rdiab@tru.ca Personal Website

Robert Diab

Education

PhD, Law (2013)

University of British Columbia

Master of Laws (2008)

University of British Columbia

Bachelor of Laws (2001)

University of British Columbia

Master of Arts, English (1997)

University of Western Ontario

Bachelor of Arts, Philosophy (1995)

University of Western Ontario

Academic positions

Professor

July 2022 - Present
Faculty of Law, Thompson Rivers University, Kamloops, British Columbia

Associate Professor (with tenure)

July 2016 - 2022
Faculty of Law, Thompson Rivers University, Kamloops, British Columbia

Assistant Professor

July 2012 - 2016
Faculty of Law, Thompson Rivers University, Kamloops, British Columbia

Adjunct Professor

Spring 2010, 2018
Peter A. Allard School of Law, University of British Columbia

Books

Search and Seizure (Irwin Law, Toronto: 2023) (with Chris Hunt) – Second edition under contract for Spring 2027

The Harbinger Theory: How the Post-9/11 Emergency Became Permanent and the Case for Reform (Oxford University Press: New York, 2015)

Guantanamo North: Terrorism and the Administration of Justice in Canada (Fernwood Publishing: Halifax, 2008)

Edited Volumes

The Last Frontier: Digital Privacy and the Charter
(Thomson Reuters, Toronto: 2021) (with Chris Hunt)

Eight volumes of the *Canadian Journal of Comparative and Contemporary Law* (2014-2022) (with Chris Hunt and Lorne Neudorf)

Journal Articles

"Is There a Constitutional Right to a Human Decision in Canada?" (2026) 35:1 *Constitutional Forum*

"A Language Model's Capability to Make Reasoned Decisions in Administrative Law" (2026) 49:1 *Dalhousie Law Journal*

"Hunter at Forty: Its Origin Story and Enduring Centrality for Canadian Constitutional Law" (forthcoming 2026) 11 *Supreme Court Law Review* (3d) (with Mark Mancini)

"Objections to the Language Model as Judge: Normativity, Aristotelian Phronesis, and Arendtian Common Sense" (2026) *Jus Cogens*

"The Evolving Role of AI in Legal Judgment" (2026) 18:1 *Law, Innovation and Technology*

"The Emerging Post-Network Society and the Language Model as Social Form" (2026) 5:2 *Digital Society*

"Revisiting the Rorty–Lyotard debate: The microchip and liberal cosmopolitanism" (2026) 52:2 *Philosophy & Social Criticism*

"Are Sexual Deepfakes a Crime in Canada?" (forthcoming 2026) 74:3 *Criminal Law Quarterly* 346

"A Reasonable Expectation of Privacy in Dealings with Police Undercover: The Need for Clarity and Correction" (forthcoming 2026) 48 *Manitoba Law Journal*

"Vavilov and Generative AI" (2025) 63:1 *Alberta Law Review*

"Too Dangerous to Deploy? The Challenge Language Models Pose to Regulating AI in Canada and the EU" (2025) 58:2 *UBC Law Review*

"Intrinsic Human Equality: A Critical Overview of Recent and Historical Theory" (2025) 39:1 *Notre Dame Journal of Law, Ethics & Public Policy* 269

"What Is Most Bothersome About Section 33: Or What Hasn't Yet Been Said" (2025) 33:3 *Constitutional Forum* 31

"Searching Short-Term Rental Properties: When Will Police Require a Warrant?" (2025) 73 *Criminal Law Quarterly* 108 (with Colton Fehr)

"Harm to Self-Identity: Reading Goffman to Reassess the Use of Surreptitious Recordings as Evidence" (2024) 46:4 *Manitoba Law Journal* 1

"'Must the Police Refuse to Look?' Resolving the Emerging Conflict in Search and Seizure Over Civilian Disclosure of Digital Evidence" (2023) 68:4 *McGill Law Journal*

"Public Order Policing in the Normal Course: A Proposal for a *Charter*-Compliant Federal Act" (2023) 46:1 *Manitoba Law Journal* 81 (with Jamie Cameron)

"Surreptitious Recordings by Civilians in Criminal Trials: Challenging Their Admissibility at Common Law and Under the Charter" (2023) 27:2 *Canadian Criminal Law Review*

