

**SUBMISSIONS TO THE HOUSE OF COMMONS'
STANDING COMMITTEE ON JUSTICE AND HUMAN
RIGHTS STUDYING BILL C-75**

CHANGES TO THE PRELIMINARY INQUIRY

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INTRODUCTION

I have been invited to appear before the Standing Committee on Justice and Human Rights on September 24, 2018 to address the provisions of Bill C-75 related to the preliminary inquiry. This brief outlines my position.

Bill C-75 proposes significant changes to the preliminary inquiry in Canada. First, the amendments would restrict the availability of preliminary inquiries to only those cases for which the maximum sentence is life imprisonment (Clause 240, amending s. 535). Currently, a preliminary inquiry is available for all indictable offences. Second, the amendments would streamline the remaining preliminary inquiries by giving judges the power to “regulate the course of the inquiry in any way that appears to the justice to be desirable, including to promote a fair and expeditious inquiry”, provided this is in line with the provisions of the *Criminal Code* (Clause 244, amending s. 537(1)(i)). Preliminary inquiry judges would be able to dictate the specific issues to be addressed, including in cross-examination by the defence, and limit the witnesses, including defence witnesses, to be heard (Clauses 245, 246, 248, amending ss. 537(1.01), 540(1)(a), 541(1), 541(5) and 544(5)).

The stated purpose of these amendments is to reduce delay and protect vulnerable complainants. These are both laudable goals. However, the bill as drafted will not achieve these goals and threatens to compromise the justice system’s ability to seek out the truth.

I support the government’s proposal to expand the powers of case management judges to ensure that preliminary inquiries are focused and efficient. Such measures are already being undertaken informally, through cooperation between counsel and judges.

However, I am opposed to eliminating preliminary inquiries for all offences save those carrying a maximum life sentence. The preliminary inquiry has long been part of our criminal justice system. Eliminating it for most offences constitutes a significant and unnecessary change. The preliminary inquiry is a meaningful tool for achieving efficiency, protecting individual rights, and preventing wrongful convictions. Rather than a categorical rejection of the preliminary inquiry, Bill C-75’s aims would be better met by ensuring that courts and parties have the tools required to tailor the preliminary inquiry to the needs of each individual case.

HISTORY AND PURPOSE OF THE PRELIMINARY INQUIRY

The modern preliminary inquiry can be traced to England's *Sir John Jervis' Act* of 1848, though preliminary inquiries have been part of the English justice system since the 1500s. Under *Sir John Jervis' Act*, a justice of the peace, before committing an accused person to stand trial for an indictable offence, had to examine the witnesses under oath. The accused had to be present. He or she had the opportunity to cross-examine the witnesses and to respond to the charge. If the evidence was insufficient, the accused would be discharged. If the evidence raised a strong or probable presumption of guilt, the accused would be committed to stand trial. At the end of the preliminary inquiry, the witnesses would be bound over to attend trial; where a witness was unavailable at trial, the record of their evidence taken at the preliminary inquiry could be read into the trial record.¹

Before Canadian Confederation, several provinces, including Upper and Lower Canada, adopted the *Sir John Jervis' Act* procedures for preliminary inquiries. They remained part of the system post-Confederation, were included in the 1892 *Criminal Code*, and faced only minor changes in the decades that followed. For example, after the Supreme Court's decision in *R. v. Chabot*,² the *Criminal Code* was amended to allow preliminary inquiry justices to inquire about other indictable offences arising out of the same transaction as disclosed by the evidence heard.³

It was the *Criminal Code Amendment Act, 2001*⁴ that brought the most significant changes to the preliminary inquiry: it became optional on the request of either party (s. 536(4)) and judges were permitted to accept credible or trustworthy evidence that would otherwise be inadmissible, such as a witness's statement to police (ss. 540(7) to (9)). A Justice Canada study of several provincial jurisdictions found a 20% decrease in the number of preliminary inquiries held following these amendments.⁵ Between 2005/2006 and 2014/2015, the number of preliminary inquiries held (or scheduled) for

¹ David Pomerant and Glenn Gilmour, *A Survey of the Preliminary Inquiry in Canada* (April 1993), Department of Justice Canada, Annex D, at pp. 6-7.

² [1980] 2 S.C.R. 985.

