Welcome to a new edition of *Law Currents*, where you’ll find the true story of twelve law students picked to live in a legal aid clinic and have their lives changed. Find out what happens when legal education stops being polite and starts being real! Well, we didn’t actually move in, and we were pretty nice to each other. We did have some late nights, though, and our time at Dalhousie Legal Aid did change our lives. This past summer was filled with new challenges and successes. Our team did some pretty amazing things. We won a *Charter* case, got a Master’s degree, and gave a voice to people in the community. We also kayaked through some pretty choppy waves and ate delicious potatoes. You can read all our adventures here, in *Law Currents*, Summer 2016 Edition!

Sincerely,
Your Editor, Daniela Loggia
Our Summer Team

Top: Kirsty Cleghorn, Monica Cameron, Regan Murphy, Daniel Arnot, Dean McPhadden, Jade Fraser, Marc Njoh
Bottom: Daniela Loggia, Kathleen Tanner, Christina Macdonald, Ashley Skerry, Melissa Lowe, Kelsey Croft

Left: Cash, office mascot and head-scratch ambassador
“Race Judicata” Marks a Win for DLAS Fundraising

By Jade Fraser

The sun was shining on the Bluenose Marathon as the DLAS team, “Race Judicata”, assembled before the race for a third consecutive year.

The music was loud and spirits were high as we began the routes, which were slightly altered this year to accommodate the MacDonald Bridge construction project.

Looking sharp in our custom race shirts, our team walked and ran in the Johnson Insurance 5km, Goodlife Fitness 10k and Recharge with Milk half-marathon runs to raise more than $3600, a record for the clinic.

The records didn’t stop there. Our team was the largest yet, featuring present and past students, their families, staff, lawyers and friends. It was a record-breaking year for the Bluenose Marathon Charity Challenge, too, which raised a grand total of $597,298 for charities across Nova Scotia.

“I find it really fun, even if you aren’t a runner,” said DLAS organizer and Office Manager, Reena Davis. “It’s a very easy, well organized way to raise money.”

Senior Law Student Melissa Lowe spent a chilly and overcast early Sunday morning running in the Recharge with Milk Half Marathon. Lowe has been running for 9 years, and ran despite still recovering from a sports injury and having completed a full marathon 2 weeks prior. As the signs cheering us on read “pain is temporary, representing DLAS is forever.”

Planning has already begun for next year’s race. If you’re interested, speak to Reena Davis.

Kristy Cleghorn shows off her medal.
Why a Trip to the Black Cultural Centre Trip was Important to Me

By Marc Njoh

Nowadays, there is a lot of buzz about cultural competence and awareness. However, it seems that most efforts aimed at addressing the issue are based inside boardrooms and learning commons of offices. I believe that cultural awareness and competency training must move beyond just the language and classroom style education to holistic, experiential learning. We need to start fostering relationships with cultural communities rather than simply learning about them. This is what led me on my own personal journey of discovery to the Black Cultural Center where I would later be employed as a host/interpreter. My experience of the communities of Cherry Brook and Preston continues to drive me to encourage newcomers to Nova Scotia to visit the center and these communities to learn about the rich history of Nova Scotia and Canada’s Black heritage.

Acquiring cultural competence is an ongoing process, rather than an achievable end goal, and therefore when law students and other professionals visit cultural centers and surrounding communities, they take bigger strides in this process. That is what I believe we achieved with the tour – providing my colleagues the opportunity to take into account the worldview, value systems and norms of a culture specific people. These visits should be incorporated into the curriculum and should include other communities and centers like the Native friendship Center, Africville, and Immigrant Community Centers, to name a few.

