



Public Prosecution  
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November 14, 2019

**BY EMAIL**

Michael Swinwood  
Elders Without Borders  
237 Argyle Avenue  
Ottawa, Ontario K2P 1B8

Dear Mr. Swinwood:

**Re: *R v David Brennan and R v Sarah McQuabbie*  
Follow-up to judicial pre-trials**

I am writing further to our discussions on October 22, 2019 regarding your Notices of Constitutional Question (NCQs) on these two matters.

**Expert report**

As discussed, the Crown takes the position that the issues raised in your NCQs are non-justiciable and should be summarily dismissed pursuant to rule 6.11(2) of the *Criminal Proceedings Rules for the Superior Court of Justice*. However, with the direction of the Ontario Court of Appeal in *Beaver v Hill*, 2018 ONCA 816 in mind, the Crown is prepared to await the receipt of your expert report prior to deciding whether to initiate a summary dismissal motion.

Accordingly, we ask that you please provide us with the following information prior to the November 25, 2019 appearance:

- The date you expect to provide the Crown with the completed expert report.
- The name, place of employment, and *curriculum vitae* of your proposed expert.

The Crown may bring a summary dismissal application prior to receiving your expert report should we not receive the report in an expeditious manner.

**Further detail regarding your NCQs**

On October 22, you told me that you would provide further detail regarding the issues raised in your NCQs. Please confirm when you expect to provide the Crown with this information. This will also assist the Crown in determining whether a summary dismissal motion is appropriate or whether the issues raised should be heard in full.

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Kind regards,



Jeannine Plamondon  
Counsel