

# CBA CRIMINAL JUSTICE CONFERENCE

APRIL 8, 2017 | VANCOUVER (BC)

## Section 8 of the *Charter*

### April 8, 2017

9:00 – 9:05 **Introduction**

9:05 – 9:20 **The 2017 Fact Scenario: Murder With A Smile** [0.25 Substantive hours]

The CBA National Conference movie returns with a tale of murder, treachery, cover ups and.... Committed by a bunch of evil clowns who will stop at nothing to make sure their criminal activities flourish. You know you want to see it!

9:20 – 9:40 **Opening Address** [0.25 EPPM]

The Supreme Court of Canada's leading criminal jurist will speak on issues affecting the criminal bar across the country including the fairest and most expeditious way in which criminal trials should be run, the ethical and professional obligations of both the Crown and defence, and the biggest issues affecting criminal justice in Canada.

**Speaker:** Hon. Justice Michael Moldaver

9:40 – 10:15 **Dissecting Murder With a Smile** [0.25 substantive hours; 0.25 EPPM hours]

A detailed look at the fact scenario, discussing tactical and ethical problems for the Crown and the defence in conducting a trial where the search and seizure of the accused makes or breaks the case.

**Speakers:** Richard Fowler Q.C.  
Judge Melissa Gillespie  
Peter Juk Q.C.

10:15 - 10:50 **Step Six** [0.25 substantive hours; 0.25 EPPM hours]

The long forgotten mechanism permitting a trial judge to look beneath the redactions in a warrant has risen from its slumber like a sleeping giant. But what does it mean, how do you use it and what can the defence do in protecting their clients rights in the face of information they are not allowed to see? Join us as the panel redact the secrets of Step Six.



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**Speakers:** Susan Brown  
Greg DelBigio Q.C.  
Hon. Justice Richard Saull

10:50 – 11:05 **Health Break**

11:05 – 11:40 **Cross-Examination of the Affiant** [0.25 substantive hours; 0.25 EPPM hours]

R. v. Lising and Pires has had a significant impact on the cross-examination of affiants in a search warrant. When can an affiant be questioned? How far can the defence go? Can the Crown resist any cross-examination successfully and should it? Find out when our panel gets its teeth into a motion that might make or break the challenge to a warrant.

**Speakers:** Hon. Justice Suhail Akhtar  
Ian Donaldson Q.C.  
Hon. Justice Peter Leask  
Mark Levitz Q.C.

11:40 – 12:15 **Search Incident to Arrest/Investigative Detention** [0.25 substantive hours; 0.25 EPPM hours]

A vast number of section 8 applications arise out of evidence found when the police detain or arrest a suspect. What is the difference between the two and how far can the police go in exercising their power? And how can the evidence be sustained or excluded? This panel will look at the methods available to the police and where the boundaries lie.

**Speakers:** Hon. Justice Peter Martin  
Lesley Ruzicka  
Michael Tammen Q.C.

12:15 – 1:10 **Lunch**

1:10 – 1:45 **Confidential Informants** [0.25 substantive hours; 0.25 EPPM hours]

Those ubiquitous CIs are everywhere and more often than not the information they provide is powerful enough to validate a warrant. When is the defence entitled to their identity? What does the Crown have to do to protect them? And how can the defence neutralise the information provided by an informant? This panel will answer these questions and more.

**Speakers:** Mark Jette  
Hon. Justice Miriam Maisonville  
Wendy Stephen, QC

1:45 – 2:20 **Reasonable Expectation of Privacy** [0.25 substantive hours; 0.25 EPPM hours]

Standing to challenge a search is given only to those parties whose reasonable expectation of privacy has been breached. What does the term mean? Who can claim



it? And what happens if a third party's reasonable expectation of privacy has been infringed? See how our panel lifts the fog on a tricky area of law.

**Speakers:** Hon. Justice David Frankel  
Brock Martland  
Megan Street

2:20 – 2:50 **Search of Electronic Devices** [0.25 substantive hours; 0.25 EPPM hours]

Cell phones, computers, tablets.... most of us depend on these devices to run our daily lives and, as a result, store our most confidential information within them. After Morelli and Fearon, what rights are protected and what are fair game for the prosecution to use in a criminal trial?

**Speakers:** Associate Chief Justice Austin Cullen  
Matthew Nathanson  
Shelene Rail

2:50 – 3:05 **Break**

3:05 – 3:35 **RPG v. Reasonable Suspicion** [0.5 substantive hours]

Two different standards and two different uses but what's the difference and does it matter? This panel will give you the answers to both and also tell you how to best go about advancing your positions when either standard is engaged.

**Speakers:** Jennifer Lopes  
Judge Carmen Rogers  
Janet Winteringham, QC

3:35– 4:35 **Ask the Judges Anything** [0.5 substantive hours; 0.5 EPPM hours]

Alright, how many have you have wanted to ask the judge a question of law of your own choosing? Here's your chance! A panel of judges headed by the Hon. Justice Michael Moldaver will offer themselves up to answering anything you want to throw at them on any area of the law! Get thinking about what you want to ask!!!

**Speakers:** Hon. Justice David Frankel  
Hon. Justice Peter Martin  
Hon. Justice Michael Moldaver  
Hon. Justice Richard Saull

Accreditation for the entire conference for all Canadian jurisdictions, except New Brunswick and Saskatchewan:

Substantive, skills and/or procedural content: 3 hours

Ethics, professionalism and/or practice management content (EPPM): 2.5 hours

\*Please visit the [conference webpage](#) for additional information.



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