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Matthew Ryan Law & Public Policy Forum: 2010

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**PENNSYLVANIA SENTENCING
AND PAROLE
IN TRANSITION**



Villanova University School of Law is a Catholic and Augustinian institution that seeks to reflect the spirit of St. Augustine by the cultivation of knowledge, by respect for individual differences and by adherence to the principle that mutual love and respect should animate every aspect of the Law School's life.

*Co-sponsored by:
Supreme Court of Pennsylvania
Pennsylvania Department of Corrections
Pennsylvania Board of Probation and Parole
Pennsylvania Commission on Sentencing*



Villanova University School of Law is proud to host the fourth annual Mathew J. Ryan Law and Public Policy Forum. The topic of this year's Forum is " Pennsylvania Sentencing and Parole Transition". Villanova University School of Law School is proud to co-sponsor this important Forum with the Pennsylvania Supreme Court, the Pennsylvania Department of Corrections, the Pennsylvania Board of Probation and Parole, and the Pennsylvania Commission on Sentencing. This Forum will bring together leaders from Pennsylvania and across the nation to discuss important topics of sentencing and parole as they apply to Pennsylvania.

The Matthew J. Ryan Law and Public Policy Forum

honors the memory of one of Villanova Law's most distinguished alumni, the Honorable Matthew J. Ryan '59, the former Speaker of the Pennsylvania House of Representatives. This annual public forum will foster discussion of current questions of law and public policy important to the Commonwealth and the nation.

The Matthew J. Ryan Law and Public Policy Forum brings together distinguished legal scholars, legislators, government officials and other public figures in a bipartisan atmosphere of full and frank discussion and analysis. The goal of the Forum is to make a significant contribution to important public debates, to perpetuate the memory of Matthew J. Ryan's many contributions to public service. Mr. Ryan who died in March 2003, was elected to his first house term in 1962, a Republican representing Delaware County. He served as majority leader for the 1979-80 session, and was first elected speaker in 1981. From 1983 to 1994, he was minority leader. He was elected speaker for his second two-year term in 1995 and for each successive two year term until his death. In 1999, the Capitol Annex was renamed the Speaker Matthew J. Ryan Legislative Office Building, a rare honor for a living legislator.

The Ryan Forum was made possible by the generosity of his many friends and the leadership of Arthur J. Kania '56, Albert A. Lindner '68, James E. McErlane '67 and Richard Phillips '66.

PROGRAM

- 8:00 am *Registration open; continental breakfast*
- 8:45 – 9:00 am **Welcome**
*Acting Dean and Professor of Law Doris Brogan
Villanova University School of Law*
- 9:00 – 10:00 am **Setting the Stage: Sentencing and Parole in Historical Context**
*Secretary Jeffrey Beard, Pennsylvania Department of Corrections
Professor John Kramer, Penn State University, Initial Executive Director
of the Pennsylvania Commission on Sentencing*
- Moderator: *Professor Penelope Pether, Villanova University School of Law*
- 10:00 – 10:45 am **In the Spotlight: Tragedy Sparks a Crisis**
*Professor Steven Chanenson, Villanova University School of Law
Mr. Greg Rowe, Office of the Philadelphia District Attorney,
formerly Office of the Governor of Pennsylvania*
- 10:45 – 11:00 am **Break**
- 11:00 – 12:00 noon **The Last Reform: Recent Changes in Sentencing and Parole**
*Executive Director Mark Bergstrom, Pennsylvania Commission
on Sentencing
Chairman Catherine C. McVey, Pennsylvania Board of Probation and Parole*
- Moderator: *Professor Joseph Sabino Mistick, Duquesne University School of Law*
- 12:00 – 12:15 pm **Break/Gather Buffet Lunch**
- 12:15 – 1:45 pm **Possible Futures: The Missouri and Virginia Experiences**
*Justice Michael Wolff, Supreme Court of Missouri and Chair of the
Missouri Sentencing Advisory Commission
Dr. Richard Kern, Virginia Criminal Sentencing Commission
Senator Stewart Greenleaf, Pennsylvania Senate and Chairman of
the Pennsylvania Senate Judiciary Committee
Senator Daylin Leach, Pennsylvania Senate and Minority Chairman
of the Pennsylvania Senate Judiciary Committee*
- Moderator: *Professor Anne Bowen Poulin, Villanova University School of Law*
- 1:45 – 2:00 pm **Reflections and Conclusion**
Professor Steven Chanenson



