



L'association Canadienne
des juges des cours provinciales

The Canadian Association
of Provincial Court Judges

2022

Canadian Association of Provincial Court Judges

CHART YOUR COURSE

September 20 to 24, 2022

Harbourfront Marriott, Halifax, Nova Scotia

AGENDA

(Please click blue hyperlinked presentation title to download materials)

** MATERIALS UPDATED September 22, 2022

TUESDAY, SEPTEMBER 20, 2022

11:00 AM - 7:00 PM **Registration** Annapolis Room adjacent to lobby

6:30 PM - 9:00 PM **Welcome Reception**

The Canadian Museum of Immigration at Pier 21

1055 Marginal Road, Halifax Waterfront

Nova Scotia Judges will assemble in the hotel lobby at 6 pm to start walking guests to Pier 21.

(Walking map attached)

A van will also be available to shuttle guests from the hotel lobby to Pier 21

8:00 PM - 1:00 AM **Hospitality Suite** Sable CD

(12:30 AM Last Call)

WEDNESDAY, SEPTEMBER 21, 2022

7:00 AM - 9:00 AM	Breakfast	Halifax ABC
7:00 AM – 8:00 AM	Yoga on the Patio	Sable Room Patio
8:00 AM - 10:00 AM	Registration and Information Desk	Nova Scotia Ballroom
9:00 AM - 9:15 AM	Announcements/ Welcome	Nova Scotia Ballroom
9:15 AM - 10:15 AM	Opening Plenary:	Nova Scotia Ballroom
	The Right Honourable Richard Wagner Chief Justice of the Supreme Court of Canada: <i>The Charter – 40 Year Anniversary</i>	
10:15 AM - 10:45 AM	Health Break	Nova Scotia Foyer
10:45 AM - 12:00 PM	Three Concurrent Sessions:	

Session One:	Nick Bala	Acadia AB without translation
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[Judges Meeting Kids in Family Cases: A Good Addition to the Toolbox!](#)

There is a growing recognition of the importance of involving children in the family justice process, though the use of judicial interviews varies widely both between and within jurisdictions. Judges who meet children often find this valuable, and it can improve child outcomes. The presentation will provide advice on how judges can interview children. While judges need to consider when and how to do this, they do not require “hands on” training.

Session Two:	Janine Benedet	Nova Scotia AB with translation
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[Sexual Assault](#)

This presentation will consider (and propose solutions for) three fundamental problems that are the subject of current debate in appellate courts in relation to the law of sexual assault – the meaning of consent; the relationship of *mens rea* to the defence of mistake of fact; and how to apply common sense without stereotyping in the credibility assessment.

Session Three:	Justice James Stribopoulos	Nova Scotia CD with translation
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[Section 9 of the Charter](#)

This session will provide a concise overview of s. 9 of the *Charter*. That will include an explanation of the guarantee's purpose and the constituent elements of a s. 9 claim, including what constitutes a "detention" and when a detention will be considered "arbitrary" so as to violate the guarantee.

12:00 PM - 1:15 PM **Lunch** Halifax ABC

1:15 PM - 2:30 PM **Three Concurrent Sessions**

Session One: Nicole O’Byrne Nova Scotia AB
with translation

[*Ubi jus, ibi remedium: Section 24\(2\) of The Constitution Act, 1982*](#)

This session will explore the origin, purpose, and contemporary interpretative issues regarding Section 24(2) of *The Constitution Act, 1982*.

Session Two: Nick Bala Nova Scotia CD
with translation

[*Assessing the Competence & Credibility of Children:*](#)

Professor Nick Bala will summarize psychological literature and Canadian case law on the assessment of competence and credibility of child witnesses. This presentation is intended to help judges in criminal cases better understand the significance of how children are questioned, children’s communication and language abilities, memory and suggestibility, and children lying.

