



# Queen's Law Clinics



July 2019

# Cunningham Swan marks 125th anniversary with \$125,000 donation to Queen's Law Clinics

Cunningham Swan presented a commemorative gift of \$125,000 to the Queen's Law Clinics during the local firm's 125th anniversary celebration on June 18. With this donation, which amounts to \$1,000 given for every year since the firm first hung a shingle in 1894, Cunningham Swan is furthering its long history of giving back to the Kingston community.

"This gift is a measure of the firm's strong commitment not only to this community, but also to facilitating access to justice within it," said Andrea Risk, Law'99, managing partner of Cunningham, Swan, Carty, Little & Bonham LLP. "Our firm is thrilled to support the legal services that law students provide to the community through the Queen's Law Clinics, and the excellent training that the clinics, in turn, provide to future lawyers. With this donation, we recognize our long-standing support of, and commitment to, the Queen's Faculty of Law and the Queen's Law Clinics."

The Queen's Law Clinics have been a vital part of Queen's Law for almost 50 years and provide pro-bono law services to members of the Kingston community. "Our students work directly with the public, under the supervision of legal counsel, providing access to justice in areas ranging from family to business law," said then-Dean Bill Flanagan. "It is gratifying to see the local legal community's support for the clinics – in particular Cunningham Swan's generosity in providing this gift to support the Clinics' continued work."

"This is an extremely challenging time for any agency that provides frontline services to the most vulnerable in our community," said Karla McGrath, LLM'13, Executive Director of the Queen's Law Clinics. "Private support is becoming essential to the maintenance of basic services. And, while all support is important, this donation is especially meaningful as it comes from legal colleagues, who recognize the importance of our work and of our programs."



SAMANTHA CHOW

Lawyers from Cunningham, Swan, Carty, Little & Bonham LLP celebrate the local firm's 125th anniversary and its \$125,000 gift to the Queen's Law Clinics at the Isabel Bader Centre for the Performing Arts on June 18 with then-Dean Bill Flanagan and clinic lawyers.

# 5th anniversary with \$125K Clinics



SAMANTHA CHOW

*Andrea Risk, Law'99 (middle), managing partner of Cunningham, Swan, presents then-Dean Bill Flanagan and Karla McGrath, LLM'13, Executive Director of the Queen's Law Clinics, with a cheque in the amount of \$125,000 to "support the legal services that law students provide to the community through the Queen's Law Clinics, and the excellent training that the clinics, in turn, provide to future lawyers."*

Cunningham Swan currently consists of 34 lawyers who provide a full range of legal services to individuals, families, business and public sector clients throughout Eastern Ontario. They offer legal expertise in business, family, estates, litigation, real estate, labour and employment, municipal, planning, education and health law. Past substantial philanthropic gifts have been made to Pathways to Education Programs, Kingston University Hospitals Foundation, Limestone Learning Foundation, Hospice Kingston, St. Lawrence College, The United Way of Kingston, Frontenac, Lennox and Addington, KFL&A Mental Health and Addictions.

Since 1971, with the launch of Queen's Legal Aid, the Clinics have provided a range of essential legal services to some of the most marginalized in the local community. There are currently five pro bono clinics operating in downtown Kingston, including Queen's Legal Aid and the Business, Elder, Family and Prison Law Clinics. The Clinics handle over 1,200 files per year and involve over 200 students annually, thus providing vital legal services to the community while, at the same time, delivering valuable hands-on learning experiences to its students.

See more photos from the celebratory event in our [SmugMug gallery](#).

# IP and technology law expert Business Law Clinic

Nigerian native Tomi Adebisi began her legal career in 2010 practising with one of her country's leading business law firms. After completing her LLM in corporate/commercial law at McGill in 2015, she stayed in Canada first as an intake worker and then a student-at-law with Pro Bono Law Saskatchewan. Most recently she served as Human Rights Investigator with the Saskatchewan Human Rights Commission. In January, she brought her diverse experience to the Queen's Business Law Clinic, where she will be supervising students as the QBLC's first staff lawyer.

Tomi Adebisi spoke with *Queen's Law Reports* about her expertise, experience and the work she's doing with the QBLC.

## **What interests you most about providing legal services to small business startups, entrepreneurs, not-for-profit organizations and social enterprises?**

For many of our clients, setting up a small business startup is their first step towards financial independence. For other clients, a desire to bring positive change to their society and contribute to their community is what drives them to seek to create either a not-for-profit organization, charitable organization or social enterprise. One major obstacle to achieve these goals, I find, is access to affordable legal services. Hiring a lawyer is expensive especially for a startup business or a not-for-profit organization and navigating the maze of regulations and acts relevant to the incorporation of a business organization is confusing without the guidance of a lawyer. Ultimately, these clients' inability to obtain affordable legal advice may put an end to their dreams. Working at the Queen's Business Law Clinic gives me the unique opportunity to be a part of our clients' success stories. The ability to provide them the legal support needed to birth their dreams into reality is a privilege that I look forward to enjoying in the course of my work at the clinic.



