

Nathan Gorham

107 Charlotte Street, Saint John, NB, E2L 2J2
Tel: (506) 644-8714 | Fax: 1(866) 463-7353
email: nathan.gorham@unb.ca
www.gorhamlaw.ca

EDUCATION

Doctor of Juridical Science, University of Toronto, (expected completion: fall 2019)

- Currently in the final year of doctoral studies under the supervision of Professor Hamish Stewart, Professor Kent Roach, and Professor Vincent Chiao.
- Dissertation, “Wrongful Remand: Miscarriages of Justice in the Canadian Bail System”.
- Awards: The Mary And Louis Anisman Fellowship in Law and Fairness (2016, 2017, 2018); University of Toronto Fellowship (2016, 2017, 2018).

Master of Laws, University of Toronto, (2014 – 2015)

- Completed “long masters-level thesis”, entitled “Wrongful Pre-Trial Detention in the Toronto Area Bail System”, under the guidance of Professor Hamish Stewart (Supervisor) and Professor Kent Roach (Second Reader).
- Completed Directed Research Project, under the supervision of Professor Stewart, regarding the ethical and constitutional obligations of defence counsel in sexual assault trials.
- Awards: Houlden & Morawetz Graduate Scholarship (2014 – 2015).

Bachelor of Laws, Queen’s University, (2000 – 2003)

- Completed two Individual Supervised Projects under Professor Gary Trotter (now of the Ontario Court of Appeal) and Professor Don Stuart.
- Four research papers published in peer reviewed journals.
- Awards: Bayne Sellar Boxall Award (2003); R.W. Leonard Prize in Sentencing & Imprisonment (2001); Reuben Wells Leonard Prize in Criminal Procedure (2001); Canadian Interuniversity Sport Academic All-Canadian (2001).

Bachelor of Arts with Honours, Saint Francis Xavier University, (1995 – 1999)

- Completed major thesis, “From Socialist State to Capitalist Society: Soviet and Russian Politics in the Twentieth Century”, under the supervision of Dr. Frank Harrison.
- Awards: Canadian Interuniversity Sport Academic All-Canadian (1998); Dean’s List (1998); and the Walter Kontak Prize for research in public policy (1999).
- Inducted into the Saint Francis Xavier Sports Hall of Fame as a member of the 1996 X-Men Football Team.

PROFESSIONAL EXPERIENCE

Part-Time Instructor, University of New Brunswick, Faculty of Law, (2018 – Present)

- Law 2313, Professional Conduct.
- Law 3815, Wrongful Convictions.
- Faculty Council.

Rusonik, O'Connor, Robbins, Ross, Gorham & Angelini LLP, (2004 – Present)

Career Progression

- Joined the firm (then known as Pinkofsky, Lockyer) as a summer student in 2001. Remained with the firm as a second-year student, an articling student, and as an associate lawyer until called to the Ontario bar in 2004.
- In 2006, named a partner when the firm was known as Pinkofskys Criminal Trial and Appeal Lawyers.
- Became a named partner in 2010 when the firm was restructured under its current name. The firm is presently the largest firm in Canada devoted solely to the practice of criminal trial and appellate litigation. Admitted to the New Brunswick Bar in 2015.

Constitutional Litigation Experience

- Appeared before all levels of trial and appeal courts in Ontario and New Brunswick as well as the Supreme Court of Canada and the Federal Court of Canada on cases involving constitutional issues.
- Lead counsel in various significant judicial decisions concerning constitutional or evidentiary issues: *R v Vassel*, 2018 ONCA 721 regarding expert evidence; *R v Leblanc*, [2018] NBJ No 237, concerning narrative evidence; *R v Mhlongo*, 2017 ONCA 562, section 8 and 9 *Charter* rights for motor vehicle passengers; *R v Crevier*, [2015] OJ No 5109 (CA), the leading decision concerning *Garofoli* Step Six applications, section 8 of the *Charter*; *R v France*, 2017 ONSC 2040, where the trial judge excluded substantial portions of the evidence of the Chief Forensic Pathologist of Ontario; and *R v Brace*, [2007] OJ No 702 (CA), a decision that clarified the application of section 11(b) of the *Charter* in cases involving re-trials.
- Other constitutional law experience: Appeared before the Federal Court of Canada on issues relating to section 7 of the *Charter* in the immigration and prison law contexts.

