



# 12<sup>TH</sup> ANNUAL INTENSIVE COURSE ON DRAFTING AND REVIEWING SEARCH WARRANTS

The **essential** course for anyone whose work involves search warrants

Leading experts will provide you with practical advice and a comprehensive and up-to-date understanding of the key issues. Topics include:

- Computer, tech and media searches; meeting the latest challenges
- Anonymous sources; strategies for effectively using and attacking this information
- Latest need to know on Sealing Orders, body cameras and media searches
- Critical case law update

**PLUS!** Don't miss the *(optional)* learn-by-doing **Warrant Writing and Reviewing Workshop**. Space is limited and sells out each year.

Register today at:

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

## Program Chairs

Scott C. Hutchison, Partner,  
Henein Hutchison LLP

Fraser M. Kelly, General Counsel,  
Ministry of the Attorney General  
(Ontario)

## Date and Time

Monday, March 4, 2019  
9:00 a.m. - 4:50 p.m. EST  
In Person or Webcast

Online Replay:  
Monday, April 29, 2019

Optional Workshop  
(for Day One registrants only):  
Tuesday, March 5, 2019  
9:00 a.m. - 1:00 p.m. EST  
In Person

## Location

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

# 12<sup>TH</sup> ANNUAL INTENSIVE COURSE ON Drafting and Reviewing Search Warrants

Search warrants are powerful tools that can make or break your case. Recent court decisions and pending legislation continue to make apparent the importance of clear, accurate and complete Search Warrant Applications and the potential dire consequences of deficient drafting.

At this comprehensive *OsgoodePD* program, you will get the knowledge and skills you need to draft a wide variety of search warrants with clarity and certainty, to review and revise warrants, and to identify and develop strategies for defending or attacking them. You'll hear from our expert faculty on:

- Strategies for dealing effectively with common problems in the warrant process
- Hot issues with computer and technology searches
- Warrant writing 101; a great primer for even those most experienced

**Put your Day One learning into practice! Don't miss the Optional Warrant Drafting Workshop** (exclusively for Day One registrants) is designed to build on the learning in the first day of the course. You'll draft and review portions of a warrant based on a crime fact scenario (**Note: advanced preparation is required**). This course fills up quickly.

## Who Should Attend?

Law enforcement officers, Regulatory investigators, Crown Attorneys, Defence lawyers, Judges

Register today at:

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

## Agenda

Monday, March 4, 2019

**8:15 a.m.**  
Registration

**9:00 a.m.**

Welcome and Introduction from the Chairs

**9:05 a.m.**

Foundation Principles of Search and Seizure

**Scott C. Hutchison**, Partner, Henein Hutchison LLP

This opening session will give you comprehensive and up-to-date coverage of the organizing principles governing search and seizure, including:

- Reasonable expectations of privacy
- The role of the issuing justice
- Reasonable grounds for belief or suspicion

**9:45 a.m.**

Warrant Writing and Reviewing 101

**Fraser M. Kelly**, General Counsel, Ministry of the Attorney General, (Ontario)

Taking you through examples, Fraser Kelly will address the fundamentals of warrant drafting and reviewing, including:

- Analyzing fact situations, spotting issues and developing investigative strategies to acquire evidence

- Reviewing fact situations to identify issues with sourcing and confidential information
- Analyzing and drafting outlines for complex fact patterns
- Writing to the section and three question writing

**10:30 a.m.**

Refreshment Break

**10:45 a.m.**

Regulatory Information in the Hands of Police; More than Ling and Jarvis

**Michael Fawcett**, Counsel, Ministry of the Attorney General, (Ontario), Crown Law Office – Criminal

Over fifteen years have passed since the Supreme Court of Canada's decisions in *R. v. Ling* and *R. v. Jarvis*. However, the legality of police receiving and relying upon regulatory information as grounds for a *Criminal Code* warrant remains challenging. This presentation introduces some of the key concepts required to assess and effectively address these issues.

**11:15 a.m.**

Latest Hot Issues in Computer and Related Technology Searches

**Jason Neubauer**, Assistant Crown Attorney, Ministry of the Attorney General (Ontario)

Searching computers on site or seizing computers for later examination both pose unique challenges to investigators, issuers and litigators. After the Supreme Court of Canada's decisions in *R. v. Vu*, *R. v. Telus Communications Co.*, *R. v. Fearon*, *R. v. Spencer*, and *R. v. John*, 2018 ONCA 702 this is a particularly dynamic area of search warrant law. This presentation will address some of the critical issues associated with computer searches and provide expert guidance on some of the tools and techniques you need to respond to these challenges.

**12:15 p.m.**

Networking Luncheon

**1:00 p.m.**

Informers and Tipsters: Current Challenges and Strategies for Using Anonymous Sources

**Erin Dann**, Barrister

**Vincent Paris**, General Counsel, Ministry of the Attorney General (Ontario), Guns and Gangs Unit

**Detective Sergeant Jamie Prosser**, Ontario Provincial Police

The investigation of crime or regulatory misconduct often involves the use of information from anonymous or confidential sources – tipsters and informers. This multi-disciplinary panel will examine some of the challenges and common problems with affidavits relying on information from confidential sources including the impact of *R. v. Crevier*, 2015 ONCA 619

**2:00 p.m.**

### Novel Challenges for Warrant Writers in the High-Tech Age

**Jason Wakely**, General Counsel, Public Prosecution Service of Canada

Developments in new technologies pose novel challenges to warrant writers and practitioners alike. Jason Wakely will address some of the dynamics in this rapidly evolving field:

- Is a warrant needed to seize black-boxes from cars?
- Police use of drones for aerial surveillance
- Limits on police use of mobile device identifiers
- Is using undercover surveillance software fair game and is software to mine open source websites different?
- Can warrants compel an arrestee to divulge their mobile device password?

