

The Canadian Institute's 2nd Annual Conference on

The LAW *of* POLICING

Navigating the Changing Landscape of Oversight,
Discipline & Civil Liability

CHAIRS:

Julian Falconer
Partner
Falconer Charney LLP

Brian Gover
Partner
Stockwoods LLP



Overall the conference was very informative, including the workshop. I would recommend it to colleagues in policing, law, policy & compliance.

Michael Pasquale
Barrister & Solicitor, 2010 participant



ACCREDITATION:

This event counts toward your MCLE requirements in BC, SK, ON, QC and NB.

Please see inside for details.

JUST SOME OF THIS YEAR'S TOPICS:

- Policing a multijurisdictional event such as the Olympics or G20
- Risk management for police forces: minimizing your litigation costs
- Police governance: making the relationship between chief and board work
- Managing today's hot privacy issues
- Investigating and prosecuting police corruption

And much more!

POST-CONFERENCE WORKSHOP, JUNE 8, 2011:

The Fundamentals of Administrative Law

Workshop Leader: Nini Jones

Please see inside for details.

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Are your responses to today's challenges on firm legal ground?

The past year has seen unprecedented scrutiny of police forces, following high-profile events at the G20 summit in Toronto, the publication of the Braidwood Inquiry in B.C., and a variety of headline-making incidents across the country.

Whether your work involves operations, professional standards, governance, risk management, legal defence of forces or individual officers or litigation against police forces, **The Canadian Institute's 2nd Annual Conference on The Law of Policing** is designed to give you two days of up-to-date substantive law as well as **practical advice** on implementing it. To name just a few features for 2011:

- Hot topics such as policing multijurisdictional events, investigating police corruption and privacy in policing
- An update on civil litigation against police forces and best practices for risk management
- Insights into current issues in Aboriginal policing
- An outstanding array of speakers including **Ron Atkey, Peter German, Alan Gold, Brian Gover, Julian Falconer, Joseph Markson, Alok Mukherjee** and others

And much more!

The program, revised and updated from last year's successful inaugural event, is designed to provide **balanced** information from a **variety of perspectives**.

PLUS, if you're involved in police discipline, you won't want to miss the post-conference workshop on the **Fundamentals of Administrative Law**, led by Nini Jones.

Our November 2010 Vancouver conference on this topic **sold out**. Don't miss this outstanding event. Register today by using our convenient online registration system, www.CanadianInstitute.com/police, by calling 1-877-927-7936 or faxing the registration form to 1-877-927-1563.

We look forward to seeing you there.

LEARN FROM THIS OUTSTANDING FACULTY:

Chairs:

Julian Falconer

Partner, Falconer Charney LLP

Brian Gover

Partner, Stockwoods LLP

Speakers:

Professor Ronald G. Atkey, Q.C.

Osgoode Hall and University of Western Ontario Schools of Law

Dr. Michael Billinger

Former Access & Privacy Analyst
Edmonton Police Service

Paul Burstein

Burstein, Bryant, Barristers

Nathalie Des Rosiers

General Counsel
Canadian Civil Liberties Association

Dr. Gary Ellis

Program Head, Justice Studies
The University of Guelph-Humber

A/Comm'r. Peter M. German

Deputy Commissioner West, RCMP
Former OIC Urban Domain
2010 Olympics

Alan Gold

Alan D. Gold Professional Corporation

Caroline V. (Nini) Jones

Partner
Paliare Roland Rosenberg, Rothstein LLP

Anil Kapoor

Kapoor Barristers

James Kendik

Counsel & Deputy Director
Crown Law Office Civil, Ontario

Dr. Veronica Kitchen

Assistant Professor
University of Waterloo Dept.
of Political Science

Joseph Markson

Markson MacDonald

Dr. Alok Mukherjee

Chair, Toronto Police Services Board

Supt. Steve Rooke

Bureau Commander
Operational Policy &
Strategic Planning Bureau, OPP

Roger Rowe

Barrister & Solicitor

Supervisory Special Agent

Robert Schwinger

Federal Bureau of Investigation,
Washington, DC

Dave Seglins

Journalist, CBC

Matt Torigan

Chief, Waterloo Regional Police

Cyndy Vanier

Vanier Consulting

Jodie-Lynn Waddilove

Counsel
Ontario Ministry of Community Safety
& Correctional Services

Vincent Westwick

General Counsel, Ottawa Police Service

WHO SHOULD ATTEND


- Police Chiefs and Superintendents and their Counsel
- Professional Standards Directors and Investigators
- Representatives of Police Associations and their Counsel
- Police Discipline Adjudicators
- Criminal Law Practitioners
- Police Commissioners
- Government Policy Drafters
- Crown Attorneys

