in Nova Scotia, have a unique and crucial lens from which to understand the damage that discrimination can do to public faith in the justice system and to the administration of justice as a whole.

It is no coincidence that the development of the Equity Office has progressed in line with the development and understanding of our public interest mandate and our work to enhance the administration of justice. The commitment to improve access to justice for equity seeking groups which is so central to our 2013-2016 Strategic Framework evolved out of this history. The Society is deeply committed to improving the administration of justice through enhancing access to the justice system for all Nova Scotians. History in this province, has led us to a profound understanding that in order to uphold the public interest in the practice of law it is essential to work to improve the administration of justice for equity seeking and economically-disadvantaged communities.

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<sup>7</sup> Wickwire QC, "The Nova Scotia Barristers' Society's Review of the Conduct of its Members Criticized in the Report of the Royal Commission into Donald Marshall Jr., 1991

<sup>8</sup> Pertinent Recommendations from the Marshall Commission:

*11. Dalhousie Law School's minority admissions program We recommend that the Dalhousie Law School's minority admissions program for Micmacs and indigenous Blacks receive the financial support of the Governments of Canada and Nova Scotia, and the Nova Scotia Bar.*

*12. Appointment of judges and board members: We recommend that Governments consider the needs of visible minorities by appointing qualified visible minority judges and administrative board members whenever possible.*

*13. Programs for law students, lawyers, judges We recommend that the Dalhousie Law School, the Nova Scotia Barristers' Society and the Judicial Councils support courses and programs dealing with legal issues facing visible minorities, and encourage sensitivity to minority concerns for law students, lawyers, and judges.*

*27. Liaison with bar We recommend that a program of ongoing liaison between the bar – prosecutors, private defence, and legal aid – and Native people, both on and off reserve, be established through the Nova Scotia Barristers' Society. The Society must also educate its members concerning the special needs of Native clients.*

## **Equity Office: Roles and responsibilities**

As part of the Society's mandate to protect the public interest, the Equity Officer seeks to build equity and diversity values and principles into the policies, programs and procedures of the Society and for its members. The Society and its Equity Office also seek to ensure that both law and the practice of law reflect Nova Scotia's diverse population, including African Nova Scotian, Mi'kmaq and other racialized and linguistic communities, as well as other equity-seeking communities.

Through the Equity Office, the Society has begun to actively address issues of access to justice for women and racialized and Aboriginal peoples. The Equity Office seeks to ensure that Nova Scotia's diverse communities have increased access to legal services including information, advice and the means to solve disputes themselves.

The Equity Office is also responsible for a range of programs designed to increase lawyers' understanding of issues related to cultural competence and all forms of harassment and discrimination across the diversity spectrum. The Equity Office supports the Racial Equity Committee and the Gender Equity Committee in accordance with their mandates; provides resources for all Society departments, Council and Committees on issues of equity, diversity and discrimination; and plays a leadership and consultative role when the Society engages in community outreach.

Over the past year, the Equity Officer has also been engaged in a number of activities that support the purpose of the Society to uphold and protect the public interest in the practice of law. In keeping with section 4(2) (d)(i) of the *Legal Profession Act*, the Equity Officer continues to seek to improve the administration of justice in the province through consultation with organizations and communities who have an interest in the Society's purpose and reflect the economic, ethnic, racial, sexual and linguistic diversity of the province.

This work also addresses some of the Executive's expectations for the Executive Director under Council Policy 18 to build strategic alliances with external organizations.

## **REC and GEC Committee Structure**

Earlier this summer, the Equity Officer met with the Chairs of the Racial and Gender Equity committees, the Executive Director and the Society President to discuss the work and mandates of the two equity committees. At this meeting it was acknowledged that there is currently excellent work being undertaken by both committees but there are a few possible improvements that can be made. For example, there are potential gaps in our equity work—we don't have much of a focus on disability issues, or LGBT issues. Our existing committees could potentially be doing more to address areas of intersectionality; for example, the GEC could be doing more in areas involving the interplay between gender and race, disability and also sexual orientation. It was also noted that the Equity Office Mandate was formalized two years ago and we've yet to examine how to ensure that the work of the Equity Committees best lines up with the Equity Office Mandate.

At this meeting it was proposed that we may want to consider a different committee structure that would allow for increased support for all equity seeking groups, recognition of the importance of intersectionality and improved adherence to the mandate of the Equity Office as a whole. It is clear that any change to the existing committees must be done very carefully without over-stretching staff resources or losing the valuable work currently undertaken by the committees as they currently stand.