Montgomery County. He is chairman of the Senate Judiciary Committee and a member of the Senate committees on Appropriations, Banking and Insurance, and Consumer Protection and Professional Licensure. In addition, he has served on the Pennsylvania Commission on Sentencing, the Task Force on Death Penalty Litigation in Pennsylvania, and the Statewide Steering Committee on Court Automation. He currently serves as chairman of the Joint State Government Commission's Task Forces on Real Property Law; Decedents' Estates Laws; Domestic Relations Law; Adoption Law; and Geriatric and Seriously Ill Inmates. As a member of the Commission on Judicial Reform, he participated in the development of recommendations to improve the process of judicial selection and was prime sponsor of constitutional amendment legislation to revise the state's system of judicial discipline. He serves on the State/Federal Assembly of the Law and Justice Committee of the National Conference of State Legislatures and the Criminal Justice Task Force of the American Legislative Exchange Council.

A native of Montgomery County, Senator Greenleaf is a lifelong resident of Upper Moreland Township. He is married to Cecelia "Kelly" Greenleaf. A graduate of the University of Pennsylvania, he received his law degree from the University of Toledo Law School.

The senator is the author of Pennsylvania's Megan's Law, the Grandparent Custody Law, the Rails to Trails Act, the School Pesticide Law, the Health Club Consumer Protection Act, the Puppy Lemon Law, the "No Means No" Rape Law, the Amusement Ride Inspection Act, the Missing Children Act, the Divorce Code Reform Act and the Divorce and Custody Mediation Act. He was also prime sponsor of a law that extends the period of legal recourse for abused children, the constitutional amendment allowing for the option of electronic testimony for child victims and witnesses, the law requiring tougher penalties for cruelty to domestic animals, and the law allowing extended sentences when baseball bats are used in violent criminal acts.

As chairman of the Judiciary Committee, the senator conducted hearings on the corrections system in Pennsylvania and achieved passage of legislation to reduce overcrowding in state prisons and county jails through intermediate punishment programs. He is also sponsor of state sentencing reform legislation and of a law that provides for addiction treatment for eligible offenders. He also conducted hearings on the state's system of probation and parole, resulting in the enactment of public safety reforms in the Pennsylvania Board of Probation and Parole and in the Interstate Compact, which deals with interstate parole arrangements.

In addition to his interest in criminal justice and judicial issues, Senator Greenleaf has sponsored numerous consumer protection initiatives relating to telemarketing controls, octane level testing, the travel industry and the expansion of the Lemon Law to leased vehicles.

The recipient of a number of honors, Senator Greenleaf has been presented the 2005 Leadership Award of the Pennsylvania Coalition Against Rape; the 2002 Montgomery County Bar Foundation Milton O. Moss Award; the 2002 Clean Water Fund Leadership Award; the Pennsylvania Legal Services Ambassador for Justice Award, the Pennsylvania Credit Union League Keystone Award, the Montgomery County Bar Association Outstanding Service Award; the Vince Fitzpatrick Humanitarian Award, the Pennsylvania Legal Services Outstanding Leadership Award; the Fraternal Order of Police Award; the Matty Muir Award from the Victim Services Center of Montgomery County; the Montgomery County Association for Retarded Citizens President's Award; the Conservation Legislator of the Year Award by the Pennsylvania Wildlife Federation; the National Federation of Independent Business Guardian of Small Business Award and the Humane Society of the United States Mid-Atlantic Region Humanitarian Award. He was selected Man of

The Year by the Willow Grove Chamber of Commerce and the Ukrainian Educational and Cultural Center. He was chosen for the Pennsylvania Trial Lawyers Association 1992 Annual Award in recognition of his "efforts and resolve in protecting the rights of Pennsylvanians under civil law."

Senator Greenleaf has most recently been presented with the William E. Zeiter Award from the Statutory Law Committee of the Pennsylvania Bar Institute for his efforts to update and consolidate Pennsylvania's statutory law. In 2008, he was presented the Distinguished Alumnus of the Year Award from the University of Toledo College of Law, in recognition of his lifetime of legislative accomplishments.

Richard Kern, Ph.D.

Director, Virginia Criminal Sentencing Commission

Since its inception in 1994, Rick Kern has been the Director of the Virginia Criminal Sentencing Commission, a judicial branch agency of the Commonwealth of Virginia.

Dr. Kern is responsible for all aspects of the Commonwealth's criminal sentencing guidelines system and reports directly to, and serves at the pleasure of, the 17-member Criminal Sentencing Commission which, although a judicial branch agency, is comprised of appointees from all three branches of state government.

