



## FEDERATION OF LAW SOCIETIES OF CANADA

### 44<sup>th</sup> National Criminal Law Program Criminal Procedure, Ethics, and the *Charter* July 10 to 14, 2017 Vancouver, British Columbia

#### PROGRAM AGENDA

*All sessions take place at the Westin Bayshore Conference Centre unless noted otherwise.*

#### DAY 1: MONDAY, JULY 10, 2017

##### 7:45 am

*Conference Centre doors open for delegate check-in. Light breakfast served.*

##### 8:45 am – 9:00 am

###### Welcome and Introductions

Program Chairs  
Local Dignitaries

##### 9:00 am – 9:40 am

###### A. Panel #1 (Roundtable Discussion): Are We Doing Enough to Prevent Wrongful Convictions?

Moderator: The Hon. Marshall Rothstein, Q.C.  
The Hon. Justice J.C. Marc Richard  
William Smart, Q.C.  
Jocelyn Speyer

##### 9:40 am – 10:00 am

###### B. Point/Counterpoint: Is “Mr. Big” Dead, or Just Resting?

Dead: Dane Bullerwell  
Resting: Cameron H. Gunn, Q.C.

##### 10:00 am – 10:20 am

###### C. How Public Is Your Privacy? (An Interactive Lecture)

Presenter: The Hon. Justice Joyce DeWitt-Van Oosten

##### 10:20 am – 10:40 am

###### Health Break

Many things that go on this week wouldn't be possible without the generous support of our Sponsors and Exhibitors. Please make the rounds, learn what our Exhibitors have to offer, and drop your business card or fill out a ballot for door prizes and book draws.

**10:40 am – 11:20 am**

**D. Panel #2: When Is There a Reasonable Expectation of Privacy?**

Chair: Scott K. Fenton  
Michelle Booker  
Fraser M. Kelly  
The Hon. Justice Sheilah L. Martin

**11:20 am – 12:05 pm**

**E. Lectures on Search Powers**

**E.1 Border Searches**

Presenter: David W. Schermbrucker

**E.2 The “911” Entry**

Presenter: Danielle Robitaille

**E.3 Search Incident to Investigative Detention**

Presenter: Randy Schwartz

**12:05 pm – 1:30 pm**

*Lunch (On your own)*

So many great restaurants, so little time... Don't forget to review the list of nearby restaurants provided by Tourism Vancouver, the Westin Bayshore and our Local Planning Committee.

**1:30 pm – 2:15 pm**

**F. Panel #3: The “Garofoli” Application**

Chair: The Hon. Justice Iona M. Jaffe  
Lyne Décarie  
The Hon. Justice Willie deWit  
The Hon. Justice Marcy Henschel

**2:15 pm – 3:00 pm**

**G. Panel #4: Searches of Cell Phones, Computers, and Electronic Devices**

Chair: The Hon. Justice Joyce DeWitt-Van Oosten  
Giuseppe Battista, Ad. E.  
Allison Dellandrea  
Scott C. Hutchison

**3:00 pm – 3:20 pm**

*Health Break*

Introduce yourself to our Exhibitors and pick up cutting edge publications and practice tips!

**3:25 pm – 4:25 pm**

**H. Concurrent Break-out Sessions**

Advance registration is not required for break-outs. Delegates make break-out selections on site. Seating is on a first-come, first-served basis.

**H.1 Racial Profiling, Police Stops and Warrantless Searches**

Chair: Frank Addario  
The Hon. Judge Harbans K. Dhillon  
Ami Kotler

## **H.2 The *St-Cloud* Approach to Bail**

Chair: The Hon. Judge Frank Hoskins  
Teresa Donnelly  
Karen E. Endres

## **H.3 Advocacy Break-Out: Effectively Preparing and Responding to *Charter* Applications**

Chair: The Hon. Justice Joseph Di Luca  
Danielle Robitaille  
Lesley Ruzicka

## **H.4 Extradition and Mutual Legal Assistance *\*\*Advanced session, intended for registrants with significant criminal law experience\*\****

