

12TH NATIONAL SYMPOSIUM ON TECH CRIME AND ELECTRONIC EVIDENCE

Join top experts on critical and current issues in the latest technologies, internet crimes and e-evidence.

- Latest tech search techniques to locate digital evidence; data scraping, using Big Data, sources of data and more
- Learn about the latest technology challenges in regulatory investigations and prosecutions
- Confronting and using digital evidence in court; authenticating data, the cutting-edge development of functional magnetic resonance imaging (fMRI)
- Practical approaches to the leading 2018 search and seizure cases, including overview of new issues
- Strategies when challenging the forensics expert

Register today at:

osgoodepd.ca/techcrime

Program Chairs

Susheel Gupta
Senior Strategic Operations Advisor
- National Security, RCMP

Steven Johnston
Crown Prosecutor,
Specialized Prosecutions Branch,
Alberta Justice

Lynda Morgan
Fenton, Smith Barristers

Date and Time

Friday, January 25, 2019
9:00 a.m. – 4:30 p.m. EST
In Person or Webcast

Online Replay:
Friday, March 22, 2019

Location

**Osgoode Professional
Development**
1 Dundas St. West, 26th Floor
Toronto, ON

12TH NATIONAL SYMPOSIUM ON Tech Crime and Electronic Evidence

Criminals of all kinds; individuals, corporations and governments continue to take advantage of the rapidly evolving, pervasive and invasive technologies providing a gold mine of opportunity, mobility and anonymity. If you are a lawyer, law enforcement professional, regulatory investigator, computer forensic specialist, or judge, it is critical that you are on top of these.

Now in its 12th year, this national forum once again brings together a top faculty who will equip you with the knowledge and strategies you need to have a firm grounding in the current case law and tackle the complex issues involved in the wild west of tech crime.

Topics Include

- Dealing with solicitor client privilege claims and other regulatory investigation special issues
- Addressing the special challenges for investigators in the usage of digital currency, bitcoin, prepaid cards
- Obtaining evidence from foreign jurisdictions including by Mutual Legal Assistance Treaty procedures
- Impact of the General Data Protection Regulation in the criminal context

Who Should Attend?

- Crown and defence lawyers
- Law enforcement and regulatory investigators
- Tech company legal advisors
- Computer forensic specialists
- Judges

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Agenda

8:15 a.m.

Registration Opens

9:00 a.m.

Welcome, Introduction and Overview

Susheel Gupta, Senior Strategic Operations Advisor - National Security, RCMP

9:15 a.m.

The Canadian Judicial System and Emerging Digital Issues: Challenges and Responses

Steven Johnston, Crown Prosecutor, Specialized Prosecutions Branch, Alberta Justice

Christine Mainville, Henein Hutchison LLP

Technology changes quickly. Judicial systems do not. This panel will provide an overview of current developments in digital technology as they relate to the criminal justice system including:

- Continuing developments regarding obtaining evidence from foreign jurisdictions including *MLAT*, *The Cloud Act* and developments in the law post British Columbia (Attorney General) v. Brecknell, 2018 BCCA 5
- Challenges to publication bans both in implementation and breadth
- Addressing the use of the internet by Judges, counsel and jurors – what, if anything, can be done to limit exposure to information on the internet?
- Emerging technologies such as functional magnetic resonance imaging (fMRI) and the use of big data to detect and prosecute crime

10:45 a.m.

Meeting the Special Issues Involved in Regulatory Investigations and Prosecuting and Defending these Cases

Andy Fish, Senior Technical Specialist, Criminal Investigations Directorate, Canada Revenue Agency

Carlo Rossi, Senior Litigation Counsel,
Ontario Securities Commission

Annamaria Enenajor, Ruby Shiller
Enenajor DiGiuseppe, Barristers

- Solicitor client privilege claims; how to make them, how to avoid them, and how to deal with them once they are made
- Addressing the use of digital currency and alternatives to currency such as pre-paid cards and bitcoin
- Compelled searches and electronic devices vs using a warrant
- Impact of General Data Protection Regulation (GDPR)

11:45 a.m.

Luncheon

12:15 p.m.

Keynote Address: "WE ARE NOT ALONE!"

