

# 19<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:

- Post *Marakah*; text messages here, there and everywhere
- *Ling/Jarvis* twenty years later: practical lessons for regulators
- Post seizure detention; not just a technicality
- *Feeney* Warrants 25 Years Later; entering and searching a home incident to arrest
- Racial disparity in search and seizure; *Section 8* and 24(1) issues examined

Register today at:

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

## 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

## REGISTRATION OPTIONS

Friday, February 4, 2022:  
Online, Live  
9:00 a.m. – 4:30 p.m. ET

OR

Wednesday, March 25, 2022:  
Online Replay  
9:00 a.m. – 4:30 p.m. ET

# 19<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 and the *Charter*.

This 19<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

- Drill down on text messages; emerging jurisprudence
- Detention of things seized; *S. 490* Application compliance “musts” for investigators and Crowns
- Crossing the Rubicon from regulatory to criminal investigations
- Litigating Search Warrants
- Remedies for *Charter* breaches outside the criminal process
- Recognizing and avoiding racial disparity and *Charter* violations in searches and seizures involving racialized members of the community

## Who Should Attend

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

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## Agenda

9:00 a.m.

Welcome and Introduction

9:05 a.m.

Text Messages Here, There and Everywhere; *Marakah* five years on

**Gerald Chan**

Stockwoods LLP

**Kelsey Flanagan**

Henein Hutchison LLP

**Paul Pearson**

Crown Counsel, B.C. Prosecution Service

*R. v. Marakah* was decided by the Supreme Court of Canada on December 8, 2017.

These speakers will examine the emerging jurisprudence related to text messages.

In addition, they will consider *Marakah's* application to other scenarios (including whether an accused has a reasonable expectation of privacy in text messages on a complainant's phone and whether *Marakah* applies to a complainant's reasonable expectation of privacy in records).

10:00 a.m.

Civil Remedies for Breaches of Section 8 and other Privacy Breaches

**Paul Champ**

Champ & Associates

**Fred Fischer**

City of Toronto, Solicitor, Litigation

**Banafsheh Sokhansanj**

General Counsel, National Litigation Sector  
Vancouver Regional Office, Department of Justice, Canada

Since its inception, *s.24(1)* has invited civil remedies for *Charter* breaches. This panel looks at where the law has been, and where it might be going, in relation to possible remedies for *Charter* breaches outside the criminal process.

10:45 a.m.

Break

11:00 a.m.

### Racial Disparity in Search and Seizure; Charter Section 8 Issues Examined

A panel composed of a senior police officer, Crown counsel and anti-racism advocates will discuss issues and solutions surrounding the right to be secure against unreasonable search and seizure considered through the lens of racialized members of the community.

12:00 p.m.

Break

1:00 p.m.

### Litigating Search Warrants

#### Scott Hutchison

Henein Hutchison LLP

#### Shane Parker, Q.C.

Alberta Crown Prosecution Service

#### Alexandra K. Seaman

Dawson Duckett Garcia & Johnson, Barristers

This panel will review the practical and emerging issues related to litigating search warrants, including:

- Facial and sub-facial challenges
- Requirements for an application to cross-examine the affiant
- *Garofoli* Step Six
- How and when does s. 24(2) apply

2:15 p.m.

### Post-Seizure Detention; Not Just a Technicality

#### Theresa Iandiorio

Crown Counsel, B.C. Prosecution Service

#### Corporal Adam Shoesmith

Integrated Homicide Investigation  
Team Leader

*Section 490 (Detention of things seized)* applications are a critical part of criminal investigations. They are often routine and automatic, but when problems arise, they can have a significant impact on a subsequent prosecution. This panel will address what s. 490 requires, how investigators should comply, and when Crown counsel might get involved. Our speakers will also review the evolving jurisprudence on s. 490-related issues.

2:45 p.m.

Break

3:00 p.m.

### Ling/Jarvis Twenty Years Later; Practical Lessons for Regulators

#### Trevor Shaw

Director, Criminal Appeals and Special  
Prosecutions, BC Prosecution Service,

#### Scott K. Fenton

Fenton Law Barristers

#### John Ahern

Senior Legal Counsel,  
John N. Ahern Law Corporation

When does a regulatory investigation “cross the Rubicon” into a criminal investigation?

What are the s. 8 *Charter* implications?

This panel will revisit the principles set out in *R. v. Jarvis*, 2002 SCC 73 and *R. v. Ling*, 2002 SCC 74, examine more recent jurisprudence, discuss current issues, and offer guidance on how to address the practical challenges.

3:45 p.m.

### Feeney Warrants 25 Year Later; Entering and Searching a Home Incident to Arrest

#### Erin Dann

Embry Dann LLP

#### Diana Lumba

Counsel, Public Prosecution Service of Canada

Twenty-five years ago, in *R. v. Feeney*, [1997] 2 S.C.R. 13, the Supreme Court of Canada considered when police can enter a home incident to arrest. In 2021, the Court heard the appeal in *R. v. Stairs*, 2020 ONCA 678, which will address the extent to which the doctrine of search incidental to arrest applies to searches conducted in a home following a warrantless arrest. These speakers will review the principles governing *Feeney* warrants and search incidental to arrest and discuss the emerging issues, including those considered in *Stairs*.

4:30 p.m.

Program Concludes

Our past participants  
say it best...

*“I wish I had taken this program earlier in my career. It is very valuable.”*

Police Officer

*“A very well-organized conference with interesting and important topics and excellent speakers.”*

Defence Lawyer

*“This top quality conference keeps me up to date on important developments in search and seizure law relevant to my work.”*

Regulatory Officer

*“The knowledge of the speakers and how they deal with key topics was impressive and valuable.”*

Crown Attorney

*“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 and 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

**John N. Ahern**  
Senior Legal Counsel,  
John N. Ahern Law Corporation  
(Vancouver)

**Paul Champ**  
Champ & Associates  
(Ottawa)

**Gerald Chan**  
Stockwoods LLP  
(Toronto)

**Erin Dann**  
Embry Dann LLP  
(Toronto)

**Scott K. Fenton**  
Fenton Law Barristers  
(Toronto)

**Fred Fischer**  
City of Toronto, Solicitor, Litigation

**Kelsey Flanagan**  
Henein Hutchison LLP  
(Toronto)

**Theresa Iandiorio**  
Crown Counsel,  
B.C. Prosecution Service  
(New Westminster)

**Diana Lumba**  
Counsel, Public Prosecution  
Service of Canada  
(Toronto)

**Shane Parker, Q.C.**  
Alberta Crown Prosecution Service  
(Calgary)

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

**Alexandra K. Seaman**  
Dawson Duckett Garcia &  
Johnson, Barristers  
(Edmonton)

**Trevor Shaw**  
Director, Criminal Appeals  
and Special Prosecutions,  
BC Prosecution Service  
(Vancouver)

**Corporal Adam Shoemith**  
Integrated Homicide Investigation  
Team Leader  
(Surrey)

**Banafsheh Sokhansanj**  
General Counsel, National Litigation  
Sector Vancouver Regional Office,  
Department of Justice, Canada

## Registration Details

**Fee per Delegate: \$495 plus tax**  
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*\*This fee applies to newly licensed professionals within the past 2 years*

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Fees include electronic program materials and 120-day access to the program archive.

### 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.



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