



HOME

BOARD OF DIRECTORS

EDUCATION

- Fall Conference
- [Spring Conference](#)
- Summer School
- Chief Justice of Ontario Colloquia
- Crime Scene-A Forensic Science Lecture Series

CURRENT ISSUES

KEY DOCUMENTS

EVENTS

ARCHIVES

UPDATES

Education » Spring Conference

Ontario Crown Attorneys' Association
Spring Educational Conference, 2004
Blue Mountain, Collingwood, Ontario

May 19-21, 2004

Videotapes of the panel sessions are available for further viewing, by contacting the OCAA office.

Day 1 (May 19)

Conference opening speech

The Honourable [Michael J. Bryant](#), Attorney General, Ministry of the Attorney General
Minister Responsible for Native Affairs
Minister Responsible for Democratic Renewal

Attorney General Michael Bryant used his opening speech to talk about improving links between Crown attorneys and Pro Bono Law Ontario, to provide additional pro bono and community-service legal work where needed in the province.

Bryant noted that one out of every seven Ontario Crown attorneys currently faces some form of wrongful or malicious prosecution lawsuit. Bryant told the conference that under his direction, the Ministry of the Attorney General is trying to find some way to reduce the number of nuisance lawsuits against Crowns that reach the courts (lawsuits where there is obviously little, if any, merit or substance to the allegations).

Bryant said Ontario's 2004-2005 budget does not contain any major funding cuts to the justice system. Furthermore, Bryant told the conference that the justice system is assured stable levels of funding—at levels similar to the \$2.9 billion allotted for 2004-05—for the next three fiscal years (2005-06 to 2007-08).

However, a summary of the 2004 Ontario budget published by the Ministry of Finance shows the Liberal government plans to cut funding to the justice ministries by \$100 million in 2006-2007.

In his conference opening remarks, Bill Lightfoot, president of the Ontario Crown Attorneys' Association, addresses the impact the \$100-million funding cut will have on the provincial justice system.

Day 1 (May 19)

Conference opening remarks

Bill Lightfoot, President, Ontario Crown Attorneys' Association

Future budget cuts to the Criminal Law Division will reduce the effectiveness of prosecution efforts in Ontario, Lightfoot warned in his speech to open the conference.

Lightfoot said the impact of cuts to education and training programs within the Criminal Law Division is already being felt, noting attendance at the 2004 Spring Educational Conference was 475, down from 610 in 2003.

The OCAA believes that maintaining education programs for Ontario prosecutors is vital given: the evolution of law based on the decisions of the appellate courts; legal precedents continually being set by judgements involving the Canadian Charter of Rights and Freedoms; the focus on preventing

wrongful convictions; and, ongoing efforts to more effectively prosecute gang- and gun-related crimes.

Day 1 (May 19)

Murray Segal, Deputy Attorney General, Ministry of the Attorney General

Among other issues, in his talk Segal addressed: supporting the upcoming Justice Delay Reduction Initiative; partnership possibilities between justice and other areas of government; plans to make additional mental health programs and resources available to the justice system; the intent of the Ministry of the Attorney General to place greater focus and resources on prosecuting gang- and gun-related crimes.

Day 1 (May 19)

All Quiet On the Charter Front

Scott Hutchison, Crown Counsel, Crown Law Office-Criminal
Jocelyn Speyer, Crown Attorney, Guelph

Since taking effect, the Charter of Rights and Freedoms has been impacting the evolution of Canadian law.

Using judgements from nine appeal-court cases, Hutchison and Speyer give an overview of legal precedents set by recent interpretations of the Charter.

Important to Crown attorneys are the cases of Felderhoff, Elliot and Leduc. These rulings are relevant to trials where the defence mounted by counsel for the accused appears to be largely based on attacking the integrity and competence of the prosecuting attorney(s).

Rulings in these cases provide judges with the direction and authority to ensure that such tactics (ongoing personal attacks or unsubstantiated accusations of impropriety against the Crown) are not a quick and easy substitute by counsel for conducting a full and proper defence on behalf of a client.

Day 1 (May 19)

The Youth Criminal Justice Act: Hot YCJA Trends for Spring

Miriam Bloomenfeld, Counsel, Criminal Law Policy Branch

Jurisprudence relevant to the YCJA has been evolving rapidly since it replaced the Young Offenders Act in April 2003.

Youth justice topics covered include: bail, sentencing, deferred custody and supervision orders, breaching of custody orders and judicial determinations of serious violent offences.

Bloomenfeld presents what Crowns need to know.

Day 1 (May 19)

A Mental Health Break

Curt Flanagan, Crown Attorney, Brockville
Halyna Perun, Counsel, Ministry of Health and Long-Term Care
Mary Ellen Hurman, Assistant Crown Attorney, Toronto office

Ontario's Personal Health Information Protection Act becomes law in Nov. 2004.

Perun provides an overview of the Act's laws and regulations, which establish new rules for the collection and use of personal health-care information. These rules will apply to hospitals, psychiatric facilities, ambulance services, laboratories, pharmacies and other health-care providers.

Flanagan details how the Act will impact the justice system, where personal health-care information continually flows from health-care providers to law enforcement, court workers, the courts, Crown attorneys and defence counsels as well as review boards and hearings.

Day 2 (May 20)

Blinded By The Light

Chair, Robert Pelletier, Crown Attorney
Brendan Crawley, Senior Coordinator, Communications, Ministry of the Attorney General
Michael Martin, Crown Attorney, Walkerton
Paul Culver, Crown Attorney, Toronto

Crown attorneys are held to higher standard when dealing with media than are defence lawyers. It may not be fair, but it's the reality.

