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February 23, 2016

***Via Email***

Senator Bob Runciman, Chairman  
Senate Standing Committee on Legal and Constitutional Affairs  
The Senate of Canada  
40 Elgin Street, Room 1057  
Ottawa, Ontario K1A 0A4

Dear Senator Runciman,

Thank you for the opportunity for Nova Scotia to address the Senate Standing Committee on Legal and Constitutional Affairs on the issue of “a study on the issue of delays in criminal proceedings”. I am sorry I cannot join you in person for this important discussion. In your e-mail dated February 8, 2016 you note that there are two main goals for your study. “The first is to gather hard information to assess the situation in Canada regarding delays in criminal trials. The second is to examine the scope and the length of the delays and determine how best to respond to them.”

This written submission to the Committee will canvass first, case processing time for adult and youth court in Nova Scotia; second, ways we are attempting to improve case processing times in Nova Scotia; and third, areas of federal jurisdiction which can assist us in being more efficient and innovative in terms of case processing.

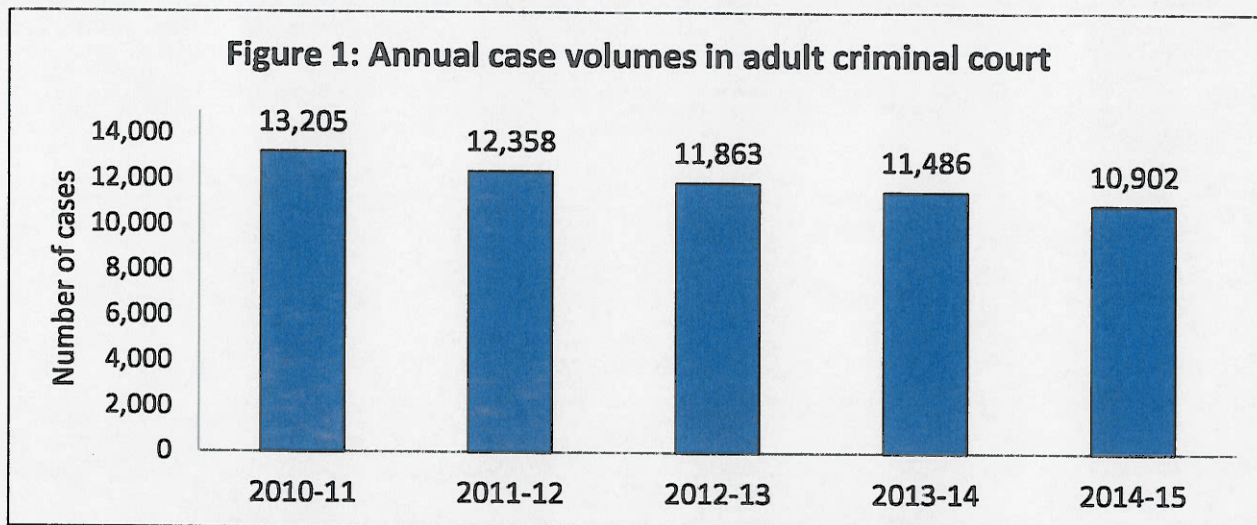
## ***CASE PROCESSING IN CRIMINAL COURT***

### **Case Processing in Adult Criminal Court**

In 2014-15, 10,902 adult criminal court cases<sup>1</sup> were processed in Nova Scotia. This is a decrease of 5% (584 cases) from 2013-14. This is the fifth consecutive year that the volume of adult cases has declined. Compared to 2010-11, the volume of adult criminal court cases declined by 17% or 2,303 cases (Figure 1).