³ David Pomerant and Glenn Gilmour, *A Survey of the Preliminary Inquiry in Canada* (April 1993), Department of Justice Canada, Annex D, at pp. 19-25.

⁴ S.C. 2002, c. 13

⁵ Department of Justice, Research and Statistics Division, "JustFacts", June 2017, online: <http://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2017/jun01.html>.

the most serious offence in the case decreased by 37% (12,471 preliminary inquiries in 2005/2006 versus 7,917 preliminary inquiries in 2014/2015).⁶

This streamlining of the preliminary inquiry came a decade after the Supreme Court's decision in *R. v. Stinchcombe*,⁷ which confirmed an accused's constitutional right to the disclosure of the evidence against them in all cases, separate from the preliminary inquiry. Facing the same concerns – rampant delay and vulnerable witnesses – Parliament chose not to abolish the preliminary inquiry but to provide parties with the flexibility to adapt the preliminary inquiry to the needs of each case.⁸

While the Supreme Court commented in *R. v. Jordan* that Parliament may wish to consider the value of preliminary inquiries in light of expanded disclosure obligations,⁹ I believe that paper and video disclosure – with no opportunity for cross-examination – is not a suitable substitute for the preliminary inquiry. The Supreme Court has acknowledged that the preliminary inquiry continues to play a discovery function, in addition to ensuring that there is sufficient evidence for an accused to stand trial. As former Chief Justice McLachlin stated: “one of the purposes of a preliminary inquiry is to permit defence counsel to probe the strength of the Crown's case by cross-examining its witnesses”.¹⁰ As it currently stands, this probing can only be done at the preliminary inquiry because the Crown's disclosure obligations do not require the production of witnesses for discovery¹¹ and witnesses cannot be compelled to speak to the defence.

Defence disclosure is driven by the police investigation; for example, in a criminal prosecution, an accused person only learns a complainant's answers to the questions posed by police. If the police do not ask questions about potential collusion, or about other potentially relevant evidence, this information will not be disclosed. Only through cross-examination at a preliminary inquiry will an accused be able to ask the complainant questions relevant to the defence and get answers to *those* questions.

⁶ Department of Justice, Research and Statistics Division, “JustFacts”, June 2017 (online), <http://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2017/jun01.html>.

⁷ [1991] 3 S.C.R. 326.

⁸ *R. v. S.J.L.*, 2009 SCC 14, [2009] 1 S.C.R. 426, at para. 24.

⁹ *R. v. Jordan*, 2016 SCC 27, [2016] 1 S.C.R. 631, at para. 140 (Moldaver, Karakatsanis and Brown JJ., writing for the majority) [*Jordan*].

¹⁰ *R. v. N.S.*, 2012 SCC 72, [2012] 3 S.C.R. 726, at para. 40; see also *R. v. Boronka*, 2012 ONSC 4952, at paras. 29-30; *R. v. Inglis*, 2006 ONCJ 154, at paras. 48-52.

¹¹ *R. v. S.J.L.*, 2009 SCC 14, [2009] 1 S.C.R. 426, at para. 23.

OUTLINE OF POSITION

The elimination of preliminary inquiries for offences that do not attract a life sentence will not significantly impact delay.

It is clear that both Bill C-75 in general and the reforms to the preliminary inquiry in particular are primarily aimed at reducing delay. In introducing the bill at second reading, Justice Minister Wilson-Raybould said that the bill “responds to the Supreme Court of Canada's decision in 2016 in *R. v. Jordan*” and described the reforms to the preliminary inquiry as “increas[ing] court efficiencies by limiting the availability of preliminary inquiries”.¹² However, given the limited number of preliminary inquiries that occur and the ways in which preliminary inquiries can actually *increase* court efficiency, curtailing the availability of the preliminary inquiry will not improve the problem of the delay in our justice system.

First, preliminary inquiries are already held in only a small number of cases. According to Statistics Canada, preliminary inquiries were scheduled or held in less than 3% of cases across Canada in 2014/2015.¹³ At most, 2% of all court appearances are used for preliminary inquiries, and the vast majority of preliminary inquiries take two days or less.¹⁴ Furthermore, while Bill C-75 seeks to reduce the number of preliminary inquiries by 87%,¹⁵ I would expect those cases that remain will represent an outsized portion of the court time currently occupied by preliminary inquiries. Preliminary inquiries for some of the most serious offences – murder or terrorism offences – are also the most time-consuming. For these reasons, eliminating the preliminary inquiry for all but a limited category of indictable offences is therefore unlikely to have a significant impact on the issue of delay in Canadian courts.

