

THE PROVINCIAL COURT DUTY COUNSEL PILOT PROJECT

**Assessing Its Implementation, Impact and
Feasibility**

SUBMITTED TO

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BY

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EXECUTIVE SUMMARY

This research on the implementation of duty counsel systems in Nova Scotia's provincial criminal courts is part of a larger research thrust undertaken by the Atlantic Institute of Criminology (AIC) at Dalhousie University. As the 20th century came to an end, there were very significant developments occurring in the justice system, such as the resurgence of the restorative justice movement, the problem-solving or specialty court movement and aboriginal justice movement. However the conventional and longstanding problem of basic access to legal counsel for defendants or litigants whether in criminal or family court milieus justifiably trumped these developments at least in Nova Scotia. The AIC-based extensive research in 2002-2004 into the feasibility of a drug treatment court in metropolitan Halifax indicated both the possible viability and value of such an initiative but also the greater priority (in the view of many Justice officials) of responding to the problems of unrepresented defendants or litigants (Clairmont, 2004). Accordingly, a major study was undertaken over the period 2003-2004, with the collaboration of the Bar Society, of the unrepresented defendant in provincial criminal court (see Clairmont, 2004). This latter research, which is discussed in the text below, found that most experts and court officials emphasized the need for duty counsel programs for non-custody adults in HRM and for cells duty counsel in Sydney. NSLA launched such duty counsel initiatives in 2004. In 2005 this research began where the main objectives have been to assess the new initiatives and the impact they have had on the many issues of self-representation. In 2003-2004, NSLA, with the Department of Justice's collaboration and in one case special federal funding, launched a duty counsel initiative for Family Division court centers in Halifax and Sydney. In 2006, an AIC-based assessment of the latter initiative was completed (see Clairmont and Joyce, 2006).

The 2006 study of the duty counsel in family courts found that the program had been well-implemented and deemed very beneficial from the view of all parties, the clients, judges and court administration. A few issues or areas for improvement were identified but it was concluded that these were quite amenable to change and could be accomplished incrementally. This research on the duty counsel systems in criminal court reached basically similar conclusions. In both studies, a wide range of methodologies was employed, including literature review, analyses of accessible secondary data, in-person interviews with key officials and telephone interviews with clients or potential clients. This study also emphasized document review and courthouse observations as well as interviewing more defendants. It is concluded that the programs realized their objectives in large measure and that incremental changes, suggested in the section below on Future Directions, can lead to further improvements. There remain a number of issues concerning the quality and quantum of the duty counsel consultation but clearly it has been an effective use of scarce NSLA resources in HRM and in Sydney. It may be argued that while the "unrepresented defendant or litigant phenomenon" has certainly not been resolved, significant progress has been made and the priority of that issue over other justice initiatives could now perhaps be re-considered.

A detailed eleven page digest of the research findings and brief section on Future Directions is enclosed with the two part report.

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SUMMARY AND FUTURE DIRECTIONS

This research has examined the duty counsel initiatives launched by NSLA in 2004. The major research focus has been on the impact of the non-cell duty counsel on issues related to the unrepresented defendant in provincial criminal court in Halifax Regional Municipality. In addition, a more cursory examination was undertaken of the cell duty counsel initiative in Sydney. A variety of research methods have been employed including literature review, secondary data analyses, courthouse observations, in-person interviews with judges, crown prosecutors, NSLA and private sector lawyers, and the duty counsel lawyers. A substantial effort was expended to obtain the views of the users and potential users of the duty counsel service and this resulted in two samples, one based on courthouse contacts and the other based on using court records (JEIN data) which yielded names and addresses but not telephone numbers; all told, over 180 telephone interviews were carried out with defendants.

The duty counsel initiatives in HRM and in Sydney have been described and their changes over time have been noted. The major change was the shift to a roster duty counsel system in HRM and a shift to a per diem, part-time model for the youth custody cases in Sydney. The former was induced largely by the resignation of staff duty counsel whereas the latter appeared to be a consequence of limited workload. In the few pages below the chief findings of the various research methods are detailed; there is some repetition of the text above as this section is intended as a stand-alone for the convenience of the reader. Subsequently there is a brief section on future directions.

ANALYSES OF SECONDARY DATA

These analyses, carried out with the very limited secondary data, do suggest that the non-custody DC initiatives in HRM have been implemented as planned, that the targeted population has been reached and that there has been a positive impact on the unrepresented defendant problem. The DC program has evolved in terms of structure (i.e., becoming a roster delivery system) and in terms of penetration among the targeted population. The workload for the DCs has been modest, and the services delivered multifaceted and of limited depth.