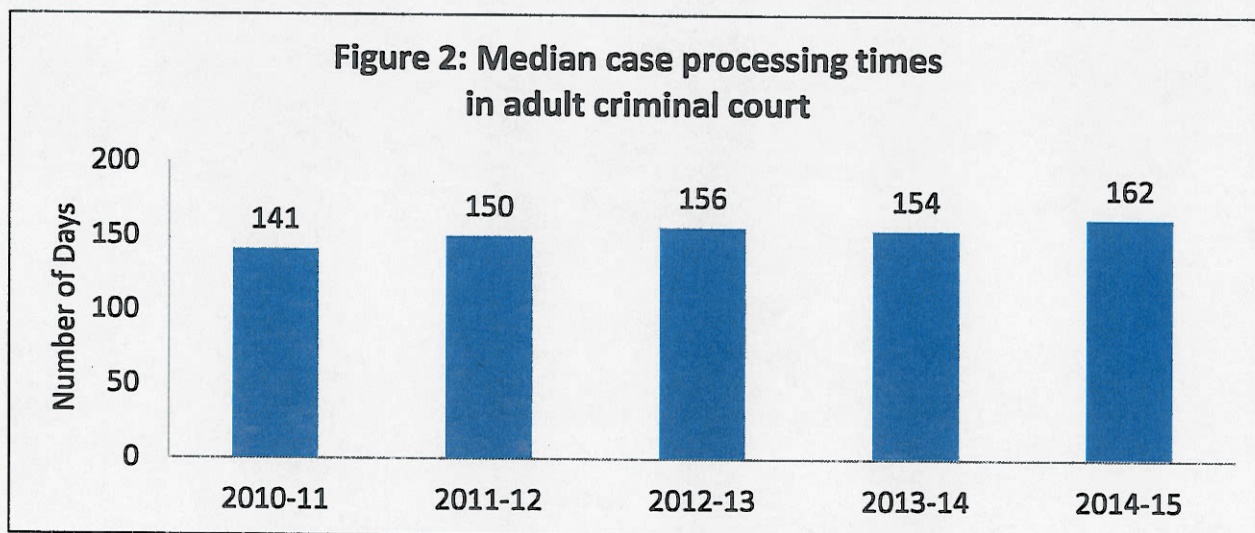
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<sup>1</sup> The Nova Scotia Department of Justice utilizes Statistics Canada’s definition of a case whereby a case is defined as “all charges against the same person having one or more key overlapping dates (date of offence, date of initiation, date of first appearance, date of decision, or date of sentencing)” (Source: Boyce, Jillian. 2013. “Adult criminal court statistics in Canada, 2011/2012.” Juristat. Statistics Canada Catalogue no. 85-002-X).



Source: Nova Scotia Department of Justice, Policy, Planning and Research

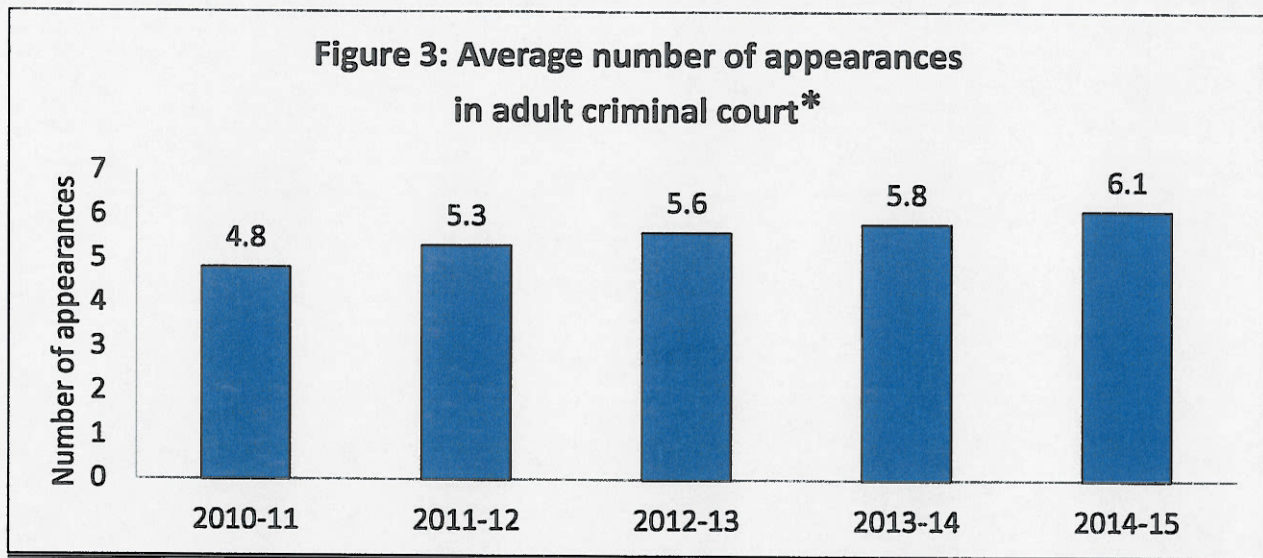
In 2014-15, the median<sup>2</sup> case processing time in adult criminal court was 162 days, which is an increase of 5% or 8 days compared to the prior fiscal year. Median case processing times have been trending upward in the province with an increase of 15% or 21 days over the past 5 years (Figure 2).



