

Queen's | LAW CLINICS NEWS

JANUARY 2017



New leader expands Prison Law Clinic and introduces students

With a new director in place as of January 2, Queen's Prison Law Clinic (PLC) is gearing up to deepen its commitment to serving the needs of those incarcerated in the Kingston area's six federal penitentiaries and enhance students' real-life opportunities to provide legal assistance and representation to them. **Sean Ellacott, Law'01**, has been part-time review counsel with the PLC since September, supervising four students while finishing off cases at his private practice, Ellacott Law Office, in Kingston.

As leader of the clinic, he's getting it started on furthering the clinic's litigation mandate. The clinic's responsibilities already demand a lot from the student caseworkers it selects each year: 18 for the academic year and four for the summer. Supervised by the clinic's lawyer-advisors, students learn to manage the solicitor/client relationship, interview inmates (always called clients), conduct case-specific research, draft legal submissions, represent clients at hearings, and prepare examinations and cross-examinations of witnesses. In the course of this work, they have opportunities to draft grievances, provide legal opinions, represent clients at Disciplinary Court or Parole Board hearings, and conduct on-site meetings with inmate groups. Ellacott hopes to add the opportunity for them to be a part of more complex litigation as well.

"That means adding a layer to what was already a remarkable opportunity for law students," Ellacott says. "You get your own client files before tribunals. Just in itself, that's a great thing for students to be able to do, and they get feedback on running a file."

For him, to have PLC lawyers running litigation will mean the clinic can have a greater impact on the development of Canadian law. It also means students will be akin to articling students on those files, supporting the staff lawyers with the litigation.

"Most legal clinics at law schools don't do that," he says. "Review counsel generally help students conduct their matters. I want to introduce judicial reviews, especially in areas the staff thinks are important to a really underserved community."

Ellacott, who worked with the then-Correctional Law Project while a student himself, comes back to it well prepared to direct. He has appeared regularly before the Superior Court of Justice, the Ontario Court



"Nowhere else in Canada does the volume of prison law this Queen's clinic does. That's why we should have, and could have, a really strong voice in correctional issues."

Meet the all-alumni team of Prison Law Clinic lawyers as of January 2, 2017, at the Law'09, new leader Sean Ellacott, Law'01, articling student Nancy Brar, Law'16, and

of Justice, the Federal Court of Canada, the Parole Board of Canada, the Parole Board of Ontario, and the Ontario Review Board. That extensive criminal and correctional litigation experience makes him a natural fit to lead future litigation at the clinic. So does his empathy.

"People who are incarcerated tend to suffer in greater numbers from mental illness and substance abuse, and they have a significantly lower level of literacy, so as a group they're fairly vulnerable" Ellacott says. "When we see issues that are important to them, especially systemic ones, I think we'll be keen to be involved in litigation that addresses those issues."

on Law Clinic's mandate s to litigation experience



of
/it
oice

Queen's Law Clinics in downtown Kingston: Kathy Ferreira, Law'01, Paul Quick, and Rachel Eichholz, Law'15.

DEREK CANNON

"In legal terms, I think it will be more 'consequential,'" he adds. "A real goal for us is to intervene in important cases at the Ontario Court of Appeal or the Supreme Court of Canada."

Noting the amount of movement in prison law over the last few years, Ellacott says now is the time for the clinic to get directly involved. "Kathy, Paul and I want to run test cases, bringing judicial reviews on things like mental health, proper mental health care, and other duties to accommodate. Different prisoners have different problems, given their age, health, disability or sexual orientation. Obviously, if correctional facilities are not accommodating properly, or procedural fairness is lacking, there may be rights abuses going on."

Since October, Ellacott's former associate **Paul Quick, Law'09**, has been working at the clinic on litigation. Quick received the Medal in Law for highest standing in his graduating class. He articulated and practised law with Klippensteins Barristers and Solicitors in Toronto before returning to Kingston in 2012.

Rachel Eichholz, Law'15, has been a staff lawyer since August, on a contract basis. She articulated with a small criminal defence firm in Hamilton, which fostered her interest in prison law work.

This fall, the PLC hired its first articling student, **Nancy Brar, Law'16**. Her primary role is to assist clients with mental health challenges at Consent and Capacity Board Hearings and to help ensure the clinic provides client services to prisoners year-round, not just during the academic year.

Ellacott calls **Kathy Ferreira, Law'01**, "the heart of the clinic." She has served as acting director since July, when Elizabeth Thomas retired. Thomas's achievements in advancing the PLC mandate included involving students in Supreme Court of Canada test-case litigation. In January, Ferreira will return to her role as full-time review counsel. She was a clerk at the Superior Court of Justice Central West before being called to the bar in 2002. After a brief stint with Legal Aid Ontario in Toronto, she joined the clinic in 2003 as a staff lawyer.