Ian Kerr, Canada Research Chair in Ethics, Law & Technology, Full Professor,
Faculty of Law, University of Ottawa

Can robots or AIs operating independent of human intervention or oversight diminish our privacy?

Machines are starting to outperform human experts in an increasing array of narrow tasks, including driving, surgery, and medical diagnostic. This is fueling a growing optimism that robots and AIs will exceed humans more generally and spectacularly; some think, to the point where we will have to consider their moral and legal status. Traditional privacy doctrine, on the other hand, suggests the very opposite: Robots and AIs are, in a legal sense, of no consequence.

In this keynote address, Ian Kerr, challenges the traditional view from both a legal and ethical perspective. He argues that a doctrinal understanding of privacy law leads to the wrong conclusion, identifying the conditions that give rise to diminished privacy to demonstrate that robots and AIs can in fact meet those conditions.

1:00 p.m.

Using Digital Evidence in Court; a Crown and Defence Perspective

Mabel Lai, Counsel, Ministry of the Attorney General (Ontario), Crown Law Office-Criminal

Megan Savard, Addario Law Group LLP

- Customer name and address information
- Usage information from a device and third party
- Authenticating data; applying the *Canada Evidence Act* provisions
- Algorithms in court proceedings
- *Bill C-51* and defence disclosure of digital evidence
- Addressing witness credibility using technology:
 - Will a tech expert be essential at every trial involving digital evidence?
 - How to deal with conflicts between the digital evidence and witness testimony and between different technologies i.e. cell phone tower vs GPS data
 - What, if any role, can computers play in determining issues related to witness credibility?

2:15 p.m.

Search and Seizure: Latest Key Cases since February 2018 – Practical Implications and Hot Button Issues

Lynda Morgan, Fenton, Smith Barristers

Randy Schwartz, General Counsel,
Ministry of the Attorney General, (Ontario),
Crown Law Office – Criminal

Gerald Chan, Stockwoods LLP Barristers

- *R. v. Reeves*, SCC Docket No. 37676
- *R. v. Mills*, SCC Docket No. 37518
- *R. v. Le*, SCC Docket No. 37971
- *R. v. Culotta*, SCC Docket No 38213
- *R. v. Marakah* and the fallout of text messages
 - What happens when the text message is the actus reus of the offence?
R. v. Patterson, 2018 ONSC 4467

- Potential confusion in s.278 applications,
R. v. Z.N., 2018 ONCJ 501

3:30 p.m.

Finding, Developing and Effectively Challenging Tech Evidence

Daniel Embury, Technical Director,
Cellebrite Advanced Investigative Services

Maya Borooh, Heinen Hutchison LLP

- Keeping current on sources of data such as the Internet of Things and commercial data sellers
- Techniques and programs for data scraping, using Big Data and knowing the limits
- What evidence might be found on the phones and devices of suspects?
- Addressing passwords
- Issues that investigators and counsel should consider in challenging the forensics expert, *R. v. Livingston*, 2017 ONCJ 645 (CanL11)

4:30 p.m.

Closing Remarks and Program Concludes

Our participants say it best:

"A valuable mix of legal and forensic issues and solutions. All sessions were great, and I learned a lot."

Lawyer

"A well prepared and presented symposium. I am leaving with great resources for future use."

Law enforcement Officer

"Topics covered were relevant to current issues. Excellent faculty."

Regulatory Investigator

Program Chairs

Susheel Gupta, Senior Strategic Operations Advisor - National Security, RCMP

Steven Johnston, Crown Prosecutor, Specialized Prosecutions Branch, Alberta Justice

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Faculty Includes

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Randy Schwartz, General Counsel, Ministry of the Attorney General, (Ontario), Crown Law Office – Criminal

Keynote Speaker

Ian Kerr



Canada Research Chair in Ethics, Law & Technology, Full Professor, Faculty of Law, University of Ottawa

Registration Details

Fee per Delegate

Early Bird Fee (until October 31, 2018): \$425 plus HST
Regular Fee \$495 plus HST

Group Discount: Register 4 members of the same organization at the same time and receive 25% off each registration fee.

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Program Changes

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