



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

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## The **essential** course for anyone whose work involves Search Warrants

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

- Computer and related tech searches; meeting the challenges for accurate drafting and lawfully executing warrants
- Using informers and tipsters effectively and avoiding common traps
- Sealing Orders; thorny issues and the reinvigorated *Garafoli* step six
- Navigating the minefield of enhanced confidentiality claims by journalists, lawyers and medical professionals
- Cross-discipline panel discussion on practical issues in the Warrant process

Register today at:

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

## Program Chairs

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

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

**Erin Dann**  
Embry Dann LLP

## Date and Time

**DAY ONE: Monday, March 1, 2021**  
9:00 a.m. – 5:00 p.m. EST

**Optional Virtual Workshop  
(for Day One registrants only):**  
**DAY TWO: Tuesday, March 2, 2021**  
9:00 a.m. – 1:00 p.m. EST

**ONLINE REPLAY: APRIL 12, 2021**

## Location

Online Only

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

Search Warrants are powerful tools that can make or break your case. Ongoing court decisions continue to make apparent the importance of clear, accurate and complete search warrant applications and the potential dire consequences of deficient drafting.

In 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 strategies to defend and attack them. You'll hear from our expert faculty on:

- How to structure computer warrants to meet the special challenges presented by the new state of the law
- Avoiding perils and problems in using anonymous sources and strategies for anticipating trial litigation
- Deep dive on Sealing Orders; justification, alternatives, writing in anticipation of future unsealing
- Review and update of the foundation principles and drafting and reviewing fundamentals for new to experienced warrant writers
- Effective strategies in dealing with common problems in the warrant process

**Make sure you can put your day one learning into practice! Don't miss the optional Warrant Drafting Workshop (exclusively for day one registrants).**

You'll craft 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

## Agenda

Monday, March 1, 2021

9:00 a.m.

### Welcome and Introduction from the Chairs

9:05 a.m.

### Foundation Principles of Search and Seizure

**Erin Dann**

Embry Dann 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
- When is judicial pre-authorization required?
- The role of the issuing justice
- Reasonable grounds for belief or suspicion

10:00 a.m.

### Warrant Writing and Reviewing 101 – Part 1

**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.

Break

10:45 a.m.

### Warrant Writing and Reviewing Continued – Part 2

11:15 a.m.

### Latest Hot Warrant Issues in Computer and Related Technology Searches

**Matthew Asma**

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

Searching computers and tech devices on site, or seizing them for later examination, both pose unique challenges to investigators, issuers, reviewers and litigators. In the last decade, the Supreme Court of Canada's decisions in *Vu*, *Telus Communications*, *Fearon*, *Spencer*, *Marakah*, *Reeves*, and *Mills*, have repeatedly changed the landscape, making this a particularly dynamic area of search law. This session will teach participants the new state of the law, with the challenges it poses for drafting and lawfully executing warrants. It will also teach a practical approach to structuring computer warrants that can help meet those challenges.

12:15 p.m.

Break

1:00 p.m.

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

**Sgt. Eric Boucher**

Federal Policing National Security, RCMP National Headquarters, Ottawa

**Suzanne Kendall**

Chief Crown Prosecutor, Alberta Crown Prosecution Service (Calgary)

**Giuseppe Battista, Ad.E**

Battista Turcot Israel s.e.n.c. (Montreal)

The investigation of offences 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, and strategies for anticipating trial litigation issues involving the recently reinvented “step six” of *Garofoli*.

2:00 p.m.

### Sealing Orders

#### Peter Scrutton

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

#### Gerald Chan

Stockwoods LLP Barristers

#### Daniel W. Burnett Q.C.

Owen Bird Law Corporation, Vancouver

The public has a right to know what goes on in courts, including in ex parte warrant applications. When can competing interests – of police, confidential informants, and private citizens – justify denying public access to the affidavit that supports issuance of a warrant or production order? Experience shows that sealing orders are often poorly justified, and hard to defend when challenged. This expert panel will discuss:

- The justifications for sealing and those that fall short
- What alternatives to outright sealing should be considered
- How to write terms in sealing orders that anticipate the eventual need to unseal.

2:45 p.m.

Break

3:00 p.m.

### Ugly Problems and How to Avoid Them

#### Mabel Lai

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

#### Ian Smith

Fenton, Smith Barristers

#### Karen Manarin

RCMP Special Advisor Toronto-Integrated Market Enforcement Team

Canadian law recognizes that journalists, lawyers, and some medical professionals have enhanced confidentiality obligations. Seizing information held by any of these professionals

poses special challenges. Getting it wrong can result in lengthy and frustrating litigation. However, some problems can be avoided or reduced with careful forethought. This expert panel will discuss:

- New statutory procedures in the *Journalistic Sources Protection Act*
- The common law around legal professionals (*Lavallee, Rackell & Heintz v. Canada* and subsequent cases)
- Medical professional concerns including the special status of some psychiatrists, *R. v. Serendip Physiotherapy Clinic et al* (2004), 192 OAC.71 (CA)

3:45 p.m.

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

#### Hon. Justice Marquis Felix

Ontario Court of Justice

#### Travis Johnson

Senior Counsel, Public Prosecution Service of Canada, British Columbia Regional Office

#### Janani Shanmuganathan

Goddard Nasser LLP

#### Detective Constable Jon Paine

Major Crimes Section, London Police Service

Learn about the perils and pitfalls of search warrants from a lively and interactive discussion by an expert panel, followed by a Q and A session for online questions from participants.

5:00 p.m.

Day One Concludes

## Optional Online Warrant Drafting Workshop

Tuesday, March 2, 2021

9:00 a.m. – 1:00 p.m.

### Warrant Drafting Workshop

Workshop Leaders:

**Fraser M. Kelly, Matthew Asma, Erin Dann**

In this learn-by-doing workshop, participants in small virtual 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. During the workshop, samples of selected exercises will be reviewed and critiqued and will form the basis for discussion.

Our workshop leaders, 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.

“Excellent program, very well organized and engaging presenters.”

Police Officer

“Great mix of tips, case law and practical applications.”

Regulatory Investigator

“This program was remarkable for the quality of the speakers and the clarity with which they imparted their knowledge and experience.”

Crown Attorney

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**Erin Dann**

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## Faculty

**Giuseppe Battista Ad.E**

Battista Turcot Israel s.e.n.c.  
(Montreal)

**Sgt. Eric Boucher**

Federal Policing National Security,  
RCMP National Headquarters,  
Ottawa

**Daniel W. Burnett Q.C.**

Owen Bird Law Corporation,  
Vancouver

**Gerald Chan**

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**Ian Smith**

Fenton, Smith Barristers

**Janani Shanmuganathan**

Goddard Nasserli LLP

## Registration Details

**Fee per Delegate**

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

**Day One + Workshop: \$695 + HST**

**Newly Licensed (2018 – present): \$347.50 + HST**

**for Course and Workshop (for Day One registrants only)**

**Group discounts are available.** Visit [www.osgoodepd.ca/](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):**

**Program: 7h 10m CPD (6h 10m Substantive; 1h Professionalism)  
Workshop: 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).



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## 14<sup>th</sup> Annual Intensive Course on Drafting and Reviewing Search Warrants

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