Source: Nova Scotia Department of Justice, Policy, Planning and Research

The average number of appearances required for adult criminal court cases to reach a final disposition in Nova Scotia has trended upward over the past five years. In 2010-11, it took an average of 4.8 appearances for cases to reach final disposition as compared to 6.1 appearances in 2014-15 (Figure 3). In other words, cases disposed of in 2014-15 required approximately one more appearance than those from 2010-11.

<sup>2</sup> The median represents the midpoint at which half of cases fall below and half fall above.

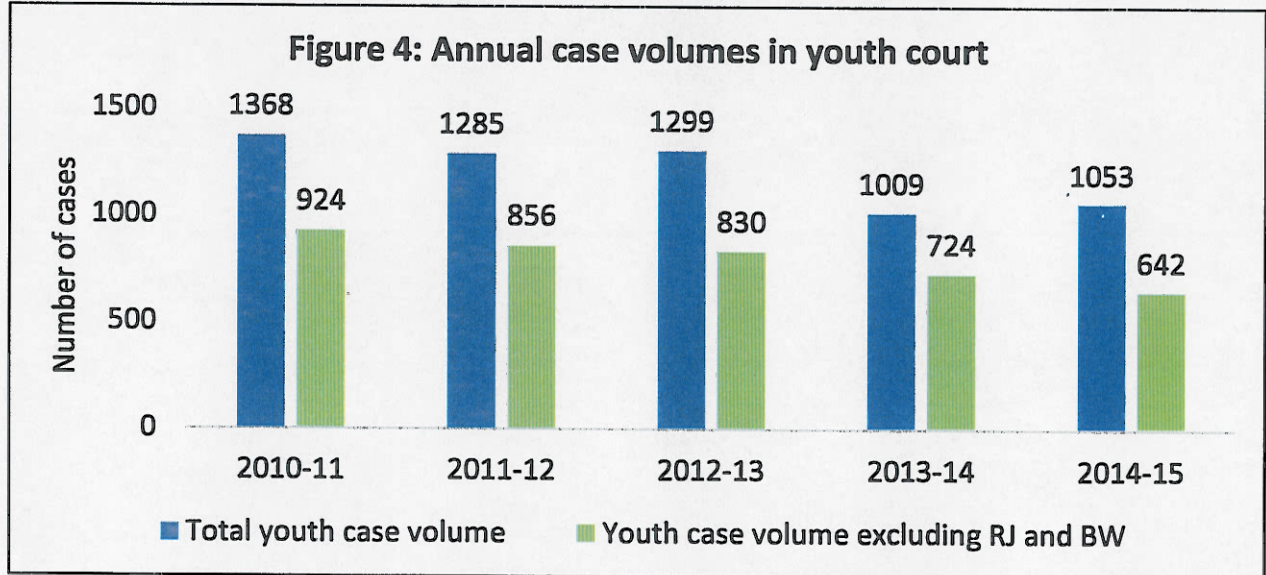


\* Note: Excludes Mental Health Court and Domestic Violence Court

Source: Nova Scotia Department of Justice, Policy, Planning and Research

### Case Processing in Youth Court

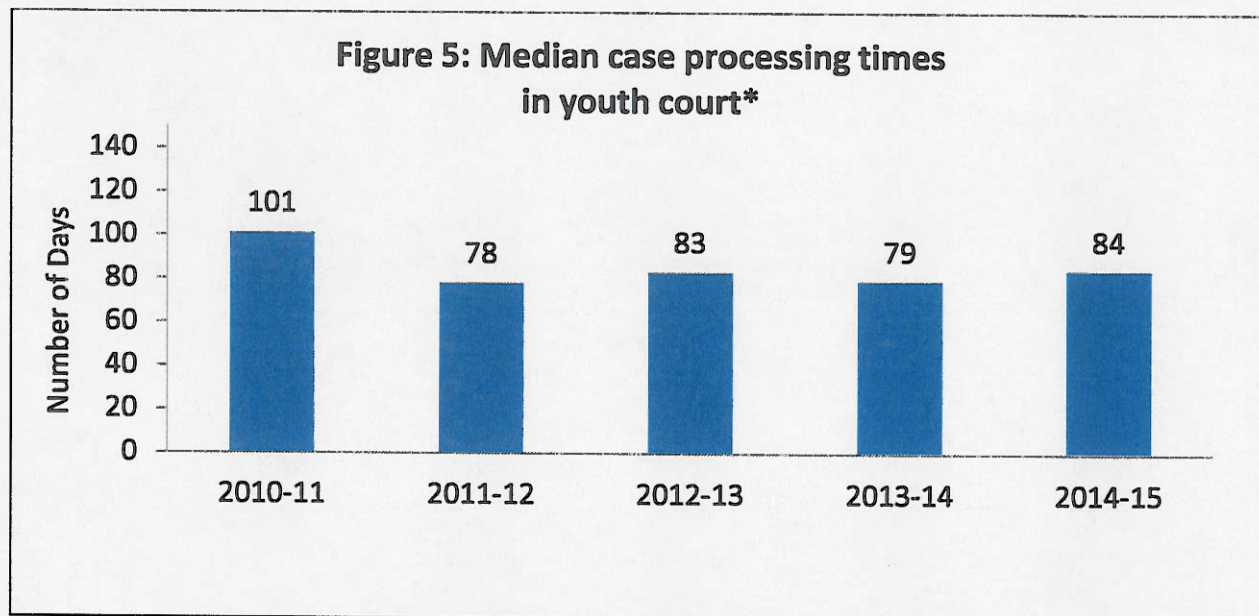
Youth court case volumes have been trending downward in Nova Scotia for a number of years. In 2014-15, a total of 1,053 youth court cases were processed in the province. This is a decrease of 23% or 315 cases as compared to 2010-11 (Figure 4).



