

SELF-DEFENCE AND USE OF FORCE: CURRENT AND EMERGING ISSUES



Canada's authoritative program on the leading issues in this complex area of law.

An expert, cross-discipline faculty will address:

- Permissible use of force by on-duty law enforcement officers post *Forcillo, Dziekanski* and G-20
- New law of self-defence in action
- Pitfalls and challenges in prosecuting and defending self-defence cases
- New C-13 provisions including "sending intimate messages" without consent
- Capacity, consent and volition in today's sexual assault cases
- Self-defence in domestic cases - Where is the law now?
- Recent trends in the "air of reality" test

Keynote Speaker

The Honourable Justice Frank. N. Marrocco, Associate Chief Justice Superior Court of Justice (Ontario)

"Self-Defence: The Reality of Today's Litigation"

Practical advice for Crown and defence counsel, law enforcement investigators, criminologists, judges

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"ALL PRESENTERS WERE VERY PROFESSIONAL, DEDICATED TO THIS PROGRAM, AND VERY WELL PREPARED."

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Chairs

Ann Morgan, Deputy Director, Office of the Crown Attorney
Ministry of the Attorney General (Ontario)

Susan Chapman, Ursel Phillips Fellows Hopkinson LLP

Date and Time

Friday, April 29, 2016
9:00 a.m. - 4:30 p.m. EDT

Location

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Webcast available

SELF-DEFENCE AND USE OF FORCE CURRENT AND EMERGING ISSUES

Recent headlines are dominated by stories about excessive use of force. When and how much force is permissible in the course of a violent interaction is a continuing area of legal dispute and confusion. These challenges are compounded by the ever increasing use of high tech surveillance, recording devices and social media and its impact on the criminal justice and regulatory discipline process.

Professionals working in the criminal justice system need to have a current and comprehensive understanding of the key issues. In this intensive one day program Canada's leading experts from diverse sectors of the criminal justice system will equip you with the latest "need to know" developments plus practical strategies and tools on how to effectively navigate these complex issues.

Topics this year include:

- Most recent use of force parameters for on duty police officers
- Where the criminal process and the *Police Act* discipline system intersect
- Significant court decisions on the new self-defence laws
- Grappling with consent and capacity in today's "hook-up" culture
- "Permissible Discipline" and "Correction of the Child" – how are the courts looking at these defences?

**REGISTER NOW BY VISITING WWW.OSGOODEPD.CA/SD,
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WHO SHOULD ATTEND

- Crown and defence lawyers
- Police and police trainers
- Investigators and criminologists
- Police regulatory managers and in house lawyers
- Psychologists
- Judges

Chairs

Ann Morgan, Deputy Director, Office of the Crown Attorney
Ministry of the Attorney General (Ontario)

Susan Chapman, Ursel Phillips Fellows Hopkinson LLP

Keynote Speaker

The Honourable Justice Frank. N. Marrocco, Associate Chief Justice, Superior Court of Justice (Ontario)

Faculty

Inspector Michael Barsky
Toronto Police Service,
Communications-PRIME

Joanna Birenbaum
Ursel Phillips Fellows
Hopkinson LLP

Andrew Burgess
Addario Law Group

Michael Cantlon, Crown Attorney, Ministry of the Attorney General (Ontario)

Sgt. Kevin Cyr, LL.M., R.C.M.P.
Lower Mainland Emergency Response Team

David Gillis, Staff Sgt.
Armament Officer, Toronto Police College

Lisa Jacek, Counsel, Crown Law Office-Criminal, Ministry of the Attorney General (Ontario)

Jamie Klukach, Crown Counsel, Crown Law Office - Criminal, Ministry of the Attorney General (Ontario)

Howard Krongold, Abergel Goldstein & Partners

Scott Latimer, Crown Counsel Crown Law Office - Criminal, Ministry of the Attorney General (Ontario)

Naomi Lutes, Greenspan Humphrey Lavine

Joanne Mulcahy, Harry G. Black Professional Corporation

The Hon. Justice Ian Nordheimer, Superior Court of Justice (Ontario)

Vincenzo Rondinelli
Lafontaine & Associates

Julian Roy, Falconers LLP

Peter Scrutton, Crown Counsel, Crown Law Office - Criminal, Ministry of the Attorney General (Ontario)

Jennifer Stanton, Asst. Crown Attorney, Ministry of the Attorney General (Ontario)

The Hon. Justice Gary Trotter, Superior Court of Justice (Ontario)

Jill Witkin, Crown Counsel Crown Law Office-Criminal Ministry of the Attorney General (Ontario)

Robert M. Wright, Asst. Crown Attorney, Ministry of the Attorney General (Ontario)

Balancing individual rights vs. enforcing public safety, and understanding the laws of self-defence is the constant challenge for those involved in the criminal justice system. Are you informed on the latest developments?