One particular suggestion from the meeting that had some traction was to build committees around the areas of work identified in the Equity Office Mandate – to focus on the goals and work we want to accomplish and how best to structure the committees to support those goals. However, in light of the history of the province and the

Equity Office, particular attention will have to be paid to the needs and experiences of the Mi'kmaq and African Nova Scotians. There continues to be significant barriers for racialized and Aboriginal peoples in the legal profession and supports for these communities must remain a cornerstone of equity work.

Following the initial meeting, the President met with the two committees jointly in September to discuss a possible new committee structure. At the joint meeting, members of the REC were quite clear that they did not see a need for this committee structure change and that the REC, as it is currently configured, has been successful in taking on a number of crucial equity and access to justice initiatives focused on racialized and aboriginal communities. As noted throughout this report, there continues to be a significant need for programs and initiatives that respond to the recommendations from the Marshall Inquiry and the REC feels that they are best suited to work on these programs under the current committee mandate.

The GEC, on the other hand, was open to seeing some changes to their committee. The GEC is currently a very small committee and it has been quite difficult to get quorum at meetings. Without quorum, it has been challenging to accomplish specific initiatives and meet the requirements set out in the committee mandate. As such, the committee chair indicated that it may be valuable to explore a new structure for the committee going forward.

## **Equity Office current program**

The Equity Office's activities over the past few years, beyond working closely with the Racial and Gender Equity Committees, have included:

- a robust observership program for internationally trained lawyers;
- significant research and development of a standard for employment equity in legal workplaces;
- enhanced cultural competence education including a full day in the skills course;
- access to justice programs designed in collaboration with racialized and Aboriginal communities;
- significant research support in regards to the Trinity Western University application;
- a new social media initiative that provides voice for the public on issues of law and justice;
- organization of UnCommon Law 5;
- workshops on innovation and legal coaching;
- the development of guidelines for trauma informed legal practice;
- the Race and the Law Paper Prize;
- inclusion of Aboriginal law materials in the Bar Exam materials;
- a webinar on promoting equity and inclusion in legal workplaces;
- and a number of other events, initiatives, activities, presentations and committees.

In addition, the Equity Program continues to act as a resource for all departments, committees and the membership of the Society on issues of equity and diversity.

Below is an overview of all programs, projects and initiatives undertaken by the Equity Office from January 2013 to December of 2014. I have grouped the programs and initiatives based on the primary goals of the work that is being undertaken. All of the work of the Equity Office has a profound and important impact on improving the administration of justice for equity seeking and economically disadvantaged communities. In reviewing the following initiatives, please note the scope and breadth of this work and the role that all of these initiatives play in improving access to justice in Nova Scotia.

## **Workplace Equity**

### **Legal Workplace Equity Initiative**

An *ad hoc* employment equity group was struck this year based on the common observation that more focus has to be put on hiring and retention of equity seeking groups within the profession. In the past, there had been a Crown Agent's program that served as an incentive for firm's to commit to equity hiring. However, for various reasons, the effectiveness of that program had diminished over the years.

The *ad hoc* is made of up representatives from GEC, REC, SOGIC, the CBA-NS Equality Committee, the CBA-National Equity Committee, the IB&M Program, as well as others with specialized knowledge in LGBT and disability issues. Our objective is to identify ways in which employment equity initiatives can be further supported within Nova Scotia.

Members of the *ad hoc* group suggested language for a regulatory objective on diversity, equity and non-discrimination, with explanatory notes on the meaning of the different terminology.

This group also submitted a memo to Professional Responsibility raising concern on the language of s. 6.03 of our Code of Conduct and how it differs from the language in the similar provision in the Model Code.

We continue to work on a workplace equity standard with the hope of collaborating with the Law Office Management Standards Committee.

We are also collaborating with Library and Information Services on the creation of a workplace equity resource portal.

Finally, earlier this month we worked with consultants from R.A. Malatest to release a significant report on employment equity in the legal profession in Nova Scotia. This report highlighted some of the areas where we are seeing successes in employment equity. We also worked with volunteers and Society staff to develop a comprehensive information booklet that identified some of the most significant statistics from this report, as well as the areas where challenges and gaps remain.

### **Cultural Competence**

Cultural competence refers to an ability to work competently with individuals and communities from cultures, races, and backgrounds that differ from one's own. This is an important skill for lawyers who represent clients from a wide diversity of communities, backgrounds and experiences.