Second, preliminary inquiries *increase* court efficiency in many cases. This happens in several ways. A preliminary inquiry may result in the accused person being discharged.

¹² *House of Commons Debates*, 42nd Parl., 1st Sess., Vol. 148, No. 300 (May 24, 2018) at 1515, 1525 (Hon. Jody Wilson-Raybould).

¹³ Joanna Smith, “Evidence behind Ottawa’s choice to cut preliminary inquiries remains elusive” (April 8, 2018), online: <<http://www.cbc.ca/news/politics/preliminary-inquiries-decision-justice-wilson-raybould-1.4610495>>; Statistics Canada, Adult criminal court statistics in Canada, 2014/2015, online: <<https://www150.statcan.gc.ca/n1/pub/85-002-x/2017001/article/14699-eng.htm>>.

¹⁴ Cheryl M. Webster and Howard H. Bebbington, “Why Re-open the Debate on the Preliminary Inquiry? Some Preliminary Empirical Observations” (2013) 55(4) *Canadian Journal of Criminology and Criminal Justice* 513 (<http://ow.ly/znQR309KTWW>).

¹⁵ Joanna Smith, “Evidence behind Ottawa’s choice to cut preliminary inquiries remains elusive” (April 8, 2018), online: <<http://www.cbc.ca/news/politics/preliminary-inquiries-decision-justice-wilson-raybould-1.4610495>>.

In such cases, no trial is held. Without a preliminary inquiry, that case would have proceeded to a trial, over a greater number of court days, possibly in a superior court where court time is more limited. In other cases, the strength of the prosecution's evidence as revealed at the preliminary inquiry makes a guilty plea more likely, again obviating the need for a longer trial. Even when, after a preliminary inquiry, the case proceeds to trial, that trial will be more efficient. The preliminary inquiry often reduces the number of charges an accused person faces, following discharge by the court or withdrawal by the Crown. With a better sense of the issues, the parties are better able to make concessions that narrow the scope of the trial. The parties are also able to estimate more accurately the time necessary for trial, avoiding the scheduling of extra trial dates mid-trial. Preliminary inquiry testimony can also be used to support future pre-trial applications, such as an application to exclude evidence under the *Charter* due to an illegal arrest or search or to exclude a statement made by the accused in oppressive circumstances. Defence counsel are also able to use the preliminary inquiry to lay the foundation for an application asking the court to order a third party to produce records relevant to the case (including under s. 278, which applies to offences of a sexual nature). Without a preliminary inquiry, the relevance of these records might only become apparent at trial. In that case, the trial would need to be adjourned to allow the defence to bring the application and, if successful, for the third party to produce the records. This results in wasted trial dates.

Finally, the maximum delay ceilings chosen by the Supreme Court in *Jordan* were based on the present status of the preliminary inquiry. The Court might revisit the 30-month ceiling for cases proceeding to trial in the superior courts without even the possibility of a preliminary inquiry.¹⁶ In *Jordan*, the four-judge minority was critical of the ceilings chosen by the majority, calling them “so high that they risk being meaningless” in the vast majority of cases. A 30-month ceiling for superior court cases with no preliminary inquiry would be a meaningless protection against unreasonable delay. It should not take 30 months for a matter to go to trial in any court.

The elimination of preliminary inquiries will not protect vulnerable complainants but will negatively impact the accused in cases that turn on credibility.

¹⁶ The question whether the 18-month or 30-month ceiling applies to cases in the superior court but without a preliminary inquiry has been litigated: see *R. v. Cabrera*, 2016 ABQB 707; *R. v. Wilson*, 2017 ABQB 68; *R. v. Jones*, 2016 ABQB 691; *R. v. Maone*, 2017 ONSC 3537; *R. v. Nyznik*, 2017 ONSC 69. The majority of trial-level decisions have found that the 30-month ceiling applies to superior court cases even in the absence of a preliminary inquiry. There is limited appellate jurisprudence on this issue as yet, but at least one trial decision is being appealed to the Court of Appeal for Ontario. I would expect this analysis to be different if no preliminary inquiry was ever available.