Chair: Eric V. Gottardi  
Scott K. Fenton  
Trevor Shaw

### **4:30 pm Opening Reception**

*Head to the Garden and Pool Area on the lobby level for our annual Opening Reception sponsored by Thomson Reuters. This is a great chance to meet new friends and reconnect with former colleagues. A year is a long time so there's lots of catching up to do! Hors d'oeuvres are included, and a cash bar is available for alcohol purchases. Everyone is invited!*

<b>DAY 2: TUESDAY, JULY 11, 2017</b>
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### **7:40 am**

*Conference Centre doors open early for Mentoring breakfast attendees. Light breakfast for all delegates in main foyer will be available starting at 8:15 am.*

### **7:45 am – 8:45 am**

#### **Mentoring Breakfast**

*Senior faculty interact with registrants with 5 years or less criminal law experience, over a light breakfast, to talk informally about common practice problems encountered by prosecutors and defence counsel, and offer insight based on their own case management experience. Pre-registration is required by registrants. Sponsored by Emond.*

### **9:00 am – 9:45 am**

#### **I. Panel #5: A Call to Action in Reducing Delay: S. 11(b) and the Impact of *R. v. Jordan***

Chair: The Hon. Justice Michelle Fuerst  
Eric V. Gottardi  
The Hon. Judge Frank Hoskins  
Lesley Ruzicka

**9:45 am – 10:30 am**

**J. Lectures on Ethics**

**J.1 The Ethical Obligation of the Crown to Address Police Misconduct**

Presenter: Susan Magotiaux

**J.2 Who Calls the Shots?: Decision-Making by the Defence**

Presenter: Richard C. C. Peck, Q.C.

**J.3 Judicial Use of Social Media**

Presenter: The Hon. Justice J.C. Marc Richard

**10:30 am – 10:50 am**

*Health Break*

Browse our Exhibitor booths and meet some of the great people who help make this week's learning and networking possible. You'll be surprised how passionate they are about helping you succeed in your practice.

**10:50 am – 11:35 am**

**K. Panel #6: The "Problem Witness": From s. 9 to K.G.B.**

Chair: The Hon. Justice Marcy Henschel

Teresa Donnelly

Andi MacKay

Julien Tardif

**11:40 am – 12:30 pm**

**Concurrent Workshops**

Unless you selected the Writing Workshop or the Trial Management Workshop in advance during online registration, you were automatically placed into the Tuesday and Thursday small group workshops.

**Small Group Workshop # 1**

Two faculty members lead a discussion of scenario based problems. Workshop problems will be distributed at Program check-in. English or French workshop available.

**Trial Management Workshop: Part 1 (application required by registrants)**

In the post-*Jordan* world, effective management of trials is a responsibility shared by prosecutors, defence counsel, and the judiciary. Using specific fact scenarios, the Workshop will explore how cases can be better organized for trial, and what tools counsel can expect trial judges to employ to keep trials on track. There will be an interactive element to the session.

*Presenter: The Hon. Justice David Watt*

**Persuasive Writing Workshop (application required by registrants)**

A unique opportunity to learn an issue-driven approach to legal writing, applicable to every phase of litigation from drafting indictments to writing appellate judgments. The result is shorter pleadings and judgments, better organization, clearer style, and more precise logic. Suitable for judges and counsel. Participants may provide writing samples in advance or bring a writing sample, to be used as the basis of a revision exercise.

*Presenter: James C. Raymond, Ph.D.*

**12:30 pm – 2:00 pm**

*Lunch (On your own)*

Remember to review the list of nearby restaurants provided in your Delegate Information Package you received at check-in. Also, please note that delegate questions for the Wednesday Ethics Roundtable must be submitted by the end of the Tuesday lunch break. Look for boxes in the Registration and Exhibitor areas.

**2:00 pm – 2:45 pm**

**L. Panel #7: Demonstration: Cross-Examination of the Affiant**

Judge: The Hon. Justice David Watt

Crown: David W. Schermbrucker

Defence: Frank Addario

Witness: Dane Bullerwell

**2:45 pm – 3:30 pm**

**M. Panel #8: Indigenous Accused in the Criminal Justice System**

Chair: The Hon. Judge Hugh M. Harradence

Leah Fontaine

Ami Kotler

Jonathan Rudin

**3:30 pm – 3:50 pm**

*Health Break*

Chat up our Exhibitors and drop your card or fill out a ballot for a chance to win prizes.