This year the Equity Officer, in partnership with the Director of Education and Credentials, developed and delivered a full-day cultural competence and communication workshop for the skills course. This day covered provided an in-depth understanding of cultural competency and the important knowledge, skills and attitudes required of Nova Scotia's lawyers. The feedback from this session was overwhelmingly positive and we will continue this instruction in future years. Cultural competence is also beginning to be taught at the Schulich School of Law through an orientation to law lecture on cultural competence and to the third year ethics class.

In the last few years, I would say the REC has really championed the need for cultural competence as part of a lawyer's skill set and this has caught on to a significant degree. Indeed, our work has positioned the Society as a leader in this regard.

Members of the REC, and a gradually widening group of equity seeking members of the profession, have been providing cultural competence training to a wide variety of audiences, including to law students during Orientation to Law, to articling clerks in the Skills Course, to law firms, to lawyers at conferences, such as the

past two CBA-NS Mid-Winter meetings, a LIANS' conference, and the last Society AGM, and to some staff and committees of the Society, including PR and CIC. The content of our presentations range from the introductory 'Cultural Competence 101' to sessions on working with specific communities (e.g., the Aboriginal, Arabic, or LGBT communities, for example), or specific legal issues relating to particular communities (matrimonial property on reserve, issues in personal injury law when the plaintiff is Muslim). As we continue to provide this type of training, the demand grows.

In the year to come, we would like to explore the possibility of developing short videos and webinars on the topics referenced above.

## **Pride**

### **Pride Reception**

The CBA (NS) and the NSBS have jointly hosted a Pride reception event since 2003. The reception is viewed as an opportunity to celebrate diversity within the legal profession, and to show support for lesbian, gay, bisexual, and transgendered lawyers in Nova Scotia and it coincides with Halifax Pride the largest Canadian Pride celebration east of Montreal and the 4th largest in the country.

Past speakers at the event have included local lawyers and judges, as well as Justice David Corbett of the Brampton Superior Court of Justice (2008) and Kenneth Upton, a Texas-based lawyer with Lambda Legal (2009). In 2011, we welcomed Pooja Gehi a transgendered lawyer and activist from New York who heads the litigation team for the Sylvia Rivera project. In 2012, we welcomed Robert Leckey a Law professor from McGill University. In 2013 we brought Michael Battista who presented on the challenges faced by LGBTTT refugees. And in 2014 we welcomed Hershel Russell a psychologist from Toronto who will be speaking about transgender rights and the inclusion of gender identity in the Canadian Human Rights Act.

## **Disability and mental health**

### **UnCommon Law 5: Mental Health and the Law**

The theme for the fifth UnCommon Law program, hosted by the Gender Equity Committee, was *Mental Wellness: A community Approach to Access to Justice*. This workshop was organized into four one-hour panel presentations. Each panel included time for a small group discussion on the topics raised in that presentation.

UnCommon Law 5 had a three-fold purpose:

- **Access to justice:** People with substance and/or mental health challenges may find themselves involved in the legal system and are often underserved, lack basic understanding of the process, and have little to no agency. To address these issues, the conference explored the question, "How do we build effective legal advocacy for people who have substance and/or mental health challenges in Nova Scotia?"
- **Education:** To provide education to lawyers in the Valley whose clients have substance and/or mental health challenges, or who are often involved in litigation involving people at risk. The event also educates individuals, families, organizations and communities about their rights in our legal system.
- **Engagement:** UnCommon Law provides opportunities for Nova Scotians to shift their perspectives about lawyers and the legal system, and to engage in a positive way with legal professionals.

Previous UnCommon Law events have been held in Halifax, Yarmouth, Sydney and Dartmouth on themes ranging from youth and the law to the complexity of legal issues for women.

### **Highlights:**

- Nearly 100 people attended this year's all-day event. Along with local area lawyers and judges, attendees included health care workers, transition home staff, seniors, educators, mental health advocates and others.
- The topic was timely as Annapolis Valley launched pilots of court-monitored programs for mental health and drug treatment to Kentville Provincial Court.
- The event also happened a day after the Nova Scotia Mental Health Court in Dartmouth marked its first five years of operation.
- A graphic facilitator visually captured and reflected the content of the conference.
- The event was well advertised in the community and much effort was made to reach out to specific community organization, local government representatives and the justice provider community.
- Participants favored the format of the conference and enjoyed networking with diverse community representatives/members.
- Exhibit and display spaces were offered to community organizations to promote mental wellness information, education and programming.