By eliminating preliminary inquiries for offences that are not punishable by life imprisonment, the government also seeks to reduce the burden on witnesses and victims that comes from having to testify twice. Justice Minister Wilson-Raybould points to the vulnerable witness in a sexual assault or child sexual assault trial. Under the reforms, this witness would only need to testify once – at trial.¹⁷ The protection of vulnerable witnesses is a laudable goal. However, eliminating preliminary inquiries for all but the most serious offences is not well-tailored to reach that goal. And this objective must be balanced against the value of a preliminary inquiry.

Even with the passage of Bill C-75, preliminary inquiries would remain available for offences with some of the most vulnerable victims, including aggravated sexual assault (s. 273(2)), sexual assault with a weapon/causing bodily harm (where the complainant is under 16) (s. 272(2)(a.2)), kidnapping (s. 279(1.1)), and attempted murder (s. 239(1)). These offences all attract life sentences. Meanwhile, witnesses to the offence of drug possession – most often police officers – will be spared the burden of testifying twice as simple possession (even when proceeded by indictment) does not carry a maximum sentence of life. Ultimately, while Bill C-75 would spare some vulnerable witnesses from having to testify twice, many vulnerable witnesses will see no benefit from this reform.

Unfortunately, it is precisely in those cases identified by Justice Minister Wilson-Raybould – sexual assault cases – that a preliminary inquiry can be especially valuable in preventing wrongful convictions. These offences often happen in private, with few witnesses and little corroborating evidence.¹⁸ The complainant’s credibility is often the primary or even sole issue at trial. Our adversarial system depends on cross-examination to get at the truth. Whether a witness’ testimony materially changes over time can indicate credibility and reliability problems. For indictable sexual offences (many of which carry mandatory minimum sentences and 20 years to life-time registration on sexual offender registries), comparing the complainant’s testimony at the preliminary inquiry with their testimony at trial is central to determining their credibility.

Several protections already exist to ease the burden of testifying. Vulnerable complainants may testify by closed-circuit television (CCTV) or behind a screen (ss. 486, 486.2). For certain sexual offences, in cases where the accused person is self-represented, the court will appoint a lawyer to cross-examine the complainant so that the

¹⁷ *House of Commons Debates*, 42nd Parl., 1st Sess., Vol. 148, No. 300 (May 24, 2018) at 1525 (Hon. Jody Wilson-Raybould).

¹⁸ See comments in *R. v. Strong*, [2001] O.J. No. 1362 (C.A.), at para. 10; *R. v. Profit*, [1993] 3 S.C.R. 637; adopting the dissenting judgment in *R. v. Profit*, [1992] O.J. No. 2238 (C.A.), at para. 43, per Griffiths J.A.

complainant is not cross-examined by the accused. The court may also appoint a lawyer to cross-examine a witness under 18 years old (s. 486.3). In some cases, the video statement made by a witness under 18 may be admitted in the place of the victim's testimony in-chief, provided the witness adopts the contents of the video (s. 715.1). Finally, the common law allows out-of-court statements (such as video statements made to the police) to be admitted if the witness is effectively unavailable to testify because testifying would cause psychological trauma.¹⁹

Maximum sentence is not a good proxy for offence seriousness or legal jeopardy.

In maintaining the preliminary inquiry for some offences, the government has recognized that this procedure adds value to our criminal justice system. By choosing to restrict their availability to only offences that carry a maximum life sentence, the government appears to isolate the “very serious”²⁰ offences for which the accused faces the greatest jeopardy.

However, in choosing a maximum life sentence as a proxy for seriousness or jeopardy, Bill C-75 misses the mark. With the exception of first and second degree murder, which carry a mandatory life sentence, life sentences are rare. In 2015/2016, approximately 23% of the federal prison population was serving a life sentence; approximately 87% of those serving life sentences were convicted of homicide.²¹ Though available, a life sentence is very rarely imposed on a person convicted of offences such as robbery or possession of certain controlled substances for the purpose of trafficking. While ranges vary across the country, those charged with sexual assault or aggravated assault face roughly comparable sentences. And mandatory minimum sentences apply to sexual offences committed against persons under 16 but not to robbery or most cases of possession for the purpose of trafficking. Using crimes with a maximum life sentence as a measurement for a “serious offence” ignores the reality that many crimes with lower maximum jail sentences will often attract the same or greater punishment as those crimes which carry the potential for life in prison.

