

A JOINT PROGRAM OF THE CENTRE FOR FORENSIC
SCIENCE AND MEDICINE AT THE UNIVERSITY OF TORONTO
AND OSGOODEPD

EXPERT FORENSIC EVIDENCE IN CRIMINAL PROCEEDINGS



Join a distinguished faculty of Crowns, defence litigators, experienced forensic experts, and a judge to explore and discuss:

- New developments in the jurisprudence on expert testimony
- Forensic pathology as a prototype for other forensic disciplines
- Distinguishing between science and pseudo science
- Issues in obtaining an expert's opinion: to draft or not to draft and other dilemmas
- Tackling the ethical minefield for experts and lawyers
- Experts in the media

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MOST IMPORTANT
SYMPOSIUM THAT MAJOR
CASE INVESTIGATORS
SHOULD ATTEND.
UNDERSTANDING THE
VALUE AND POTENTIAL
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Chairs

Michael S. Pollanen, MD, Ph.D, FRCPath, DMJ (Path)

*FRCPC Founder, Forensic Pathology, Chief Forensic Pathologist of Ontario, Professor
Department of Laboratory Medicine & Pathobiology, University of Toronto*

Mark J. Sandler

*Barrister & Solicitor, Cooper, Sandler Shime & Bergman LLP, Toronto
Special Counsel, Criminal Law, Goudge Inquiry*

Date and Time

January 16, 2015
9:00 a.m. - 4:45 p.m. EDT/EST

Location

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Webcast Available



Centre for Forensic Science & Medicine
UNIVERSITY OF TORONTO



EXPERT FORENSIC EVIDENCE IN CRIMINAL PROCEEDINGS

Scientific and ethical standards are the cornerstones of expert evidence during the course of a criminal investigation and subsequent court proceedings.

Expert witnesses must not only be fully qualified in their particular area of expertise but also act ethically and without bias. Lawyers and judges dealing with experts are obligated to meet ethical standards and be well-informed in the science relating to their cases.

This *OsgoodePD* and *Centre for Forensic Science and Medicine* forum examines the latest developments in several key areas of forensic science and explores challenges and best practices in presenting forensic evidence in the criminal trial process.

The forum will be an open, interactive and thought-provoking gathering of experienced participants across the full spectrum of criminal justice, including judges, defence and Crown litigators, forensic scientists, legal researchers and others. There will also be plenty of opportunity for questions and comments.

Hear from leading forensic scientists and legal experts on new issues of critical importance. Don't miss it!

**REGISTER NOW BY VISITING WWW.OSGOODEPD.CA,
CALLING 416.597.9724 OR 1.888.923.3394,
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Chairs

Michael S. Pollanen, MD, Ph.D, FRCPath, DMJ (Path)

FRCPC Founder Forensic Pathology, Chief Forensic Pathologist of Ontario, Professor, Department of Laboratory Medicine & Pathobiology, University of Toronto

Mark J. Sandler

Barrister & Solicitor, Cooper, Sandler, Shime & Bergman LLP Toronto, Special Counsel, Criminal Law Goudge Inquiry

Keynote Speaker

James Lockyer

Lockyer Campbell Posner Barristers and Solicitors

Faculty

**Kristopher S. Cunningham
MD, Ph.D**

Forensic and Cardiovascular Pathologist

Richard Crouse

Film Critic

Michal Fairburn

Stockwoods LLP Barristers

**John R. Fernandes
MDCM, FRCSC, FRCPC**

Founder Designation in Forensic Pathology Medical Director of the Regional Forensic Pathology Unit, Forensic Pathology Programme Director and Associate Professor, McMaster University and Hamilton Health Sciences

Robin Flumerfelt

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

Dr. Kathy Gruspier

Ph.D, J.D.
Forensic Anthropologist Associate Professor Laboratory Medicine and Pathobiology, Ontario Forensic Pathology Service

Marie Henein

Henein Hutchison LLP

Scott C. Hutchison

Henein Hutchison LLP

**Charis Kepron
MD, MSc, FRCPC**

Forensic Pathologist, Eastern Ontario Forensic Pathology Unit, Ontario Forensic Pathology Service

Jeffrey R. Manishen

Ross & McBride LLP

The Hon. Justice

David Paciocco
Ontario Court of Justice

Toby H. Rose

MD, FRCPC
Deputy Chief Forensic Pathologist, Ontario Forensic Pathology Service

Michelle Shouldice

MEd, MD, FRCPC, FAAP
Head, Division of Paediatric Medicine, Associate Professor of Paediatrics, University of Toronto, Hospital for Sick Children

Steven A. Skurka

Barrister & Solicitor

Anthony Tessarolo

Director, Centre of Forensic Sciences



AGENDA

8:15-9:00

Registration and Continental Breakfast

9:00-9:05

Welcome and Introduction

9:05-10:00

New Developments in the Jurisprudence on Expert Testimony

Jeffrey R. Manishen, *Ross & McBride LLP (Moderator)*

Michal Fairburn, *Stockwoods LLP Barristers*

The Hon. Justice David Paciocco, *Ontario Court of Justice*

- A review and commentary of notable decisions following the seminal case of *R. v. Abbey* and the recommendations of the *Goudge* Report 2008
- The continuing tension between admissibility and weight; when should “biased” evidence be excluded?