Source: Nova Scotia Department of Justice, Policy, Planning and Research

The Nova Scotia Department of Justice excludes cases involving restorative justice and those involving bench warrants when calculating and reporting on youth court case processing times. Cases involving restorative justice are excluded because, on average, these cases take over 200 days to complete, which artificially inflates overall processing times. Cases involving bench warrants are excluded because, once issued by the Court, the Court cannot control how long it takes to have that warrant executed.

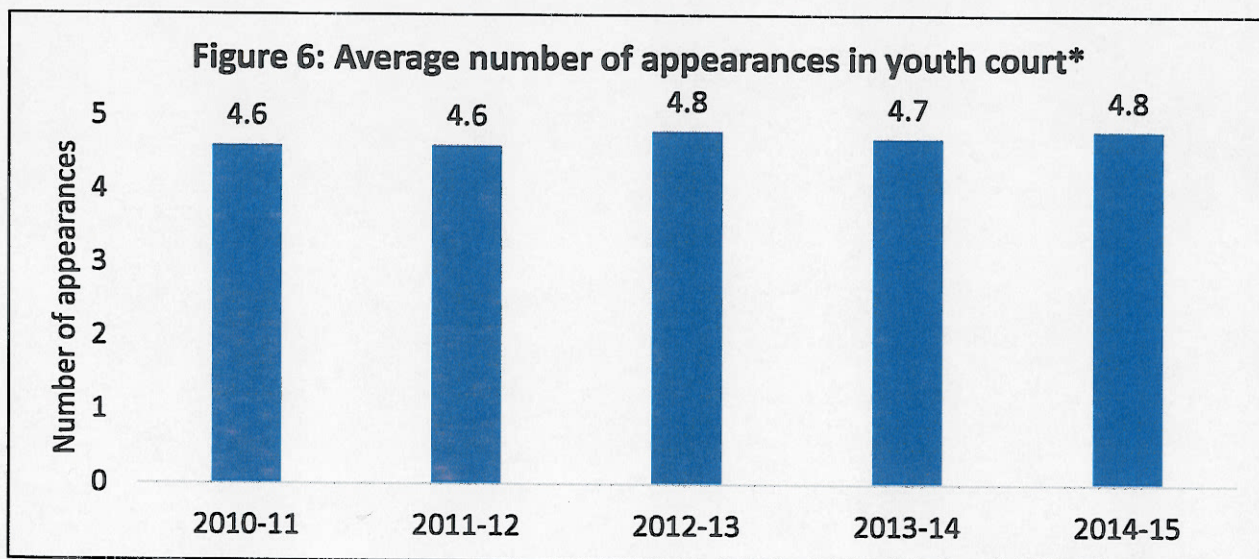
In 2014-15, the median youth case processing time for the province was 84 days. This was an increase of 6% or 5 days compared to the previous year. However, compared to 2010-11, the median youth case processing time in Nova Scotia decreased by 17% or 17 days (Figure 5).