Furthermore, while the maximum sentence for sexual assault proceeded by indictment is 10 years (or 14 years if the complainant is under 16 years of age), sexual assault, along

¹⁹ *R. v. F.(W.J.)*, [1999] S.C.J. No. 61, 138 C.C.C.(3d) 1 (S.C.C.); *R. v. Nicholas*, 2004 CanLII 13008, 182 C.C.C.(3d) 393 (Ont. C.A.), at para. 94; *R. v. Parrott*, 2001 SCC 3, [2001] 1 S.C.R. 178, at para. 71.

²⁰ *House of Commons Debates*, 42nd Parl., 1st Sess., Vol. 148, No. 300 (May 24, 2018) at 1525 (Hon. Jody Wilson-Raybould).

²¹ Correctional Service Canada, “Quick Facts”, online: <<http://www.csc-scc.gc.ca/publications/092/005007-3024-eng.pdf>>.

with other sexual offences, can trigger a dangerous offender application (see s. 753 of the *Criminal Code*). An accused person who is found to be a dangerous offender may be sentenced to an “indeterminate” sentence (a close equivalent to a life imprisonment). Thus, an accused person may be sentenced to life imprisonment following a conviction in some sexual assault cases, even when the maximum sentence for the offence itself is a period of imprisonment short of life. Finally, a person convicted of sexual assault will be placed on the sex offender registry for 20 years or for life when the Crown proceeded by indictment. In summary, an offence’s maximum sentence does not paint the complete picture.

In appropriate cases, Bill C-75’s objectives can be met by bypassing or streamlining the preliminary inquiry.

Bill C-75 is a blunt instrument. It abolishes, rather than fixes, a longstanding tool used to prevent accused from the stress and stigma of going to trial unnecessarily. Instead of removing this procedural protection, counsel and judges must be provided with tools to ensure that the preliminary inquiry satisfies the needs of the case without causing unreasonable delay or unnecessarily burdening vulnerable witnesses. Fortunately, these tools already exist.

In cases where the Crown Attorney is concerned that the preliminary inquiry is a barrier to the accused being tried within a reasonable time, a direct indictment can be brought (s. 577). This gives the Crown unilateral discretion to bring the matter directly to trial, without holding a preliminary inquiry. In *R. v. Manasseri*,²² Justice Watt, writing for the panel of the Court of Appeal for Ontario, suggested that the Crown seriously consider using direct indictments when necessary to ensure that the accused person’s right to trial within a reasonable time is respected. In Ontario, the Crown Prosecution Manual, includes delay as one of the factors to consider in exercising the Crown’s discretion to bring a direct indictment.²³ The Crown Prosecution Manual also stipulates that difficulties involved in having victims and witnesses testify more than once (including the victimization of vulnerable witnesses) should be considered. The direct indictment power allows the Crown to bypass the preliminary inquiry in cases where doing so is in the interests of justice – without any restriction placed on the nature of the offence. As such, it is better suited to meeting Bill C-75’s objectives without unnecessarily curtailing a longstanding and valuable part of our criminal justice system.

²² 2016 ONCA 703, at paras. 375-376 (see esp. footnote 5).

²³ Prosecution Directive, “Direct Indictments” (effective date: November 14, 2017), Crown Prosecution Manual, Criminal Law Division, Ministry of the Attorney General of Ontario, online: <<https://www.ontario.ca/document/crown-prosecution-manual>>.

The changes made by the *Criminal Code Amendment Act, 2001*²⁴ also offer opportunities for streamlining the preliminary inquiry and protecting vulnerable witnesses. For example, s. 540(7) allows the court to accept as evidence information that would otherwise be inadmissible (such as a complainant's police statement) if the information is credible or trustworthy. On application, the other party has an opportunity to cross-examine the witness who made the statement but only when the judge considers this to be appropriate (s. 540(9)). When deciding whether the witness should be cross-examined, courts take a contextual approach and consider the vulnerability of the witness, the anticipated impact of testifying on the witness, the purpose of cross-examining the witness, the availability of alternative sources of the information, and the extent of disclosure.²⁵ Therefore, in cases with vulnerable witnesses, the Crown already has at their disposal provisions that can be used to shield those victims from having to testify at the preliminary inquiry. For non-contentious evidence, these provisions can be used to present evidence on paper rather than through a witness, which saves court time. And these provisions are available for all offences. Bill C-75's proposal to provide the court with further powers to control the issues and witnesses presented at the preliminary inquiry would enhance these streamlining tools already available to the court and the parties.