Previously, Dr. Kern was Director of the Virginia Criminal Justice Research Center where he was responsible for the oversight and direction of criminal justice system research requested by the Governor, Secretary of Public Safety, the Legislature, and the Judiciary. Dr. Kern also served as Research Director for the Governor's Commission on Parole Abolition and Sentence Reform. There, he directed research on sentencing and time served patterns, offender recidivism and risk assessment, the development of computer simulation programs to estimate the correctional resource impact of parole abolition, and the development of truth-in-sentencing voluntary guidelines. Prior to that appointment, Dr. Kern served as Director of the Governor's Commission on Violent Crime. In this capacity, he directed research on crime prevention strategies, gun control measures and their effectiveness, firearms transactions, evaluation of offender rehabilitation programs, and arrest, conviction, sentencing and time served trends.

Dr. Kern has twice been elected President of the national Justice Research and Statistics Association (JRSA). Dr. Kern currently serves as an Advisory Board Member of the State Sentencing and Corrections Program operated by the Vera Institute of Justice. Dr. Kern received Ph.D. and M.S. degrees in Criminology from Florida State University.

Dr. John H. Kramer

John H. Kramer is professor and associate head of the Department of Sociology and Crime, Law, and Justice at The Pennsylvania State University. In conjunction with his faculty role, Dr. Kramer served as Executive Director of the Pennsylvania Commission on Sentencing from 1979-1998 and Staff Director of the United States Sentencing Commission from 1996-1998. His research and policy development focus have been in the areas of sentencing disparity, the impact of sentencing reform, and evaluation of the effectiveness of alternatives to incarceration. With colleagues he is currently working on a National Science Foundation grant studying the federal courts. His research has been published in *Criminology*, *Justice Quarterly*, *Social Problems*, and *Federal Sentencing Reporter* and with Jeffrey Ulmer a book on the Pennsylvania sentencing guidelines entitled *Sentencing Guidelines: Lessons from Pennsylvania's Struggle for Justice*.



Senator Daylin Leach

Sen. Daylin Leach (D-Montgomery/Delaware) was born in Philadelphia in 1961. He attended Temple University, where he graduated with a degree in political science, and earned a law degree from the University of Houston Law Center in 1983. After law school, Senator Leach moved back to southeast Pennsylvania where he practiced law for 17 years focusing on general litigation. Senator Leach also taught constitutional law, legal ethics and First Amendment law as an adjunct professor at Cedar Crest and Muhlenberg colleges.

Senator Leach had an early interest in public service, volunteering on his first campaign when he was 12. He later served as president of the Pennsylvania Young Democrats, as a member on the Allentown Zoning Board and co-hosted a weekly political debate show.

First elected to the General Assembly in the fall of 2002, Senator Leach has focused on environmental protection, education, health care and political reform. Notable accomplishments include his measures signed into law that introduce hybrid cars into the state fleet and provide, for the first time, state funds for breast and ovarian cancer screening for low-income women. He also championed legislative redistricting reform to end the practice of gerrymandering and introduced legislation requiring that hospitals offer emergency contraception to the victims of sexual assault.

After his election into the Pennsylvania Senate in 2008, Senator Leach was honored to be named minority chairman of the Senate Judiciary Committee. He also serves as a member on the Aging and Youth, Communications and Technology, Local Government, Policy, and Public Health and Welfare committees. As a legislator, Senator Leach has made a point to continue his education in public service. He won a full scholarship to Harvard's Kennedy School of Government Executive Training Program and was awarded the prestigious Flemming Fellowship by the Center for Policy Alternatives.

Senator Leach was awarded the Humane Society's 2008 Humane Legislator Award.

Locally, he is on the Board of the Bryn Mawr Film Institute and is a member of the Chamber of Commerce, Lower Merion Conservancy and the Philadelphia World Affairs Counsel. He attends Main Line Reform Synagogue and is married to Jennifer Anne Mirak, a psychologist and has two children, Brennan and Justin.

Chairman Catherine C. McVey

Catherine C. McVey is the Chairman of the Pennsylvania Board of Probation and Parole. Chairman McVey received her Bachelor of Science Degree in Law Enforcement and Corrections Administration from Penn State University in 1973 and a Master of Science Degree in Correctional Administration from Sam Houston State University in 1975. She has over 31 years of experience working with incarcerated and paroled offenders in Texas and Pennsylvania. Beginning as a Bethlehem, PA Police Intern in 1972, she has worked as a Texas Correctional Officer, Special Needs Reentry Coordinator, Director of Institutional Parole, Assistant Director of Programs and Services for the Texas Department of Corrections and as a Probation Consultant/Trainer. She returned to Pennsylvania as the Director of Health Care Services for the Department of Corrections. Prior to her appointment to the Parole Board by Governor Rendell, Mrs. McVey served as Deputy Secretary for Administration at the Pennsylvania Department of Corrections. The Senate confirmed Chairman McVey on June 29, 2005.