COURTROOM OBSERVATIONS

All courtroom observation focused on the “walk-in” duty counsel and with three exceptions took place at the Halifax provincial court on Spring Garden Street. There were three sets of observations, involving forty-one sessions, over a sixteen month period ending in November 2006. The assessments of the observations indicated that the duty counsel service has evolved in an appropriate direction given its objectives. The duty counsel lawyers have become more assertive and the service itself more efficient. There seems little doubt that the DC initiative has improved the efficiency of the court processing of cases as well as assisted defendants in a variety of ways. There remain

differences among judges in their calling attention to, and in their persistence in recommending, the duty counsel service. The DCs were busy with, but not overwhelmed by, clients. The penetration rate, based on observation, has improved but could still be much greater. The basic DC service appears to have become a routine part of the criminal court process at HRM. It is achieving its specified objectives in providing summary legal advice and NSLA contact for many unrepresented defendants. There remain a small number of unrepresented defendants who are adamant in wanting to settle their matter quickly and plead guilty. Few cases were observed over the entire observation period of an unrepresented defendant who rejected the DC counsel because he or she wanted to defend themselves on a not-guilty plea. Perhaps the only shortfall emerging from the observations is that when judges and even DCs mention the service to the potential clients they usually do not explain it in any detail, assuming that the defendants know something about it which was often not the case. Another consideration emerging from the observations is that short of a brief discussion with the DC about the case – the disclosure, the prosecution ‘s early resolution offer (ER), possibilities regarding reducing charges and any fines to be assessed – the unrepresented defendant may misunderstand the charges and also not appreciate some options or issues in the sentencing. There is still considerable and predictable lack of awareness on these matters as well as a widespread sense that the DC’s assistance is basically focused on ultimate guilt or innocence and connecting the person with NSLA. Much more could be done in educating defendants on the nuances of court processing and the DC services.

THE JUDGES’ PERSPECTIVES

In all, nine judges were interviewed, seven in HRM and two in Sydney; most of the HRM judges were interviewed in the winter of 2006 and then re-interviewed or re-contacted by e-mail in the late summer of 2006. The following are the key findings with respect to the DC initiatives from the judges’ perspective:

1. The DC service was introduced in HRM with minimal fanfare and little formal communication of the DC’s mandate to the judges.
2. It took some time in the judges’ perspective for the staff DC in Halifax to realize the full mandate of the role – something they attributed to the way the service was introduced, a normal period of ‘fitting in’, and the personal style of the DC – but the service was functioning quite well by the time she left the position in January 2006 after roughly 14 months on the job and was replaced with a roster DC system. The staff DC in Dartmouth was in operation for only half that time and had been replaced by a roster approach before this research began; there was little sense of evolution in the implementation of DC role or any comparison between the staff and roster approaches drawn by the Dartmouth judges.
3. The judges in HRM were quite appreciative of the DC service whether in the staff or roster model of service but their preference was clearly for the staff model since it offered more consistency in service and integrated the service better in the court process.

4. The main beneficiaries of the DC service in the judges' views were the unrepresented defendants, the judges themselves, and the court process itself (better flow, higher quality justice product).
5. Several judges held that the duty counsel could be more proactive in seeking early resolutions and several also suggested that the DC might attend, for the defendants, matters such as "voir dire" and "changes in undertaking".
6. The judges have accepted the roster system and believe that with a few modest changes and hopefully limited turnover, it can provide significant benefits for clients, court officials and the court process.
7. The judges have a major responsibility when dealing with unrepresented or self-represented defendants as is evidenced in Statement of Principles on Self-Represented Litigants and Accused Persons issued by the Canadian Judicial Council in 2006. They appreciated that the new programs directed NSLA resources exactly where they were needed. Accordingly, they expressed much satisfaction with the DC initiatives, whether it was "walk-in" or cell focused.