RECOMMENDATIONS

A flexible approach to preliminary inquiries, one that allows the inquiry to be tailored to the case at hand, will much better met the objectives of reducing delay and protecting vulnerable victims. This also allows the parties to continue to benefit from the most valuable aspects of this longstanding procedural step. This was the approach taken in the *Criminal Code Amendment Act, 2001*. It should be repeated here.

I respectfully offer the Committee the following recommendations:

1. Maintain preliminary inquiries for all indictable offences.

The Committee should amend Bill C-75 by removing Clause 240 – and any related clauses – which restrict the availability of the preliminary inquiry in s. 535 to offences punishable by life in prison. Preliminary inquiries are a valuable part of the Canadian criminal justice system. They perform different functions in different cases: they allow

²⁴ S.C. 2002, c. 13

²⁵ See *R. v. Kirkpatrick*, 2011 ONCJ 112, at para. 39; see also Daniel Brown & Jill Witkin, *Prosecuting and Defending Sexual Offence Cases, A Practitioner's Handbook* (Toronto: Edmond Montgomery Publications Ltd., 2018), at 146-150.

charges to be judicially screened before trial, they allow both parties to probe the strength of the Crown's case, they allow both the Crown and the defence to lay an evidentiary foundation for pre-trial applications, and they allow the defence to more fully discover the evidence against the accused. The value of the preliminary inquiry is not contingent on the seriousness of the offence.

2. Adopt reforms that allow the preliminary inquiry to be streamlined in appropriate cases without eliminating its discovery function.

Bill C-75's objectives – reducing delay and protecting vulnerable witnesses – would be better achieved by empowering judges and parties to further streamline the preliminary inquiry in appropriate cases.

3. Study more substantial reforms that maintain the discovery function of the preliminary inquiry but offer flexibility, such as requiring permission (leave) from the court to hold a preliminary inquiry or legislating for out-of-court discovery in cases where committal is not an issue.

The government should study ways to offer flexibility in the preliminary inquiry that goes beyond streamlining the procedure. This could include requiring that the accused ask the court for permission (seek leave, in writing) to hold a preliminary inquiry (i.e. it would no longer be automatic and bypassing the preliminary inquiry would not depend on the Crown's direct indictment power) or legislating for discovery that occurs out of court and is not overseen by a judge, as happens in civil cases.

4. Pursue other ways to reduce delay: restoring discretion in sentencing (eliminating mandatory minimum sentences), reducing in-person administrative appearances, additional funding to allow for faster disclosure, etc.

All accused persons have a constitutional right to be tried within a reasonable time. Reducing delay is a laudable goal. The Committee should recommend that Parliament adopt alternative measures to meet this goal (or support provincial Ministries in doing the same), including eliminating mandatory minimum sentences that limit opportunities for resolution, reducing in-person appearances for administrative matters such as adjournments, and reducing disclosure delays by properly funding the police and Crown Attorneys' offices.

Appendix A

Daniel Brown is a criminal defence lawyer and lead counsel at Daniel Brown Law LLP, recently recognized as one of Canada's 10 best boutique criminal law firms by Canadian Lawyer Magazine. Since his call to the bar in 2005, Daniel has devoted his practice to criminal, constitutional and regulatory law and has appeared at every level of court in Ontario and at the Supreme Court of Canada.

He is certified by the Law Society of Ontario as a specialist in criminal law and sits as a Toronto Director of the Criminal Lawyers' Association (CLA). In his role as Director with the CLA, Daniel chairs both the Communications Committee and the Litigation Committee, which directs interventions on behalf of the CLA to the Court of Appeal for Ontario and the Supreme Court of Canada. He also acts as review counsel for Innocence Canada (formerly The Association in Defence of the Wrongfully Convicted).

Daniel co-authored *Prosecuting and Defending Sexual Offence Cases* from Emond Publishing and contributed a chapter to *Social Media and Internet Law* (2nd Ed.) from LexisNexis. He has also written articles for a number of legal journals and editorials for The Toronto Star on a wide range of criminal law topics including the importance of preliminary inquiries. Outside the courtroom, Daniel mentors young lawyers and frequently lectures at law schools and at continuing legal education programs hosted by the Crown and defence bar.