

8TH NATIONAL SYMPOSIUM ON TECH CRIME AND ELECTRONIC EVIDENCE



Get the information you need to successfully investigate, prosecute, defend or adjudicate technology and internet crimes, including:

- Developing a comprehensive search and seizure strategy for electronic evidence
- Search and seizure; the “need to know” latest legal developments
- Critical warrant drafting challenges in electronic evidence searches
- Imaging and analyzing data in a fact-based investigation using state-of-the-art digital forensic analysis
- Establishing criteria for a computer expert witness
- Meeting the special challenges of multiple jurisdiction search cases
- Forensics and intelligence gathering *post-Snowden*
- Understanding and addressing privacy and privilege issues

Keynote Speaker

Hanni Fakhoury, *Staff Attorney, Electronic Frontier Foundation, San Francisco*
U.S. Surveillance Technology and the Law: Past and Future

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*“PRESENTATIONS
AND MATERIALS WERE
ALL EXTREMELY
VALUABLE TO MY WORK”*

Law Enforcement Officer (2013)

*“THE LATEST CASE
LAW AND HOT BUTTON
ISSUES WAS EXCELLENT.
VERY RELEVANT TO
CURRENT ISSUES.”*

Regulatory Investigator (2013)

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Chairs

Susheel Gupta, *Vice-Chairperson, Canadian Human Rights Tribunal*

Steven Johnston, *Crown Prosecutor, Special Prosecutions Branch, Alberta Justice*

Scott K. Fenton, *Fenton, Smith Barristers*

Date and Time

Friday, January 23, 2015
9:00 a.m. - 4:30 p.m.

Location

University of Calgary
Downtown Campus
906-8th Avenue SW
Calgary, Alberta

In-person annual conference



UNIVERSITY OF CALGARY
FACULTY OF LAW



8TH NATIONAL SYMPOSIUM ON TECH CRIME AND ELECTRONIC EVIDENCE

Rapidly changing and pervasive technology provides a gold mine of opportunity, mobility and anonymity for criminals. At the same time, the new, expanding world of e-forensics, secret surveillance systems and massive cyber attacks presents significant new issues and ongoing challenges for the criminal justice system.

If you are a Crown, defence lawyer, law enforcement professional, regulatory investigator, computer forensic specialist, judge, or are otherwise engaged in the criminal justice process, it is critical that you tap into the latest tools and techniques and have a clear understanding of the current law.

This *OsgoodePD* 8th National Symposium on Technology Crime and Electronic Evidence will provide you with a comprehensive and timely 2015 update on the rapid and important developments in this complex and continually evolving area.

Over the last seven years this *OsgoodePD* program has developed into a lively national forum which brings together law enforcement professionals, lawyers, judges, tech experts and others to tackle the thorny issues involved in tech crime and electronic evidence. 2015's event brings together a top faculty from various sectors of the justice system and private enterprise to share valuable insights, best practices and practical advice. They will cover the most timely and complex issues, including:

- Special technical challenges in executing an electronic search
- Co-ordinating and supervising investigations
- Industrial espionage, web exploits and other criminal activities
- Potential impact of *Bill C-13, Protecting Canadians from Online Crime Act* on substantive laws and search powers
- Latest search and seizure pitfalls and how to avoid them
- "Live" evidence acquisition issues
- Protecting privileged communication in the digital case
- Scope and limits of a computer expert's evidence

Don't miss this opportunity to have your questions answered and to learn, discuss and debate with the experts and your peers.

**REGISTER NOW BY VISITING WWW.OSGOODEPD.CA,
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Chairs

Susheel Gupta, *Vice-Chairperson, Canadian Human Rights Tribunal*

Steven Johnston, *Crown Prosecutor, Special Prosecutions Branch, Alberta Justice*

Scott K. Fenton, *Fenton, Smith Barristers*

Keynote Speaker

Hanni Fakhoury, *Staff Attorney, Electronic Frontier Foundation San Francisco*

Faculty

Judge Steven Bilodeau
Provincial Court of Alberta

Willie deWit, *Wolch deWit Silverberg & Watts, Calgary*

Daniel Embury, *Formerly Senior Forensic Hardware Engineer, R&D Team Leader, Technical Analysis Team, Technical Investigation Services, Royal Canadian Mounted Police*

Philip Fodchuk, *Partner Enterprise Risk Services Cybersecurity, Deloitte*

Allen LaFontaine, *Southern Alberta Internet Child Exploitation Unit, ALERT*

The Hon. Justice Sheilah L. Martin
Court of Queen's Bench of Alberta and Dean of Law Emeritus, University of Calgary

Nadine Nesbitt, *Crown Prosecutor, Technology and Internet Crime, Specialized Prosecutions Branch, Alberta Justice*

Shane Parker, Q.C.
Crown Counsel, Prosecutor Alberta Justice

Richard C.C. Peck, Q.C., *Peck and Company, Vancouver*

Alexander D. Pringle, Q.C.
Pringle, Chiver, Sparks, Teskey Edmonton

Ronald Reimer, *Senior General Counsel, Public Prosecution Service of Canada*



AGENDA - FRIDAY, JANUARY 23, 2015

8:15-9:00

Registration and Continental Breakfast

9:00-9:15

Welcome, Introduction and Overview

Susheel Gupta, *Vice-Chairperson, Canadian Human Rights Tribunal*

9:15-10:15

Investigation and Drafting Issues in Cases Involving Electronic Evidence

Steven Johnston, *Crown Prosecutor, Special Prosecution Branch, Alberta Justice*

Willie deWit, *Wolch deWit Silverberg & Watts*

Allen LaFontaine, *Southern Alberta Internet Child Exploitation Unit, ALERT*

- Critical drafting challenges in searching for electronic evidence
- Drafting in anticipation of possible live acquisition
- Co-ordinating and supervising large scale, multiple-jurisdictional search cases
- Special challenges in cross border electronic search and seizure cases
- Developing a search strategy for electronic evidence from the search to the presentation of the case in Court

10:15-10:30

Refreshment Break

10:30-12:00

Search and Seizure Part 1:

The Law, Latest Cases and Hot Button Issues

Ronald Reimer, *Senior General Counsel Public Prosecution Service of Canada*

Scott K. Fenton, *Fenton Smith, Barristers*

The Hon. Justice Sheilah L. Martin

Court of Queen's Bench of Alberta and Dean of Law Emeritus, University of Calgary

This expert panel will discuss the most recent cases and their practical implications.

