



THE **VOICE** OF
THE **CRIMINAL**
DEFENCE BAR

MEMBER PROFILE QUESTIONS

INTRO :

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Year of Call : 2009

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QUESTIONS :

1- How did you get into criminal law?

I spent a summer in law school working as a research assistant for Prof. Martin Friedland, then a summer working for Rick Peck in Vancouver. By that time, I was hooked. After a clerkship I got a job with Marie Henein who at the time had a firm of three lawyers and was not particularly well known. I got to work on interesting cases from day one and have never had a second thought about my choice.

2- What type of cases do you enjoy defending the most and why?

I don't think there is one type that I enjoy more than others. Every one (well, most of them) involves something new and interesting. The only kind I never do are over 80s – I send those to someone actually qualified to do them. I've always done a lot of appeal work, which I like because of the importance of written argument and the concentrated, often challenging nature of the oral hearing. But I have done more and more trials over the years as my practice has diversified.

3- How did the practice of criminal law change you?

I like to think it has made me less judgmental, more understanding of human frailties. But I might be deluding myself. It's certainly given me lots of good stories with which to scare my kids...



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4- If there is one thing only you would like to see change in criminal law, what would it be?

The ever-increasing procedural and evidentiary hurdles to obtaining an acquittal in any case of a sexual nature. I think that Parliament and the Supreme Court are jointly responsible for what the dissent in J.J. aptly described as a “formula for wrongful convictions.”

5- What advice would you give to your younger self when you first started practising criminal law?

Everything gets easier the more you do it! So just do it.
Also, on appeals: they are mostly won on the facts, not the law.

6- How do you deal with bad work days?

A good martini.

7- What do you think of Zoom court?

Good for bail hearings and set dates. Bad for everything else. Terrible for appeals. Unfortunately, the Supreme Court in its wisdom has not gotten the message.



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8- Any embarrassing court story you're willing to share?

In my first year of practice, I was junioring Marie Henein on a child pornography case. I admit that I was (am) somewhat disheveled in appearance. Marie's fashion sense has not rubbed off on me. As I sat there next to her at counsel table, the presiding judge looked down at me asked if I was ready to be arraigned. This caused Marie to make a belated introduction. I acknowledge that the client was probably willing to trade places with me, but my dedication doesn't go that far.

9- Who is your role model/inspiration in criminal law?

My law partners Marie Henein, Scott Hutchison and Danielle Robitaille. My wife, former law partner, and now OCJ judge Christine Mainville. All of these people, in different ways, embody the best of our bar and I'm hugely fortunate to have been able to work with them over the years. This sounds corny, but has the virtue of being true.

10- What's your favourite song?

Scarlet Begonias/Fire on the Mountain, 5/8/77, Cornell. Deadheads will understand.

11- How do you maintain work life balance and how do you deal with the stress of the job?



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On weekends, when weather permits, I mow a large lawn with a John Deere riding mower. This is, in its way, as satisfying as mounting a great legal argument or cross-examination and is much less stressful.

12- What is your biggest legal inspiration?

Section 11(d) of the Charter. Has it been overruled yet?

13- What do you do outside of the law?

I co-edit Martin's Criminal Code and write headnotes for the Canadian Criminal Cases. Is this not "outside" the law"? Ok, I also read a lot of books, some on non-legal topics.

14- What would your defence bar colleagues be surprised to learn about you?

I was married in a Las Vegas chapel by an Elvis impersonator. And we are still together. My wife and I, I mean. I don't know what happened to the Elvis impersonator.