"Reasonable Apprehension Under Mental Health Law" (2022) 48:1 *Queen's Law Journal* 83 (with Jolene Sanderson) (Winner of the David Watson Memorial Award)

"The Opioid Crisis and Section 7: Charter Implications of Safe Supply and Simple Possession" (2022) 55:2 *UBC Law Review* (with Rose Morgan and Robyn Young) (Winner of the David Watson Memorial Award)

"The Real Lesson of the Freedom Convoy 'Emergency': Canada Needs a Public Order Policing Act" (2022) 70 *Criminal Law Quarterly* 230

"Pathways to Police Adoption of Body and Dash Cameras in Canada: How and Why Parliament Should Intervene" (2021) 70 *Criminal Law Quarterly* (with Marshall Putnam)

"Striking the Right Balance? Complainant Privacy and Full Answer and Defence in the New First-party Records Regime" (2021) 69 *Criminal Law Quarterly* 191 (with Robyn Young)

"Search Engines and Global Takedown Orders: *Google v Equustek* and the Future of Free Speech Online" (2019) 56 *Osgoode Hall Law Journal* 231 (12,000 words)

"The Road Not Taken: Missing Powers to Compel Decryption in Bill C-59, Ticking-Bombs, and the Future of the Encryption Debate" (2019) 57:1 *Alberta Law Review* 267 (11,000 words)

"Does the State Have a Compelling Interest in Searching Device Data at the Border? Emerging Approaches to Reasonable Search in Canada and the United States" (2018) *Oxford U Comparative L Forum* 1 (12,600 words)

"Protecting the Right to Privacy in Digital Devices: Reasonable Search on Arrest and at the Border" (2018) 69 *University of New Brunswick Law Journal* 96 (10,000 words)

"Justice as Invisibility: Law, Terror, and Dehumanization" (2016) 5 *Annual Review of Interdisciplinary Justice Research* (10,000 words)

"The Policing of Major Events in Canada: Lessons from Toronto's G20 and Vancouver's Olympics" (2016) *Windsor Review of Legal and Social Issues* (16,000 words) (with W. Wesley Pue and Grace Jackson)

"Canada's Refugee Health Law and Policy from a Comparative, Constitutional, and Human Rights Perspective" (2015) 1:1 *The Canadian Journal of Comparative and Contemporary Law* (14,000 words) (with Ruby Dhand)

"*R. v. Khawaja* and the Fraught Question of Rehabilitation in Terrorism Sentencing" (2014) 39:2 *Queen's Law Journal* (10,000 words)

"Sentencing for Terrorism Offences: A Comparative Review of Emerging Jurisprudence" (2011) 15:3 *Canadian Criminal Law Review* (15,000 words)

"Security for the 2010 Olympics – The Gap in Police Powers Under Canadian Law" (2010) 28 *Windsor Review of Legal and Social Issues* 87-107 (7,300 words) (with Wesley Pue).

Commissioned report

"The Policing of Large-Scale Protests in Canada: Why Canada Needs a Public Order Policing Act" in The Honourable Paul S. Rouleau, Commissioner, *Report of the Public Inquiry into the 2022 Public Order Emergency, Volume 5: Policy Papers* (Public Order Emergency Commission: Ottawa, February 2023).

Book chapters

"The Demise of Rights as Trumps", in Ben Goold and Liora Lazarus, eds, *Security and Human Rights*, 2nd edition (Oxford: Hart Publishing, 2019). (10,000 words)

"Counter-terror Law: Canada" in Kent Roach, ed., *Comparative Counter-Terrorism Law* (Cambridge University Press, 2015) (14,000 words)

"Terrorism as Crime or War?" in Carolyn Brooks and Bernard Schissel, eds., *Marginality and Condemnation: An Introduction to Criminology*, 3rd edition (Fernwood Publishing: Halifax, 2015) (10,000 words)

"Reading Khadr: Making Sense of Canada's Reluctance To Do the Right Thing", in Janice Williams, ed., *Omar Khadr, Oh Canada* (McGill-Queen's University Press: Montreal, 2012) (with Alnoor Gova) (4,400 words)

"Sentencing of Terrorism Offences After 9/11: A Comparative Review of Early Case Law," in Craig Forcese and François Crépeau, eds., *Terrorism, Law and Democracy: 10 Years After 9/11* (Montreal: Canadian Institute for the Administration of Justice, 2011) (12,000 words)