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*Tomi Adebisi, the new staff lawyer with the Queen's Business Law Clinic, is helping student caseworkers learn and develop useful skills that will ultimately ensure their smooth integration into law practice.*

# joins Queen's

## **Tell us about your experience in dealing with intellectual property (IP) and technology law issues as an associate with Nigeria's large business law firm G. Elias & Co.**

I started my legal career as an associate of a top business law firm in Lagos, Nigeria. I worked at the firm for about three years. While working at the firm, I provided legal advice on trademarks registration, copyright issues and intellectual property acquisitions. Our firm managed the intellectual property portfolios of many banks, telecommunication companies and large businesses. This exposed me to a wide-range of IP and technology law issues flowing from mergers and acquisition transactions, as well as other corporate reorganizations. My interest in IP law led me to apply for a thesis-based LLM program at McGill University, where I focused my research on copyright compliance issues in the digital age.

## **Tell us about your interest and experience in human rights law and pro bono work.**

My interest in pro bono work goes as far back as my undergraduate years in Nigeria. I completed a three-month internship at the Office of the Public Defender, Lagos State, during my fourth year at the university. This was my first exposure to the very real access to justice issues in my country.

However, I also had a very strong interest in business law and after I was called to the Nigerian Bar in 2009, I chose to follow the business law path instead. But I was always drawn to pro bono work.

After I completed my LLM and while I was completing my accreditation process with the National Committee on Accreditation, Federation of Law Societies of Canada, I got an incredible opportunity to work as an Intake Worker with Pro Bono Law Saskatchewan. I helped low-income individuals gain access to the legal advice, which they needed so much but were unable to afford.

It was a very rewarding and humbling experience for me because of the gratitude expressed by these individuals who had been shut out of the legal system. It was also during this time that I first became interested in human rights and labour and employment issues.

After I was called to the Saskatchewan Bar in 2018, I was offered a position as an investigator with the Saskatchewan Human Rights Commission, where I helped investigate complaints filed by individuals on different issues ranging from discrimination on the basis of sex, race, creed, religion, sex (including pregnancy) and family status.

## **What attracted you to the Queen's Business Law Clinic?**

It is very rare for me to find an opportunity that brings together quite nicely all my previous legal experiences as a corporate-commercial associate and my work in a pro bono organization. This was my main attraction to the Queen's Business Law Clinic. I was also attracted to the unique structure of the clinic as a clinical education course, as well as the learning and development opportunities it offers to the 24 students registered in the course. I believe that what makes a great lawyer is his or her ability to transfer theoretical knowledge into practical skills useful to their clientele. The Queen's Business Law Clinic creates such an environment for its students to learn and develop useful skills that ultimately ensure a smooth integration into law practice.

## **What do you like best about being QBLC Staff Lawyer?**

I like the mentoring opportunities, ensuring the delivery of top-quality services to clients, working collaboratively with colleagues from the other four Queen's Law Clinics, which are all conveniently located in a single location, to name a few. It is very exciting to uncover all that the QBLC has to offer and to contribute positively to the development of the clinic.

# Justice behind bars; an inside Queen's Prison Law Clinic

Kathy Ferreira, Law'01, is the first to admit that prisoners are not always viewed as the most 'sympathetic' group.

Yet, after first experiencing what it was like to work with prisoners in Kingston-area institutions during her legal studies at Queen's, she has dedicated her career to protecting the rights of prisoners through the Queen's Prison Law Clinic (QPLC).

In this interview, Ferreira – now the clinic's Director – talks about the important work of the QPLC, and how it works.

## **Tell us more about how you got started with the QPLC.**

I started working with the clinic as a student in 2000-01, and returned as a staff lawyer in 2003. I didn't expect that I would return to Kingston – close to where I grew up – but when the opportunity came to return to Kingston and practice I jumped at it. It is a good fit and I enjoy working with the clients.

If you speak to any Queen's Law students who work with the Prison Law Clinic, they will tell you the same thing: after meeting with the clients, it is easy to see that the work you are doing is important. They are extremely grateful for the help we provide.

## **Queen's Prison Law Clinic in numbers:**

The QPLC team includes **3** staff lawyers, **18** students in Prison Law class, **4** in LAW-419 (Advanced Prison Law), **1** articling student, an Indigenous Justice Coordinator and administrative staff.