THE CROWN PROSECUTORS

In 2004, the crown prosecutors varied in their views about the magnitude of the unrepresented defendant problem in provincial criminal court in Nova Scotia. There was consensus throughout the province that the problem was more serious in HRM than outside the metropolitan area but, even in the HRM context, not all crowns considered that the problem was "major and growing". The most important cause of the unrepresented phenomenon was deemed to be the gap between not being eligible for NSLA and not being able to afford private counsel, but other causes were also advanced. The two chief solutions offered by the crowns in 2004 were to make NSLA more accessible and / or to provide duty counsel service for non-custody unrepresented defendants. In 2006 the crown prosecutors interviewed – five in HRM and two in Sydney - all considered that the DC system implemented, whether the cell or the non-cell DC, was a valuable, useful service. They readily identified the benefits that it has yielded for clients, court role players such as judges and themselves, and for the court process. In their view the DC role chiefly entailed three activities, namely providing summary legal advice, interacting with the prosecution on behalf of their clients, and linking clients up with regular legal aid services; at the same time they indicated much appreciation for other interventions of the DC as a friend of the court explaining legal matters to the unrepresented defendants. In both HRM and Sydney, the prosecutors reported that, over time, the DC service had evolved well. The main benefits they identified the DC initiative providing the clients were some understanding of their disclosure and having a knowledgeable person speak for them in court. The crown prosecutors strongly preferred the staff DC model over its roster counterpart for predictable reasons but they were appreciative of the DC service, whatever its guise. The limits they identified with respect to the non-cell DC program such as very modest assessment of disclosure and little negotiation were seen to be integral to the DC initiative (or the ER program) and not the

fault of those providing the duty counsel work. All crown prosecutors in HRM did hold that the DC program needed much better promotion.

NSLA AND PRIVATE COUNSEL

Five NSLA lawyers and three private lawyers were interviewed, one on one. Overall, the respondents from both NSLA and the private law sector agreed that the non-cell DC initiative in HRM was introduced in a low-keyed fashion but they disagreed about the adequacy of such an implementation. The private law grouping appears to have preferred a more publicized implementation where there may have been educational side benefits. For example, one respondent argued that there are two dimensions to the DC role, a principled one (e.g., no one should go without counsel) and a practical one (e.g., workload, smooth court processing etc) and that both are equally important; in his view, the DC implementation would have been a great opportunity to inform defendants and others about the criminal justice system but he did not believe that this had happened since the focus was on the practical side. Whatever the view about the implementation process, all the respondents whether in HRM or in Sydney considered that the DC initiatives yielded benefits for all the players and have been a valuable addition to NSLA offerings; they have filled a critical gap for the unrepresented defendants. They also all agreed that the staff DC model would generally be preferable to the roster or per diem system. There was modest divergence about the pressures for encouraging hurried guilty pleas and the potential for conflict of interests in the roster DC model. There was little discussion about the specifics of the DC role but no problems or issues were identified and all respondents understood that the DCs do not deal with major offenses and do not do trials.

DUTY COUNSELS' VIEWS

Eight duty counsel lawyers were interviewed in person, equally split between staff and roster DCs; two of the four staff DCs were in the Sydney court system. Overall, the DCs reported that they were generally satisfied with their engagement and believed that they were delivering benefits to clients, other court officials, NSLA and the court process itself. In HRM most were roster DCs and they were interested in securing more assignments and possibly becoming a staff DC should such a position become available. All DCs reported having received very little in the way of training or orientation for the job but at the same time they did not particularly see that as a shortcoming, holding as NSLA apparently does, to a professional model of the “lawyering” entailed. They identified three major facets of their role, namely providing summary legal advice (including procedural knowledge) to the clients, facilitating the client’s linkage to legal aid, and interacting with the crown prosecutors in court on behalf of the clients. Most, but not all, DCs indicated that they occasionally went beyond their mandated tasks if available and requested to do so by the judges or prosecutors. The DCs indicated that they obtained most clients on their own by introducing themselves one way or the other; in other words perhaps by being a “self-starter”. The main other way they secured clients came via referrals from judges. It was clear in the interviews – and consistent with courtroom observations – that the DCs varied considerably in their personalities and

styles of interacting with the clients but in their reports (also consistent with observations) they all indicated that few unrepresented defendants turned down their offers of assistance; where the differences manifested themselves were more at the level of how compartmentalized or business-like they were with clients and other court role players. While acknowledging that cell DC work may be more challenging, they all preferred duty counsel work for the “walk-in” defendants.