Teaching people to be culturally competent can be controversial and make learners who have various levels of cultural competency feel uncomfortable. I have observed students who feel insulted by some of the anti-oppression workshops because they felt the workshops did not push far enough, while others felt defensive or that it pushed too far. As a result of these challenges, my idea for this trip was to in a small way explore another step in the process of cultural competency training.
This particular tour gave my colleagues a chance to gain direct knowledge and greater understanding about some of the issues that may arise in their future careers through experiential and participatory learning. This approach enhances services to the community by improving the quality and quantity of advocates for the community. It also allows students to question their assumptions and emerge with first-hand knowledge, attitudes and values that will help them be better advocates and allies for a more just legal system. Visiting the cultural Center meant learning about history, but, most importantly, exploring a community that is not always represented in popular discourse in a positive manner. Knowledge of stereotypes about specific communities can be used as an aid to gain greater self-awareness of one’s own possible beliefs or inaccurate filters. Cultural competency is not simply saying or doing everything right. Instead it is about improving awareness, broadening sensitivities and being a stand-up citizen. Actions speak louder than words, and when law students and lawyers make personal efforts to genuinely listen, learn and understand others, they build trust which is the foundation of any great relationship. In the process, they acquire valuable experience and skills. Despite the propensity to make judgement in legal culture, lawyers and law students must learn how to remain nonjudgmental in cross-cultural encounters, and there is no better way of putting that into practice than visiting these communities to experience first-hand how cultural minorities have documented their experiences and how these experiences and their communities shape their attitudes. Our province has abundant beauty, strong diverse communities and a thriving creative spirit, and Schulich Law attracts students from across the country and world. Therefore, organizing a culturally centered visit provides a different kind of learning opportunity that is needed in the province.

Marc Njoh, left, and Kelsey Croft, right, former DLAS students and organizers of this event

Daniel Arnot, reading a newspaper clipping about the destruction of Africville
Congratulations to the clinic’s own Claire McNeil for achieving her Master’s of Law from Dalhousie University! Claire is a long-time health rights advocate, and her Master’s thesis, “Conformity or Contradiction: International Health Rights in Canadian Courts,” explores how Canadian courts have resisted applying international human rights law to their interpretation of health rights in the Canadian Charter of Rights and Freedoms.
Saucy Greek Potatoes

This recipe was the hit of our DLAS potluck. Thanks to Victoria Kongats for giving us this delicious recipe!

**Ingredients:**

- 8 Russet potatoes, chopped into 1 inch pieces
- 1/2 cup of water
- 2/3 cup of olive oil
- 4 tablespoons or oregano
- 4 tablespoons of paprika
- Juice of 1 lemon
- 7 garlic cloves, finely

**Directions:**

- Mix all ingredients together and cook in microwave on High with a lid on (completely sealed) for 15 minutes.
- Mix again.
- Cook for another 10 minutes with the lid on

*Cooking time can vary depending on your microwave. DLAS is not responsible for any kitchen disasters. By using this recipe, you are agreeing to cook at your own risk.*
Prisoners’ rights and the conditions in Nova Scotia prisons are the focus of a Dalhousie Legal Aid Service community project. A recent case from the Nova Scotia Supreme Court highlights some of the issues of conditions in Nova Scotia jails. In December of 2015, Justice Moir of the Nova Scotia Supreme Court granted two applications for habeas corpus, releasing two prisoners, Dylan Gogan and Dylan Roach, from solitary confinement in the Burnside prison (*Gogan v Nova Scotia (Attorney General), 2015 NSSC 360*).

Both men were held indefinitely for 23 hours a day in a cell measuring 7 x 9 feet, with only a stool, a bunk and a toilet for almost two months at the time of the hearing before Justice Moir. The prison authorities said that putting Roach and Gogan in ‘lockdown’ was necessary because of overcrowding elsewhere in the jail, and refused to acknowledge that this constituted solitary confinement. They also refused to provide the prisoners with a chance to have their treatment reviewed administratively.

The Province argued that habeas corpus did not apply because there had been no ‘residual deprivation of liberty’, an argument that the Court swiftly rejected. Sometimes described as a ‘prison within a prison,’ putting prisoners in solitary confinement or ‘special handling units’ is a deprivation of liberty that lies within the review powers of the superior courts. With that in mind, Justice Moir delivered his decision: Gogan and Roach were unlawfully deprived of their liberty when they were placed in lockdown to address overcrowding problems in the prison.

Habeas corpus means literally “bring the body,” and was used by the Courts to curb the arbitrary use of state power and to protect individual liberty. Nova Scotia courts inherited their habeas corpus powers from Britain where it has existed for hundreds of years. While access to this writ is an amazing tool for people in custody, one of the challenges for prisoners like Mr. Gogan and Mr. Roach is that they have no access to legal aid in bringing a court challenge to the conditions of their confinement in prison by way of habeas corpus. Ninety one habeas corpus applications were accepted by the Nova Scotia Supreme Court last year, and in virtually all these cases the prisoner drafted and filed their own applications, and presented their case on their own, including cross examination and closing argument.
Prison law is complex, and driven by inaccessible statutes, policies and case law. As self-represented parties, the odds are stacked against those inmates who wish to challenge the deprivations of liberty imposed on them.

