

# 16<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:

- Computer and related tech searches: meeting the challenges for accurate drafting and lawfully executing warrants
- Overcoming warrant execution issues
- Lawfully overcoming passwords and biometric locks
- Practical issues and effective responses in the warrant process

Register today at:

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

## PROGRAM CHAIRS

**Matthew Asma**

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

**Katie Doherty**

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

**Lynda Morgan**

Addario Law Group

## REGISTRATION OPTIONS

**Thursday, March 30, 2023**

9:00 a.m. – 5:00 p.m. ET  
Online (Live)

**Optional Workshop**

*(for Day One registrants only)*

**Friday, March 31, 2023**

1:00 p.m. – 5:00 p.m. ET  
Online (Live)

OR

**May 4, 2023**

Online (Replay – Day One Only)

**Can't make the date?**

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

# 16<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
- The foundation principles and drafting and reviewing fundamentals (for new to experienced warrant writers)
- The latest issues with computer and technology searches
- Addressing warrant execution issues and avoiding Section 8 breaches
- Overcoming a password or biometric lock in executing a warrant

And don't miss the optional **Warrant Drafting Workshop** (exclusively for Day One participants). In this workshop, 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 – Day One

Thursday, March 30, 2023

9:00 a.m. ET

### Welcome and Introduction

9:05 a.m.

### Foundation Principles of Search and Seizure

#### Jennifer Conroy

Head of Appeals Unit, Public Prosecution Service of Canada

#### Lynda Morgan

Addario Law Group

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)

#### Katie Doherty

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

Taking you through examples, the faculty 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.

Health Break

10:45 a.m.

### Warrant Writing and Reviewing 101 (part 2)

11:15 a.m.

### Searching for Computers and Data

#### Matthew Asma

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

#### Diana Lumba

Legal Counsel, 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.

Health Break

1:00 p.m.

### Execution Issues

#### Travis Johnson

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

#### Emily Lam

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 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

**2:00 p.m.**

### Gathering Evidence from Across Borders; Bridges and Barriers

**David Fraser**

McInnes Cooper LLP

**Andrew Hotke**

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

Provincial and international borders pose significant jurisdictional challenges in both obtaining and executing search warrants. The jurisdictional breadth of *Criminal Code* production orders can engage international conflict of law issues. This can be particularly challenging in relation to social media evidence, often collected and stored by multinational companies with whom many Canadians interact. These speakers will address some of the key issues in this area including:

- What do production orders permit and against whom?
- Advantages and disadvantages of using treaty provisions
- The types of data that is most likely to raise litigation
- Some of the drafting challenges to writers attempting to obtain data stored abroad

**2:45 p.m.**

**Health Break**

**3:00 p.m.**

### Passwords and Biometrics

**Maya Borooh**

Henein Hutchison LLP

**Rebecca De Filippis**

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

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 password 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

**The Hon. Justice Nancy Dennison**  
Superior Court of Justice (Ontario)

**Tony Paisana**

Partner, Peck & Company, Vancouver

**Aaron Rankin**

Prosecutor, Appeals and Specialized Prosecutions Office, Alberta Crown Prosecution Service

**Det. Dave Webster**

Toronto Police Service

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

**5:00 p.m.**

**Day One ends**

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*“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 Warrant Drafting Workshop

**Friday, March 31, 2023**

**1:00 p.m. – 5:00 p.m.**

**Workshop Leaders:**

**Matthew Asma**

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

**Katie Doherty**

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

**Lynda Morgan**

Addario Law Group

In this learn-by-doing workshop, participants in small groups (in-person or virtual) 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.

# Chairs

## Matthew Asma

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

## Katie Doherty

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

## Lynda Morgan

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# Faculty

## Matthew Asma

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

## Maya Boroovah

Henein Hutchison LLP

## Jennifer Conroy

Head of Appeals Unit,  
Public Prosecution Service of Canada

## Rebecca De Filippis

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

**The Hon. Justice Nancy Dennison**  
Superior Court of Justice (Ontario)

## Katie Doherty

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

## David Fraser

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Vancouver

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Prosecutor, Appeals and Specialized  
Prosecutions Office, Alberta Crown  
Prosecution Service

## Det. Dave Webster

Toronto Police Service

# Registration Details

## Fee Per Delegate

*NOTE Workshop NOT sold separately; must attend Day One for workshop*

**Day One Program Only: \$545 + TAX**

**Day One PLUS Workshop: \$745 + TAX**

**Newly Licensed\*: 50% discount**

*\*This fee applies to newly licensed regulated professionals within the past 2 years*

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; 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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Email: [osgoodepd@osgoode.yorku.ca](mailto:osgoodepd@osgoode.yorku.ca)



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