10:00-11:15

New Developments in Forensic Pathology as a Prototype for Other Forensic Disciplines

Moderator

Michael S. Pollanen, MD, Ph.D, FRCPath, DMJ (Path)

FRCPC Founder, Forensic Pathology, Chief Forensic Pathologist of Ontario, Professor, Department of Laboratory Medicine & Pathobiology, University of Toronto

Kristopher S. Cunningham, MD, Ph.D, Forensic and Cardiovascular Pathologist

Charis Kepron, MD, MSc, FRCPC, Forensic Pathologist
Eastern Ontario Forensic Pathology Unit, Ontario Forensic Pathology Service

John R. Fernandes, MDCM, FRCSC, FRCPC, Founder
Designation in Forensic Pathology, Medical Director of the Regional Forensic Pathology Unit, Forensic Pathology Programme Director and Associate Professor, McMaster University and Hamilton Health Sciences

- What constitutes “science”?
- Is scientific knowledge more reliable than other types of knowledge?
- What is the scientific method and how does it apply to court cases?
- How can forensic pathology be a prototype of science in the courts?

Note: A 15 minute break will be taken during this session.

11:15-12:15

Distinguishing Between Science and Pseudo Science?

Michelle Shouldice, MEd, MD, FRCPC, FAAP, Head, Division of Paediatric Medicine, Associate Professor of Paediatrics
University of Toronto, Hospital for Sick Children

Dr. Kathy Gruspier, Ph.D, J.D., Forensic Anthropologist
Associate Professor, Laboratory Medicine and Pathobiology
Ontario Forensic Pathology Service

Anthony Tessarolo, Director, Centre of Forensic Sciences

- When does novel science or expertise meet basic reliability criteria?
- What traditional areas of expertise should be re-evaluated?
- What are the new “sciences” and how do they withstand scrutiny?
- Digital forensic imaging (facial recognition)
- Arson investigations revisited
- Gait analysis
- When are injuries child abuse?

12:15-1:00

Luncheon

1:00-1:45

Keynote Address

A Case Study: How Forensic Science Came to the Rescue

James Lockyer

Lockyer Campbell Posner, Barristers and Solicitors

1:45-2:45

Issues in Obtaining an Expert's Opinion: To Draft or Not to Draft and Other Dilemmas

Moderator

Mark J. Sandler, Cooper, Sandler, Shime & Bergman LLP
Toronto; Special Counsel, Criminal Law, Goudge Inquiry

Scott C. Hutchison, Henein Hutchison LLP

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

Toby H. Rose, MD, FRCPC, Deputy Chief Forensic Pathologist
Ontario Forensic Pathology Service

- Should experts provide counsel with draft reports?
- What role should counsel play in finalizing a report?
- When should reciprocal disclosure take place?
- What materials should not be provided to experts?
- Obtaining multiple experts to obtain favourable reports; what must be disclosed to the new expert and to anyone else involved in the proceedings

2:45-3:00

Refreshment Break

3:00-4:00

Ethics and Professional Responsibility Issues with Expert Evidence

Michal Fairburn, Stockwoods LLP Barristers

Marie Henein, Henein Hutchison LLP

Michelle Shouldice, MEd, MD, FRCPC, FAAP, Head, Division of Paediatric Medicine, Associate Professor of Paediatrics
University of Toronto, Hospital for Sick Children

- Understanding the expert's obligations when meeting with opposing counsel; What is confidential and what can be revealed to retaining counsel about the meeting?

AGENDA (Cont'd)

- Counsels' obligation to correct overstatements by the expert
- Eliciting evidence beyond the expert's expertise
- Balancing the tension between truth seeking and the professional duty to one's client
- The permissible scope of cross-examination when one's own expert agrees with the opinions expressed

4:00-4:45

Experts in the Media

Steven A. Skurka, *Barrister & Solicitor*

Jeffrey R. Manishen, *Ross & McBride LLP*

Richard Crouse, *Film Critic*

The final session of the day will be a lively discussion about the portrayal of experts in the media. What lessons can we learn from how experts and lawyers are depicted in the media?

4:45

Program Concludes

WHO SHOULD ATTEND

- Forensic experts involved in the criminal justice system
- Crowns
- Defence litigators
- Judges
- Government policy makers
- Academics



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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

January 16, 2015

9:00 a.m. to 4:45 p.m. EDT/EST

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

Location

Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
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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.

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.



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