In 2018-19, the QPLC has worked on more than **176** disciplinary court and 66 Parole Board files.

LAW-419 students have assisted with **2** interventions to the Supreme Court of Canada, an appeal to the Federal Court of Appeal, and **6** judicial review applications to the Federal Court.

When I was a student, I was involved in cases at Kingston Penitentiary, which had a very busy disciplinary court. I was fortunate to have a Parole Board hearing where the Parole Board was deciding whether to keep a prisoner inside for the duration of his sentence. In fact, I still have clients from my student days.

If you work in this area of law, you understand very quickly that most prisoners come from difficult circumstances. Between the cases and the relationships you form, it is very satisfying work.

## **Why should the rights and treatment of prisoners matter to all of us?**

As Nelson Mandela said, "No one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones." The treatment of prisoners is the litmus test for a society's commitment to human rights. The treatment of prisoners matters because all people – even those who break the law – have inherent value, and it matters because an unjust prison system further alienates people from society and the law and perpetuates lawless behaviour.

Most prisoners will be joining society again. If they aren't being treated fairly and getting access to appropriate services while inside, it doesn't bode well for their success once they are released. A fair and humane treatment of prisoners inside leads to more positive outcomes back to the community, which makes for safer communities, and we all care about that.

## **Tell us about the clinic.**

The clinic is a not-for-profit with a small board, including members of the Faculty of Law, Senator Kim Pate, and Graham Stewart – the former Executive Director of John Howard Society of Canada. We are funded by Legal Aid Ontario.

The clinic includes three lawyers, one articling student, 18 students enrolled in LAW-418 (Clinical Prison Law), and four students enrolled in our pilot

# look at the

Advanced Prison Law course (LAW-419). We also have one volunteer and have added a part-time Indigenous Justice Coordinator staff position.

The latter role was identified as a need in recent years to reach out to a demographic that is overrepresented in Canadian prisons. A number of other legal clinics have added a similar position in recent years and found it beneficial. This person will help with prisoner releases back to Indigenous communities, and serve as a community worker who can reach out to Elders and groups within the institutions to identify needs.

We have one staff lawyer, Paul Quick (Law'09), who is dedicated to our litigation efforts at the clinic. This work addresses systemic injustices against prisoners and helps ensure fairness at the tribunals we appear before. With the help of the experienced students in the Advanced Prison Law course, we can take on more cases than would otherwise be possible.

Our team represents prisoners at disciplinary hearings and Parole Board hearings, and advocates for their rights in prison, including for appropriate health care. Our service area includes the Kingston-area prisons and goes as far west as Warkworth – between Belleville and Peterborough. Our staff lawyer, Nancy Brar (Law'16), handles the busy caseload at Warkworth Institution and has a particular interest in advocating for human rights in the institutions.

Though there are other legal clinics doing prison law in Canada, our model is unique. We are a legal aid specialty clinic. We are affiliated with the law



*Through our Queen's Prison Law Clinic, Director Kathy Ferreira, Law'01, and student caseworkers help ensure prisoners are treated fairly while serving their sentences, working with the most vulnerable inmates through disciplinary and Parole Board hearings.*

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school and our sister clinics at Queen's Law. We engage in both front-line tribunal advocacy and litigation at the Federal Court, Federal Court of Appeal and the Supreme Court of Canada.

## **How does the QPLC help with Parole Board hearings?**

Our core funding is for disciplinary court and Parole Board hearings, and other prison-related concerns.

We help prisoners prepare for their Parole Board hearings, and may also assist them at their hearing. Parole Board hearings are about an hour, so prisoners have a short time to 'be more than what is said about them on paper'.

The purpose of preparation is to ensure the prisoner is not taken by surprise and is able to fully respond to the board's questions and concerns about risk management. The prisoner should understand the extent of the questions the Board will ask about their record, not just their current offending.

During their hearing, the board will spend time discussing their institutional behaviour and progress while incarcerated – both positives and negatives. They will also discuss the prisoner's release plan to ensure the risk is going to be manageable.

If the prisoner is considered a good candidate for parole, the plan must be investigated to make a good decision. The board will hear from the prisoner, and consider feedback from the community, their parole officer, and others before deciding on whether to deny parole or to grant partial (day) or full parole.

For example, if an inmate calls us several months before a hearing, they might see us monthly for an hour at a time. We are not limited to a set amount of time, unlike hours on a legal aid certificate. If we have less notice, the case might go to the articling student.