Session Three: Lisa Kerr Acadia AB
without translation

[*The impact of the Charter on sentencing*](#)

Lisa Kerr will explore the considerable impact that s. 12 of the Charter has had on limiting excessive state punishment, and the degree to which equality concerns and *Gladue* are constitutionally protected in the sentencing sphere.

2:30 PM - 3:00 PM **Health Break** Nova Scotia Foyer

3:00 PM - 4:15 PM **Three Concurrent Sessions:**

Session One: Steve Coughlan Nova Scotia AB
with translation

[*Forty Years of the Charter: What We Still Don’t Know*](#)

It is not possible to overstate the impact of the Charter on criminal law. However, there are questions which arise in criminal courts, sometimes on a daily basis, where remarkably, the correct answer is still unknown or is not universally agreed-upon. In this presentation, Prof. Coughlan will pursue some of those questions. Specifically, he will pursue unanswered questions relating to sections 8, 9 and 10 of the *Charter*, and their impact on individual rights.

Session Two:

Maria Dugas / Jonathan Rudin

Nova Scotia CD
with translation*Indigenous People and the Criminal Justice System*

In Gladue and Ipeelee, judges were instructed to look at the systemic and background factors of the Indigenous offender at sentencing. These factors include the systemic discrimination, both historical and ongoing, experienced by Indigenous persons, including discrimination in the criminal justice system. The experience of Black people in Canada is also marked by discrimination. “Black people share with Indigenous peoples many of the same disadvantages flowing from that discrimination.” (ONCA in R. v. Morris). In this interactive session two leading experts will discuss the use of Gladue Reports and cultural assessments in sentencing and the challenging task facing judges who seek to impose just sentences on Indigenous and African Canadian offenders.

Session Three:

Rob Currie

Acadia AB
without translation*“Beware the ‘Unknown Unknowns’: Navigating Criminal Cases with Cross-Border Aspects”*

In this talk, Professor Currie will provide an overview of the various kinds of procedural and evidentiary issues that can arise in criminal cases that have cross-border aspects—essentially a “cheat sheet” for the increasingly frequent occasions when such issues can come up.

5:50 PM**Buses depart for the Shore Club Lobster Dinner**
Entertainment by Gordon Tucker

(Busses depart the Marriott Lobby Front Entrance and start returns to hotel at 9 PM)

10:00 PM – 1:00 AM

Hospitality Suite

Sable CD

(Last Call 12:30 AM)



THURSDAY, SEPTEMBER 22, 2022

7:00 AM - 9:00 AM	Breakfast	Halifax ABC
7:00 AM- 8:00 AM	Yoga on the Patio	Sable Room Patio
9:00 AM - 10:15 AM	Three Concurrent Sessions:	

Session One:	Lisa Kerr	Nova Scotia AB with translation
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[The impact of the Charter on sentencing](#)

Lisa Kerr will explore the considerable impact that s. 12 of the Charter has had on limiting excessive state punishment, and the degree to which equality concerns and *Gladue* are constitutionally protected in the sentencing sphere. (reprise)

Session Two:	Steve Coughlan	Nova Scotia CD with translation
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[Forty Years of the Charter: What We Still Don't Know](#)

It is not possible to overstate the impact of the Charter on criminal law. However, there are questions which arise in criminal courts, sometimes on a daily basis, where remarkably, the correct answer is still unknown or is not universally agreed-upon. In this presentation, Prof. Coughlan will pursue some of those questions. Specifically, he will pursue unanswered questions relating to sections 8, 9 and 10 of the *Charter*, and their impact on individual rights. (reprise)

Session Three:	Janine Benedet	Acadia AB without translation
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[Sexual Assault](#)

This presentation will consider (and propose solutions for) three fundamental problems that are the subject of current debate in appellate courts in relation to the law of sexual assault – the meaning of consent; the relationship of *mens rea* to the defence of mistake of fact; and how to apply common sense without stereotyping in the credibility assessment. (reprise)

10:15 AM - 10:45 AM	Health Break	Nova Scotia Foyer
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10:45 AM - 12:00 PM	Three Concurrent Sessions:	
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Session One:	Steven Penney	Nova Scotia AB with translation
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[Section 8 of the Charter](#)

Professor Penney will review the basic elements of the section 8 right to be free from unreasonable search and seizure and highlight several contentious and difficult areas of the jurisprudence, including the reasonable expectation of privacy analysis, standing, consent searches, and warrant review.