The DCs indicated that in general the main benefits the DC initiative provided clients were clarifying the charges they were accused of and reducing the number of charges they faced. For judges and prosecutors the main benefits they identified focused on providing “a comfort level” and enabling them to avoid conflicts of interests in their dealing with unrepresented defendants. There was little doubt in the DCs’ minds that their role has increased the efficiency of the court process. On the two major potential criticisms of the DC role cited in the literature, all DCs rejected any problem. On the first, possibly encouraging premature guilty pleas to facilitate court processing, their view was that any pressure to “plead and go” would come from the defendant, not from them. On the second issue, possible conflict of interest by dragging out a case, they all reported that they was no conflict of interest and that seeking private business on the case was not improper and would not be done at the expense of appropriate early resolution. The chief recommendations advanced by the DCs included maintaining the DC program, better marketing of the DC role, greater presence of the DC role in the courthouse, and better facilities for their meeting with clients.

THE DEFENDANTS’ VIEWS

There were two sets of adult defendant interviews, virtually all of which were telephone interviews. Set A was a sample of twenty-eight defendants interviewed through contact at the courthouse where the telephone interview was arranged. Set B was a sample of one hundred and fifty-two defendants whose cases were closed over the fourteen month period between October 2004 and January 2006; this entire sample was drawn from the JEIN data system. Overall, the following major points emerged from the small courthouse-generated sample of unrepresented defendants:

1. Most respondents were young adult Caucasian males and persons who professed to have little knowledge of the court process or any aspect of it.
2. Prior to arraignment only a small minority indicated that they had done anything with respect to securing legal advice or seeking legal counsel.
3. Over three-fourths did have contact with the duty counsel, most often at the suggestion / direction of the presiding judge.
4. The respondents were especially appreciative of the DC service with respect to assisting them in the courtroom.
5. Those indicating the primary DC service they received was assisting them concerning legal aid were much less appreciative of that particular DC service.

6. The major DC service that respondents acknowledged was advising them on plea, followed by the DC arranging convenient adjournments and subsequent court appearance dates for them.
7. Most consultations with the DC reportedly lasted less than 10 minutes and took place at the DC's office.
8. The large majority of defendants who accessed the duty counsel service reported that it was very helpful.
9. Their spontaneously rendered "best thing" about the DC service was helping them say the right things to the judge, advising them not to accept the plea bargain or plead guilty, and providing social support, in that order of frequency.
10. Duty counsel reportedly did exhibit nuance, reflecting the specifics of the case and did not always urge not guilty pleas or rejections of the ER provided by the prosecution.
11. Respondents usually did not think much change was required in the DC service, whether it be more consultation time or better meeting milieus. They often conveyed an appreciation of the limited parameters of the DC role.
12. The large majority of respondents did contend that there was a need for greater promotion and marketing of the DC role, and a higher profile for the DC at the courthouse.
13. Virtually all respondents, including those who did not access the DC this time, would use the DC service in a future court appearance as a defendant.

Overall, the following chief themes emerged from the analyses of the JEIN-derived sample of 152 persons whose court cases were closed between October 2004 and January 2006 inclusive:

1. 46% of the sample was represented at arraignment, 62% at plea, 65% at trial and 64% at sentencing.
2. The sample consisted of mostly male Caucasians, people over 30 years of age and of quite varied educational and employment attainment.
3. 90% of the respondents had been charged with minor offences and 30% with motor vehicle offences (e.g., impaired driving). 53% were repeat defendants.
4. 68% of the sample had had representation at some stage, if not at all stages, in their most recent court case during the sample's time frame. Of this grouping, 95% reported having legal counsel at trial and at sentencing.
5. The respondents who had legal counsel were generally quite satisfied with the legal services received. As benefits, they highlighted the support function as well as the outcomes realized. The minority who reported themselves dissatisfied with their legal counsel primarily focused on the outcomes as the reason for this assessment.