ACCREDITATION

This program may be applied toward 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the **Law Society of Upper Canada**. The workshop may be applied for 2.5 hours. These CPD hours are not accredited for the New Member Requirement. Please consult the LSUC website for rules applying to webcast credits.

This program may be applied for 11 hours toward the substantive law portion of your continuing legal education requirements for **British Columbia** and 11.25 hours in New Brunswick. The workshop may be applied for 2.75 hours.

The **Barreau du Quebec** automatically recognizes the same number of hours that have been accredited by another law society subject to MCLE.

 This program has been approved by the **Law Society of Saskatchewan** for 11 credit hours for Continuing Professional Development (CPD). The workshop has been approved for 2.5 hours.

Attendance at this program by members of the **Law Society of Alberta** may be submitted to the Law Society for Continuing Professional Development credits.



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MONDAY, JUNE 6, 2011

8:00 **Registration Opens; Coffee Served**

9:00 **Announcements and Opening Remarks**

Co-Chair:

Brian Gover
Partner
Stockwoods LLP

9:10 **A Review of the Top Cases, Legislative Developments and Hot-Button Issues of the Year**

Brian Gover
Partner
Stockwoods LLP

Joseph Markson
Markson MacDonald

- Is there a trend toward charging officers with perjury?
 - Best practices to avoid such a charge
- Implications of the Barros case
- Adjudicator shopping
- New case law arising from *McNeil*
- Recent developments on use of force
- An update on the issue of police notes
- Off-duty conduct
- What is the standard of review of Alberta's Law Enforcement Review Board?
- Recent Proposed Changes to the RCMP Civilian Complaints Process
 - The impact of Bill C-38
 - Understanding the changes
 - Pros and cons of the amendments
 - Does the bill go far enough?
- Legislation moving the RCMP to an association/union
- Alberta's Bill 27 and proposed legislative amendments
 - The status of proposed changes to the regulations regarding the LERB
- Introduction of IIOs (Independent Investigation Offices) in B.C. and Nova Scotia
- Manitoba's amendments to the *Police Services Act*
 - The scope of the amendments
 - What has changed?
 - An update on the new independent investigation unit
 - Changes to boards and commissions
 - The status of consultations on regulations

10:15 **Networking Refreshment Break**

10:30 **Investigating Police Corruption**

Paul Burstein
Burstein, Bryant, Barristers

Dr. Gary Ellis
Program Head, Justice Studies
The University of Guelph-Humber

Supervisory Special Agent Robert Schwinger
Federal Bureau of Investigation, Washington, DC

- Lessons learned from the drug squad case
- Managing defence costs
- Maintaining the integrity of the investigation
- Choosing the right model for the investigation
- Do we need a "flying squad" to investigate corruption allegations?
- Should there be a role for the Ministry of Community Safety and Correctional Services or its counterpart in other jurisdictions?
- Moving from investigations of individual to systemic inquiries
- Identifying and meeting the challenges of prosecution

12:00 **Luncheon for Speakers and Delegates**

1:15 **An Update on Civil Liability of Police Forces**

Julian Falconer
Falconer Charney LLP

James Kendik
Counsel & Deputy Director
Crown Law Office Civil, Ontario

- Will a recent ruling on issue estoppel in relation to civil litigation neuter the public complaints regime and/or deprive plaintiffs of a remedy?
- *Charter* damages since *Ward v. Vancouver*
- Recent case law on defamation and police forces/officers
- Liability for deaths in custody
- Liability for failure to protect
- Costs rulings: what are the courts awarding?
- Top cases of the year

2:15 **Networking Refreshment Break**

2:30 **Policing a Multijurisdictional Event (Without Going Viral on YouTube)**

Moderator:

Professor Ronald G. Atkey, Q.C.
Osgoode Hall and University of
Western Ontario Schools of Law

Panelists:

Nathalie Des Rosiers
General Counsel
Canadian Civil Liberties Association

A/Comm'r. Peter M. German
Deputy Commissioner West, RCMP
Former OIC Urban Domain, 2010 Olympics

Dr. Veronica Kitchen
Assistant Professor
University of Waterloo Dept. of Political Science

- Who is responsible for oversight of a multijurisdictional event?
- Who should do investigations arising from the event?
- Who can and should issue orders?
- Creating a structure for accountability
- How anonymous should officers be?
- Lessons from the G20 Summit in Toronto and the Vancouver 2010 Olympics

Register at 1-877-927-7936 or in Toronto 416-927-7936 or www.CanadianInstitute.com/police

3:45 **Where Terrorism Meets Policing: Collaboration with Security Services after the Air India Inquiry**

Anil Kapoor
Kapoor Barristers

- What are the challenges and how are they being met?
 - Investigations
 - Prosecutions
 - *Charter* issues
- An update on implementation of the Air India Report's recommendations

4:45 **Co-Chair's Remarks and Conference Adjourns**

TUESDAY, JUNE 7, 2011

8:30 **Coffee Served**

9:00 **Announcements**

Co-Chair:

Julian Falconer
Falconer Charney LLP

9:05 **Managing Today's Hot Privacy Issues**

Dr. Michael Billinger
Former Access & Privacy Analyst
Edmonton Police Service

Dave Seglins
Journalist
CBC

- Under what circumstances do privacy laws apply to policing?
- Applying discretion with respect to releasing information in the public interest
- Amendments to *PIPEDA* regarding investigations
- Alberta's amendments to *PIPA*
 - How do they apply to police?
 - Sharing of information between paramedics and police in Alberta
- Access to information and police emails
 - Do police association emails sent from police email systems have a reasonable expectation of privacy?
 - Dealing with access requests from employees of the force
- Conducting a privacy impact assessment of police methods such as surveillance cameras, GPS etc.
- Protecting the privacy of personal information in police databases
 - How does the privacy principle of collecting only necessary information apply to policing?
- What should forces be redacting before sending documents to an oversight body?
- Should police forces publicly release information about charges laid against police officers, or should they do so only if and when there is a conviction?

- Publication of discipline decisions: balancing privacy with the open court principle
- Lawsuits against police for disclosure of personal information: how are the courts treating these claims?
- Sex offender warnings
 - The duty to warn
- Balancing pressures from information commissions to release personal information with privacy interests
 - Dealing with statutory time limits
- The trend to obtaining court orders for information release rather than information requests
- Top recent privacy cases related to policing
- Privacy and information-sharing agreements
 - The impact of ACTA
- Release of sensitive information such as *Mental Health Act* apprehensions
- The RCMP's interim policy statement on employers' requests for criminal record cheques of job applicants
- Dealing with information requests from academic researchers
 - Drafting research agreements
 - What are forces' obligations?

10:30 **Networking Refreshment Break**

10:45 **Risk Management: Minimizing Liability of Police Forces**

Supt. Steve Rooke
Bureau Commander
Operational Policy & Strategic Planning Bureau
Ontario Provincial Police

Vincent Westwick
General Counsel
Ottawa Police Service

- Considerations when hiring, training and supervising
- Use of apologies where apology legislation is in force
- The impact of risk-management analysis on police oversight and *PSA* investigations and prosecutions
 - Pros and cons
 - The role of HR departments
 - Risk management vs. general management

11:45 **Allegations of Profiling: How Much Disclosure of Investigative Records is Appropriate?**

Alan Gold
Alan D. Gold Professional Corporation

Roger Rowe
Barrister & Solicitor

- Should individuals be able to obtain disclosure of officers' work product going back over a long period of time?
- Access to "208" cards
- When should such disclosure be ordered?
- Recent decisions