In light of this, Dalhousie Legal Aid Service is working on public legal information materials to help self-represented litigants navigate the complexities of a habeas corpus application. At the same time, we are also working with other organizations like the Elizabeth Fry Society to make public legal information available to prisoners to help them assert their rights to fair and equal treatment while in prison.

Over the course of the summer, research students at both Dalhousie Legal Aid Services and the Elizabeth Fry Society worked together to develop a “Human Rights In Action Handbook” for women serving time in Provincial prisons. The goal of this handbook was to equip women in custody first with the knowledge necessary to identify when their rights were being abused, and second to equip them with the tools necessary to challenge such abuses through internal complaint processes.

Based on the theory knowledge is power, DLAS hopes to continue its work to make the law more accessible, and to give prisoners a chance to have their voices heard.

Weldon McInnis Presents
The Links for Legal Aid
Golf Tournament
Saturday, October 8, 2016
Shotgun start at 12noon

This year’s tournament is being held at the beautiful Championship Course Glen Arbour Golf Club located at 40 Club House Lane in Hammonds Plains.

Cost is $150 per person and includes:
⇒ Green fees
⇒ Power Cart
⇒ Dinner
⇒ Swag bag
⇒ Opportunity for prizes including best dressed team!

Contact Reena at 902-423-8105
Or reena.davis@dal.ca for details
Did the L’Eagles Soar?

By Regan Murphy, L’Eagles Co-Captain

First of all, thank you to everyone who came out and participated!! We had a great softball season with a team of both newcomers and veterans, all of whom managed to improve their skills on the field. Below are a few of our season highlights:

**May 31** - DLAS L’Eagles beat out the CROWN ROYALS at our first game of the season, 23 to 10! It was joyous! Especially getting Terry Nickerson out on first!

A great game played by all!!! AND we looked like a team in our fancy maroon scored shirts by Regan. Thanks to Daniel, Regan, Kathleen, Dean, Billy (with his new glove), Mitch, Kyle (a pick up), Victoria (Happy Birthday), Melissa, Kristy and Morgan!! Star player was Morgan coming into home twice and catching several outs and great throws to first!!! Hats off to Daniel for tracking down several long hits to left field and throws on the mark in to halt the runners not to mention multiple runs in. But the play of the game goes to Melissa for fielding a hot line drive on one bounce and great throw to force the batter back to first.

**June 10** - DLAS L’Eagles were in action on Friday against Nova Scotia Legal Aid. It was a hard fought battle at the Pit. The game turned into an all-out slug-fest with Nova Scotia Legal Aid edging DLAS 17-11. DLAS was down by at least ten runs at one point but rallied back thanks to some big bats and brought it to within six runs in the final inning.

DLAS co-captain Regan Murphy said “I think we can definitely compete with them, our rally in the
seventh [inning] really demonstrates what we can accomplish”. Dean McPhadden, who transitioned from pitcher into a solid third baseman after the first inning, is clearly motivated for success, “I want to practice right now, I think I might go practice at lunch on Monday.”

Mitch Kredentser and Susanne Litke were scratched for the game but hope to be back for Tuesday’s game at the Halifax Commons. Many thanks to recent call-ups, Jordan Armstrong, Brent Murphy, and Mark Saunders who played their first game in the majors.

**June 14** - On a typical cold and dreary Tuesday night in Halifax, the DLAS L’Eagles squared off at home against the Federal Crowns on Commons #11. DLAS secured the win with a final score of 9-4.

Rallying from a stinging loss to their Arch-Rivals at NSLA last Friday, L’Eagles had a strong performance in the field, with outfielders Daniel Arnot and Kyle Williams hunting down and catching numerous deep fly balls in the outfield. The infield also made some spectacular plays, with Regan Murphy taking a quick flip from Mitch Kredentser off a grounder to third, tagging 2nd, and rifling a throw to Susanne Litke at 1st for a classic 5-6-3 double play.