### **How do you determine who you help?**

We typically help with all disciplinary court requests unless we have a conflict. We provide advice on prison-related issues to all who ask. We help those who are reasonable candidates for parole, and the more serious cases where we can have a greater impact.

For instance, we work with Indigenous prisoners, those with mental health conditions, and those serving life sentences. Lifers tend to make strong candidates for parole as they have a statistically low rate of recidivism.

We also focus on prisoners who cannot afford their own legal representation.

### **What are some trends and changes you have seen since you started working in prison law?**

Segregation – or solitary confinement – of prisoners has been overused since I was a student and before. It is only recently that the Correctional Service of Canada started to take some steps to move away from it, in part due to anticipated changes in the legislation.

There has been a lot of attention on this practice as it is clear it can cause serious and lasting psychological harm after only a few days. It still does exist and the concern is that it will likely replicate itself by another name as a means of isolating prisoners.

While I believe the legislation may read as kinder and gentler, I expect it will probably still be rife for abuse. Without independent oversight, the prisons will always put security and resource claims ahead of prisoners' well-being.



*Richard Sauv  is the QPLC's new Indigenous Justice Coordinator.*

### **What is on your radar for the years ahead?**

The first is ensuring appropriate care of elderly prisoners and having prisoners with disabilities being accommodated while in jail.

On the same thread, compassionate releases are not happening although the provisions are in place. This would be instances where the prisoner is dying and is not a risk to public safety.

Secondly, ensuring mentally ill prisoners are able to transfer to community mental health or psychiatric facilities to help their recovery. Prisons are not well equipped for this purpose.

A third would be access to postsecondary education. Most colleges and universities are moving away from paper to the Internet, but prisoners don't have access to the Internet. They need to be able to pursue skills while behind bars to help their successful return to the community.

There are so many free educational resources available online, technological change is accelerating, and digital skills are becoming more essential every day. By not allowing any access to the online world, even for very limited purposes, our prison system makes it quite difficult for people to transition back to life in the community.

# Clinic Briefs

## Queen's Business Law Clinic

2019 started with a growth spurt at the QBLC, welcoming new Staff Lawyer Tomilola Adebisi. She joined the clinic from Nigeria, via Saskatchewan, with an LLM from McGill. Thanks to her help, the past school year was more productive than ever. The summer is off to a similar start with another three great summer students. They're currently tackling the influx of Queen's student start-ups needing assistance as they launch their businesses in the summer entrepreneurship program running out of the new Queen's Innovation Centre.

## Queen's Elder Law Clinic

The QELC's 16 student caseworkers wrapped up the busiest academic program to date, assisting more clients than in any previous year. In addition to serving the local Kingston community, the QELC continues to increase service to senior clients incarcerated in many of the local institutions. Since partnering with the Belleville Community Advocacy and Legal Centre in January, the QELC is providing regular assistance to seniors in that underserved region. Third-year students and veteran QELC caseworkers Molly McCarthy and Rylan McCloskey are in place until August, and ensured a smooth and efficient transition to summer operations.

## Queen's Family Law Clinic

Director Karla McGrath, LLM'13 and articling student Rachel Law, Law'18, have continued their work educating family justice professionals about the limited scope retainer as a tool for assisting self-representing litigants facing complex family court matters. In their presentation to the AFCC's recent international conference, "The Future of Family Justice: International Innovations," they joined colleagues from Iowa and presented to an international audience about the untapped potential of unbundled legal services for middle-income clients able to pay counsel as well as for clients living in poverty relying on publicly-funded legal services.



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## Queen's Legal Aid

QLA has experienced a 50% increase in demand for Criminal Injuries Compensation Board (CICB) assistance following the April 11 release of the Government of Ontario's 2019 budget, which included plans to repeal the *Compensation for Victims of Crime Act*. The budget legislation enables the Government to announce a cut-off date for applications to the CICB, which provides financial compensation to victims of violent crimes. QLA students are building on the clinic's long history of effectively representing CICB applicants; to date they have prepared about 70 CICB applications in response to the proposed changes.

## Queen's Prison Law Clinic

The QPLC's pilot "Advanced Prison Law" has been approved as a continuing course (LAW 419), providing one to four experienced prison law students with an opportunity for practical public-law litigation experience defending prisoners' rights. This year LAW 419 students assisted with interventions at the Supreme Court, an appeal to the Federal Court of Appeal, and judicial reviews in Federal Court. This coming year, LAW 419 students can also expect to have a hand in further anticipated interventions at the Supreme Court, various Charter-litigation and judicial-review matters, and complaints under the *Canadian Human Rights Act*.

*The Queen's Law 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 of KFL&A, and alumni and industry sponsors.*



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

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