

NATIONAL SYMPOSIUM ON SEXUAL ASSAULT CASES IN THE CRIMINAL COURT: THE LATEST DEVELOPMENTS IN LAW, SCIENCE & PRACTICE

Special Guest Speaker:

The Honourable Madam Justice Sheilah L. Martin
Supreme Court of Canada

Join an experienced and multi-disciplinary
faculty to explore:

- Evidence issues unique to sexual assault trials
- What evidence does a judge need to convict?
- *Bill C-51* and the new proposed changes to sexual assault provisions in the *Criminal Code*
- Top five recent “need to know” appellate cases
- Cross-examination of the complainant: law, ethics, and strategy
- Understanding the neurobiological and psychological effects of violence and abuse

Register today at:

osgoodepd.ca/criminalsexual

Program Chairs

Jill Witkin

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

Frank Addario

Addario Law Group LLP

Date and Time

April 21, 2018

9:00 a.m. – 4:30 p.m. EDT

In Person or Webcast

Location

**Osgoode Professional
Development**

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

NATIONAL SYMPOSIUM ON Sexual Assault Cases in the Criminal Court: The Latest Developments in Law, Science & Practice

Sexual assault cases are difficult for all parties involved. The complainant must undergo emotional and sometimes lengthy cross-examination. The accused faces the stigma of a sexual assault conviction as well as the prospect of a lengthy jail sentence, collection of DNA and compliance with the sex offence registry. There is often no corroboration and much public scrutiny. A widely respected faculty will offer guidance on key challenges and optimal approaches. This conference will be a forum for robust discussion and an opportunity to ask your questions and make your comments.

Topics Include

- Understanding how sexual assault impacts a victim's behaviour and memory
- Witness reliability
- Discussion and debate on the admissibility of expert evidence on the neurobiology of trauma
- Best practices on examining and cross-examining a complainant in a sexual assault case
- Latest case update
- Key changes to the *Criminal Code* proposed in *Bill C-51* relating to consent, admissibility of evidence and legal representation for the complainant

Who Should Attend?

Lawyers, Judges, police sex crime investigators and supervisors, sexual assault and rape crisis centre support workers, medical personnel involved in rape and sexual assault cases, psychologists, psychiatrists, counsellors

Agenda

8:15 a.m.

Registration and Continental Breakfast

9:00 a.m.

**Welcome and Introduction from
the Chairs**

9:15 a.m.

**Evidence Issues Unique to Sexual
Assault Trials**

The Honourable Justice David Paciocco,
Court of Appeal of Ontario

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

Danielle Robitaille, Henein Hutchison LLP

There are numerous rules of evidence that are specific to the offence of sexual assault. These evidentiary frameworks are complex and nuanced. An experienced panel will discuss select areas of law that are essential to understand for the prosecution and defence of sexual assault:

- Intoxication, consent and capacity
- Other sexual history evidence
- Prior consistent statements

10:00 a.m.

**Five Myths About What a Toxicologist
Can and Cannot Tell Us**

Daryl J. Mayers Ph.D., Toxicology Section,
Centre of Forensic Sciences

- The limits to what a toxicologist can add to a sexual assault trial
- How far can this evidence go?
- When does such evidence cross the line from recognized science to speculation?

10:20 a.m.

Refreshment Break

10:35 a.m.

Reasons for Judgment in a Sexual Assault Trial

The Honourable Madam Justice Sheilah L. Martin, Supreme Court of Canada

- What evidence does a judge need to convict?
- What is a “reasoned and considered” judgment as per *R. v. J.J.R.D.*? (2006 CanL11 40088 ONCA)
- Can a judge reasonably convict in a “he said, she said” case?
- How does a judge avoid stereotypical reasoning in making credibility findings? *R. v. A.R.J.D.* (2017 ABCA 237)

11:20 a.m.

