

# 18<sup>TH</sup> NATIONAL SYMPOSIUM ON SEARCH AND SEIZURE LAW IN CANADA

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Join a dynamic faculty of experts from across Canada for incisive analysis and lively discussion of current, critical issues, including:

- s. 8 and reasonable expectation of privacy post *Mills*; rethinking of existing doctrine?
- Search of electronic devices; current and emerging Issues
- Beyond *Brecknell*; obtaining evidence from foreign-domiciled entities
- Race, policing and warrantless search powers after *Le*
- Drink, drugs and drive – a search update on the new impaired evidence regime in practice
- Search Incident to investigative detention, arrest and warrantless safety searches
- Media applications to unseal Orders; the need to know
- *Garafoli* and s. 8, 2021

## Program Chairs

**Scott C. Hutchison**  
Henein Hutchison LLP

**Lesley Ruzicka**  
Crown Counsel, Criminal Appeals  
and Special Prosecutions  
(Prosecution Support),  
B.C. Prosecution Service,  
Ministry of the Attorney General

## Date and Time

Friday, February 5, 2021  
9:00 a.m. – 4:30 p.m. EST

Replay: Friday, March 12, 2021

## Location

ONLINE Only

Register today at:  
[osgoodepd.ca/  
search-and-seizure](https://osgoodepd.ca/search-and-seizure)

# 18<sup>TH</sup> NATIONAL SYMPOSIUM ON Search and Seizure Law in Canada

Lawyers, law enforcement officers, regulatory investigators and courts continue to grapple with novel and challenging Search and Seizure law issues especially those presented by the intersection between privacy, emerging new technologies, *Cloud* networks and the *Charter*.

This **18<sup>th</sup> national OsgoodePD one-day intensive program** on the law of Search and Seizure in Canada will give you critical insights and practical resources and tools to use in your work.

## Topics Include

- Meeting new challenges in conducting trans-national investigations in the global 'cloud' economy
- Drill down on legal and policy issues involving warrantless searches
- Policing racialized communities post *R. v. Le*
- New laws in practice; conducting lawful drinking, driving, drug impairment searches under Bill C-45 and C46 amendments
- Media searches update and applications to unseal ITO's

## Who Should Attend

- Law Enforcement officers
- Regulatory investigators
- Crown and defence lawyers
- Judges

Register today at:

[osgoodepd.ca/search-and-seizure](https://osgoodepd.ca/search-and-seizure)

## Agenda

9:00 a.m.

### Welcome and Introduction

9:05 a.m.

### Reasonable Expectations of Privacy after *Mills*; Same as it Ever Was?

**Nader R. Hasan**, Stockwoods LLP

**Matthew Asma**, Counsel, Crown Law Office – Criminal, Ministry of the Attorney General, Ontario

**David Schermbrucker**, Counsel, Public Prosecution Service of Canada

Technology and novel investigative techniques continue to present challenging questions about the reach of s.8 and our reasonable expectations of privacy (REP). In *Mills* the Supreme Court introduced new and controversial considerations into the REP debate. This panel will review the law on REP and how *Mills* may require a rethinking of existing doctrine.

10:00 a.m.

### Search of Electronic Devices: Current and Emerging Issues

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

**Ami Kotler**, Crown Attorney, Criminal Prosecutions, Manitoba Justice

The information technology revolution continues to test law enforcement and the Courts. In addition to litigation battles between prosecutors and accused, major technology and telecommunications companies continue to take up the cause of customer privacy.

- Review of the ongoing evolution of the law
- Emerging issues, practical implications and useful approaches to meeting the challenges presented

10:45 a.m.

Break

11:00 a.m.

### Beyond Brecknell: Legal and Practical Issues in Obtaining Digital Evidence from Global Entities – Point and Counterpoint

**Robert Currie**, Professor of Law at the Schulich School of Law, Dalhousie University

**Fraser Kelly**, General Counsel, Ministry of the Attorney General, Ontario

While the mutual legal assistance system allows law enforcement to reach across borders to compel production or seizure of foreign-domiciled evidence, borders are being erased by an increasingly global, 'cloud' economy. We'll get a look at the law governing evidence-gathering across borders, and peek into the future with the coming *CLOUD Act* in the United States.

12:00 p.m.

### Search Incident to Investigative Detention, Arrest and Warrantless Safety Searches

**Gloria Ng**, Gloria Ng Law

**Oren Bick**, Senior Counsel, Public Prosecution Service of Canada

Recent developments and trends including:

- How *Le* and its focus on policing racialized communities have impacted the s.8 analytical framework
- The ongoing debate about whether *MacDonald* changed the test for search incidental to investigative detention
- Recent jurisprudence on search incidental to arrest

12:45 p.m.