**3:50 pm – 4:30 pm**

**N. Panel #9: The Supreme Court's Most Important Decision on Ethics**

**(The Faculty Speaks, the Registrants Vote)**

Chair: William Smart, Q.C.

Allison Dellandrea

Scott C. Hutchison

Scott K. Fenton

*Ballots are due immediately following the panel - look for a ballot at your seat, and then ballot boxes in the Exhibitor area and as you leave the Plenary room. Results will be announced between Panels 10 and 11 on Wednesday, and one ballot will be drawn for a free registration at the 2018 program in St. John's or 2019 Program in Ottawa. Please note that you must be present to win the future free registration.*

**6:00 pm +**

***Dine Around Town.*** This is a new event in 2017, designed to provide additional opportunities for new and veteran Program attendees to meet in small groups, and have face to face conversations over a meal, outside of the Program. A list of local hosts and their restaurant of choice is available in the Registration area. Check to see if there are still spots available. Please note this is a pay-as-you-go event, not included in Program registration – additional fees apply.

**DAY 3: WEDNESDAY, JULY 12, 2017**

**8:15 am**

*Conference Centre doors open. Light breakfast served.*

**9:00 am – 9:45 am**

**O. Panel #10: Statement-Taking and Voluntariness Issues**

Chair: The Hon. Judge Elizabeth A. Buckle  
Cameron H. Gunn, Q.C.  
Andi MacKay  
Lesley Ruzicka

**9:45 am – 10:30 am**

**P. Panel #11: Infringement of the Right to Counsel**

Chair: The Hon. Justice Joyce DeWitt-Van Oosten  
Karen E. Endres  
Susan Magotiaux  
Trevor Shaw

**10:30 am – 10:50 am**

*Health Break*

Browse our Exhibitor booths and learn more about today's best legal publications, products and services to help you be the best criminal lawyer you can be.

**10:50 am – 11:10 am**

**Q. Point/Counterpoint: Should s. 24(1) Be Available to Remedy Police Misconduct?**

Yes: Michael Davies  
No: Lyne Décarie

**11:10 am – 12:00 pm**

**R. Ask Me Anything About Ethics: A Roundtable Discussion of Difficult Ethical Problems**

Chair: Richard C. C. Peck, Q.C.  
The Hon. Justice Sheilah L. Martin  
Jocelyn Speyer  
Michael D. Tochor, Q.C.

**12:00 pm - 12:20 pm**

**Special Announcements**

*Free afternoon. Explore beautiful Vancouver, and discover why it draws visitors back again and again. If you haven't planned any sight-seeing activities yet, check with Registration for information on which events are still available. Please note, Wednesday social activities are not included in Program registration – additional fees apply. Also, this is the last chance to submit questions for Thursday's Q & A period. Look for Q & A boxes before heading out!*

<b>DAY 4: THURSDAY, JULY 13, 2017</b>
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**7:40 am**

*Conference Centre doors open early for Mentoring breakfast attendees. Light breakfast for all delegates in main foyer will be available starting at 8:15 am.*

**7:45 am – 8:45 am****Mentoring Breakfast**

*Senior faculty interact with registrants with 5 years or less criminal law experience, over a light breakfast, to talk informally about common practice problems encountered by prosecutors and defence counsel, and offer insight based on their own case management experience. Pre-registration is required by registrants. Sponsored by Emond.*

**9:00 am – 9:40 am****S. Panel #12: Jury Selection and Its Complications**

Chair: The Hon. Justice Willie deWit  
The Hon. Justice Joseph Di Luca  
The Hon. Justice Iona M. Jaffe  
Michael D. Tochor, Q.C.

**9:40 am – 10:20 am****T. Panel #13: When Jury Trials Take Unexpected Turns  
(Interactive session)**

Chair: Giuseppe Battista, Ad. E.  
Dane Bullerwell  
The Hon. Justice Michelle Fuerst  
Fraser M. Kelly

**10:20 am – 10:40 am****Health Break**

Visit our Exhibitor booths and leave your card or fill out a ballot for a chance to win prizes.

