

# Criminal law conference

Recorded: 3 August 2018 | 8 hours 45 minutes  
2018/2019 CPD year

## Overview

Queensland Law Society's Criminal law conference is the premier professional development event for criminal lawyers and other interested professionals in Queensland.

We are honoured to welcome an impressive roster of presenters from the judiciary, private Bar and practice, and Government as well as the fields of psychology, journalism and criminal justice advocacy, across a newly two-streamed program to give you even more choice.

The 2018 program will inform you on recent cases and legislative updates, arm you with practical insights and tips, strengthen the way you practise, and future-proof your professional toolkit.

## 8.5 CPD Points



1 hour  
15mins



## #MeToo: Discussing the impacts of the media on the criminal justice system

Public scrutiny has always focused on criminal practice.

With duties to our clients, the Court and the administration of justice, we often find ourselves with our hands tied; our voices silenced from responding to the media (and public) in the ways we would ideally like to. The effect is far reaching; usually affecting all levels of the profession from private practice right through the justice system and up to the judiciary.

In the absence of someone advocating for the profession as a whole, do we simply accept that our files will inevitably end up on the front page of newspapers as negative press for the profession - or is there another way? Can you ever respond as a practitioner, or is it always fraught with danger? And how do social media campaigns - gone viral through public support - impact on the way we now practise?

Join us for a fascinating panel discussion from both sides of the argument as moderated by the inimitable Madonna King.

Panellists:

**Dan Rogers**, Legal Director, Robertson O’Gorman Solicitors and Accredited Specialist (Criminal Law) – Qld

**Bill Potts**, Deputy President, Queensland Law Society and Director, Potts Lawyers

Chair: **Madonna King**, Author and Journalist

60mins



## Communicating with cognitively impaired clients in criminal matters

Communication with clients can be a tricky business at the best of times. However, communicating with clients suffering from a cognitive impairment requires an especially attuned set of communication skills.

Join us for:

- an overview of cognitive impairment
- the defendant perspective
- acquired brain injury and challenging behaviours
- the pathway to prevention for these at-risk clients.

Rounded out with a practical practitioner perspective - including tips for identifying clients with cognitive impairment, grassroots solutions, and the options available to present at court for such clients - this session will also equip practitioners with the tips and skills they need to improve their client management skills and advocacy for this vulnerable sector of the community.

Presenters:

**Michelle O’Flynn**, CEO, Queensland Advocacy Incorporated

**Niamh Fields**, Solicitor, Mental Health Legal Service, Queensland Advocacy Incorporated

Chair: **Rebecca Fogerty**, Partner, Jasper Fogerty Lawyers; Deputy Chair, Queensland Law Society Criminal Law Committee and Accredited Specialist (Criminal Law) - Qld

60mins

### The application of *R v McCusker*



Are you confident in the way you argue *R v McCusker*? What about when your client is on parole after committing an offence, and has their parole cancelled? How do you ensure that time already served is taken into account?

Join us for practical considerations and approaches from the Deputy President of the Parole Board Queensland and strengthen your advocacy toolkit.

Presenter: **Julie Sharp**, Deputy President, Parole Board Queensland

Chair: **Rebecca Fogerty**, Partner, Jasper Fogerty Lawyers; Deputy Chair, Queensland Law Society Criminal Law Committee and Accredited Specialist (Criminal Law) - Qld

45mins

### Stream 1A: Sentencing guidelines: Mandatory provisions



Against the backdrop of incomplete (and often ill-informed) media reports as to what is a 'just and equitable sentence' - and a community vocally in support for reducing judicial discretion as a result - numerous mandatory sentencing regimes have commenced in Queensland. Are you on top of all the changes?

Update your advice toolkit and be prepared the next time you represent a client against Weapons Act, driving and trafficking offences (to name a few).

Presenter: **Russell Pearce**, Barrister, Queensland Bar

Chair: **Peter Delibaltas**, Director – Criminal Law Services, Legal Aid Queensland and Member, Queensland Law Society Criminal Law Committee

45mins

### Stream 1B: GPS tracking for defendants on bail: The story so far



From 31 March 2018, the *Bail (Domestic Violence) and Another Act Amendment Act 2017* empowers a court to impose a tracking device on defendants granted bail.

The tracking provisions can be imposed on persons granted bail for any offence - not just domestic and family violence related offences.