## **Increased Access to Legal Services**

### **Legal Practice Innovation**

Over the past year, the Society has hosted two workshops for lawyers in Nova Scotia to increase support and understanding of legal coaching and other innovative law concepts.

The first of these workshops was hosted by Jordan Furlong and provided participants with an overview of legal innovation and the discussed the future of legal practice. The second workshop was hosted by Dr. Julie MacFarlane of the National Self-Represented Litigants Project and this workshop was based on her most up-to-date research on how to deliver effective unbundled legal services to self represented litigants. In particular she highlighted a coaching model that she has recently designed that is beneficial to both lawyers and self represented litigants.

The participants saw coaching and other legal innovations as valuable approaches to addressing some of the challenges currently experienced by lawyers.

### **Access to Justice Clinic: Supreme Court of NS**

This collaborative pro bono project is a bi-weekly summary advice clinic that will be held at the Supreme Court of Nova Scotia. The clinic is designed in collaboration between the Courts and a number of private lawyers and law firms. The primary goal of this initiative is to provide support, information and advice to self represented litigants operating in our justice system. As a member of the advisory committee for this clinic I have provided information and expertise in regards to this type of access to justice initiative and other similar initiatives in other provinces.



## **Community Consultations: Equity Seeking and Economically Disadvantaged Communities**

### **Access to Justice Community Group Liaison Meetings**

The Society plays a unique role, as the regulator of lawyers, in addressing issues of access to justice, not only to establish standards and regulate the practice of law but also to ensure that justice is administered in a fair and equitable manner. Access to justice covers a wide spectrum of issues such as understanding individual rights and responsibilities as well as timely availability of the courts and affordable legal services that respect and understand diverse cultural and community backgrounds. It touches all areas of the law that impact on the day-to-day lives of the public including immigration, landlord and tenant issues, employment matters, criminal law and family law areas such as marriage, divorce, custody and access.

To adequately understand the access challenges the Society is committed to examining how individuals and communities obtain legal information and intersect with the justice system. The Society has held a series of community meetings to gather input on experiences with the justice system and reflections on access to justice challenges and priorities.

This initiative was designed to help us identify ways that we can effectively collaborate with community organizations to enhance the legal system and the capacities of individuals and communities to work in it, for the justice system should be perceived as belonging not only to lawyers and judges but to the community.

Meetings have taken place with representatives of women's organizations and the LGBT communities and interviews have happened with individual new Canadians. We have also had ongoing discussions with African Nova Scotian and Mi'kmaq community and organizational leaders. These discussions have profoundly shaped the direction of our access to justice work and in particular have led to the development of a number of key projects. In particular, three significant access to justice programs were born out of the initial community consultation process, these are: the Prestons Land Issues Project, Aboriginal Child Welfare Project and #TalkJustice. All of these programs will be discussed in detail below.

### **#TalkJustice**

There is currently no voice in the justice system to represent the access to justice needs of equity seeking communities and economically disadvantaged in Nova Scotia. There is also a lack of ongoing conversations with these communities to acquire current knowledge of barriers and challenges faced by them in accessing the justice system. This project is designed to address these complex challenges and to inform the Society on the direction of our future projects and initiatives.

#TalkJustice is detailed below and is a collaborative initiative between the Equity Office and the Communications Department:

- Conduct interviews with members of economically disadvantaged equity seeking communities and economically disadvantaged. These interviews consist of 10 questions exploring the barriers, challenges, and conceptions surrounding access to justice.
- Collect images from the equity-seeking communities, representing the diversity of the communities and their members
- Publish the responses in a creative medium
- Develop a rapport for ongoing conversations with these communities
- Develop a social media platform to facilitate ongoing conversations with these communities
- Present an event in May, using the images and responses received from these communities to facilitate further conversations and information gathering

- Prepare a report summarizing the information gathered from these communities
- Analyze the evidence acquired and assess its significance relative to the development of future activities to enhance access to the justice system for these communities

## Gender Equity

### **Women: Strength in Leadership, Remembering Dara Gordon QC.**

Through the strength of her leadership and as a highly-regarded lawyer, Dara Gordon QC made many contributions to her country, her province, and her profession. This annual leadership event, held in memory of Dara Gordon QC, provides the opportunity for lawyers to come together and discuss women's leadership in the legal profession. The keynote speaker discusses leadership, innovation and their own experience as a woman leader in the workplace and the community. The hope is that the speech will lead to discussions about women and leadership in the profession. Last year, our speaker was Sara MacDonald the President and CEO of the Grand Bahama Power Company and this year we hope to have Kim Pate the Executive Director of the Canadian Association of Elizabeth Fry Societies.