6. Among the 32% who reported having no legal counsel at any stage in their court case, there were two basic types identified, namely those who indicated the reason was the familiar gap between ineligibility for legal and lack of affordability of private counsel, and **those articulating a reason that had more to do with their wanting to take responsibility and/or explain the circumstances in court. The latter category seemed to be most common among this unrepresented grouping.**
7. Compared to those who had had at least some legal counsel, the unrepresented did little pre-arraignment activity salient to the presentation of their case but were as confident as the represented defendants were in terms of how they saw the crown's likely activities and recommended sentence.
8. Compared to those who had at least some legal counsel, the unrepresented were more likely to be facing charges for motor vehicle and "other" criminal code offences, first time offenders, older and less unemployed. Those with representation on the other hand were more likely to have been unemployed, have a criminal record and to have committed an offence eligible for legal aid.
9. Focusing on those defendants who were unrepresented and also did not have any contact with the duty counsel, they were male Caucasians, first time offenders (61%), all charged with minor offences and half with motor vehicle – related offences such as impaired driving. They were mostly over 30 years of age (77%), employed (86%) and in middle status occupations. It would appear that the large majority could have afforded legal counsel. . **The evidence suggests then that the "system" is working at least in the sense that people charged with significant offences who want legal counsel but cannot afford it are uncommon in this sample.**
10. Comparing users and non-users of the duty counsel services, all of whom indicated an awareness of the DC service, it was found that non-users were older and more likely to be employed. Other less differentiating factors were predictable, namely the seriousness of the charge they faced, whether they accessed other forms of legal counsel and so forth.
11. Users of the DC service frequently indicated that the judge was crucial in referring them to the duty counsel services. A majority claimed that they did understand the range of services provided by the DC but, upon being asked about specific DC services such as speaking to the sentence, it was clear that confidence was exaggerated. The three major DC services accessed were, in order, discussions about the plea, discussions about the disclosure, and assistance in arranging contact with Legal Aid. The DC benefit most frequency cited was greater understanding of the legal issues involved in the case. The large majority of those using the DC reported their consultation took less than 20 minutes. No contact by telephone or outside the courthouse was reported.

12. The large majority of DC users assessed the service in positive terms and reported finding it very helpful. In their spontaneous responses about its best features they pointed most frequently to the social support provided and then to specific items such as securing adjournment. **Somewhat surprisingly in light of the length of their DC consultation, the large majority held that they had had enough time, perhaps reflecting their appreciation of the constraints on the DC role.** The major changes recommended were few, basically calling for a better advertised and promoted DC service, and for a higher profile or presence for the DC at the courthouse.
13. Not surprisingly, the users of the DC service indicated that if there was a next time for themselves in criminal court, they would access the DC service. Of the 124 respondents who did not use the DC service, over 80% indicated that they would use it the next time if there was a next time as defendant. The chief reasons for this view were financial (“it’s free so why not”) and being able to access quick, on-the-spot legal counsel.

FUTURE DIRECTIONS

The research has established that the new duty counsel initiatives embarked upon by NSLA have been quite successful. Significant gaps in society’s responding especially to the justice needs of the “not so well off” defendants, have been targeted and NSLA has expended its scarce resources well. As summarized above, the initiatives have been much appreciated by the unrepresented persons who accessed them, by the judges and crown prosecutors who have worked with them, and by the regular NSLA staff lawyers. The initiatives have improved the efficiency of the court process and yielded a higher quality of justice. Despite the fact that the typical DC consultation with clients in HRM has been one meeting of roughly ten minutes, and despite the fact that the clients often would have preferred more time, over 80% of them considered that they at least had enough time. These clients, as well as those interviewed defendants who reported no contact with the DCs, indicated that they would use the service (again) if they were defendants in another matter. The DCs’ focus has been on the three facets of providing summary legal advice, facilitating linkages to conventional legal aid and interacting with the crown and judge on the clients’ behalf, short of becoming a trial lawyer. In these respects the DC systems have been implemented as planned. The major difference between design and implementation has been in HRM where the staff DC personnel resigned for one reason or another and the DC system became completely a roster model, a model which up to the end of 2006 has seen quite modest turnover and yielded few complaints. For the most part, the DCs have been self-starters, securing their clients through announcements and by presenting themselves to unrepresented defendants. Judges have been a major source of referrals and, perhaps surprisingly, the sheriff’s staff has been important in directing unrepresented defendants to the DCs.

Much has been discussed in the DC literature about possible pressures on the DCs to become caught up in the objective of smooth court processing and unintentionally

encouraging premature guilty pleas to effect early resolution of cases. On the basis of all the interviews with DCs, other court players, and the defendants themselves, that does not appear to have happened in these initiatives. The other criticism one finds of potential conflict of interest between the client and the defense lawyer, when there is a roster DC model and the DC can seek private business in the matter at hand, is more complicated. The roster DCs have reported obtaining such private business but neither they nor other court officials (judges, crowns, NSLA officials) find that problematic because they are confident that the DCs will not abuse the situation and since the possibility of securing such business may be an important incentive in the hiring of roster DCs.