"Kathy deserves a ton of credit for keeping the clinic running in superb shape," says her new boss; "really we're just adding a layer to what Kathy's already done."

He points out that "nowhere else in Canada does the volume of prison law this Queen's clinic does. That's why it should have, and could have, a really strong voice in correctional issues. With six prisons, we just see more than anyone else."

In 2017, Ellacott hopes the clinic will either be directly litigating several cases or will have intervener status. "It's going to be really valuable for students because they'll play a big role in small files and a small role in bigger files," Ellacott says.

"If I was a student, I'd be all over it."

— JEREMY MUTTON

Queen's Legal Aid bail program

Bail reform is a hot topic in Canada right now: pre-trial detention is blamed for overcrowding in provincial jails. The subject has recently attracted the attention of both the Ontario Attorney General and the federal government. To tackle these problems, Queen's Legal Aid (QLA) began offering the first and only student bail program in Canada last June to reduce overcrowding at Quinte Detention Centre.

The program sees Queen's Law students helping women who have been accused of crimes and who are held in pre-trial detention get a release. To date, its student caseworkers have already assisted on 31 bail matters.

"Prior to our program starting, Quinte Detention Centre had 29 women in custody," said **Jodie-Lee Primeau**, the QLA review counsel who founded the program and supervised it until she left the clinic earlier this month. "The Detention Centre only has room for 19 so this meant that women were regularly being triple-bunked (two women in bunk-beds and one beneath a metal table on a thin mattress on the floor) or even held in segregation simply for want of space," she explained. "Even more importantly, all 29 of those women had not yet had a trial or plea; in other words, they were legally innocent. Within three months of our program only nine were being held."

Working on bail matters is a unique and valuable opportunity for Queen's Law students. They receive specialized training from QLA review counsel and are granted access into Quinte Detention Centre through the Elizabeth Fry Society. The end product is a lengthy memorandum detailing a bail plan, avenues of support and legal issues that may hinder the client's access to bail.

The process is one that requires a great deal of communication with clients, local lawyers and community organizations. "The students meet clients in the cell block and interview them about their current social supports and areas where they may have issues getting bail; for example, problems with mental health, finances, addiction and housing," Primeau described. "They help explain the bail process to clients and begin to brainstorm strategies. Many clients may not even be aware of the possibility of or the procedure for being released before trial. It is apparent that people we have not helped individually have learned about their bail rights through our representation of their cellmates."

The caseworkers then liaise with the client's private bar lawyer, the Elizabeth Fry Society, the John Howard Society and other community organizations. "Law schools across Canada have fewer and fewer criminal law practice opportunities," said Primeau. "Getting criminal law articles is extremely difficult and students are regularly hired based on practice-readiness. In this program, students work in partnership with local private lawyers, creating networking opportunities and mentorship relationships."

The program's clients are provided access to justice in a system that Primeau described as unfair to marginalized people. "Persons charged with criminal offences can only meet with duty counsel in court on the date of their hearing," she says. "This means that virtually no time is



am furthers access to justice

QLA's Jodie-Lee Primeau (standing), Sue Charlesworth, Law'81, Olga Michtchouk, Law'18, and articling student William McDiarmid, Law'16, at the Queen's Law Clinics in downtown Kingston.



MARC CHAPUT

allotted for them to create a bail plan that will give them a chance to be released pending their trial.”

“Even for the clients who do have a legal aid lawyer, the certificate does not come close to affording the lawyer enough paid time to work on a bail plan,” she continued. “When clients cannot work with their legal counsel in a meaningful way on a release plan, it means they are much less likely to convince a court that they will not pose a risk to the public while on bail; and so, they will likely be detained until their trial.”

The most rewarding part of Primeau’s work in the bail program was seeing students take ownership of it so as to now direct and continue it under the supervision of **Susan Charlesworth, Law’81**, QLA Senior Review Counsel. “Together, we have put in place systems and students to ensure the ongoing work of the program even on very limited funding. Watching students direct themselves and the program to ensure social justice for those in dire need of assistance gives me a great deal of faith that we are molding motivated, socially-conscious and innovative lawyers in the clinical education system.”

“Queen’s Legal Aid is delighted to have this valuable service added to the other legal assistance that we provide to the community,” says Charlesworth. “The bail program anticipated the Ontario government’s new plan to make the judicial system faster and fairer, and it has been extremely well received by the many women incarcerated while awaiting trial. The local lawyers representing those women also appreciate the student’s assistance in arranging sureties and services in the community to help with bail planning.”