This session applies the principles of media relations to the justice system and criminal trials.

Specific techniques are presented to aid Crowns in maintaining the unbiased administration of justice while using the media to disseminate information on what has taken place, and why, in Ontario's criminal courts.

Day 2 (May 20)

Bang, Bang, Bang: Update on the Law of Evidence

Jamie Klukach, Counsel, Crown Law Office, Criminal Division
Suhail Akhtar, Assistant Crown Attorney, Scarborough

In quick succession, Klukach and Akhtar present a number of cases setting significant legal precedents for evidentiary procedures.

Evidence categories covered include corroboration, hearsay, similar act, demeanour, expert opinion and post-offence conduct.

Day 2 (May 20)

Reflections in the Rear View Mirror: What I Know Now That I Wish I Knew Then

Chair, Renee Pomerance, Counsel, Crown Law Office-Criminal
Honourable Justice Louise Charron, Ontario Court of Appeal
Honourable Justice Archie Campbell, Superior Court of Justice
Honourable Justice Paul Taylor, Ontario Court of Justice

This panel of distinguished judges share their collective insight so Crowns can be more effective in the courtroom.

Day 2 (May 20)

Not Such a Joyeux Noel: The Right to Make False Answer and Defence
David Lepofsky, Counsel, Crown Law Office, Criminal

In 2002, the case of R. vs. Noel muddied the previously straightforward area of law applying to cross examining an accused on testimony involving an admission of guilt during an earlier proceeding.

Lepofsky presents tips and legal points Crowns can use when dealing with the jurisprudence now applying to this form of cross examination.

Day 2 (May 20)

Ontario Victim Services Secretariat (OVSS)
Nevina Crisante, Counsel, OVSS
Rosemary Smith, Counsel, Manager, Victim Witness Protection Program
Wendy Roberts, Manager, Victim Witness Protection Program

A variety of victim-assistant services are available in Ontario, some delivered by departments of the Ministry of the Attorney General and some by community-based organizations.

This panel presents the range of victim-assistance programs available to aid the victims of crime as well as the prosecutorial efforts of Crown attorneys.

Victim-assistance programs presented include, among others, victim-crisis services, sexual assault and

rape crisis centres and partner assault and domestic violence services.

Day 3 (May 21)

Crossing Over or Falling Through the Cracks? Child Welfare vs. YCJA
Chair, Mary Anne Mousseau, Assistant Crown Attorney, Kenora
Constable Dean Roy, Detective Constable, Youth Crime Coordinator, Durham Regional Police
Richard Neary, Defence Counsel, Toronto
Susan McDougall, Counsel, Office of the Children's Lawyer
Jane Long, Senior Counsel, Children's Aid Society of Toronto
Honourable Justice Paul Taylor, Ontario Court of Justice

Implementation of the Youth Criminal Justice Act (YCJA), and changes to the child welfare system have altered the legal field applying to children and youth in the justice system.

Information presented during by this panel will benefit Crowns with cases involving child-welfare issues.

Day 3 (May 21)

Security Advisory Committee Update
Chair, Murray MacDonald, Crown Attorney, Cornwall
Leslie Chapin, Counsel to Director of Crown Operations, Toronto Region
Tommie Barnes, Senior Assistant Attorney, U.S. Federal Department of Justice

Leslie Chapin

The OCAA's security advisory committee has developed a platform of policies and procedures to improve the safety of Ontario's prosecutors and their families.

In addition, Chapin provides an overview of an important new security initiative offered by the Ministry of Transpiration, now available to prosecutors.

Today's high-tech world presents a new security risk—the Internet. Hear the details and what Crowns can do about it.

Tommie Barnes

During the past 25 years, Barnes has managed security issues for a variety of U.S. federal departments. His experience includes security plans for military bases, embassies and diplomatic personnel.

Today, Barnes manages the national security program for the U.S. Department of Justice's 7,000 prosecutors, 6,000 court employees and approximately 400 buildings.

His job is to ensure prosecutors stay safe. Hear how they do it south of the border.

Day 3 (May 21)

Blow by Blow: An Update on Drinking and Driving Law
The latest changes to the jurisprudence applying to drinking and driving and related offences.

Categories covered include: Charter cases, character cases, dangerous driving and refusal to take a breathalyzer test.

Day 3 (May 21)

Justice Delay Reduction Initiative
John McMahon, A/Assistant Deputy Attorney General
Laura Eplett, Counsel, Criminal Law Policy
David Wake, Associate Chief Justice, Ontario Court of Justice

With backlogged court cases jeopardizing the successful administration of justice in some jurisdictions, changes are coming to criminal case-management protocol in Ontario

The urgent need to develop more efficient case-management procedures for criminal trials was identified at a justice summit held in April 2002. Representatives from all segments of Ontario's legal system attended the summit, including ministry staff, judges, Crowns, court services, legal aid and the defence bar.

The new case-management protocol is intended to reduce delays in getting cases to trial; streamline and standardize procedures in criminal cases; and reduce the number of court appearances where nothing critical to advancing a case is accomplished.

For Crown attorneys, the protocol means changes in the assignment and processing of trial files in the local offices.

Draft copies of the protocol will be available in fall 2004 and implementation, beginning with the larger Crown offices, is expected to start shortly thereafter.

This session presents how time and resource savings will be achieved under Ontario's new case-management protocol.

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