



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

*“Speakers had excellent knowledge of the subject matter. Each of the faculty provided experienced insight into search warrant drafting, from basic theory, drafting to computer grounds. I really enjoyed it.”*

Regulatory Investigator

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

Leading experts from across Canada will provide you with practical guidance, fresh perspectives and a comprehensive understanding of key issues. Topics Include:

- Drafting for computer and related technology searches
- Using anonymous or confidential informers effectively and avoiding traps
- Drill down on warrant execution issues
- Lawfully overcoming passwords and biometric locks

Register today at:

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

## REGISTRATION OPTIONS

**Online, Live:**

**Monday, March 7, 2022**

9:00 a.m. – 5:00 p.m. ET

**Optional Virtual Workshop**

(for Day One registrants only):

**Tuesday, March 8, 2022**

9:00 a.m. – 1:00 p.m. ET

**Online Replay of Day One:**

**April 12, 2022**

**Can't make the date?**

*Registration includes 120-day unlimited, online access to the recorded program.*

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

You can make or break your case depending on how you draft your **search warrant**.

Court decisions continue to make apparent the importance of clear, accurate and complete warrant applications and the dire consequences of deficient drafting.

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

- Effective strategies in how to deal with common problems in the warrant process
- Avoiding perils and problems in using informers and tipsters
- Review and update of the foundation principles and drafting and reviewing fundamentals for new to experienced warrant writers
- Addressing warrant execution issues and avoiding *Section 8* breaches
- How to overcome a password or biometric lock in executing a warrant

\*Make sure you 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: You'll be asked to complete drafting exercises in advance for anonymous review by workshop leaders)

## Who Should Attend

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

## Agenda

Monday, March 7, 2022

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

**Mabel Lai**

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

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)

**David Tice**

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

Taking you through examples, these speakers

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.

### 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)

**Maggie Loda**

General Counsel, Vancouver Regional Office, Public Prosecution Service of Canada

Whether searching computers and tech devices on site, seizing them for later examination, or accessing “cloud” data remotely, all 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

**Eric V. Gottardi, Q.C.**

Partner, Peck and Company Barristers (Vancouver)

## Sarah Shaikh

General Counsel, Public Prosecution Service of Canada

## Sgt. Eric Boucher

Covert Operations Branch, Human Source Program, RCMP National Headquarters

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 reinvigorated “step six” of *Garofoli*.

2:00 p.m.

### Execution Issues

#### Pierre-Yves Guay

Associate Deputy Commissioner, Cartels Directorate, Competition Bureau

#### Inspector Alexandre Beaulieu

RCMP-GRC National Division, OIC Technical Investigative Services

#### Emily Lam

Partner, Kastner Lam LLP

Even when the ITO is well-written, how a warrant is later executed can itself constitute a breach of *Section 8*. The potential issues include over seizure by misuse of the plain view doctrine, failing to keep appropriate records that explain how and the search was executed and why. This session will focus on the myriad of issues that arise when assessing the legality of execution including:

- Whether there is a right to detain or search occupants on scene
- The requirement for detailed records
- The limits of “plain view”
- In and out rule
- After the fact documents including Reports to a Justice
- Return of seized items not needed post warrant execution
- Authority to photograph

2:45 p.m.

Break

3:00 p.m.

### Passwords and Biometrics

#### Matthew Asma (Moderator)

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

## Rebecca De Filippis

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

## Mary Cremer

Cremer Barristers

How can investigators overcome a password or a biometric lock that stands in the way of executing the warranted search of a digital device or cloud account? This panel will explore possible means of obtaining passwords and biometrics, both from suspects and third parties: production orders, assistance orders, general warrants, and issues of self-incrimination, consent, and rights to counsel.

3:45 p.m.

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

#### Hon. Justice Scott Latimer

Ontario Court of Justice

#### Hussein Aly

Certified Specialist in Criminal Law, Aly Amjad Law Group (Toronto)

#### Diana Lumba

Counsel, Public Prosecution Service of Canada

#### Sergeant David Younan

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

*“The faculty was very competent and knowledgeable. I really learned a lot!”*

Regulatory Investigator

*“Every session was relevant and well-presented. The Drafting 101 session was a great refresher.”*

Law Enforcement Officer

*“The information in this program was clear and concise. I really appreciated the panels providing insights from different angles. Excellent!”*

Crown Attorney

## Optional Online Warrant Drafting Workshop

Tuesday, March 8, 2022

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 Information 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.

Register today at:

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

## 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

## Faculty

**Hussein Aly**

Certified Specialist in Criminal  
Law, Aly Amjad Law Group  
(Toronto)

**Inspector Alexandre Beaulieu**

RCMP-GRC National Division,  
OIC Technical, Investigative  
Services, Ottawa

**Sgt. Eric Boucher**

Covert Operations Branch,  
Human Source Program,  
RCMP National Headquarters  
(Ottawa)

**Mary Cremer**

Cremer Barristers (Toronto)

**Rebecca De Filippis**

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

**Eric V. Gottardi, Q.C.**

Partner, Peck and Company  
Barristers (Vancouver)

**Pierre-Yves Guay**

Associate Deputy Commissioner,  
Cartels Directorate, Competition  
Bureau

**Mabel Lai**

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

**Emily Lam**

Partner, Kastner Lam LLP (Toronto)

**Hon. Justice Scott Latimer**

Ontario Court of Justice

**Maggie Loda**

General Counsel, Vancouver  
Regional Office, Public  
Prosecution Service of Canada

**Diana Lumba**

Counsel, Public Prosecution  
Service of Canada (Toronto)

**Sarah Shaikh**

General Counsel, Public  
Prosecution Service of Canada

**David Tice**

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

**Sgt. David Younan**

London Police Service

## Registration Details

### Fee Per Delegate

*\*NOTE Workshop NOT sold separately; must attend day one for workshop*

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

**Day One PLUS Workshop Day Two: \$695.00 + TAX**

**Newly Licensed (2018 – present): Day One Only: \$262.50 + TAX**

**Newly Licensed for Day One PLUS Workshop: \$347.50 + TAX**

Fees include attendance and electronic program materials. 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 – Day One Program – LSO (ON): 7h 10m CPD (6h 10m Substantive; 1h Professionalism)

Day Two Workshop – LSO (ON): 4h CPD (2h 30m Substantive; 1 h 30 m 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**



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

Register today at:

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