

# EVIDENCE IN CRIMINAL INVESTIGATIONS: THE LATEST DEVELOPMENTS IN LAW AND PRACTICE

Don't miss this essential update on key investigative powers, their limits and evolving best practices.

A unique learning opportunity for police, Crown and defence lawyers, criminologists, forensic psychologists, psychiatrists and judges.

Topics include:

- Detention, arrest and the exclusion of evidence under *S 24(2)* of the *Charter*; latest changes in the legal landscape
- Where are we now with "Mr. Big" post *Hart*?
- Investigative interviewing; current best practices, opportunities and challenges
- The role of demeanor evidence in the investigation and prosecution of crime
- Human memory as a source of evidence; limits of reliability and pitfalls

Register today at:

[osgoodepd.ca/investigate](http://osgoodepd.ca/investigate)

## Program Chairs

**Timothy E. Moore, PhD,**  
C Psych., Professor and Chair,  
Department of Psychology,  
Glendon College, York University

**Benjamin Berger,** Associate  
Professor, Associate Dean  
(Students), Osgoode Hall Law  
School, York University

**Detective Kerry Watkins, LL.M.,**  
Toronto Police Service

## Program Details

DATE AND TIME:

**Friday, March 31, 2017**

**9:00 a.m. - 4:30 p.m. EDT**

**In Person or Webcast**

LOCATION

**Osgoode Professional  
Development**

1 Dundas St. West, 26th Floor  
Toronto, ON

# Evidence in Criminal Investigations: The Latest Developments in Law and Practice

Modern policing requires a host of strategies and techniques to ensure evidence from investigations is obtained effectively and lawfully.

Police powers and their limits is an increasingly complex area of criminal investigation that faces intense judicial scrutiny. The delicate balancing between public safety interests and individual rights is an issue with which law enforcement professionals, Crowns, defence counsel and the courts constantly grapple.

In this unique OsgoodePD program, an expert faculty including judges, senior law enforcement officers, top academics and lawyers will focus on several key areas of criminal investigation, making clear the parameters, legal limits, and serious repercussions when these limits are found to be exceeded. They will discuss:

- The changing shape of police powers of detention short of arrest
- Trends in the exclusion of improperly obtained evidence
- How compelling must confirmatory evidence be to overcome the inadmissibility of a “Mr. Big” confession?
- Eliciting reliable and admissible information from victims, witnesses and suspects
- The role of demeanor observation in police investigation and interrogation
- How can investigative practices best preserve the reliability of witness’ accounts?

Don’t miss this opportunity to get valuable updates and insight into changing legal requirements and practices. There will be plenty of opportunity for questions and discussion.

## Who Should Attend?

Law Enforcement Investigators and Trainers, Crown and Defence Lawyers, Criminologists, Forensic Psychologists and Psychiatrists, Judges and others engaged in the field of criminal justice.

Register today at:

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“This Osgoode program was fantastic. Great diversity of speakers and excellent content in the presentations.”

Defence Lawyer

## Agenda

8:15 a.m.

Registration and Continental Breakfast

9:00 a.m.

Welcome and Introduction from the Chairs

9:05 a.m.

Arrest, Detention, *Section 24(2)* and Exclusion of Evidence

**The Hon. Justice Michelle Fuerst**,  
Ontario Superior Court of Justice (Moderator)

**Steven Penney**, Professor, Faculty of Law,  
University of Alberta

**Karen Papadopoulos**, Counsel, Ministry of  
the Attorney General (Ontario), Crown Law  
Office- Criminal

**Gerald Chan**, Stockwoods LLP Barristers

The law governing police powers of arrest and detention has changed rapidly in the last 15 years. Also, courts have taken a new approach to the exclusion of evidence in breach of a *Charter* right. This session will bring together a multi-disciplinary panel to discuss

- Trends in the exclusion of improperly obtained evidence
- The changing shape of police powers of detention short of arrest
- Prevailing balance between individual liberties and crime control

10:00 a.m.

“Mr. Big” Post *Hart*: Has Anything Really Changed?

**The Hon. Justice Gary Trotter**, Court of  
Appeal of Ontario (Moderator)

**Vincenzo Rondinelli**, Lafontaine &  
Associates

**Jamie C. Klukach**, Counsel, Ministry of  
the Attorney General, (Ontario), Crown Law  
Office-Criminal

**Palma Paciocco**, Assistant Professor,  
Osgoode Hall Law School, York University

Since *Hart*, confessions obtained through “Mr. Big” procedures are presumptively inadmissible but may be salvaged by the presence of probative confirmatory evidence.

- Has the complexion of “Mr. Big” cases changed?
- How compelling must confirmatory evidence be to overcome the confession’s inadmissibility?
- Has manipulation and coercion of suspects been attenuated since *Hart*?

