

Ashley Woodford
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Attn: Ashley Woodford

Attached please find the NL NDP response to your questionnaire. We appreciated the opportunity to give thoughtful consideration to the issues facing the members of your organization, and would greatly appreciate the opportunity to continue the discussion after the Feb. 13 election.

Sincerely,
Alison Coffin, Leader
NL NDP

What is your government's plan to modernize the justice system in Newfoundland and Labrador through investments in technology and learnings from the COVID-19 pandemic?

The pandemic has made it clear that the traditional 'bricks and mortar' justice system cannot function without investment in technology, in particular technology that will enable remote appearances in Court. We understand that the CBA-NL will be releasing a report on this very topic on Feb 17th which the NDP looks forward to reading and discussing.

Our platform is particularly focused on using remote access technology to deliver services to rural areas more efficiently. To quote from our platform:

"While working from home has become a new reality for many, especially during the pandemic, many rural regions of the province and Labrador continue to struggle with inadequate access to high-speed internet and cellular service. Online connection allows individuals to attend school, work, market their products worldwide, and access government services. With a federal Liberal promise to invest in broadband and cellular infrastructure, we have to ensure broadband is affordable as well as accessible."

Establishing secure means for parties to e-file documents is necessary and videoconferencing for hearings will help us better deliver justice services, both during the pandemic and thereafter.

The NDP would propose working with the CBA and other justice stakeholders to implement policies such as:

- Allowing scanned copies of documents to be filed, with signed originals to be produced only if requested by the Court or another party.
- Ensuring e-filed documents are adequately date-stamped and receipts delivered to ensure the preservation of limitation periods and a transparent registry.
- Easier access to the public and media to court registry documents not otherwise restricted from publication.
- Ensuring increased support for traditional means of court filings and appearances to ensure those who prefer non-digital accommodation continue to have access to the Courts.
- Implementation of assistive devices for persons with disabilities in the Court system. Both the federal government and the Ontario government have developed accessibility guidelines relating to government services, including court services. These guidelines are associated with uses of particular kinds of text reader technology allowing for shrinkage and magnification of text, as well as client-side cascading style sheet files allowing users to configure visual elements to meet their needs (e.g. SCC). Infrared and FM assistive listening devices are also available in Ontario. A similar program should be implemented here.

What will your government do to ensure that our justice system is appropriately staffed, including judges (all levels), support staff, clerks, sheriffs' officers and prosecutors, to meet in a timely way, the legal needs for Newfoundlanders and Labradorians?

The NDP platform revolves around investment in public services, which includes the Courts and justice system at large. Participants in the justice system need to feel safe and to be able to make their voices heard.

Justice delayed is justice denied. When the system is under-resourced, cases are delayed and parties feel frustrated. When criminal cases are delayed, the rights of the accused to a timely trial are violated, and victims of serious crimes can see perpetrators' charges dismissed without having their day in court. This leads to the undermining of public confidence in the entire justice system, which is a social harm to all Newfoundlanders and Labradorians.

The NDP is committed to making sure these delays are resolved and barriers to access are removed. The NDP is committed to the adequate provisioning of Courts and finding new ways of delivering court access (such as the digital access described above).

The NL NDP takes the position that while adequately resourcing the justice system comes at a financial cost, the expense would be mitigated by the resulting savings created by cutting down on the inefficiencies created by an overburdened justice system.

What would your government do to improve the physical infrastructure, accessibility and security of court facilities in our province?

Our platform commits to improving physical access to government buildings:

"Persons with disabilities have long advocated for accessibility legislation to ensure everyone can equally navigate the built environment without barriers. We will work with the disability community to bring in accessibility legislation and remove the 1981 exemption under the Building Accessibility Act that greatly impacts the standard of accessibility in the province.

Inclusion involves removing barriers to include persons with disabilities in all aspects of the community. The NL NDP will create a Disability Advocate to protect and advance the rights and interests of persons with disabilities."

This would include physical access to Courts and other facilities.

Court security is vital to a functioning justice system. In recent years, we have seen several very public sexual assault trials take place in our Province. The victims on all cases have testified about the difficulty in confronting their abusers in Court, and the fear they felt in so doing. The NDP recognizes that in order to support these brave individuals, Court security needs to be adequate and visible. When witnesses can give their evidence in an environment that they know is safe, Courts are better positioned to provide outcomes that take into account the totality of the evidence.