— ANTHONY PUGH

Law'79 grad gives back to cl

Forty years after he entered first year at Queen's Law, Greg Richards has become a permanent fixture – literally.

The Queen's Law Clinics student workroom has been named for **Richards, Law'79**, whose generous \$100,000 donation to the Experiential Learning Fund caps off many years of commitment to the law school.

"Greg is very supportive of what we're doing at the clinics and we wanted to name the student workroom in recognition of his generous contribution to the school," Dean Flanagan said at the unveiling ceremony.

Richards, a partner at WeirFoulds LLP, says his support for the Fund stems from two factors: skills such as advocacy and dealing with clients that he learned from the clinics; and the Law Faculty's desire to further enhance the program.

"I wanted to respond by giving back in some way," Richards says.

"The real story is how wonderful it is that the school has established those five clinics (legal aid and the elder, business, prison and family law clinics). I understand students really want that opportunity for hands-on learning. If the school says, 'we could use some support here,' I'm happy to do what I can."

Richards has fond memories working for Queen's Legal Aid in the late '70s.

"It was not nearly as elaborate and extensive as the facilities are now. There were offices in the school and north of Princess on Montreal Street, where students and Kingston residents would visit," Richards says.

"Then there was rural legal aid, which operated with a van that drove up old Highway 38 to Sharbot Lake, stopping at little communities along the way."

Richards says the van was nothing fancy; just a regular delivery van with 'Queen's Rural Legal Aid' on the side.

"One thing that sticks out in my mind is driving up in the winter. For some reason with this van, the heater, at one point wasn't working," Richards recalls. "That was one cold trip!"

Richards says rural legal aid at that time could consist of anything – whether it was tax returns or helping someone navigate a court case.

"The court at Sharbot Lake was held in a community hall. The judge would sit up on a platform and preside from there."

"The downtown legal aid clinic in Kingston had a



Clinical programs at Queen's



variety of cases too: small claims court actions, drafting pleadings, landlord-tenant issues.”

Richards recalls helping students fight landlord-tenant cases in which landlords were trying to take advantage of them – such as selling them heating oil at inflated prices as a term of their lease.

“The law isn’t something that just sits on a bookshelf. It’s a part of our society, and to see how it works you’ve got to get out there and give it a try. There’s nothing quite like learning by doing. You have to interact with real people who’ve got real problems and who raise legal issues. It’s a whole other set of skills – and you’re helping other people at the same time. It’s the practice of law, really. There’s no substitute for actually doing it.”

Richards’ investment is just one part of his commitment to Queen’s Law. From 2003 to 2013, he served on the Dean’s Council, including one year as chair. He says the investment is worthwhile in order to help students continue to benefit from clinical education.

“It certainly did a lot for me. I’ve had a very interesting career in the practice of law, and that never would have happened if I hadn’t had all the support and grounding from Queen’s Law. I feel I’d like to give back as much as I can.”

— JEREMY MUTTON



Greg Richards, Law'79, was celebrated by Queen's Law students at Homecoming 2014, when he was presented with the H.R.S. Ryan Alumni Award for significant contributions to his alma mater and the legal profession.

VIKI ANDREVSKA

VIKI ANDREVSKA

LLM alumna gives Queen's Law Clinics a further boost



LUCAS TINGLE, WINDING VIOLETS

Karla McGrath, LLM'13, is the first Executive Director of the Queen's Law Clinics

Queen's Law Clinics has taken another step forward with the appointment of **Karla McGrath, LLM'13**, as its first Executive Director. While continuing to serve as Director of the Family Law Clinic, she also now oversees the school's five clinical programs and streamlines them by implementing common policies and procedures when appropriate.

"Securing a fantastic space on the top floor of a downtown office building has brought all the clinical programs together," explains McGrath, referring to legal aid and the business, elder, family and prison law clinics.

"This co-location has created tremendous opportunities for all five clinics to share resources and learn from one another so that we can better serve their dual goals: access to justice and providing superior experiential learning opportunities to students. To date we've done an excellent job of that but all the great ideas beget more great ideas so the next logical step was to make the coordination of that effort the responsibility one person."

McGrath, who holds a JD from the University of Kentucky in addition to her LLM from Queen's, has been called to the bars in both Ontario and New York. From 2008 to 2015 she acted as an Independent Chairperson presiding over disciplinary court proceedings at federal penitentiaries in the Kingston area. Her private practice has focused on family law and included seven years litigating for a local children's aid society.