Join us as we take a deeper look at:

- the Amendments to the *Bail Act 1980*
- how electronic monitoring works, including proposed benefits, operational limitations and risks regarding its use.
- suitability considerations for the courts and prosecutors when considering the imposition of electronic monitoring for a defendant on bail.
- the status of defendants on bail subject to electronic monitoring as of 3 August 2018.
- inter-jurisdictional review of electronic monitoring models.
- future considerations for electronic monitoring within Queensland's criminal justice system, including opportunities to build a stronger legislative basis and the development of a longer-term electronic monitoring capability solution.

Presenter: **Michelle Hayes**, Queensland Police Service – Strategic Policy

Chair: **Brittany White**, Principal, Fuller & White Solicitors and Member, Queensland Law Society Criminal Law Committee

45mins



### **Stream 2A: Not Now Not Ever: Strangulation comparative sentencing and defences**

In light of the relatively new offence of 'choking, suffocation or strangulation in a domestic setting' (s315A of the Code), join our expert presenter for insight into a growing list of comparative cases, tips for submissions on appropriate sentencing, and available defences.

Presenter: **Laura Reece**, Barrister, Queensland Bar

Chair: **Peter Delibaltas**, Director – Criminal Law Services, Legal Aid Queensland and Member, Queensland Law Society Criminal Law Committee

45mins



### **Stream 2B: Device search warrants technology and the police perspective**

We are increasingly using our phones and computers to track and store details of every aspect of our lives, leaving a digital trail of our activity wherever we go. Join our expert panel for an in depth discussion on when and how this digital information can be accessed, including:

- when can electronic devices such as phones and computers be searched without a search warrant?
- when a warrant is required to search a device, what should it specify?
- what are the obligations for a device owner to provide passwords, fingerprints or agree to facial recognition, to unlock accounts and devices?
- what are the consequences for non-compliance?
- whether consent to look at some information stored on a device(eg the contact list) is permission to look at all information stored on the device (eg the Internet search history)?

Panellists:

**Amanda Brownhill**, Superintendent, Prosecution Services, Queensland Police Service

**Mark O'Brien**, Civilian Police Prosecutor, Queensland Police Service

Chair: **Brittany White**, Principal, Fuller & White Solicitors and Member, Queensland Law Society Criminal Law Committee

60mins



### **Stream 3A: Intersection between criminal law and migration law – a focus on sentencing**

Join us for a practical and valuable crossover session with expert presenters that will explore:

- sections of the *Migration Act* that every criminal lawyer should know
- preparing your client – for Court and possible deportation
- emerging issues for consideration including statelessness; young offenders; indefinite detention; clarifying citizenship status; deportation prior to finalisation of proceedings; and
- case studies you can use to apply the tips and tricks you will cover.

Presenters:

**Lauren Phelps**, Partner, Fisher Dore Lawyers

**Davina Wadley**, Solicitor, Fisher Dore Lawyers

Chair: **Peter Delibaltas**, Director – Criminal Law Services, Legal Aid Queensland and Member, Queensland Law Society Criminal Law Committee

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60mins



### **Re Pham: The ethics of representing a co-accused**

The panel will discuss the ethical repercussions of concurrent representation of clients in criminal proceedings and, in particular, in light of the Court of Appeal 2017 decision of *R v Pham*.

Panellists:

**The Honourable Margaret McMurdo AC**, Immediate Past President, Court of Appeal, Supreme Court of Queensland and Chair, Legal Aid Queensland Board

**Ken Mackenzie**, Principal, Mackenzie Mitchell Solicitors and Accredited Specialist (Criminal Law) - Qld

**Stafford Shepherd**, Director, QLS Ethics Centre, Queensland Law Society

Chair: **Kurt Fowler**, Principal Lawyer, Fowler Lawyers; Chair, Queensland Law Society Criminal Law Specialist Accreditation Advisory Committee; Chair, Queensland Law Society Criminal Law Committee and Accredited Specialist (Criminal Law) – Qld

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30mins



### **Advocacy: Legislation crystal ball**

Join us for a snapshot of Queensland Law Society's criminal law policy committee submissions over the last 12 months, and some important legislative changes around the corner.

Presenters:

**Kurt Fowler**, Principal Lawyer, Fowler Lawyers; Chair, Queensland Law Society Criminal Law Specialist Accreditation Advisory Committee; Chair, Queensland Law Society Criminal Law Committee and Accredited Specialist (Criminal Law) – Qld

**Binari De Saram**, Acting Advocacy Manager, Queensland Law Society