- Impact of *R. v. Vu*, 2013 SCC 60; What has changed after a year?
- *R. v. Fearon* (on reserve - SCC file 35298) - the potential impact of the decision as it relates to search of data incident to arrest on cell phones, and *USA v. Wurie*, Docket No. 13-212
- *R. v. Spencer*, 2014 SCC 43: Implications for law enforcement and courts
- The limits of "plain view" in the computer search context
- Search implications of corporate servers and the expectation of privacy in an employment environment
- "Big data" and privacy
- *R. v. Telus*, 2013 SCC 16: Stored communications in cell phone searches

12:00-1:15

Luncheon and Keynote Address

Hanni Fakhoury, *Staff Attorney, Electronic Frontier Foundation, San Francisco*

U.S. Surveillance Technology and the Law: Past and Future

In the U.S., the rapid development and adoption of new surveillance technologies has left the law behind. This presentation will look at new technologies like cell phone tracking, license plate readers, facial recognition, "Stingrays," DNA databases and pervasive video cameras; review the U.S. cases that may play a role in assessing the legality of these new technologies; and, suggest an approach that ensures the right to privacy survives in the 21st Century.

1:15-2:15

Search and Seizure Part 2: The Forensics Cyber Security and the Increasing Complexity of Digital Investigations

Daniel Embury, *Formerly Senior Forensic Hardware Engineer, R&D Team Leader, Technical Analysis Team, Technical Investigation Services, Royal Canadian Mounted Police*

Philip Fodchuk, *Partner, Enterprise Risk Services Cybersecurity, Deloitte Canada*

Experts in cyber security and advanced digital forensics will explore the evolving global landscape of challenges faced by practitioners using informative examples and recent case studies. Topics will include:

- Virtual currencies and the dark side of the Internet
- Web exploits and criminal activities, including the recent "Canadian Heartbleed" hacker
- Ransomware and other nefarious attacks
- Industrial espionage, including the recent Irving Shipbuilding/China spy allegations
- Forensics and intelligence gathering *post-Snowden*
- State-of-the-art advances in digital forensics analysis will demonstrate the imaging and analyzing of data in a fact-based investigation

2:15-3:15

Significant Legislative Developments: Bill C-13, Protecting Canadians from Online Crime Act

Steven Johnston, *Crown Prosecutor, Special Prosecutions Branch Alberta Justice*

Nadine Nesbitt, *Crown Prosecutor, Technology and Internet Crime, Specialized Prosecutions Branch, Alberta Justice*

Alexander D. Pringle, Q.C., *Pringle, Chivers, Sparks, Teskey*

- New *Criminal Code* offence of "Non-consensual distribution of intimate images"
- Expanded investigative powers related to this offence
- Potential impact on substantive law and search powers
- Implications for service providers
- Balancing privacy rights
- Can the legislation address *R v. Spencer*, 2014 SCC 43 File No. 34644?

AGENDA (cont'd)

3:15-3:30

Refreshment Break

3:30-4:30

The Computer Forensic Expert Witness

Moderator

Judge Steven Bilodeau

Provincial Court of Alberta

Scott K. Fenton, *Fenton, Smith Barristers*

Shane Parker, Q.C., *Crown Counsel, Prosecutor*

Alberta Justice

- Use of computer forensic experts in court
- Developing criteria for an expert computer witness
- Scope and limits of expert evidence in the computer context
- Interaction between the computer expert and the primary investigation team in developing evidence and the case
- Key issues for the Court, Crown and Defence in assessing expert computer witnesses

4:30

Closing Remarks and Program Concludes



Eligible towards the Alberta CPD program with the **Law Society of Alberta**. CPD/MCLE hours: **BC**: 6.5 CPD credit hours (5.25 Substantive, 1.25 Professionalism); **LSUC (ON)**: 7.0 CPD Hours (5.75 Substantive, 1.25 Professionalism); **Quebec/Manitoba/New Brunswick/NWT/Nunavut/PEI/Yukon and Saskatchewan**: 6.5 credit hours towards professional development requirements; **NSBS CPD**: 7.0 substantive hours; **NY CLE Board (on-site participants only)**: 7.5 hours in the Area of Professional Practice for transitional and non-transitional lawyers. Also eligible for CLE/Insurance Premium Credits Program offered by the **Law Society of PEI**. Questions? E-mail: cpd@osgoode.yorku.ca.

REGISTRATION

Please complete all registrant information.

8th National Symposium on Tech Crime and Electronic Evidence

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Group discount: Register 4 members of the same organization at the same time, and receive 25% off each registration fee!

Fees include attendance, program materials, continental breakfast, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca for details. Please inquire about financial assistance.

Date & Time

Friday, January 23, 2015

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

Please arrive a half hour early for sign-in and material pick-up. Dress is business casual.

Location

University of Calgary
Downtown Campus
906-8th Avenue SW
Calgary, Alberta

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 (less \$75 administration fee) is available if a cancellation request is received in writing 5 days prior to the program date. No other refund is available.



4 Convenient Ways to Register

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