"Being in a position to improve access to justice on both an individual and a systemic level has been an important part of my law practice for nearly 20 years now," McGrath says. "As the founding director of the Family Law Clinic, I have been able to develop a unique program that is integrated with its community partners. Now, as Executive Director, I have the opportunity to do even more. There is tremendous demand for the services that we provide – both from the community members seeking legal services and the students seeking the experience."

McGrath adds that the opportunity to work with Queen's Law students is a privilege. "It is so rewarding to be here with them as they spread their wings as legal professionals. They all bring so much energy and enthusiasm to their tasks and, while I know it sounds terribly cliché, they really do keep me young."

— ANTHONY PUGH

Clinic Briefs

Queen's Business Law Clinic

InnovationXL, a partnership between Queen's University, PARTEQ Innovations and Launch Lab, receives funding from the Canada Accelerator and Incubator Program (CAIP), delivered by National Research Council-Industrial Research Assistance Program (NRC-IRAP), to provide programs and services to accelerate the growth and retention of high potential startups and SMEs. Recently, InnovationXL received approval to include QBLC's services in the suite of programs they offer to eligible clients under the CAIP program. Since the collaboration began in August, QBLC has assisted 16 unique clients with 25 matters being allocated amongst 13 student caseworkers. QBLC's partnership with InnovationXL will continue in 2017, providing up to \$10,000 in funding to assist with the clinic's operational expenses.

Queen's Elder Law Clinic

QELC has recently broadened its geographic reach through collaboration with The Help & Legal Centre of Northumberland. Once a month, two student caseworkers and two review counsel travel from Kingston to Cobourg to provide legal assistance to seniors who lack the financial means to retain a lawyer. Under the supervision of review counsel, student caseworkers take instructions from clients, draft wills and powers of attorney, and facilitate the execution of these documents. This is the first year for this collaboration, which will run until April. In January, QELC received a \$25,000 grant from the United Way. Watch for the full story in the June 2017 issue of *Queen's Law Reports Online*.

Queen's Family Law Clinic

Relying on an unbundled service approach to assisting Family Court litigants, QFLC is able to assist more self-representing litigants than would be possible offering the traditional representation approach. Credit students and volunteers work under the supervision of review counsel and in partnership with Legal Aid Ontario's duty and advice counsel services to prepare court documents and navigate qualifying self-representing litigants through the complex family justice system. Unique in the province, QFLC opened its doors in September 2014 and recently served its 500th client.



GREG BLACK

Jana Mills, Law'92 (middle), shown discussing a case with students caseworkers, marked her tenth anniversary as Review Counsel with Queen's Legal Aid.

Queen's Legal Aid

Congratulations to Jana Mills, Law'92, who is celebrating her tenth anniversary as QLA review counsel!

As the first "litigation clinic" at Queen's Law, QLA regularly appears before 11 different courts and tribunals. During the fall term, students went to the Social Benefits Tribunal 22 times, had 11 hearings before the Landlord and Tenant Board, attended 10 criminal or Provincial Offences Act trials or guilty pleas (plus numerous counsel and judicial pre-trials!) and 10 Criminal Injuries Compensation Board hearings. QLA clients benefit from the hard work the students put in to preparing for these hearings.

Queen's Prison Law Clinic

Following the recent hiring of new director, Sean Ellacott, Law'01, QPLC now has three full-time lawyers, more than ever before. Students are actively engaged in judicial reviews at the Federal Court and in other litigation. With its first-ever articling student, QPLC has increased its presence at the Regional Treatment Centres at Bath Institution and Millhaven Institution, gaining access to high-need incarcerated clients who have mental health challenges. Read more about QPLC lawyers and the clinic's expanded mandate on [pp. 10-11](#).



Queen's Law Clinics

Business Law
Elder Law
Family Law
Prison Law
Queen's Legal Aid

303 Bagot Street, Suite 500
Kingston, ON K7K 5W7
queenslawclinics.ca

CONTACT THE CLINICS:

www.queenslawclinics.ca

303 Bagot St., Suite 500

Kingston, Ontario

613-533-2102

Monday - Friday

8:30 a.m. - 4:30 p.m.*

*some individual clinics' hours may vary: see website for details.

LASALLE MEWS

LASALLE MEWS

BY PERMIT ONLY 8:00 AM - 5:00 PM

BY PERMIT ONLY 8:00 AM - 5:00 PM





The Queen's Legal Clinics gratefully acknowledge the support of Legal Aid Ontario, the Law Foundation of Ontario, Pro Bono Students Canada, the class of Law'81, the United Way, and alumni and industry sponsors.

While our clinics are supported by the above organizations, the Queen's Law Clinics is solely responsible for all content in this publication.

Queen's | LAW