

LATEST DEVELOPMENTS IN DETENTION, ARREST INTERVIEWING AND INTERROGATION: LAW AND PRACTICE



Get practical advice and a comprehensive up-to-date understanding of investigative powers, their limits, and evolving practices. Topics include:

- Implications of the SCC's decision in *R. v. Fearon*: police search powers incident to arrest and their limits
- Interview and interrogation: reducing the risk of unreliable confessions
- Ensuring a voluntary and constitutionally obtained statement
- "Mr. Big," *R. v. Hart* and the altered legal landscape
- Notes, videos and police testimony: dealing with technological change
- Right to counsel and right to silence in practice
- Vulnerable persons in interviews and interrogations

Keynote Speaker

Jerome Kennedy, Q.C., *Roebathan McKay Marshall, St. John's, NL*
"False Confessions & False Pleas: Motives, Consequences and Safeguards"

This is a must-attend program for law enforcement investigators, Crown and defence lawyers, judges and others engaged in the field of criminal justice

"THIS OSGOODE PROGRAM WAS FANTASTIC. I REALLY ENJOYED THE DIVERSITY OF SPEAKERS AND THE CONTENT OF THE PRESENTATIONS."

Defence counsel

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WWW.OSGOODEPD.CA



Chairs

Timothy E. Moore, PhD, C Psych, *Professor & Chair, Department of Psychology, Glendon College, York University*

Alan N. Young, *Associate Professor, Director of the Innocence Project Osgoode Hall Law School, York University*

Date and Time

March 27, 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

LATEST DEVELOPMENTS IN

DETENTION, ARREST INTERVIEWING AND INTERROGATION: LAW AND PRACTICE

Police powers and their limits is an increasingly complex arena that faces intense judicial scrutiny. The delicate balancing between public safety interests with individual rights is an issue with which law enforcement professionals, Crowns, defence counsel and the Court constantly grapple.

In this unique *OsgoodePD* program, criminal justice professionals will gain a practical and comprehensive understanding of the current and emerging state of the law with respect to detention, arrest, interviewing and interrogation.

This is a full day of discussion and analysis of the Supreme Court of Canada's recent pronouncements on the limits of police powers, an examination of the impact of new technology, and an opportunity to acquire the strategies you need to perform at your best either in Court or in the field.

This program will focus on several key areas of criminal investigation, the parameters, and the serious repercussions when these limits are found to be exceeded. Topics include:

- Post *Fearon*, key issues of record keeping of police and citizen interaction
- Detention and the reasonably necessary test
- Right to counsel post *Suberu* and *Sinclair*
- Minimizing the risk of false confessions
- Markers of reliability of "Mr. Big" confessions following *R. v. Hart*
- What constitutes reasonable suspicion

WHO SHOULD ATTEND

- Law enforcement professionals
- Crown Attorneys
- Defence lawyers
- Judges
- Forensic psychologists
- Criminologists

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CALLING 416.597.9724 OR 1.888.923.3394,
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Chairs

Timothy E. Moore, PhD, C Psych, *Professor & Chair
Department of Psychology, Glendon College, York University*

Alan N. Young, *Associate Professor, Director of the Innocence
Project, Osgoode Hall Law School, York University*

Keynote Speaker

Jerome Kennedy, Q.C., *Roebethan McKay Marshall
St. John's, NL*

Faculty

**The Hon. Justice
Patrice Band**, *Ontario
Court of Justice*

Craig Bennell, *Professor
Psychology, Carlton University*

Maggie Brown, *Assistant
Crown Attorney, Ministry of
the Attorney General (Ontario)*

Philip Campbell, *Lockyer
Campbell Posner, Barristers
and Solicitors*

**The Hon. Justice
Guy Cournoyer**, *Superior
Court of Québec, Montréal*

Brian Cutler, *Associate
Dean and Professor of Social
Sciences & Humanities
University of Ontario Institute
of Technology*

Kevin Cyr, LL.M.,
*Corporal, Royal Canadian
Mounted Police*

Dr. Pdraig Darby, *Chair
Research Ethics Board
Centre for Addiction and
Mental Health, Member
Ontario Review Board*

Lisa Dufraimont,
*Professor, Faculty of Law
Queen's University*

**The Hon. Justice
Michelle Fuerst**, *Ontario
Superior Court of Justice*

Julianna Greenspan,
Greenspan Partners

Philip Kotanen, *Deputy
Crown Attorney, Ministry
of the Attorney General
(Ontario)*

**The Hon. Justice
Heather McArthur**,
Ontario Court of Justice

Jeffrey R. Manishen,
Ross & McBride LLP

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

Craig A. Parry,
Barrister & Solicitor

Jonathan Rudin,
*Program Director
Aboriginal Legal Services
of Toronto*

Christopher Sherrin,
*Associate Professor
Western Law, University
of Western Ontario*

**Detective Inspector
James Smyth**,
*OPP Criminal
Investigation Branch*

Detective Kerry Watkins,
Toronto Police Service

"The subject matter was cogent and very well presented"

- Defence counsel



AGENDA

8:15-9:00

Registration and Continental Breakfast

9:00-9:05

Welcome and Introduction

9:05-10:00

"Mr. Big" and the Altered Legal Landscape of Confessions

Moderator

The Hon. Justice Michelle Fuerst, Ontario Superior Court of Justice

Timothy E. Moore, PhD, C Psych, Professor & Chair
Department of Psychology, Glendon College, York University

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

Lisa Dufraimont, Associate Professor, Faculty of Law
Queen's University

- Post *R. v. Hart*, the "Mr. Big" decision: What can we expect in the future with respect to the admissibility of confessions to undercover operators?
- Balancing prejudice vs. probative value
- Assessing the reliability of "Mr. Big" confessions
- Abuse of process: When does police conduct become coercive?

