

## Sexual Assault Pre-Trial Applications: Strategy, Tips and Current State of the Law

### Criminal Law



In Person



Webcast

**Date:** Friday, December 13, 2024 | 9:00 am to 12:00 pm

**Location:** OBA Conference Centre  
20 Toronto Street, 2<sup>nd</sup> Floor, Toronto

**Agenda:**  
8:30 am Registration  
9:00 am Program Commences  
12:00 pm Program Concludes  
12:00 pm – Lunch  
1:00 pm – Award Presentation

**Program Chair:** **Teresa Donnelly**, West Region Sexual Violence Crown, Sexual Violence Advisory Group, Ministry of the Attorney General  
**Amanda Ross**, Cooper, Sandler, Shime & Bergman LLP



This program is eligible for up to  
**3h 0m of Substantive Content**

Pre-trial applications are a pivotal part of trial strategy, and it is crucial for Crown attorneys and defence counsel to understand the full scope and nature of the *Criminal Code*'s procedures with respect to the production and disclosure of records in sexual assault cases.

Which sexual offences are currently captured by these provisions? Which applications can or should take place at a preliminary inquiry? When is evidence concerning prior sexual activity of the complainant admissible (section 276)? When can certain records related to the complainant be used by the defence (section 278)?

Our panel of seasoned criminal law practitioners will break down these issues and more during this timely program.

8:30 am **Registration and coffee**

9:00 am **Opening Remarks**

9:05 am **Preliminary Inquiry**

**The Honourable Justice Christine Mainville**, Ontario Court of Justice

**Ashley Dresser**, Dresser Defence Professional Corporation

**Victoria McDougall**, Assistant Crown Attorney, Ministry of the Attorney General

- What kind of sexual assaults cases are preliminary inquiries available for?
- Which applications do you have to bring at a preliminary hearing?
- How can you use the preliminary inquiry to build your evidentiary record for a pre-trial application
- Limits on availability: Supreme Court's decision in R. v. Archambault

9:35 am **Third Party Record Applications**

**Amanda Ross**, Cooper, Sandler, Shime & Schwartzentruber LLP

**Neville Golwalla**, Assistant Crown Attorney, Ontario Ministry of the Attorney General

- Procedure for accessing records held by a third party (e.g. therapist, hospital or medical records, and employment records).
- Key factors considered for granting or denying access to third party records

10:20 am Networking Break

10:35 am **Section 276 and 278 Applications**

**The Honourable Justice Brock Jones**, Ontario Court of Justice

**Tara Boghosian**, Henein Hutchison Robitaille LLP

**Sandra Duffey**, Assistant Crown Attorney, Ontario Ministry of the Attorney General

- Process to apply for an admissibility hearing to determine whether sexual activity evidence may be admitted at trial.
- Complainant's right to be represented by counsel in the hearing.
- Important factors considered for determining whether sexual activity evidence may be admitted at trial.

11:35 am **Appeals**

**Brandon Chung**, Henein Hutchison Robitaille LLP

**Catherine Weiler**, Crown Counsel, Ontario Ministry of the Attorney General

- Critical appellant decisions and cases to watch

12:00 pm Lunch

1:00 pm **Award Presentation**

**PROGRAM REGISTRATION IS ONLINE** [www.oba.org/pd](http://www.oba.org/pd)

**Questions?** [pd@oba.org](mailto:pd@oba.org)