

CRIMINAL DEFENCE

OVERVIEW

This module is aimed at equipping the participants with the skills and knowledge to defend their clients who are affected by the criminal law system in their jurisdiction. Since many members of the LGBT movement are targeted by the state, and particularly the police, it is imperative that the lawyers can respond by providing quality criminal defence within the unique circumstances of SOGIE based harassment. We will also explore how even criminal cases can be made strategic in line with the movement's needs and goals. This can occur just by having ready legal representation to act when a violation or arrest occurs or by using a criminal case to lodge a larger constitutional challenge to a practice or law.

OBJECTIVES

1. To deepen an understanding of criminal procedures relevant to SOGIE based violations and arrests.
2. To become familiar with the ways in which lawyers have strategically pursued constitutional challenges during criminal proceedings in a SOGIE context.
3. To build capacity to have the participants willingly able to respond to arrests, police harassment, and criminal charges.

LEARNING OUTCOMES

On completion of the session, participants should:

1. Be able to identify the criminal procedures that are most relevant to SOGIE based arrests in the jurisdiction in which they practise.
2. Have a renewed commitment to legal ethics.
3. Understand the ways a seemingly straight forward criminal case may be turned strategic.

OUTLINE

Criminal Defence in relevant jurisdiction

- i. Legal Ethics
 - i. Law society mandated
 - ii. Bribery
- ii. Criminal procedure

- i. Due process
 - ii. Formal charges
 - iii. Pre-trial detention
 - iv. Bail
 - v. Right to a lawyer
 - vi. Habeas corpus
- iii. Evidence
 - i. Relevant rules of evidence
- iv. Raising constitutional issues during criminal proceedings (eg challenging constitutionality of anal exams during trial for sodomy)
 - i. Stay of criminal proceedings during constitutional challenge
 - ii. Making criminal case strategic