Professor Joseph Sabino Mistick

A graduate of the University of Pittsburgh and Duquesne University School of Law, Joe is an associate professor of clinical legal education at Duquesne and has been an adjunct professor of law at Pitt. He is currently counsel to the Pennsylvania Commission on Sentencing. Joe has spent nearly forty years in public service, politics and the law. Currently a regular Sunday columnist for the *Pittsburgh Tribune-Review*, and the Democratic half of PCNC's political debate show "Roddey and Mistick," he is a leading progressive voice in Pennsylvania and a frequent guest lecturer and public speaker.

Joe was the executive secretary to Pittsburgh Mayor Sophie Masloff from 1989-1992. During the administration of Mayor Richard S. Caliguirri, he served as chairman of the Pittsburgh Zoning Board of Adjustment and vice-chairman of the Planning Commission. Along with then-U.S. Attorney Tom Corbett (the current Attorney General of Pennsylvania) and the late Pittsburgh Councilman Jake Milliones, Joe designed and implemented the Pittsburgh Weed & Seed Program during the Masloff Administration. This program was adopted as a national model by the United States Department of Justice.

He has co-authored *The Pennsylvania Experience: Public Release of Judge Specific Sentencing Data* and *Danger and Opportunity: Making Public Safety Job One in an Indeterminate System*. He authored *Recent Developments in Pennsylvania Land Use* and *Misery Loves Companies*, a proposal to amend local land use regulations to fight urban blight.

He is a recipient of the Citation of Merit from the Allegheny County Commissioners for work related to the development of the Greater Pittsburgh International Airport, a Mayoral Proclamation for Distinguished Service to the City of Pittsburgh and the Richard S. Caliguirri Award for Community Service.

Professor Penelope Pether

Professor Pether earned her undergraduate degree and LL.B. from the University of Sydney in Australia, where she won the Total Australia Prize and Walter Reid Memorial Grants in successive years. She later earned her Ph.D. in English Literature, also from the University of Sydney. Following law school, Professor Pether served as an Investigation Officer and Executive Assistant (Police) in the Office of the Ombudsman, New South Wales, and was a solicitor in the Sydney office of the national law firm of Freehill, Hollingdale & Page.

In 2005, she joined the Villanova faculty from American University Washington College of Law, where she was Professor of Law and Director of Legal Rhetoric. Before joining the faculty at American University, she was a Lecturer in the Faculty of Law at Wollongong University, a Senior Lecturer in the Faculty of Law at the University of Sydney, and an Assistant Professor of Law at Southern Illinois University. She has also taught as visiting faculty member at Benjamin N. Cardozo School of Law at Yeshiva University and the Department of English and Comparative Literature at the University of California-Irvine.

Professor Pether is a general editor of *Law and Literature* (University of California Press) and serves on the editorial boards of *Law and Critique* (Kluwer) and *Social Semiotics* and is a member of the Judicial Function Committee of the Criminal Justice Section of the ABA, and has recently been appointed to serve a three-year term on the AALS Standing Committee on Bar Admission and Lawyer Performance.

Professor Pether's recent scholarship focuses on legal theory; critical studies of contemporary rape law reform; comparative constitutional law; the theory and practice of judging, particularly in the U.S. Federal Courts and in "post 9/11" common law constitutional contexts; and legal discourse and subject formation. The second edition of her jointly-authored casebook, *Criminal Law: Cases, Materials, and Strategies* (with Neil P. Cohen, David Crump, Laurie L. Levenson, and John Parry), will be published by Lexis in 2010.



Professor Anne Bowen Poulin

Anne Bowen Poulin is a Professor of Law at Villanova University School of Law, having joined the Villanova faculty in 1981.