### **Responding to Sexual Violence**

The Equity Office and the Gender Equity Committee (GEC) began taking on projects to address issues of sexual violence in Nova Scotia since 2011. Some examples of the GEC's work in this area are highlighted below:

- [\*Sexual Assault: Dispelling the Myths\*](#) – Published in 2011, this booklet is for victims/survivors of sexual assault while also assisting other participants in the criminal justice system in becoming more sensitive to victim/survivors' rights and needs.
- ***Trauma-informed lawyering: A workshop on Sexual Assault Information for Lawyers*** – A workshop that provides the necessary knowledge, skills and capacities to recognize the signs of trauma in clients, suggestions for mitigating re-traumatization from the justice system, and that identifies the supports and services available for sexual assault survivors in Nova Scotia.
  - On Tuesday October 28, 2014 the Society hosted a workshop for articulated students to increase the awareness of the services at Avalon Sexual Assault Centre, increase the understanding of the complexity and potential impact of triggers, increase awareness of the prevalence of secondary wounding in the justice system and increase understanding of a trauma informed approach.
- ***Researching and collecting best practices for lawyers assisting domestic violence and sexual assault victim/survivors*** – The goal of this work is to provide legal professionals with knowledge, skills and capacities to respond and provide support to victims/survivors of domestic/sexual assault and to provide a broad analysis of sexual violence as a social issue.

### **Bertha Wilson Task Force Report: 20 Year Anniversary**

2013 marked 20 years since the release of Touchstones for Change: Equality, Diversity and Accountability. We held a very successful event in November 2013 to commemorate this milestone. It included a lunch and guest speakers. Speakers included: Ann Marie MacInnes, one of the authors of the NS Working Group Report on Gender Equity Within the Legal Profession, which was published in 1993 and is an appendix to the report who will speak on the preparation of the report; Naomi Metallic who provided a presentation looking at the recommendations in the Touchstones Report around employment equity; the Hon. Judge Sparks who spoke about the preparation of the Touchstones for Change Report and reflected on changes in the profession she has seen;

and Dean Kim Brooks from the Schulich School of law at Dalhousie who spoke about Bertha Wilson and her impact. This event celebrated the positive changes for women in the profession since the report was published and evaluated whether the recommendations made by the report have been achieved.

## **Racial Equity**

### **A representative legal profession**

The REC continues its vital work in making efforts to increase diverse representation and perspectives on Council and in the judiciary. The Committee continues to encourage the Department of Justice to reconsider the change of the Judicial Appointment Guidelines requirement from 10 to 15 years at Bar. We also continue to educate and encourage racialized and Aboriginal members of the Bar to apply for judicial appointments and have circulated information about the guidelines and application process.

Prior to 2009, Council was poorly representative of the diverse communities it serves, specifically a concerning lack of representation from African Nova Scotian and Mi'kmaq members of the Bar. The REC began encouraging members of the Bar from these diverse backgrounds to apply for Council appointments. In the 2011-2013 Council there was an increase in representation from both the African Nova Scotian and Mi'kmaq community. This positive change to Council demographics continued in 2013-2015. Now for the years 2015-2017, the REC will again be encouraging members of the Bar from diverse backgrounds to run in the Council election. The current Council is the most diverse Council in the Society's history.

### **Race and the Law Paper Prize**

For the past seven years, in partnership with Stewart McKelvey, we have offered a paper prize and plaque for a Dalhousie Law School student who submits the best paper addressing issues of race and the law. This year, we received seven submission and the quality of the papers was quite impressive, dealing with subjects much deserving of attention, including Aboriginal identity and membership codes, how the history of Whitney Pier is an example of environmental racism, the problems surrounding Aboriginal child welfare in Canada, and mental health issues facing immigrants and other racialized people within the criminal justice system.

### **Inclusion of Aboriginal law content in Bar Exam Materials**

In a partnership with the Credentials Committee, the Equity Office, through the REC, embarked on a project to draft additions to the existing Bar Course Material that would explain how the law can apply differently with respect to Aboriginal people. Additions were drafted for the chapters on Property Law, Criminal Law, Family Law, Wills and Estates, Constitutional Law, Business Associations and Commercial Transactions. We relied on the volunteer efforts of members of the bar who served Aboriginal clients. The sections were finalized in May 2014 and were included in the 2014-2015 Bar Material.