10:00-12:00

Police Record Keeping and Public Interaction: The Impact of Changing Technology

Moderator

The Hon. Justice Patrice Band, Ontario Court of Justice

Craig Bennell, Professor, Psychology, Carlton University

Kevin Cyr, LL.M., Corporal, Royal Canadian Mounted Police

Philip Kotanen, Deputy Crown Attorney, Ministry of the Attorney General (Ontario)

Craig A. Parry, Barrister & Solicitor

Detective Kerry Watkins, Toronto Police Service

Traditionally, records have consisted of written notes. New technologies (e.g. in-car and lapel cameras), and the public's increasing appetite to record police interactions are having a critical impact on record keeping and the issues that flow from it. This highly experienced panel will address the following:

- How do these different forms of record keeping co-exist?
- How should discrepancies between written notes and electronic records be dealt with by the Courts?
- How will police testimony be affected?
- What are the implications of *R. v. Fearon*, which stipulates that police must take detailed notes of their examinations of cell phone information?

There will be a 15 minute refreshment break during this session.

12:00-1:15

Luncheon and Keynote Address

Jerome Kennedy, Q.C., Roebathan McKay Marshall
St. John's, NL

"False Confessions & False Pleas: Motives, Consequences and Safeguards"

1:15-2:00

Detention and Arrest: Changes in the Legal Landscape

Moderator

The Hon. Justice Heather McArthur, Ontario Court of Justice

Jeffrey R. Manishen, Ross & McBride LLP

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

Alan N. Young, Associate Professor, Director of the Innocence Project, Osgoode Hall Law School, York University

- The ss. 8, 9 and 10 Charter implications of detention and arrest
- *R. v. Fearon* and police powers to search cell phones incident to arrest
- Detention and the reasonably necessary test: *R. v. Aucoin*
- Reasonable suspicion, safety searches: *R. v. MacDonald*, *R. v. Mackenzie* and *R. v. Chehill*
- The right to counsel post *R. v. Suberu*, *R. v. Sinclair* and *R. v. Taylor*

2:00-3:00

Interviews and Interrogations: Reducing the Risk of Unreliable Confessions

Moderator

Timothy E. Moore, PhD, C Psych, Professor & Chair

Department of Psychology, Glendon College, York University

Brian Cutler, Associate Dean and Professor of Social Sciences & Humanities, University of Ontario Institute of Technology

Detective Inspector James Smyth, OPP Criminal Investigation Branch

Detective Kerry Watkins, Toronto Police Service

Julianna Greenspan, Greenspan Partners

- What are the dangerous risks associated with the *Reid* technique?
- Scientific approaches to interviewing: avoiding unreliable statements
- What can participants in the criminal process do to minimize the risk of false confessions?
- The significance of post-confession analysis

3:00-3:15

Refreshment Break

AGENDA (Cont'd)

3:15-4:15

Vulnerable Persons in Interviews and Interrogations

The Hon. Justice Guy Cournoyer

Superior Court of Québec, Montréal

Christopher Sherrin, Associate Professor, Western Law

The University of Western Ontario

Jonathan Rudin, Program Director, Aboriginal Legal Services of Toronto

Dr. Pdraig Darby, Chair, Research Ethics Board, Centre for Addiction and Mental Health, Member, Ontario Review Board

- Who are the vulnerable?
- Why and in what specific ways are certain groups vulnerable?
- The potential consequences of vulnerability, including legal, emotional and social
- How well do the current rules protect the vulnerable from self-incriminating statements?

4:15-4:45

Latest Hot- Button Issues and Q & A Period

The Chairs and a panel of speakers from the day's proceedings will discuss new and hot cases and issues not otherwise covered under the main topics.

There will also be a lively Q & A

4:45

Program Concludes

REGISTRATION

Please complete all registrant information.

Latest Developments in Detention, Arrest Interviewing and Interrogation: Law and Practice

I will attend: ☐ On site ☐ Via webcast (single viewer)

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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

March 27, 2015

9:00 a.m. – 4:45 p.m. EDT/EST

Please arrive a half hour early for sign-in and material pick-up.

Dress is business casual.

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.

Location

Osgoode Professional Development
Downtown Toronto Conference Centre
1 Dundas St. W., 26th Floor
Toronto, ON M5G 1Z3

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.



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Eligible CPD/MCLE hours:

LSUC (ON): 7.25 CPD Hours (5.25 Substantive, 2.0 Professionalism);
NY CLE (onsite participants only): 8.0 credit hours in the Area of Professional Practice for Transitional and Non-transitional lawyers.

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca or refer to your respective regulatory body to ensure compliance.



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