Professor Poulin has written and taught in the areas of criminal procedure, evidence and juvenile justice. She co-authored *Pennsylvania Evidence* (3d ed. 2007) (with Leonard Packer). Professor Poulin has also authored numerous articles in her areas of interest which have been published in journals such as the *California Law Review*, the *New York University Law Review*, the *Washington University Law Quarterly*, the *Wisconsin Law Review*, the *Rutgers Law Review*, the *Connecticut Law Review*, the *Arizona State Law Journal*, the *Villanova Law Review*, the *Cincinnati Law Review*, and the *American Criminal Law Review*. Professor Poulin received her J.D. from the University of Maine School of Law, where she was an Articles Editor of the *Maine Law Review*. She received her LL.M. from the University of Michigan Law School. Professor Poulin taught Legal Writing and Research at Wayne State University Law School and served as an Assistant United States Attorney for the Northern District of Illinois in Chicago, where she was the Deputy Chief of Criminal Receiving and Appellate Division. Before joining the faculty of Villanova Law School, Professor Poulin was an Assistant Professor at Illinois Institute of Technology/Chicago-Kent College of Law. At Villanova, Professor Poulin has been active on numerous committees, serving as chair of the Building Committee and the Task Force on Curriculum Assessment among others. Professor Poulin currently serves as Co-Reporter for the Committee on Model Criminal Jury Instructions for the Third Circuit. She chaired the ABA Death Penalty Moratorium Project for Pennsylvania. In addition, she is Faculty Liaison to the J. Willard O'Brien Villanova American Inn of Court. In addition, she served for fifteen years as faculty adviser to the Moot Court Board. Professor Poulin is a member of the bars of Maine, Illinois and Pennsylvania. She is a frequent speaker on evidence and criminal procedure.

Mr. Greg Rowe

Greg Rowe is Chief of the Legislation and Policy Unit in the Philadelphia District Attorney's Office. For nearly six years Greg had overseen Pennsylvania's public safety functions with regard to policy, legislation and operations, having served as Special Assistant for Public Safety to Governor Ed Rendell and as the Governor's Senior Policy Manager for Criminal Justice. In these roles, Greg had been the Governor's day-to-day contact for Pennsylvania's State Police, Department of Corrections, Board of Probation and Parole, and Commission on Crime and Delinquency.

Greg has worked with criminal justice stakeholders and with the Pennsylvania Legislature to help craft policies and legislation designed to promote public safety. Greg was the Administration's point person on a recently enacted comprehensive prison and sentencing reform legislative package which targets non-violent offenders, and, among other things, provides them incentives to participate in programs designed to reduce recidivism. Greg has also worked extensively to attempt to tighten Pennsylvania's firearms laws to stop straw purchasers, keep repeat violent offenders incarcerated for longer periods of time, improve prisoner reentry efforts, increase penalties for sex offenders, and improve correctional and parole operational efforts at reducing recidivism.

Greg has also worked with the National Governors Association and the PEW Center on the States to help officials from other states learn about successful strategies to reduce recidivism and contain the growth in their states' prison population. Greg is currently a participant in the Kennedy School of Government's Executive Session for State Court Leaders in the 21st Century.

Prior to joining Governor Rendell's staff, Greg was a litigation associate at Pepper Hamilton and Bazelon Less & Feldman in Philadelphia, an assistant district attorney in the Philadelphia District Attorney's office, and a research assistant to the late Senator Daniel Patrick Moynihan. Greg holds a J.D. from the University of Wisconsin, and an A.B. from Harvard College.

Greg lives in Philadelphia with his wife and their daughter.

The Honorable Michael A. Wolff

Judge Michael A. Wolff served on the faculty of St. Louis University School of Law for 23 years before being appointed to the Missouri Supreme Court in August 1998. He was Chief Justice from July 1, 2005 to June 30, 2007. In addition to his judicial duties, he serves as chair of the Missouri Sentencing Advisory Commission. Judge Wolff was graduated from Dartmouth College and the University of Minnesota Law School. He worked as a newspaper reporter during law school. He was a federal court law clerk and Legal Services lawyer prior to joining the St. Louis University faculty. He was co-author of *Federal Jury Practice and Instructions*, was active in trial practice in St. Louis, and served as chief counsel (1993-94) and special counsel (1994-1998) to Governor Mel Carnahan.

Judge Wolff delivered the annual William J. Brennan Jr. Memorial Lecture at New York University Law School in 2008. He was named "Lawyer of the Year" by *The Missouri Lawyers' Weekly* in 2007. He received *The Missouri Bar's* Judicial Excellence Award in 2007; the James C. Kirkpatrick Award from the Northwest Missouri Press Association in 2007; the Joseph E. Stevens "Aspire to Excellence" Award from the Kansas City Metropolitan Bar Association in 2006; the President's Award from the Missouri Association of Probate and Associate Circuit Judges in 2006, and the Clarence Darrow Award from the St. Louis University School of Law Public Interest Law Group in 2004.