### **Integration of Internationally Trained Lawyers (ITLs) in Nova Scotia: The Observership Program**

In 2008 a multi-stakeholder working group model was created in Nova Scotia for Internationally Trained Lawyers (ITLs). This working group includes supporting partners from government, academia, regulatory bodies, as well as many non-governmental organizations. The Nova Scotia Barristers' Society (NSBS), Immigrant Settlement and Integration Services (ISIS), and other members of a multi-stakeholder working group identified that a number of challenges and barriers existing for ITLs who were making their way through the pathway to licensure in Canada. Among many other challenges it was identified that there was little opportunity elsewhere for these potential new Canadian lawyers to connect with the local legal profession in order to learn about the practical and procedural aspects of practicing law in Canada.

In 2013 the Nova Scotia Department of Labour and Advanced Education funded a one-year pilot project for an Internationally Trained Lawyer Observership Program situated within the Nova Scotia Barristers' Society. The

project was conceived in order to address the above-mentioned challenges that internationally trained lawyers face using an observership model. This model pairs an ITL with a Supervising Lawyer and is designed to expose ITLs to all facets of legal practice in Nova Scotia, thus facilitating their entry into the legal profession. ITLs were invited to participate in a variety of activities including attending client meetings, visiting the Courts, or observing day-to-day procedures of a variety of legal workplaces.

In total, 11 observerships were completed during the pilot project. The ITLs who provided feedback on the program were very positive about the process. Most of the respondents felt as though the program met their goals and that the materials were sufficient. The legal workplaces who responded to the evaluation were very positive about the program and indicated a continued desire to participate. Cultural competence and diversity in the workplace were identified as benefits of participation in the Observership Program. This past year, we have had four new observerships. Of the 15 observerships we have had in the past two years, 3 have directly resulted in ITLs receiving job offers.

### **Orientation to the practice of law – legal education workshops**

The Equity Officer works with *pro bono* law students (with oversight and support from members of the Racial Equity Committee) to develop a number of PowerPoint presentations that are designed to orient and introduce internationally trained lawyers and other newcomers to the practice of law in Canada. These workshops focus on such issues as: division of powers, constitutionalism, the role of the Crown, civility and court procedure. In February and March of 2011, 2012, 2013 and 2014, these presentations were offered free of charge at the Immigrant Service Association of Nova Scotia as part of the Newcomers Legal Education Workshop Series (They will be offered again in March of 2015).

### **Prestons Land Issues**

Some community members in Cherrybrook, North Preston and East Preston have identified a number of complex challenges that impact their ability to fully enjoy ownership of their land. These challenges generally fall into one or more of the following three areas: lack of clarity of title for land, lack of wills, and inability to pay taxes.

From the research done so far it is clear that land ownership related issues are having a significant impact on these communities and have contributed to conflict and hardship for many people. In particular, community members identified frustration with not having title to their land.

As a result of this research, a number of key stakeholders have come together to attempt to begin to resolve some of the issues identified by community members. These stakeholders include: the Department of Natural Resources, the Office of African Nova Scotia Affairs, Nova Scotia Legal Aid and the Nova Scotia Barristers' Society.

Following a number of preliminary discussions these stakeholders have identified a need to begin to map out the three Land Clarification Districts discussed: Cherrybrook, North Preston, and East Preston. The first step will be to identify which land belongs to the Crown and which land has and has not been migrated. This group of stakeholders intends to work together to begin to address the title issues that are identified. To do this, it will be necessary to involve lawyers and surveyors and possibly to examine existing regulations and legislation. The longer term goal of this initiative is to clarify title to land in these communities which will allow community members to sell their land, potentially qualify for municipal programming, identify ownership for tax purposes and hopefully settle some of the conflicts that occur through wills and intestacies.

At the same time as this work is being undertaken, educational documents are being created for community members on wills and estates, land title, and taxation. These documents along with community based education sessions will be used to provide community members with foundational knowledge and information on these topics. Nova Scotia Legal Aid is also providing weekly summary advice sessions in all three of these communities to help individuals with land-related questions and concerns.

There are a number of important considerations in regards to this project. First and foremost, community members have identified an interest in preserving these important, historic African Nova Scotian communities. Therefore, any initiative undertaken should be done with a view towards long term community preservation. Second, careful thought must go into how this work is communicated to the public and what messaging and education is needed to ensure success. Finally, ongoing consultation with the affected community members will be essential for long term sustainability.