Five Cases for the Hip Pocket

Mabel Lai, Counsel, Crown Law Office-Criminal, Ministry of the Attorney General (Ontario)

Samara Sectar, Addario Law Group LLP
Experienced counsel will discuss the five recent “need to know” top appellate cases dealing with sexual assault law.

11:40 a.m.

Bill C-51: New Sexual Assault Provisions Coming Down the Pipe

Lisa Dufraimont, Associate Professor, Osgoode Hall Law School, York University

Bill C-51 - An Act to amend the Criminal Code and Department of Justice Act was announced in June 2017 and has since received first reading in the Senate and gone through consultations. Learn about

the anticipated new provisions and how they will impact any sexual assault trial.

12:00 p.m.

Networking Luncheon

1:00 p.m.

Keynote Address: Trauma Informed Practice: Understanding the Neurobiological and Psychological Effects of Violence and Abuse

Lori Haskell, Ph.D, Clinical Psychologist, Private Practice, Assistant Professor, Department of Psychiatry, University of Toronto

An increasing number of justice system participants are receiving “trauma-informed” education to allow them to better understand the evidence of sexual assault on victims of trauma. Dr. Haskell will share the research in the area of neurobiology of trauma that helps us understand what happens to a victim’s brain when she or he experiences a traumatic event such as a sexual assault.

2:00 p.m.

Admissibility of Expert Evidence on the Neurobiology of Trauma

The Honourable Justice Shaun Nakatsuru, Ontario Superior Court of Justice

Meaghan Cunningham, Regional Sexual Violence Crown, East Region, Criminal Law Division, Ministry of the Attorney General (Ontario)

Jonathan A. Shime, Cooper, Sandler, Shime & Bergman LLP, Barristers & Solicitors

- Does expert evidence in the area of neurobiology of trauma meet the *Mohan* standard for relevance and necessity?

- Is it subject to bias as per *White Burgess Langille Inman v. Abbott and Haliburton Co.*, (2015 SCC 23)?
- What is the judge’s gatekeeper function?

3:00 p.m.

Refreshment Break

3:15 p.m.

Cross-examination of the Complainant: Law, Ethics, and Strategy

The Honourable Justice Renee Pomerance, Ontario Superior Court of Justice

Teresa Donnelly, Regional Sexual Violence Crown, West Region, Criminal Law Division, Ministry of the Attorney General (Ontario)

Nathan Gorham, Rusonik, O’Connor, Robbins, Ross, Gorham & Angelini LLP

- What constitutes inappropriate cross-examination?
- Effective use of case law
- Judges considerations about intervening in cross-examination and ruling on objections
- Ethical issues involved in relying on myths and stereotypes

4:15 p.m.

Closing Remarks from the Chairs

4:30 p.m.

Program Concludes

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Chairs

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

Frank Addario, Addario Law Group LLP

Special Guest Speaker

The Honourable Madam Justice Sheilah L. Martin, Supreme Court of Canada

Keynote Speaker

Lori Haskell, Ph.D, Clinical Psychologist, Private Practice, Assistant Professor, Department of Psychiatry, University of Toronto

Faculty Includes

Meaghan Cunningham, Regional Sexual Violence Crown, East Region, Criminal Law Division, Ministry of the Attorney General (Ontario)

Teresa Donnelly, Regional Sexual Violence Crown, West Region, Criminal Law Division, Ministry of the Attorney General (Ontario)

Lisa Dufraimont, Associate Professor, Osgoode Hall Law School, York University

Nathan Gorham, Rusonik, O'Connor, Robbins, Ross, Gorham & Angelini LLP

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

Mabel Lai, Counsel, Crown Law Office- Criminal, Ministry of the Attorney General (Ontario)

Daryl J. Mayers Ph.D., Toxicology Section, Centre of Forensic Sciences

The Honourable Justice Shaun Nakatsuru, Ontario Superior Court of Justice

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Registration Details

Fee per Delegate

\$495.00 plus HST

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

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.

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Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



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National Symposium on
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in the Criminal Court:
The Latest Developments
in Law, Science & Practice

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