12:30 **Networking Luncheon for Speakers & Delegates**

Gaining Insight into Current Issues in Aboriginal Policing

Cyndy Vanier

Vanier Consulting

Jodie-Lynn Waddilove

Counsel

Ontario Ministry of Community Safety & Correctional Services

Former Assistant Commission Counsel

Ipperwash Inquiry

- Setting the context: the Ipperwash Inquiry recommendations
 - First Nations policing
 - Police/government relations
 - Bias-free policing
 - Use of mediation and facilitation resources in conjunction with police forces
- The role of First Nations Police Forces
 - The creation of First Nations police services in Ontario and elsewhere
 - The tripartite structure: where and how is it used?
 - Why do First Nations want to police their own communities?
 - Community expectations – understanding the cultural uniqueness of First Nations
 - What is the role of First Nations police services?
 - Understanding the value of First Nations police services
- Funding First Nations police services
- Dynamics, jurisdiction and lines of authority
 - Understanding the role of the Nation's Chief and Council in the community
- Who has jurisdiction to police on reserve?
 - Understanding the dynamics of policing federal and First Nation territories
 - The potential use of external resources on reserve and where they are appropriate
- Dealing with governance Issues
 - How are First Nation Police Services governed?
- What is the role of outside police services? What authority do they have in the First Nations community?
 - Who is the employer? What are the implications of that for grievances, dismissals, hiring and firing?
 - Does the *Police Services Act* apply to First Nations police services and their officers?

Police Governance: Making it Work

Dr. Alok Mukherjee

Chair

Toronto Police Services Board

Matt Torigian

Chief

Waterloo Regional Police

- What are some features of a successful relationship between a police commission or board and a police service?
- Who has decision-making authority in respect of various issues?
 - The boundaries of the commission/board's roles and responsibilities and the Chief's roles and responsibilities?

- When does the chief have to follow commission/board directions?
- How do you distinguish between what falls under "budget" and what falls under "operations," and how do they intersect?
- What is the difference between oversight and governance?
- Does it make a difference whether there are political appointees on the board/commission?
- Legal distinctions vs. political reality

3:45 Conference Concludes

POST-CONFERENCE WORKSHOP

JUNE 8, 2011 | 9:00 A.M. – 12:00 P.M.

(Registration opens at 8:30 a.m.)

The Fundamentals of Administrative Law

Caroline (Nini) Jones

Partner

Paliare Roland Rosenberg Rothstein LLP

Police are familiar with the model of criminal justice, and operate within an organizational model derived from the military. But disciplinary and other decisions fall under administrative law, not criminal law, and those involved in the process need to understand the distinctions and what they mean. In this workshop, you'll receive an intensive introduction to the essential concepts of administrative law in just half a day.

- The policy underlying the system of administrative justice
- The source of tribunal jurisdiction
- Natural justice / the principles of fundamental justice
- Constitutional and *Charter* issues
- Applicable procedural statutes
- Guideline, policy and rule-making authority
- Independence and bias: key legal principles
- What is a privative clause, and what is its practical implication?
- Guidance for hearings and decision writing
- Burden of proof, standard of proof
- Judicial review
 - Sources of authority
 - Difference from appeals
 - Remedies
 - Recent changes in the law of "standard of review"
- Leading cases in administrative law

Nini Jones completed her LL.B. at the University of Toronto Faculty of Law, where she won various prizes, including the Dean's Key. She practices labour, employment, administrative, human rights law, as well as general civil litigation and has appeared before various administrative law tribunals, and all levels of courts. Ms. Jones represents police associations throughout Ontario in all aspects of police employment and labour relations.

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The Canadian Institute's 2nd Annual Conference on

The LAW of POLICING

Navigating the Changing Landscape of Oversight, Discipline & Civil Liability

Top Reasons to Attend

- ✓ Get updates from leading members of the police bar
- ✓ Learn about the latest risks to police forces in civil litigation
- ✓ Benefit from balanced presentations and practical tips
- ✓ Exchange ideas with an informed and diverse audience

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For group discounts please call 1-877-927-7936

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TEL.: 416-924-9221

Hotel Reservations

For information on hotel room availability and reservations, please contact The Sutton Place Hotel at 1-866-378-8866. When making your reservation, please ask for "The Canadian Institute's Corporate Rate".

Registration Fee

The fee includes the program, all program materials, continental breakfasts, lunches and refreshments.

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