What will your government do to ensure an adequately funded legal aid system in NL?

What will your government do to ensure there is adequate access to legal aid assistance for the public?

The NDP has always fought against cuts to the Legal Aid budget imposed by both Liberal and Progressive Conservative governments. For instance, in 2013, NDP MHA Gerry Rogers was an integral part of reversing cuts made by a previous government:

"We know that the cuts that were made last year were such disorganized, knee-jerk reactions to a fiscal reality, rather than looking at the specific needs of our justice system," Rogers said. "We know that justice is becoming more and more out of reach for people financially, and there's been nothing said here today that indicates that this government has addressed the issue of the fact that people cannot afford justice."

Access to justice should not be 'pay-to-win'. When legal aid is underfunded, it becomes inaccessible to those who need it, meaning that those with the means to fund a private legal team can achieve different outcomes than those who cannot. This is unacceptable and must change.

The NDP sees access to Legal Aid as more than a line item in a budget. It's an investment in ensuring equitable access to the justice system, which is a foundational tenant of our democratic society. As the costs of private legal services increase, there must be a corresponding increase in the threshold at which legal aid is available, and a pro rata increase in legal aid funding to ensure sufficient lawyers are hired to take on the increased caseload.

Does your government have any plans to address the "access to justice gap"?

The NDP have been saying for years that the eligibility criteria for Legal Aid is far too low.

Our concerns with that issue were highlighted following the release of the report commissioned by the justice department regarding Legal Aid:

"In his report lawyer John Roil writes there are concerns that due to the low eligibility threshold for qualifying for legal aid, suggesting the working poor are penalized under the current justice system," – March 2014 NDP press release.

Beyond increasing the threshold for legal aid qualification, the NDP would eliminate some of the "Incomes" that factor into eligibility, like:

- Pension income
- Workers' Compensation benefits
- Employment Insurance benefits
- Income from spousal support
- Income from social assistance

In our view, this is one small step on a long journey to providing equal access to the justice system in this Province.

What is your plan for the continued use, and expansion of, specialized courts in NL?

The NDP have been long-time proponents of the current specialized courts in the Province, including:

- Mental Health Court (St. John's)
- Family Violence Intervention Court (Permanent – St. John's, Pilot –St. John's)
- Drug Treatment Court (Pilot – St. John's)

The NDP were instrumental in getting the Family Violence Intervention Court in place.

An NDP Government would make these courts permanent.

In addition, how will your government utilize alternative approaches to justice and restorative justice principles?

The topic of restorative justice, especially as it relates to justice for survivors of sexual assault, is an important one for the NDP. In November 2020, the NDP organized a town hall meeting and panel for “the International Day for the Elimination of Violence Against Women and Girls”. The topic of restorative justice for survivors of sexual assault was a focus at that meeting. We have been told time and time again that ‘we’ve had enough committees and focus groups’ from the current government. It’s time to take concrete action.

The NDP would establish alternate sentencing to permit for restorative justice in appropriate cases.

Will your party commit to review and dialogue with CBA-NL on its legislative and law reform efforts with the appropriate cabinet members?

Yes. Several of the executive members of NL NDP have in fact participated in this committee in the past and have underscored the importance of using that committee as a resource for prioritizing several legislative reform initiatives.

Lands Act

Would your government commit to discuss with the CBA-NL regarding its law reform report on this topic?

Yes. The current legislation is outdated and leads to lengthy and costly legal disputes. The people of Newfoundland and Labrador require certainty and clarity in their land title, and an NDP government would ensure the legislation provides for same.

Would your government consider changes to the rules surrounding private property interests against the Crown?

The NDP would consider those changes, in consultation with the CBA, Law Society, and various stakeholders. Crown Lands need to be managed in a way that promotes the best possible public and private use of our usable land.

Mechanics’ Lien Act

Would your government commit to discuss with the CBA-NL regarding its law reform report on this topic?

Would your government consider reform to the Mechanics’ Lien Act?

Yes. As we have recently seen in the case of the Government's dereliction of its responsibilities in the Muskrat Falls construction, our Mechanics' Lien legislation does not adequately secure the ability of workers and small businesses to get paid when large corporations neglect to pay their contractors.

Our legislation is outdated, and requires modernization to ensure contractors can go to work each day in confidence that they will get paid for their hard work.