### **Aboriginal Child Welfare Collaborative Group**

As noted above, the overrepresentation of Aboriginal families and children involved in the child welfare system was noted on numerous occasions as an access to justice challenge during our Racial Equity Committee community consultations. In response to this concern, the REC agreed to convene a series of meetings between all of the child welfare stakeholders in the province to discuss the issues and try to move forward collaboratively. The stakeholders at the table included: Nova Scotia Legal Aid, the Department of Child and Family Services, Mi'kmaq Child and Family Services, the Department of Justice, family law lawyers, Chiefs, and Nova Scotia Native Women. This group is chaired by Chief Paul Prosper of Paqtnkek First Nation.

Some of the issues discussed as priorities at these meetings are:

- Enhance and formalize relationships among child welfare agencies, Nova Scotia Legal Aid, and other legal aid child welfare professionals to support Mi'kmaq in Nova Scotia;
- Increased support for Family Group Conferencing, Case Management, Early referral programs and collaborative family law approaches to provide comprehensive services to community members,
- Build better communication pathways/mechanisms between Health Centers, Band Councils, Milkman Family and Children's Services, Legal Aid and the Judicial system to increase awareness of the services and supports available in First Nation communities and support development of policies and communication plans to refer community members to local services when practical and available.
- Provide education and systems of support to increase Social Workers' and lawyers' abilities to provide culturally safe practices in First Nations communities
- Enhance Community Health centers capacity to provide advocacy and community based supports for community members who are at risk of being or currently involved with the justice system or child welfare system.
- Review the Provincial Risk Assessment tool from a culturally competent approach.
- Participate in the Provincial review of the CFSA legislation and provide suggestions on how to ensure the legislation supports the accomplishment of the abovementioned objectives.

The Equity Office provides ongoing support for this collaborative approach to enhancing access to justice for equity seeking and economically disadvantaged communities.

### **Outcomes measurement**

The 2013-2016 Strategic Framework identifies establishing outcomes and consistently measuring performance as a foundational activity for the Society. In accordance with this mandate, the Equity Office has begun to develop an outcomes-based evaluation system for our work. Thus far, this work has consisted of:

- Researching best practices for outcomes-based measurement and evaluation,

- Gathering data from other organizations: Identify what metrics they use to evaluate their programs using an outcomes-based evaluation model,
- Data compilation and qualitative research to identify outcomes to be measured as part of the Access to Justice work plan thereby providing support for the economic and societal benefit of access to justice initiatives,
- Development of planning and evaluation documentation.

In the fall, with the arrival of our new Director of Administration, we began to develop a structured system of planning and evaluation for all of the programs listed in this report. As you can imagine, this is lengthy and time consuming work and as such, we are slowly working through the programs one at a time.

In the next few months, once this initiative is further underway, we will have the opportunity to present our outcomes measurement strategy and our findings so far.

## **Trinity Western University**

Over the past year, the Equity Office conducted extensive research and provided significant support to Council in regards to the question of accreditation of potential future law graduates of Trinity Western University. This support involved collecting and collating the numerous submissions, responding to inquires and commentary from members of the public and providing research support in regards to the history of the equity work at the Society.

## **External committees**

### **The Federation of Canadian Law Societies**

The Equity Officer collaborates with equity offices from across Canada as a part of the Law Society Equity Network (LSEN), a working group of the Federation. We work together on projects throughout the year and meet yearly to discuss collaboration, projects and initiatives.

### **Indigenous Black and Mi'kmaq Initiative Advisory Council**

The Equity Officer is the Society's representative on the IB&M Advisory Council, which meets four times a year to advise the Initiative's director on policies and procedures, recruitment, mentorship, academic support and funding.

### **The Legal Legacies and Bridges Mentoring Program**

The Legal Legacies and Bridges Mentoring Program for Indigenous Black and Mi'kmaq students began as a result of this relationship. In 2010 and 2011, this program offered a number of mentorship opportunities for students in the area of criminal law, Aboriginal law and environmental law.

### **Sexual Orientation and Gender Identity (SOGI), Nova Scotia Branch, Canadian Bar Association**

This organization provides a space for gay, lesbian, bisexual and transgendered lawyers to discuss issues of importance and to educate the Nova Scotia legal profession on important legal developments in the areas of sexual orientation and gender identity. The Society supports the work of SOGI by **co-sponsoring the Annual Pride Reception every July.**

### **Legal Information Society of Nova Scotia: Access Legal Help Advisory Committee**

This Advisory committee supports the ongoing work of the Access Legal Help Pro Bono clinics which take place through the province. We provide advice on a range of issues including program structure, clinic topics and access to lawyer volunteers.