PUBLICATIONS

Peer reviewed

“Schmaltz: The Need for Caution when Limiting Relevant Defence Cross-Examination in Sexual Assault Cases” (2015), 17 *Criminal Reports* (7th) 312

“Police Discretion, Racial Profiling and Articulate Cause”, [2004] 49 *Criminal Law Quarterly* 40

“Eight Plus Twenty-Four-Two Equals Zero-Point-Five” (2003), 6 *Criminal Reports* (6th) 257

“The Effects of *Shropshire* on Parole Ineligibility for Second Degree Murder” (2002), 1 *Criminal Reports* (6th) 324

“Regan: The Residual Category of Abuse of Process Continues to Shrink” (2002), 49 *Criminal Reports* (5th) 87

Opinion & Commentary

“Discerning Myths from Probative Evidence: The Ethical Role of Defence Counsel in Sexual Assault Cases”, *For the Defence*, Vol 38, No 2, July 2017

“Twitter doesn’t do the Ghomeshi trial justice. There is a better alternative.”, *The Globe and Mail*, February 2, 2016, available online at: <http://www.theglobeandmail.com/opinion/twitter-doesnt-do-ghomeshi-trial-justice-theres-a-better-alternative/article28515246/>

“How to stop the police from lying”, *The Toronto Star*, May 5, 2015 available online at: <http://www.thestar.com/opinion/commentary/2015/05/04/how-to-stop-police-from-lying.html>

“The Courts did not side with the criminals”, *The National Post*, April 22, 2015 available online at: <http://news.nationalpost.com/full-comment/nathan-gorham-the-court-did-not-side-with-the-criminals-on-mandatory-minimums-for-gun-crimes>

In Progress

Wrongful Remand: Miscarriages of Justice in the Canadian Bail System. Doctoral dissertation.

Prosecuting and Defending Drug Offences, Emond Publishing. Co-authoring a book in the Emond Publishing, Practitioner Series of Books.

“Ensuring a Strong and True Foundation: The Ethical Responsibility of Defence Counsel when Interviewing Those Charged with Sexual Assault”. An article that examines how

ethical and competent defence counsel promote the balance between the rights of the accused, the search for truth, and the rights of sexual assault complainants during pre-trial interviews with the accused.

“New Strategies for Curbing Prosecutorial Misconduct 30 Years After *R. v. Fancjoy*”. An article that examines the need for a new approach to the regulating the ethical responsibility of criminal prosecutors.

AWARDS AND HONOURS

2015 – 2018	The Mary And Louis Anisman Fellowship in Law and Fairness Awarded yearly during doctoral studies, University of Toronto
2015 – 2018	University of Toronto Doctoral Fellowship Awarded yearly during doctoral studies, University of Toronto
2014 – 2015	Houlden and Morawetz Fellowship Awarded upon admission to thesis intensive LLM program, University of Toronto
2003	Bayne Sellar Boxall Award Highest overall standing in criminal law courses, Queen’s University
2001	Canadian Inter-University Sport Academic All-Canadian Academic excellence while playing varsity football, Queen’s Golden Gaels
2001	R.W. Leonard Prize in Sentencing and Imprisonment Highest standing in Sentencing and Imprisonment, Queen’s University
2001	Reuben Wells Leonard Prize in Criminal Procedure Highest grade in Criminal Procedure, Queen’s University
1999	Walter Kontak Prize Selected by the Faculty of Political Science, Saint Francis Xavier University, as the top public policy paper by a senior student
1998	Canadian Inter-University Sport Academic All-Canadian Academic excellence while playing varsity football, St. Francis Xavier X-Men

SELECT TEACHING, LECTURES, and PRESENTATIONS

- 2018 Faculty, The National Symposium on Sexual Assault Cases in the Criminal Court: The Latest Developments in Law, Science & Practice, Osgoode Hall Professional Development, April 21, 2018.
- 2018 Guest lecturer on the professional obligations of defence counsel and Crown counsel, Professor John Kleefeld's Professional Responsibility Course, University of New Brunswick, Faculty of Law, February 26 and 28, 2018.
- 2018 Guest lecturer concerning incentivized witnesses, Professor Nicole O'Byrne's Advanced Evidence Course, University of New Brunswick, Faculty of Law, February 23, 2018.
- 2018 Guest lecturer on the practice of criminal defence law, Instructor Kelly VanBuskirk's Trial Practice Course, University of New Brunswick, Faculty of Law, March 28, 2018.
- 2017 Presenter, "The Ethical Role of Defence Counsel in Sexual Assault Cases", New Brunswick Legal Aid Services Commission, Continuing Legal Education conference, October 18, 2017.
- 2017 Presenter, "Cross-examination of Expert Witnesses", New Brunswick Legal Aid Services Commission, Continuing Legal Education conference, October 18, 2017.
- 2017 Presenter, "Wrongful Remand and the Overrepresentation of Indigenous People in Canadian Jails", Canadian Law and Society Mid-Winter Meeting and Symposium, Faculty of Law, University of New Brunswick.
- 2016 Presenter, "Secret Evidence in Search Warrant Challenges: An Eroded Concept of Privacy in Canadian Law", The 8th Conference on the Future of Adversarial and Inquisitorial Systems, Universita Di Bologna.
- 2016 Presenter, "Wrongful Remand and the Overrepresentation of Indigenous People in Canadian Jails", The Graduate Student Symposium on Law, Policy, and Indigenous Peoples, The College of Law, University of Saskatchewan.
- 2016 N. Gorham, "Understanding *R v St Cloud*", an in-firm, Law Society of Upper Canada accredited, continuing professional development seminar.
- 2016 N. Gorham, "Ethical Obligations of Defence Counsel in Handling Electronic Evidence", an in-firm, Law Society of Upper Canada accredited, continuing professional development seminar.