**2:45 p.m.**

### Refreshment Break

**3:00 p.m.**

### Drill Down on Three Hot Topics

#### Body Cameras

**Natalie Kuehn**, Assistant Crown Attorney, Ministry of the Attorney General (Ontario)

Some Canadian police agencies are moving towards widespread use of body cameras that may make policing more transparent while potentially raising a host of privacy issues. Looking to Canadian legal principles and to the American experience, Natalie Kuehn discusses some of the legal issues that are likely to arise as a result of using body cameras.

#### Sealing Orders

**Fraser M. Kelly**, General Counsel, Ministry of the Attorney General, (Ontario)

Sealing orders for affidavits are rarely completely upheld upon media challenge. The orders themselves are often more sweeping than required and/or inadequately justified in the affidavit material. This presentation reviews over-arching openness principles and examines the types of grounds that might justify some measure of sealing.

#### Media Outlet Searches

**Kelsey Flanagan**, Henein Hutchison LLP

This topic covers the unique challenges involved with search warrants and production orders directed at media outlets. In particular, this topic will include a discussion of the new amendments to the *Criminal Code* and the *Canada Evidence Act* introduced by the *Journalistic Sources Protection Act*, as well as the Supreme Court of Canada's decision in *R. v. Vice Media Canada Inc.*, 2018 SCC 53.

**3:30 p.m.**

### Practical Issues in the Warrant Process: Special Cross-Discipline Panel Discussion

**The Hon. Justice Michael J. Epstein**, Ontario Court of Justice

**Andrew Furguele**, Doucette Santoro Furguele

**Sergeant David Cobey**, RCMP, Legal Application Support Team

**Sarah Shaikh**, Senior Counsel, Public Prosecution Service of Canada

Learn about the pitfalls of search warrants from what's sure to be a lively and interactive discussion by an expert panel, followed by Q and A.

**4:50 p.m.**

**Day One concludes**

## Optional Warrant Drafting Workshop

**Tuesday, March 5, 2019 (On-site only)**

**8:30 a.m.**

**Registration**

**9:00 a.m. – 1:00 p.m.**

### Warrant Drafting Workshop

Workshop Leader: **Fraser M. Kelly**

In this learn-by-doing workshop, participants in small groups will review and analyze selected portions of search warrants. Prior to the workshop, participants will review a crime fact pattern and the ancillary documents needed to draft an Information To Obtain and will submit drafting exercises for pre-review and selection by the workshop leader. At the workshop, samples of selected exercises will be reviewed and critiqued and will form the basis for discussion.

Our workshop leader, with years of search warrant drafting (and attacking) experience, will teach you:

- Warrant writing strategies
- How to organize and outline complex Informations To Obtain
- How to identify and develop cross-examination strategies

**Note: Participants will be required to submit a brief written assignment one week prior to the workshop. All submissions will be anonymous.**

There will be a 15 minute break during the workshop.

*“The presentations were excellent. Some of the best I have heard.”*

**Police Officer**

*“I appreciated the mix of legal concepts dovetailing with pragmatic advice.”*

**Regulatory Investigator**

*“Great program. I learned far more than I ever thought I would.”*

**Police Officer**

*“An excellent mix of what police officers need to know to draft ITO's and what counsel need to know to review them.”*

**Crown Attorney**

## Chairs

Scott C. Hutchison, Partner,  
Henein Hutchison LLP

Fraser M. Kelly, General  
Counsel, Ministry of the  
Attorney General (Ontario)

## Faculty Includes

Sergeant David Cobey,  
RCMP

Jason Neubauer, Assistant  
Crown Attorney, Ministry of  
the Attorney General  
(Ontario)

Erin Dann, Barrister

The Hon. Michael J. Epstein,  
Ontario Court of Justice

Vincent Paris, General  
Counsel, Ministry of the  
Attorney General (Ontario),  
Guns and Gangs Unit

Michael Fawcett, Counsel,  
Ministry of the Attorney  
General, (Ontario), Crown  
Law Office - Criminal

Det. Sergeant Jamie Prosser,  
Ontario Provincial Police

Kelsey Flanagan, Henein  
Hutchison LLP

Sarah Shaikh, Senior  
Counsel, Public Prosecution  
Service of Canada

Andrew Furgiuele, Doucette  
Santoro Furgiuele

Jason Wakely, General  
Counsel, Public Prosecution  
Service of Canada

Natalie Kuehn, Assistant  
Crown Attorney, Ministry  
of the Attorney General  
(Ontario)

## Registration Details

### Fee per Delegate

**Day One Program Only: \$525 plus HST**

**Day One Program plus Workshop: \$695 plus HST**

Fees include attendance, program materials, 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.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD Hours: LSO (ON):

Day One: 7h CPD (6h Substantive; 1h Professionalism);  
Workshop Day Two: 4h CPD (2h 30m Substantive; 1h 30m Professionalism)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca).



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

Osgoode Professional Development



416.597.9724

1 Dundas Street West, Suite 2600



@OsgoodePD

Toronto, ON Canada M5G 1Z3



## 12th Annual Intensive Course on Drafting and Reviewing Search Warrants

Register today at:

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