**10:40 am – 11:20 am****U. Demonstration: Making Sentencing Submissions**

Judge: The Hon. Justice David Watt  
Crown: The Hon. Justice Iona M. Jaffe  
Defence: Michael Davies

**11:25 am – 12:15 pm****Concurrent Workshops**

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**Small Group Workshop #2**

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**Trial Management Workshop: Part 2 (application required by registrants)**

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*Presenter: The Hon. Justice David Watt*

**Persuasive Writing Workshop (application required by registrants)**

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*Presenter: James C. Raymond, Ph.D.*

**12:15 pm – 1:30 pm**

*Lunch (On your own)*

Vancouver is a food lover's paradise. See recommendations for nearby restaurants in your Delegate Information Package provided at check-in.

**1:30 pm – 2:15 pm**

**V. Panel #14: The Conduct of the Sentencing Hearing**

Chair: Eric V. Gottardi

The Hon. Judge Harbans K. Dhillon

Cameron H. Gunn, Q.C.

Danielle Robitaille

**2:15 pm – 3:00 pm**

**W. Panel #15: *Gladue* and the Sentencing of Indigenous Offenders**

Chair: Trevor Shaw

Leah Fontaine

The Hon. Judge Hugh M. Harradence

Jonathan Rudin

**3:00 pm – 3:15 pm**

**Question Period**

**3:15 pm – 3:35 pm**

*Health Break*

Our Exhibitor area contains a premier list of criminal law vendors and suppliers, eager to showcase their solutions to help simplify your practice. Say hello and drop your card for a chance to win a prize before the conference ends.



**3:40 pm – 4:30 pm**

**X. Concurrent Break-Out Sessions**

Advance registration is not required for break-outs. You make break-out selections on site. Seating is on a first-come, first-served basis.

**X.1 The Role and Operation of “Specialized” Courts**

Chair: Michael Davies  
The Hon. Judge Harbans K. Dhillon  
Leah Fontaine  
Jonathan Rudin

**X.2 Right to Silence and Self-Incrimination**

Chair: Randy Schwartz  
Julien Tardif  
Scott K. Fenton

**X.3 Hot Button *Charter* and Procedural Issues in Impaired Driving Cases**

Chair: The Hon. Judge Frank Hoskins  
The Hon. Justice Marcy Henschel  
Michael D. Tochor, Q.C.

**X.4 Controlling the Recidivist Offender** *\*\*Advanced session, intended for registrants with significant criminal law experience\*\**

Chair: The Hon. Justice Willie deWit  
Michelle Booker  
The Hon. Judge Elizabeth A. Buckle

**5:30 pm +**

***Optional Thursday Evening Closing Event.*** *Join faculty, sponsors and registrants for our annual Thursday Closing Dinner and Special Event! Please note this is a ticketed event, not included in Program registration – additional fees apply. Enrolment is limited, and the event may be pre-sold by the Program date. If you didn't sign up during online registration, check with the Registration desk to see if tickets are still available. Sponsored by Thomson Reuters.*

<b>DAY 5: FRIDAY, JULY 14, 2017</b>
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**8:15 am**

*Conference Centre doors open. Light breakfast served.*

**9:00 am – 9:40 am**

**Y. Panel #16: Section 24(2): Where Has it Been, and Where is it Going After Grant?**

Chair: Susan Magotiaux  
Frank Addario  
The Hon. Justice Joseph Di Luca  
David W. Schermbrucker

**9:40 am – 10:20 am**

**Z. Panel #17: Civility and Professionalism in the Criminal Justice System**

Chair: Jocelyn Speyer  
The Hon. Judge Elizabeth A. Buckle  
Teresa Donnelly  
William Smart, Q.C.

**10:20 am – 11:00 am**

**AA. Panel #18: Supreme Court of Canada Report**

Chair: The Hon. Justice David Watt  
Ami Kotler  
Richard C. C. Peck, Q.C.  
Randy Schwartz

**11:00 am – 11:20 am**

**BB. The Year Ahead in Ottawa: The Cases to Watch For**

Presenter: Scott C. Hutchison

**11:20 am – 11:30 am**

**Closing Remarks**

**11:30 am**

**Program Concludes**

Thanks for joining us! We hope you had an outstanding week of learning, networking, and enjoying everything that makes Vancouver and the Westin Bayshore Resort and Conference Centre special. *Don't forget to mark your calendar for next year's Program taking place July 9 to 13, 2018 in St. John's, Newfoundland!*