Book reviews

Review of Bruce Schneier and Nathan E. Sanders, "Rewiring Democracy: How AI Will Transform Our Politics, Government, and Citizenship", *International Journal of Law and Information Technology* (2026) 34

Review of Tim Wu, "The Age of Extraction: How Tech Platforms Conquered the Economy and Threaten Our Future Prosperity", *Journal of Cultural Economy* (2026)

Review of Emily B. Laidlaw and Florian Martin-Bariteau, eds, "The Security of Self: A Human-Centric Approach to Cybersecurity", *Journal of Cyber Policy* (May 2026)

Review of David J Gunkel, "AI for Communication", *Critical Studies in Media Communication* (February 2026) 25:1

Review of Kent Roach, "Canadian Policing: Why and How It Must Change" (Delve Books: 2022), *Canadian Journal of Law and Society* (2023) 38:1

Review of Kate Eichhorn, "Content" (MIT Press: 2022), *New Media & Society* (2023) 23:1

Review of "The Courts and the People: Friend or Foe? (The Putney Debates 2019)" (Hart: 2021), *Commonwealth Judicial Journal* (2022) 26:2

Review of Craig Forcese and Kent Roach, "False Security: The Radicalization of Canadian Anti-Terrorism" (Irwin: 2015), *University of Toronto Law Journal* (2017) 67:1

Review of Richard Jochelson and Kristen Kramar, with Mark Doerksen, "The Disappearance of Criminal Law: Police Powers and the Supreme Court" (Fernwood Publishing: Halifax and Winnipeg, 2014), *Canadian Journal of Law and Society* (2015) 30:3

Review of Barry Wright and Susan Binnie, eds, "Canadian State Trials: Volume III – Political Trials and Security Measures, 1840-1914" (Toronto: University of Toronto Press, 2009), *Canadian Journal of Law and Society* (2010) 25:2

Review of Amitai Etzioni, "How Patriotic is the Patriot Act?" (Routledge: New York, 2004), *Canadian Journal of Law and Society* (2007) 22:1

Review of D. Harris et al, eds, "The British Columbia Civil Trial Handbook" (C.L.E.: Vancouver, 2003), *The Advocate* (2003) 61

Review of a legal drafting course by Clyde Leland, *Clarity* (2002) 48

Review of Francis-Noel Thomas and Mark Turner, “Clear and Simple as the Truth: Writing Classic Prose” (Princeton UP: 2000), *Clarity* (2000) 45

Public writing

“Canada’s New AI Data Centres Could Be Obsolete Before They Open”

Globe and Mail (21 July 2026)

“Forcing AI Companies to Report Violent Threats Might Be a Mistake”

The Walrus (12 May 2026)

“AI and the End of Instrumentality”

The Philosophical Salon (May 2026)

“Should Canada ban TikTok? A Dialogue Between Adam Zivo and Robert Diab” *Alberta Views* (1 April 2026)

“Can a trial be fair if the judge uses AI?” *Globe and Mail* (30 March 2026)

“A breakthrough in legal research?” *CBA National Magazine* (7 March 2026)

“AI writing just isn’t good enough – and if you’re using it, everyone can already tell” *Globe and Mail* (16 February 2026)

“The Missing Fair Use Argument in the Copyright Battle Over AI Summaries” *Tech Policy Press* (4 February 2026)

“The Real Problem in Hallucination Cases Is Not the Failure to Verify” *Slaw* (7 January 2026)

“Why some lawyers are turning off the internet to use AI” *CBA National Magazine* (18 November 2025)

“OpenAI’s newly launched Sora 2 makes AI’s environmental impact impossible to ignore” *The Conversation* (9 October 2025)

“Why Lawsuits Over AI Summaries Will Fail: There is No Right to Traffic” *Tech Policy Press* (9 October 2025)

“How AI has made me more productive” *CBA National Magazine* (22 September 2025)

“Canada’s Lawful Access Bill: Heavy on Secrecy, Light on Accountability” *CIGI Online* (15 July 2025)

“Should We Restrict the Use of AI in Law School?” *Slaw* (1 July 2025)

“The proposed Strong Borders Act gives police new invasive search powers that may breach Charter rights” *The Conversation* (5 June 2025)