Outfielder Brent Murphy kept the intensity high by sacrificing his body and disregarding the rules with a rough slide into second base. If you ask, he’d probably be happy to show off his cool new scar. A similar nod to Kathleen Tanner who, as evidenced by her hobbling around the office today, also put the team before her own health and well-being. It is sacrifices like these that have helped propel L’Eagles to their impressive 2-1 record - an 100% improvement on our win total from last season!
The Memes of DLAS

I SHOULD BE ABLE TO GET THROUGH THIS DISCLOSURE ALONE...

WHEN YOU'RE ON TELELINKS

AND IT'S A MARATHON SESH

YOU KNOW WHEN YOUR CLIENT

JUST REALLY NEEDS TO TALK
DLAS Goes Kayaking!
Landon Webb, our client, was granted his full freedom and autonomy in late June 2016 by Hon. Justice Jamie Campbell of the Supreme Court of Nova Scotia, and in doing so will change the law for all Nova Scotians.

Webb had been subject to a guardianship order under the *Incompetent Persons Act*, RSNS 1989, c 218. The Order gave full guardianship to Webb’s parents and began a process of eroding his Charter rights. By December 2015, he was locked in a facility and denied access to the telephone, internet -- even Christmas cards he was sent.

The matter was brought to the court in an application for *habeas corpus* in December 2015, and a Charter challenge of the *Incompetent Persons Act* was launched by staff lawyer, Susanne Litke.

“Landon Webb wants to be free. He wants to live his own life,” wrote Justice Campbell in the landmark Nova Scotia Supreme Court decision. “Landon Webb’s story is a terrifying one. At a time in his life when most young adults are anticipating independence, in whatever form that takes for them, he could not even access the internet. The more he struggled against the restraints on his liberties the tighter they got.” Justice Campbell went on to describe the *Incompetent Persons Act* as “an all or nothing approach” and declared ss. 2(b), 3(3), 3(4), 14, and 16 of the Act as unconstitutional. “Landon Webb’s rights were infringed because of that,” he wrote. “Landon Webb has suffered under an unconstitutional law. The legislature, in passing the Act and keeping it in force breached his rights under the Charter.”

The issued declaration of invalidity under s. 52 of the *Constitution* was suspended from coming into effect until July 28, 2017. That suspension of the declaration is to allow the Nova Scotia government time to rewrite the legislation.

Despite finding a breach of Webb’s Charter rights, Justice Campbell found that the actions of
the Government of Nova Scotia did not warrant Charter damages. “Webb’s personal freedom is his remedy” wrote the Justice in his decision.

DLAS has been working with Webb since 2010, represented by three staff lawyers and countless Senior Law Students. Webb’s presence extends to the entire DLAS family, having captivated us all as a guest speaker at the 2016 DLAS Annual General Meeting in April. “I’m just really pleased I have my life back,” said Webb, who is busy settling into his newly-gained freedom. Here at DLAS, we couldn’t have said it better ourselves.

When Your Client is M.I.A
By Kristen Cleghorn

The Clinic made us aware from the beginning that half the battle would be having the client show up. I’m just starting to experience this now, at mid-term. With the exception of a Telelinks caller that was invited for an intake meeting but did not come, I had initially not had too much trouble reaching clients by phone or having them show up for court appearances and meetings. This is starting to change.

As a somewhat socially-anxious person, having my calendar full of appointments, appearances, and calls to make is nerve-wracking. I have a near-constant low level of anxiety about upcoming interactions. This makes for strange reactions to my office experience – as people are unreachable, or fail to come to scheduled appointments, I find myself relieved in the moment. It only makes the work more difficult, I know, but the emotional reaction is “thank god, I don’t have to speak, and it’s out of my hands”.

Interestingly, the numerous attempts to reach people slowly wears away at the anxiety of interaction. The initial attempt is a bit scary, but is replaced by relief when they don’t answer or show up. Eventually though, it becomes very necessary to speak with the client, so at that point the anxiety is replaced by the necessity of getting the required information. In addition to the necessity of speaking with the client, over numerous attempts you also get the time to refine and review what information is truly necessary. And when you never know when they will answer the phone, it’s harder to be nervous about speaking to them since you have no idea if you will even manage to make contact.