**11:00 a.m.**

### Refreshment Break

**11:15 a.m.**

### Investigative Interviewing

**Marlys Edwardh, C.M.,** Goldblatt Partners LLP (Moderator)

**Benjamin Berger,** Associate Professor, Associate Dean (Students), Osgoode Hall Law School, York University

**Joseph Eastwood, PhD,** Assistant Professor, Faculty of Social Science and Humanities, University of Ontario Institute of Technology

**Julianna A. Greenspan,** Greenspan Partners LLP

**Detective Kerry Watkins, LL.M.,** Toronto Police Service

The ability to elicit reliable information from victims, witnesses and suspects has been referred to as the “essence of law enforcement”. In this session, speakers discuss important issues related to the questioning of criminal suspects by police, including:

- Current best practices: Are Canadian police headed in the right direction?
- Police influence in the interview room: Do Canadian courts have an adequate understanding of the psychology of persuasion?
- Has the Supreme Court struck the proper balance between society’s need for effective questioning of suspects by police during criminal investigations and

the need to protect the rights of individuals?

**12:15 p.m.**

### Networking Luncheon

**1:00 p.m.**

### Keynote Speaker

**The Honourable Stephen T. Goudge,** former Justice of the Court of Appeal of Ontario, Commissioner of the Inquiry into Pediatric Forensic Pathology in Ontario

The Report of the Inquiry into Pediatric Forensic Pathology in Ontario, authored by Commissioner Goudge, exposed to both the public and to criminal justice actors, the risks and frailties arising from the meeting of our criminal justice system and scientific knowledge. As the question of how to safely use expert scientific evidence in the criminal justice process continues to challenge investigators, lawyers and judges alike, the Honourable Stephen Goudge will join us to discuss what we have learned and what we still need to learn about forensic science, evidence and the criminal law.

**1:45 p.m.**

### Demeanor Evidence

**The Hon. Justice James Stribopoulos,** Ontario Court of Justice (Moderator)

**Lisa Dufraimont,** Associate Professor, Osgoode Hall Law School, York University

**Amy-May Leach, PhD,** Graduate Program Director- Forensic Psychology, Associate Professor, Faculty of Social Science and Humanities, University of Ontario Institute of Technology

**Robyn White,** Cavalluzzo Shilton McIntyre Cornish LLP, Barristers and Solicitors

What role does, and should, observation of demeanor play in the investigation and prosecution of crime? Views in law and psychology alike on the value and use of demeanor, continue to develop, not always consistently or on the same direction. This panel will explore questions such as:

- Current approach of courts to the use of demeanor observation incredibility assessment
- What psychology tells us about our ability to draw accurate conclusions from observing demeanor
- The role of demeanor in police investigation and interrogation

**3:00 p.m.**

### Refreshment Break

**3:15 p.m.**

### Memory Science and Its Legal Implications

**Benjamin Berger,** Associate Professor, Associate Dean (Students), Osgoode Hall Law School, York University (**Moderator**)

**Timothy E. Moore, PhD, C Psych.,** Professor and Chair, Department of Psychology, Glendon College, York University

**Alan D. Gold,** Alan D. Gold Professional Corporation, Barristers

**Jonathan Freedman,** Professor Psychology, University of Toronto, President, Innocence Canada, Board of Directors

**Maureen A. Pecknold,** Assistant Crown Attorney, Ministry of the Attorney General (Ontario)

The criminal justice system relies heavily on human memory as a source of evidence. How can investigative practices best preserve the reliability of witness’ accounts?

- Latest developments in eyewitness identification research
- Best practices for interviewing child witnesses
- Interrogation tactics that may cultivate false confessions
- Appraisal of the reliability of memories from the distant past

**4:30 p.m.**

### Program Concludes

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Commissioner of the Inquiry into  
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Ontario

## Faculty Includes

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Barristers

**Lisa Dufraimont,** Associate  
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School, York University

**Joseph Eastwood, PhD,**  
Assistant Professor, Faculty of  
Social Science and Humanities,  
University of Ontario Institute of  
Technology

**Jonathan Freedman,** Professor  
Psychology, University of  
Toronto, President, Innocence  
Canada, Board of Directors

**Marlys Edwarth, C.M.** Goldblatt  
Partners LLP

**The Hon. Justice Michelle  
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Barristers

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**Jamie C. Klukach,** Counsel,  
Crown Law Office-Criminal,  
Ministry of the Attorney General  
(Ontario)

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Program Director- Forensic  
Psychology, Associate Professor,  
Faculty of Social Science and  
Humanities, University of Ontario  
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Crown Attorney, Ministry of the  
Attorney General (Ontario)

**Steven Penney,** Professor,  
Faculty of Law, University of  
Alberta

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Stribopoulos,** Ontario Court of  
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**The Hon. Justice Gary Trotter,**  
Court of Appeal of Ontario

**Robyn White,** Cavalluzzo Shilton  
McIntyre Cornish LLP, Barristers  
and Solicitors

## Registration Details

### Fee per Delegate

**\$495 plus HST**

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit [www.osgoodepd.ca/group-discounts](http://www.osgoodepd.ca/group-discounts) for details. Please inquire about financial assistance.

### Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

### Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



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