TEACHING, LECTURES, and PRESENTATIONS CON'T

- 2016 Presented on issues concerning *Garofoli* Step Six at a meeting of various judges of the Superior Court of Justice, Toronto, Ontario.
- 2015 N. Gorham, “Navigating *Garofoli* Step 6 Applications, an in-firm, Law Society of Upper Canada accredited, continuing professional development seminar.
- 2015 N. Gorham, “Avoiding Conflicts of Interest”, an in-firm, Law Society of Upper Canada accredited, continuing professional development seminar.
- 2014 N. Gorham, “Effective and Ethical Alibi Defences”, an in-firm, Law Society of Upper Canada accredited, continuing professional development seminar.

SELECT MEDIA COMMENTARY

Quoted in T Blackwell, “Naked, bruised woman found dead in Ontario woods with legs apart looked like victim of rape, murder—but autopsy pointed to heat exhaustion”, National Post, April 25, 2017, <http://news.nationalpost.com/health/naked-bruised-body-in-the-woods-looked-like-a-sexual-homicide-but-then-came-the-autopsy>

Quoted in S. Pazzano, “Trial Timelines Cause Court Headaches”, The Toronto Sun, March 26, 2017, online: <http://www.torontosun.com/2017/03/26/trial-timelines-cause-court-headaches>

Interviewed on CBC Radio One, commentary on “Trust in Policing”, January 29, 2016, online: <http://www.cbc.ca/listen/search/?query=nathan%20gorham&>

Interviewed on Global television, December 2, 2015, available online: <http://globalnews.ca/video/2376512/suspect-charged-after-bystander-video-shows-unruly-crowd-during-arrest>

Interviewed on CBC television, commentary on the “Toronto Terror Plot” trial, March 18, 2015, available online: <http://www.cbc.ca/player/News/Canada/Toronto/ID/2659505628/>

Interviewed on City TV, commentary on rights during police traffic stops, January 30, 2015, available online: <http://www.citynews.ca/2015/01/30/what-you-need-to-know-about-your-rights-in-police-interactions/>

Interviewed on CTV News, commentary on the Luca Magnotta trial, September 29, 2014, available online at: <http://www.ctvnews.ca/video?clipId=453789>

Interviewed on CTV News, commentary on the Luca Magnotta trial, September 8, 2014, available online at: <http://www.ctvnews.ca/video?clipId=435134>

Interviewed on CTV News, commentary on the Oscar Pistorius trial, April 5, 2014, available online at: <http://www.ctvnews.ca/video?clipId=325832=1>

Quoted in “Man faces charges – again – in cold case sex assaults spanning three decades”, *Toronto Star*, June 21, 2014 available online at: <http://www.thespec.com/news-story/4642842-man-faces-charges-again-in-cold-case-sex-assaults-spanning-three-decades/>

Quoted in “Guidance on disclosure requirements for search warrants welcomed”, *Law Times*, September 28, 2015, available online at: <http://www.lawtimesnews.com/201509284947/headline-news/guidance-on-disclosure-requirements-for-search-warrants-welcomed>

Quoted in “Judge Wants Action on Sentencing Delays”, *Law Times*, September 25, 2013, available online at: <http://www.lawtimesnews.com/201302252144/headline-news/judge-wants-action-on-sentencing-delays>

Quoted in B Powell, “Value of seeing the face of witness disputed in niqab case”, *Toronto Star*, April 29, 2013, available online at: http://www.thestar.com/news/crime/2013/04/29/value_of_seeing_the_face_of_witness_disputed_in_niqab_case.html

PUBLIC SERVICE

Head Coach, UNB Saint John Seawolves Football (Jan 2016 – Present)

As the Head Coach of the Seawolves Football team I manage a staff of approximately seven other coaches. In addition to the traditional coaching duties—playing call, organizing and managing practices, creation of the playbook, etc—I also oversee the marketing and recruitment for the team. The website I personally created is available at www.saintjohnseawolves.ca

PROFESSIONAL AFFILIATIONS

Law Society of Ontario, New Brunswick Law Society, Criminal Lawyers Association of Ontario, Canadian Bar Association, Toronto Lawyer’s Association, Saint John Lawyer’s Association