“Canada Is a Signatory to the First Global Treaty on AI: Why That Matters” *CIGI Online* (17 March 2025)

“Jevons Paradox Makes Regulating AI Sustainability Imperative” *Tech Policy Press* (11 March 2025)

“Is a Legal AI Breakthrough in Sight?” *CBA National Magazine* (13 February 2025)

“The Paris Summit Marks a Tipping Point on AI’s Safety and Sustainability” *The Conversation* (12 February 2025)

“AI’s Impact on Law: Why the Transformation Narrative Is Overstated” *Slaw* (31 December 2024)

“Canadian News Media are Suing OpenAI for Copyright Infringement, But Will They Win?” *The Conversation* (1 December 2024)

“Google’s AI Podcasts Signal a New Era in Media” *CIGI Online* (14 November 2024)

“The Reasons for Shutting Down TikTok in Canada Appear Tenuous at Best” *The Conversation* (11 November 2024)

“Why new AI Tools for Legal Research Fail to Deliver the Goods” *Canadian Lawyer* (8 November 2024)

“Apple Intelligence Will Help AI Become As Commonplace As Word Processing” *The Conversation* (21 October 2024)

“What Made-in-Canada Legal AI Can and Can’t Do Well” *CBA National Magazine* (9 October 2024)

“Has the US Supreme Court Made It Harder to Regulate Social Media — or the Opposite?” *CIGI Online* (22 July 2024)

“The Case for Mandating Finer-Grained Control Over Social Media Algorithms” *Tech Policy Press* (12 July 2024)

“The Online Harms Act Should Target Social Media’s Greatest Harm” *Policy Options* (30 May 2024)

“Is AI About To Replace All Human Writing? Not So Fast” *Newsweek* (25 April 2024)

“Why Ontario School Boards Are Suing Social Media Platforms for Causing an Attention Crisis” *The Conversation* (29 March 2024)

“Does TikTok Pose a Security Threat to Canadians?” *The Conversation* (15 March 2024)

"Are AI Language Models Too Dangerous to Deploy? Who Can Tell?" *CIGI Online* (May 2023)

"It's Not the End of Privacy Yet in Canada, But the Threat Remains" *The Conversation* (April 2023)

"Surreptitious Recordings By Civilians in Criminal Trials: Are they Constitutional?" *The Advocate* (March 2023)

"A Primer on the Ghomeshi Amendments and Their Practical Effects (So Far)" *The Advocate* (July 2021)

"Should We Be Forced to See More Canadian Content on TikTok and YouTube?" *The Conversation* (June 2021)

"The Great Unread: On William Deresiewicz's 'The Death of the Artist'" *Los Angeles Review of Books* (October 2020)

"This One Country (Not America) Should Enshrine Police Body Cameras into Law" *The National Interest* (June 2020); also published as "Canada should enshrine police body cameras into law" *Policing Insight*

"B.C.'s problems with money laundering run so deep they'll be hard to resolve in the short term" *The Vancouver Sun* (January 2020)

"Compelling people to reveal their passwords is posing a challenge to police and courts" *Salon* (27 May 2019)

"Is Password Compulsion Constitutional in Canada? Two Views" *The Advocate* (July 2019) (with Marshall Putnam)

"The Big Fail: The Internet Hasn't Helped Democracy" *The National Post* (15 October 2018)

"Has ISIS Become the New Pretext for Curtailing Our Civil Liberties?" *OUPblog* (June 2015)

"With No Code for Public Order, Mayhem Will Continue" *Vancouver Sun* and *Calgary Herald* (July 2010) (with Wes Pue)

"Taking Liberties in So-Called Civil Canada" *Times Higher Education* (5 July 2010) (with Wes Pue)

"Security for the Olympics: British Columbia Needs a "Public Order Policing Act" *The Advocate* (September 2009) (with Wesley Pue)

Teaching Experience

- First year criminal law
- Advanced criminal law
- Evidence
- Jurisprudence
- AI, Law, and Justice

Referee for Research Grant Proposals

- Social Sciences and Humanities Research Council of Canada
- Law Foundation of British Columbia

Referee for Book Publishers

- McGill-Queen's University Press
- UBC Press

Referee for Academic Journals

- Various Canadian law journals
- International Journal of Human Rights