Session Two:	Justice James Stribopoulos	Nova Scotia CD with translation
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[Section 10 of the Charter](#)

This session will provide a concise overview of subsections 10(a) and 10(b) of the *Charter*. The purpose of these guarantees, their requirements, and current issues surrounding their interpretation will be considered.

Session Three:	Nicole O’Byrne	Acadia AB without translation
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[Ubi jus, ibi remedium: Section 24\(2\) of The Constitution Act, 1982](#)

This session will explore the origin, purpose, and contemporary interpretative issues regarding Section 24(2) of *The Constitution Act, 1982* (reprise)

12:00 PM - 1:15 PM	Lunch	Halifax ABC
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1:15 PM - 2:30 PM	Three Concurrent Sessions	
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Session One:	Rob Currie	Nova Scotia AB with translation
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[“Beware the ‘Unknown Unknowns’: Navigating Criminal Cases with Cross-Border Aspects”](#)

“Beware the ‘Unknown Unknowns’: Navigating Criminal Cases with Cross-Border Aspects”. In this talk, Professor Currie will provide an overview of the various kinds of procedural and evidentiary issues that can arise in criminal cases that have cross-border aspects—essentially a “cheat sheet” for the increasingly frequent occasions when such issues can come up. (reprise)

Session Two:	Steven Penney	Nova Scotia CD with translation
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Session Three:	Maria Dugas / Jonathan Rudin	Acadia AB without translation
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[Indigenous People and the Criminal Justice System](#)

In *Gladue* and *Ipeelee*, judges were instructed to look at the systemic and background factors of the Indigenous offender at sentencing. These factors include the systemic discrimination, both historical and ongoing, experienced by Indigenous persons, including discrimination in the criminal justice system. The experience of Black people in Canada is also marked by discrimination. “Black people share with Indigenous peoples many of the same disadvantages flowing from that discrimination.” (ONCA in *R. v. Morris*). In this interactive session two leading experts will discuss the use of *Gladue* Reports and cultural assessments in sentencing and the challenging task facing judges who seek to impose just sentences on Indigenous and African Canadian offenders.

2:30 PM – 3:00 PM **Health Break** Nova Scotia Ballroom

3:00 PM - 4:15 PM Closing Plenary and Wrap Up Nova Scotia Ballroom

Justice Fairburn: *The Qualities of a Good Judge*

4:30 PM Annual Assembly Nova Scotia CD
(Delegates are required to attend – click for AGM materials)

6:00 PM - 6:30 PM Pre-dinner Cocktails Nova Scotia Ballroom

6:30 PM President’s Dinner Nova Scotia Ballroom

10:00 PM – 1:00 AM Hospitality Suite Sable CD
(Last Call 12:30 AM)

FRIDAY, SEPTEMBER 23, 2022

7:00 AM - 9:00 AM Breakfast Halifax AB

11:00 AM - 12:00 PM NSPJA Annual Meeting Nova Scotia CD

With thanks for your support of CAPCJ initiatives,

THE PLANNING COMMITTEE:

The Honourable Judge Ronda van der Hoek, Conference Chair

The Honourable Judge Alan Tufts

The Honourable Judge Barbara Beach

The Honourable Judge A. Peter Ross

The Honourable Judge Alanna Murphy

The Honourable Judge Alain Begin

The Honourable Judge Jean Whalen

The Honourable Judge Ted Tax

The Honourable Ann Marie Simmons

And the many judges of the Nova Scotia Provincial Court and others across Canada whose assistance has been invaluable over the past few years of planning CAPCJ 2020 come 2022.