All the above is not to argue that the DC system could not be improved upon. The penetration level of the “walk-in” DC system in HRM can definitely be increased. It has been virtually impossible in this modest project to obtain good data on the matter but the limited secondary data (JEIN and staff DC records) do point to increasing penetration of the service vis-à-vis the targeted pool of unrepresented defendants. Observations and interviews with defendants indicate that more unrepresented defendants do not consult with the DC than do consult, though it appears safe to say that the DC system has contributed positively to the NSLA objectives of having no defendant, facing serious charges and / or a possible jail term, go without some legal counsel. Most respondents, whether court role players or defendants held that the DC system should be promoted better and that the DC should have more presence at the courthouse. The time available for the DC consultation scarcely allows for a careful examination and discussion of disclosure. This does raise the question of the adequacy of the DC consultation, of “under-representation” which is a criticism of the duty counsel approach frequently cited in the literature; but it is not clear in any event whether that would be feasible under the present DC arrangements and it would raise the issue of how far can, and indeed whether, the elaboration of the DC system be encouraged. There does appear to be some pressure on the disclosure issue (i.e., more emphasis on the DCs giving it full attention) from judges and crowns perhaps seeking proactive early resolution and from defendants seeking more detailed, substantive legal advice. The impact of the PPS’ ER initiative on early resolution (i.e., quicker guilty pleas) and on the DC consultation would merit some study but in this research it was found that there was little contact between the DCs and the ER official concerning possible amendments to the ERs and that the general DC view was that the ER gave too little in return for a quick guilty plea.

As was evident in the summaries provided above, there were many other specific recommendations advanced by the different court players. Judges asked about the practicality of having schedules for the roster DCs available to the court clerk or to the sheriff. Some court officials mused about the possibility of expanding the role of the DC to include assisting unrepresented defendants at hearings on undertakings (something which happens informally on occasion now) while others wondered about the possibility of the DCs taking on an educative function and also being able to refer unrepresented defendants to non-legal support services. The DCs themselves offered up more practical suggestions that included more guaranteed working hours, better facilities at the courthouse and better liaison with the sheriff’s desk. Virtually all the court role players interviewed indicated that the staff model would be preferable to the roster model for

predictable reasons (continuity, recognition, availability for non-mandated tasks as a friend of the court) but observations and interviews also showed that a stable DC roster system could also satisfactorily achieve some of these goals; moreover, there may be unanticipated advantages in the roster model in that the perhaps greater marginality of the roster DC may mean that the DC focus remains more exclusively on the defendant and much less on the court system per se.

It would be unwise to conclude that the unrepresented defendant problem in provincial criminal court has been resolved as a result of these initiatives in HRM. JEIN data for 2005-2006 indicate that in roughly 18% of the cases the defendant was unrepresented at least at final appearance; still, that figure represents a significant decline from the counterpart figure of 35% found in 2002/2003 (Clairmont, 2004). As noted above, some 32% of the closed cases telephone sample reported that they had no legal counsel at any stage in the court process but the representativeness of that sample can be challenged, and, in addition, the percentage would overstate the lack of legal counsel since 10% of these closed cases had court appearances prior to October/November 2004 when the non-cell DC system was just getting off the ground in HRM. One might well expect that fewer defendants would have been without any legal counsel (including duty counsel) over all stages in their case and, as well, at final appearance since the DCs frequently speak to the sentence as noted earlier. Even fewer would be without such legal counsel in subsequent years as the duty counsel system becomes more well-known and better utilized. The penetration rate for the DC service at least should improve.

The question of “under-representation” as contrasted with lack of representation is obviously more complex. The expert interviewees appear to differ among themselves on how adequate they considered the DC consultation to be, focusing perhaps more on its at least taking place. Most defendants considered the DC consultation to have been quite adequate but one could argue perhaps that their expectations were quite modest. It does appear too from the interviews that we have carried out with several hundred unrepresented defendants over the past few years that some persons are quite determined to plead guilty and get it over with, so they reject seeking legal counsel; if such cases of unrepresented defendants are the increasingly common face of the unrepresented phenomenon, then many officials might well agree with the senior prosecutor in the PPS who commented, “What is wrong with that”? Similarly, some defendants will want to make their own arguments even if they are not legally relevant; the unrepresented defendants, it may be recalled, are concentrated in certain offenses such as criminal code motor vehicle offenses and domestic assaults where these standpoints seem particularly common. It would seem that the crucial consideration for justice policy is that at least some access to legal counsel is available for all and that accessibility is not tied to socio-economic status or mental well-being. The NSLA’s DC initiatives have gone a significant way in realizing those objectives. Perhaps now that the unrepresented defendant phenomenon has been tackled, incremental improvements can be effected with respect to penetration and quality of the service while specialty courts and the therapeutic jurisprudence movement can be the next frontier in Nova Scotia justice.