Break

1:15 p.m.

### Media Applications to Unseal Orders

**Anila Srivastava**, Wilson Butcher

**Sauna L. MacDonald**, Crown Counsel, Nova Scotia Public Prosecution Service

**S./Sgt. Bobbie Haynes**, NCO in Charge – Provincial Unsolved Homicide Unit of B.C.

In high profile cases, media applications to unseal ITOs can be filed at any stage of the proceedings, without warning, even while the investigation is ongoing and before charges are approved.

They are highly resource-intensive applications for police, counsel for investigative agencies, and Crown counsel (and may have fair trial implications for suspects/accused).

This session will be an exploration of what you need to know if an application to unseal is filed in one of your cases.

2:15 p.m.

### Reasonable Expectation of Privacy in Common Space: Emerging, and Often Conflicting Body of Jurisprudence

**Mark Sheardown**, Crown Counsel, Criminal Appeals and Special Prosecutions, B.C. Prosecution Service

**Kassandra B. Cronin Q.C.**, La Liberté Cronin

- What happens if an investigator needs surveillance footage, fob data, or information about an occupant from a multi-dwelling unit?
- Can building managers or strata councils consent?
- How does privacy and strata legislation affect the analysis?
- How are third party privacy interests factor in?

3:00 p.m.

Break

3:15 p.m.

### Drink, Drugs and Drive: A Search Update

**Paul Pearson**, Crown Counsel, British Columbia Prosecution Service

**Ian Carter**, Bayne Sellar Ertel Carter

The *Bill C-45* and *C-46* amendments which legalized cannabis and introduced new search powers for impaired driving were enacted in 2018.

Crown and defence counsel will bring us up to speed on recent jurisprudence relating to these amendments.

4:00 p.m.

### Garofoli: Abuse of Process and Section 8 Applications

**Dianne Wiedemann**, Crown Counsel, Criminal Appeals and Special Prosecutions, B.C. Prosecution Service

- Is there a residual discretion to set aside a warrant for abuse of process or is excision the only remedy?
- Legal and practical issues that arise when abuse of process is advanced as part of a s.8 challenge to a warrant, order or authorization.

4:30 p.m.

Program Concludes

Our past participants say it best...

*“An in-depth and complete program with high quality speakers, relevant topics and diverse points of view.”*

Crown Attorney

*“All presenters were very professional and very well prepared.”*

Law Enforcement Officer

*“A combination of practical advice & case analysis – a great balance and a great conference.”*

Law Enforcement Officer

*“All speakers were very informative and knowledgeable – on top of their game.”*

Defence Lawyer

## Chairs

Scott C. Hutchison, Henein Hutchison LLP

Lesley Ruzicka, Crown Counsel, Criminal Appeals and Special Prosecutions (Prosecution Support), B.C. Prosecution Service, Ministry of the Attorney General

## Faculty

Matthew Asma, Counsel, Crown Law Office-Criminal, Ministry of the Attorney General, Ontario (Toronto)

Oren Bick, Senior Counsel, Public Prosecution Service of Canada (Vancouver)

Ian Carter, Bayne Sellar Ertel Carter (Ottawa)

Kasandra B. Cronin Q.C., La Liberté Cronin (Vancouver)

Robert J. Currie, Professor of Law at the Schulich School of Law, Dalhousie University (Halifax)

Nader R. Hasan, Stockwoods LLP (Toronto)

S./Sgt. Bobbie Haynes, NCO in Charge – Provincial Unsolved Homicide Unit of B.C.

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

Ami Kotler, Crown Attorney, Criminal Prosecutions, Manitoba Justice

Shauna L. MacDonald, Crown Counsel, Nova Scotia Public Prosecution Service (Halifax)

Gloria Ng, Gloria Ng Law (Vancouver)

Paul Pearson, Crown Counsel, B.C. Prosecution Service (Victoria)

David Schermbrucker, Counsel, Public Prosecution Service of Canada (Halifax)

Mark Sheardown, Crown Counsel, Criminal Appeals and Special Prosecutions, B.C. Prosecution Service (Vancouver)

Anila Srivastava, Wilson Butcher (Vancouver)

Dianne Wiedemann, Crown Counsel, Criminal Appeals and Special Prosecutions, B.C. Prosecution Service (Vancouver)

## Registration Details

### Fee per Delegate

**\$495 plus HST**

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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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Osgoode Professional Development



416.597.9724

1 Dundas Street West, Suite 2600



@OsgoodePD

Toronto, ON Canada M5G 1Z3



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