AGENDA

8:15

Registration and Continental Breakfast

9:00

Welcome and Introduction from the Chairs

9:10

Defining, Prosecuting and Defending Permissible Use of Force by Police Officers in 2016

PETER SCRUTTON, *Crown Counsel, Crown Law Office - Criminal, Ministry of the Attorney General (Ontario)*

INSPECTOR MICHAEL BARSKY, *Toronto Police Service Communications-PRIME*

JOANNE MULCAHY, *Harry G. Black Professional Corporation*

JULIAN ROY, *Falconers LLP*

SGT. KEVIN CYR, LL.M., R.C.M.P., *Lower Mainland Emergency Response Team*

DAVID GILLIS, *Staff Sgt., Armament Officer, Toronto Police College*

- Police using s.25 *Criminal Code* defence in the post *Forcillo*, post-*Dziekanski*, post *G-20* climate; what is meant by "reasonable force" and "as much force as necessary"?
- With the *YouTube* forum, body cameras, cell phones and cell blocks under full surveillance, how has the technological shift impacted the prosecution and the defence?
- Pros and cons of calling use of force experts at trial
- The need to know about the interaction of the criminal process and the *Police Act* discipline system
- Accountability of police to the community; are there higher standards on the use of force?

There will be a 15 minute floating break during this session

11:00

New Law of Self-Defence in Action

THE HON. JUSTICE IAN NORDHEIMER, *Superior Court of Justice (Ontario)*

MICHAEL CANTLON, *Crown Attorney, Ministry of the Attorney General (Ontario)*

ANDREW BURGESS, *Addario Law Group*

Hear from key players about s. 34 and how the courts have been interpreting the new self-defence provisions. Get the benefit of their experience and practical insights as they take you through some of the key cases and examine the impact of the new case law prospectively and retrospectively in relation to the application and availability of the defence.

11:30

Do the Traditional Defences Still Exist in the New Self-Defence Regime?

ROBERT M. WRIGHT, *Asst. Crown Attorney, Ministry of the Attorney General (Ontario)*

JENNIFER STANTON, *Asst. Crown Attorney, Ministry of the Attorney General (Ontario)*

HOWARD KRONGOLD, *Abergel Goldstein & Partners*

SUSAN CHAPMAN, *Ursel Phillips Fellows Hopkinson LLP*

- "Correction of a child": What does it mean and trends in the educational arena
- Permissible discipline: What, if any impact have demographic and cultural changes influenced the way courts regard parental discipline
- Assaultive behaviour between students in the schoolyard vs. zero tolerance for violence - where's the line?
- Consensual fighting vs. excessive behaviour in sports: How has the law evolved?

12:30

Lunch

1:00

Keynote Speaker

THE HONOURABLE JUSTICE FRANK. N. MARROCCO
Associate Chief Justice, Superior Court of Justice (Ontario)

Self-Defence - the Reality of Today's Litigation

1:30

Recent Trends in the "Air of Reality" Test

THE HON. JUSTICE GARY TROTTER, *Superior Court of Justice (Ontario)*
SCOTT LATIMER, *Crown Counsel, Crown Law Office - Criminal Ministry of the Attorney General (Ontario)*

- Case law evolution post *R. v. Cinous*
- Do the new self-defence provisions make the task of applying the test easier for the courts?
- How high is the threshold?
- Key factors to consider in tackling this test

2:00

Self-Defence in Domestic Cases - Where is the Law Now?

JILL WITKIN, *Crown Counsel, Crown Law Office - Criminal Ministry of the Attorney General (Ontario)*

JOANNA BIRENBAUM, *Ursel Phillips Fellows Hopkinson LLP*

- Revisiting *R. v. Lavallee* and the role, if any, it still plays

AGENDA (cont'd)

- Do the new *Criminal Code* provisions have any effect on the common law in self-defence cases?
- The effect of *R. v. Ryan* on the ability to rely on duress in the domestic context
- Strategies for Crowns and defence in advancing and defending these claims

2:45

Refreshment Break

3:00

Capacity, Consent and Volition in Today's Sexual Assault Cases

JAMIE KLUKACH, *Crown Counsel, Crown Law Office - Criminal, Ministry of the Attorney General (Ontario)*

NAOMI LUTES, *Greenspan Humphrey Lavine*

LISA JACEK, *Counsel, Director of Crown Operations, Ministry of the Attorney General Ontario*

VINCENZO RONDINELLI, *Lafontaine & Associates*

- Grappling with advance consent, consent and capacity in today's bingeing and "hook-up" culture
- Defences of somnolence/parasomnia
- Legal issues involved in consent to rough and potentially injurious sex
- New C-13 provisions including "sending intimate messages" without consent, so called "revenge porn" and determining consent

4:30

Closing Remarks and Program Concludes



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.

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Self-Defence and Use of Force: Current and Emerging Issues

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Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca for details. Please inquire about financial assistance.

Date & Time

Friday, April 29, 2016

9:00 a.m. - 4:30 p.m. EDT

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1 Dundas St. W., 26th Floor
Toronto, ON

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.



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