The unpredictability of client interaction is helping me to become more comfortable with the unpredictable nature of this business in general. It’s a sneaky way to battle nerves, but so far it seems to be working.
Above: Dianne Pothier joins the DLAS crew for Karaoke
Below: Susanne Litke, Fiona Traynor, Donna Franey, and Heather McNeil in Toronto for the annual ACCLE Conference
Sides: Cupcakes for DLAS
Left: Billy Sparks, Articling Student at DLAS, found his last day at the clinic particularly difficult, despite the donuts and bowls of candy that other students gave him to try and cheer him up.

Right: Sooke, another DLAS pup, offers students’ hands a break from typing to scratch her rump.
This summer saw Fiona Traynor, Community Legal Worker at DLAS, and Christina Macdonald, Senior Law Student, getting some media attention on behalf of their client, Joanne James.

Ms. James is a client of the Self-Managed Care Program, funded by the Department of Health and Wellness and administered by the Nova Scotia Health Authority. The program funds personal attendants for persons with disabilities living independently. The program’s maximum is currently 205 hours per month. This is the program’s maximum.

In February, Ms. James requested an additional 110 hours per month—about 3.5 hours per day. She has been living alone since the spring and now needs her attendants for more hours per day. These hours will make a huge difference in her daily life. But wasn’t just denied these hours—she was given the run around until May when she finally got an official “no”.

In May 2016, she retained Fiona Traynor, Community Legal Worker at DLAS, to assist her with an appeal. Christina Macdonald, Senior Law Student, was assigned to her file. The denial of additional attendant hours wasn’t even the first issue, because it quickly became apparent that there was no clear appeal process for such a decision, despite extensive research. Without clear, fair appeal procedures, Fiona and Christina did not want to proceed and risk prejudicing their client’s case. They wrote to the Nova Scotia Health Authority, to Health Minister Leo Glavine, and to MLA, Lena Diab. Meanwhile, Ms. James was running out of money paying her attendants.

After several requests for information detailing the appropriate appeal procedure, and needing emergency funds, Ms. James decided to reach out to the press. On June 28, 2016, Fiona Traynor met with her client and CBC News reporter Anjuli Patil at Joanne’s home. Anjuli Patil published her story the next day.

Christina and Fiona obtained comment from Chris d’Entremont, PC MLA, and Dave Wilson, NDP MLA, regarding our client’s perilous situation. Both MLAs called on Minister Glavine to intervene on Ms. Hull’s behalf.

Unfortunately, the Health Authority and the Minister were not swayed by the pressure.
At press time, two months later, Fiona and Christina have received only a cursory response from the Health Authority saying they would reply later. The Minister replied to say that the program cannot exceed the set limit of 205 hours, and said he would ask the Health Authority to provide us with a timely response.

Christina and Fiona have followed up with Minister Glavine to ask him to make good on that promise and require the Health Authority to respond to their request. Perhaps this fall, we will be able to update our readers with news that the Health Authority has complied with provincial policy, and finally provided with the clear appeal procedures to which Ms. James is entitled by principles of natural justice.

Have you seen this velociraptor? He and 9 of his brothers and sisters went missing somewhere in the office, but they might have escaped outside, too.

If you find one, don’t be afraid. They’re not dangerous yet!
Currently we represent low-income clients in a number of ways:

- Deal with family law problems such as custody, access, support, and child protection;
- Provide advice and advocacy to clients regarding family benefits or social assistance matters;
- Represent tenants in Residential Tenancies matters;
- Represent young people charged under the YCJA where Nova Scotia Legal Aid cannot because of a conflict of interest;
- Provide advice/information to people with debt problems such as student loans and Nova Scotia Power cut-offs;
- Provide legal information and advice to community organizations and groups like tenants’ organizations, transition houses, and anti-poverty groups;
- Serve as a teaching clinic for third-year law students who want to learn the practical side of the law.

WHAT WE DON’T DO: Personal injuries, civil claims for damages, criminal matters for adults, property, immigration, or wrongful dismissal.

DLAS has six lawyers on staff: Donna Franey (Executive Director), Shawna Hoyte, Q.C., Heather McNeill, Q.C., Susanne Litke, and Sue Young. Also on staff are two community legal workers, Megan Deveaux and Fiona Traynor; an Office Manager, Reena Davis, as well as four administrative staff, Lynette Colley, Nicole Wolfe, Cathy Leiper, and Melinda Shaw.