### **Presentations**

- **Schulich School of Law at Dalhousie** – Dalhousie Association of Women in the Law: Panel discussion on law as a career for women
- **ISIS Legal workshop** – “Youth and the Law”: Workshop for immigrant youth discussing their rights and responsibilities under the law
- **Schulich School of Law at Dalhousie** – Pro Bono Students Canada: the importance of a volunteer ethic among lawyers
- **Schulich School of Law at Dalhousie** – Orientation to Law: Cultural Competency 101
- **CBA Mid-Winter Conference 2014**- Cultural Competency: A range of perspectives
- **NALP’s Canadian Section Diversity Working Group- *Promoting Inclusion and Diversity within Your Workplace***
- **PEI Women Lawyers (upcoming)**- Challenges and Opportunities for Women in the Law

### **Conferences**

- **CBA Mid Winter Conference**, 2014, Halifax
- **Avalon Sexual Assault Centre**, “Start By Believing” 2014, Halifax
- **SAJCEA East Africa Delegation Conference**, 2014, Halifax
- **Federation of Law Societies**, Access to Justice Symposium, 2014, Halifax
- **The Marshall Inquiry Recommendations, Then and Now**: A Symposium to examine the efficacy of the Marshall Recommendations, 2015, Membertou

### **Budget and staff support**

This past year the Equity Office saw, on top of usual yearly salary and cost of living increases, a budget increase of \$50,000 to allow for the implementation of the Access to Justice Action Plan. This crucial one-time project fund allowed the Society to hire a part-time access to justice project manager and to bring in research and consultation support for a number of crucial programs. Prior to the allocation of these funds the Equity Office was a staff of one with a part-time assistant working two days per week. Without the allocation of the \$50,000 project fund it would be impossible for the Equity Office to carry out the important access to justice work highlighted in the action plan and directly tied to the strategic initiatives highlighted in the strategic plan. Therefore, if Council would like the Equity Office to continue to work on the development of programs and initiatives that enhance access to legal services and the justice system for equity seeking and economically disadvantaged communities, it will be essential to renew this funding for the next fiscal year.

The Equity Office budget separate and apart from the project fund includes the Equity Officer salary, benefits and expenses, as well as the total budget for the Racial Equity and Gender Equity Committees. On top of salary and benefits, the budget is primarily used to fund volunteer travel, conferences, research initiatives and special events such as UnCommon Law 5.

## MEEP Budgets 2011 to 2014

For the year ending April 30	2011	2012	2013	2014
Member Equity Program/RRC/GEC	106,257	*82,095	127,880	**203,656

\*Anomalous year due to equity officer maternity leave

\*\*Inclusion of A2J project fund (2014)

## Moving forward

Over the past few years, the Equity Office has worked hard to develop programs and initiatives that promote equity, diversity and inclusion in the legal profession, and that seek to improve the administration of justice for equity-seeking and economically disadvantaged groups. Through the research undertaken by R.A Malatest on employment equity in the legal profession and the conversations at the recent Marshall Symposium it is clear that we are making a difference. Our legal profession is slowly becoming more diverse and more culturally competent and the public is able to find better access-related services and supports than ever before. But these clear successes do not suggest that our equity and access to justice work is done. This work must always be seen as an essential and integral component of any truly equitable justice system.

Jane MacMillan in her excellent review of the implementation of the Marshall Inquiry Recommendations, “An Evaluation of the Implementation and Efficacy of the Marshall Inquiry Recommendations in Nova Scotia”, offers the following quote:

*The Marshall Inquiry Recommendations are not boxes to be ticked. They are recommendations that guide the relationships between governments and Indigenous communities in Nova Scotia. They are not static policy statements. They require attention, respect, nurturing and constant critical reflection. To do otherwise is to participate in the maintenance of the structures of power that reproduce the systemic discrimination and racism that plague the potential of equity in our society and denied Donald Marshall Jr. the experience of justice.*

The Equity Office, born out of the Marshall Recommendations, should likewise not be viewed as a box that has been ticked. The work of this office and the committees it supports requires constant attention, respect, nurturing and critical reflection. This office provides a necessary bridge between equity seeking communities and the legal profession and serves as a constant reminder that we must remain vigilante and attentive to address systemic racism and discrimination. Supporting the Equity Office is not just something nice that we do as a profession; rather, it is our duty to continue to develop and fund programs and initiatives that enhance access and encourage equity and diversity.