**\*Note:** Excludes cases involving Restorative Justice and Bench Warrants

**Source:** Nova Scotia Department of Justice, Policy, Planning and Research

In 2014-15, it took, on average, approximately 5 appearances for cases to reach a final disposition in youth court in Nova Scotia. Over the past five years, the average number of appearances in youth court cases has been relatively stable (Figure 6).



**\*Note:** Excludes cases involving Restorative Justice and Bench Warrants

**Source:** Nova Scotia Department of Justice, Policy, Planning and Research

## ***EFFORTS TO IMPROVE CASE PROCESSING TIMES IN CRIMINAL COURT IN NOVA SCOTIA***

In Nova Scotia, work has been undertaken by the Criminal Justice Transformation Group who work collaboratively to be more responsive to ensure the Criminal Justice System in Nova Scotia is strategic in bringing forth positive change. The group is a team of leaders of the justice profession “who work together to modernize the justice system”. Membership includes high level decision makers of the Provincial and Federal Departments of Justice, the Judiciary, Halifax Regional Police, the RCMP, the Nova Scotia Association of Chiefs of Police, the Provincial and Federal Prosecution Services, Nova Scotia Legal Aid, the Barristers Society, and the Criminal Lawyers Association.

The Criminal Justice Transformation Group is currently leading three initiatives all of which impact on case processing times.

First, Provincial Court, where the vast majority of criminal cases are heard, is developing a “triage” approach whereby cases are prioritized so as to be dealt with more efficiently. This involves an examination of case complexity so appropriate resources are allocated to more complex cases and diversion and early resolution options are explored for less complex cases.

Second, Nova Scotia Legal Aid is working with the rest of the criminal justice partners to increase the use of video-conferencing as a means of efficiently and effectively dealing with matters as they are proceeding through the criminal justice system. The focus of this initiative is to increase the use of video conferencing for appearances by persons in custody, witnesses and counsel, and for discussions between defence counsel and persons in custody.

Third, the Public Prosecution Service and the various police partners are developing an “e-disclosure” process that allows for electronic disclosure for all criminal justice partners. This is intended to increase the efficiency of the disclosure process through the electronic transfer of files.

In addition to the above, criminal justice partners in Nova Scotia also continue to work to identify ways to reduce case processing times in youth court. To this end, committees have been established across the province to find local solutions for improving youth case processing times.

## ***AREAS OF FEDERAL JURISDICTION***

### **Federal Funding for Legal Aid Programs**

In our province Nova Scotia Legal Aid is a key player in terms of creating innovation and efficiency within our criminal justice system as well as in our review and analysis of case processing times. Proper federal funding, at an adequate, sustainable level is essential to the continuation of their role in Nova Scotia. As legal aid is a shared responsibility of the federal and provincial governments, federal funding should be considered at a 50/50

arrangement. Currently the provincial government provides more than 80% of the funding for legal aid in Nova Scotia.

### **Federal Legislation**

Relative to the role of the Federal government in terms of drafting legislation it would be helpful to have the following areas reviewed with input from the Federal/Provincial/Territorial (F/P/T) perspective: the sentencing provisions involving mandatory minimum sentences; Part XXIV of the *Code* in relation to dangerous and long term offender designations; provisions dealing with the *Sexual Offender Information Registration Act (SOIRA)* and the provisions dealing with judicial interim release (bail).

The provisions dealing with mandatory minimum sentences should be examined from an F/P/T perspective given what is largely a matter of shared jurisdiction. That is, many of the provisions require mandatory minimum periods of provincial incarceration.

Part XXIV of the *Code* and the *SOIRA* provisions continue to be challenged in courts across the country in terms of both interpretive difficulties as well as constitutional validity and should also be subjected to F/P/T review.

### **Judicial Interim Release**

Judicial interim release continues to be a problematic area for Nova Scotia. Nova Scotia has one of the highest remand rates in the country. Nova Scotia has recently participated in a National Bail Survey which reiterated these findings. Justice Nova Scotia also participates in a newly created Bail Subgroup of the Steering Committee on Justice Efficiencies. Continued collaboration on gathering hard information, as well as sharing innovative initiatives and best practices is crucial in this area.

Once again, thank you for the opportunity to share ideas and collaborate as we all continue to work toward a more effective, meaningful and efficient criminal justice system.

Sincerely,



Honourable Diana Whalen  
Minister of Justice and Attorney General

cc: Jessica Richardson, Committee Clerk