

16th Workplace Investigations

Conducting fair and balanced investigations that will stand up to scrutiny

April 12, 13 & 14, 2011, Toronto

"I got so much knowledge from this conference. It has given me information I would not otherwise have."

"Great event. Well organized. Excellent quality of speakers."

"Great practical stuff."

Optional workshops

DEVELOPING A PROCEDURE FOR INVESTIGATING WORKPLACE HARASSMENT IN LIGHT OF BILL 168

David Hyde, Principal, **David Hyde & Associates**

EFFECTIVE ELECTRONIC EVIDENCE GATHERING

Peter Vakof, Partner, **PricewaterhouseCoopers LLP**

Participating organizations

AIR CANADA
ASTRAZENECA CANADA INC.
ATS RETAIL SOLUTIONS
CADILLAC FAIRVIEW CORPORATION LIMITED
CANADA'S WONDERLAND
CELESTICA
CITY OF OTTAWA
CSA GROUP
DAVID HYDE & ASSOCIATES
DUFFERIN-PEEL CATHOLIC DISTRICT SCHOOL BOARD

FASKEN MARTINEAU DUMOULIN LLP
KINROSS GOLD CORPORATION
LIQUOR CONTROL BOARD OF ONTARIO
MCLEAN SECURITY ADVISORY & ASSOCIATES INC.
MAC'S CONVENIENCE STORES
ONTARIO LOTTERY & GAMING CORPORATION
PRICEWATERHOUSECOOPERS LLP
SAFEGUARD SECURITY & INVESTIGATION SERVICES LTD.
STAPLES BUSINESS DEPOT LTD.

Conference highlights

- Learn how to keep the investigation on track and avoid "scope creep" from Staples Business Depot Ltd.
- Hear how Celestica manages the internal investigation, including senior management's expectations
- Discover practical strategies and approaches for investigating workplace theft from ATS Retail Solutions
- Hear how Cadillac Fairview manages workplace violence and harassment investigations in light of Bill 168
- Learn how Canada's Wonderland successfully conducts its fraud investigations, including details of a recently concluded credit card scam
- Hear how Kinross Gold successfully conducts workplace investigations by getting HR, legal, security and other business units to work in unison
- Learn how the City of Ottawa solves a continual sticking point in internal investigations - ensuring privacy and confidentiality
- Discover how the investigation group at Air Canada takes a more strategic view of internal investigations and, as a result, adds value to the corporation
- Learn the latest techniques for gathering evidence that will stand up to scrutiny from AstraZeneca Canada

Dodgy bookkeeping, sexual harassment, employee theft and fraud—there's only two things worse than finding out that one of your own employees has acted improperly—and that's not finding out at all or botching the investigation and leaving the company vulnerable to legal action.

The 16th Annual Workplace Investigations conference brings together senior corporate investigators from major Canadian companies who have "been there" to discuss practical investigative techniques that will stand up to scrutiny no matter the type of investigation.

Join senior investigators from these leading Canadian organizations as they discuss how to plan the investigation; how to carry it out in a fair and balanced manner; how to write the report and how to follow-up.

Air Canada
Staples Business Depot Ltd.
AstraZeneca Canada Inc.
Celestica
City of Ottawa
Kinross Gold Corporation
Canada's Wonderland
Liquor Control Board of Ontario
Cadillac Fairview Corporation Limited
Ontario Lottery & Gaming Corporation
And many others

Learn practical approaches for dealing with these difficult issues:

- Managing senior management expectations
- Avoiding the perception that the investigation is a "witch hunt"
- Ensuring privacy and confidentiality during the investigation
- Investigating workplace violence and harassment in light of Bill 168
- Gathering digital evidence that will withstand scrutiny
- Getting HR, legal, security and other business units to work together on the investigation
- Investigating workplace theft and fraud
- Effective interviewing techniques

With the level of practical experience at this conference, this is one event you cannot afford to miss. Register now by calling (416) 665-6868 or 1-800-363-0722.

P.S. Don't miss our practical workshop sessions on effective electronic evidence gathering and investigations into workplace harassment cases in light of Bill 168.

Who should attend

VPs, Directors & Managers of:
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Security
HR & Risk Management
Lawyers & Consultants in Labour
Privacy
Harassment & other issues
Internal Auditors
Investigators & In-house Counsel



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PLANNING SYSTEMATIC INVESTIGATIONS

CHAIR: Janet Naidu, Manager, Diversity Management & Ombuds Office, Liquor Control Board of Ontario

SESSION 1

Tuesday, April 12th

9:00-9:45

ADDING VALUE: USING THE RESULTS OF THE INVESTIGATION TO PROTECT CORPORATE ASSETS AT AIR CANADA

Gilles Charette, Senior Director Corporate Security & Risk Management, Air Canada

Conducting an investigation and catching the culprit, while a key goal of any investigation, is no longer enough. Today's investigators are using the information gleaned from their investigations to protect the company's assets going forward. This discussion details Air Canada's practical approach.

- Turning a loss into an asset: tightening up controls to prevent a recurrence
- Putting in place a system to continuously examine ways to protect company assets and people
- Mitigating risks of fraud and theft
- Continuously evaluating risk to employee safety and security
- Making suggestions to senior management and business group leaders
- Practical example of using cameras and word of mouth to prevent theft of duty free goods

9:45-10:30

DEVELOPING AN EFFECTIVE WORKPLACE INVESTIGATION PROGRAM BY INTEGRATING HR, LEGAL AND OTHER BUSINESS UNITS INTO THE INVESTIGATION PROCESS

Mike Osborne, Vice President, Global Security, Kinross Gold Corporation

The key to a successful outcome in workplace investigation is to utilize the full spectrum of your resources, from HR, security, legal and other business units in order to ensure that every aspect of the investigation is covered and that the most fair and balanced approach is taken. This discussion details how to develop an investigation process.

- Capitalizing on the synergies between HR, legal, and other business units
- Key aspects of an effective investigation
- Working with legal to ensure the investigation is compliant with laws and regulations
- Ensuring employee conduct policies are in place and are understood by all employees
- Developing a mechanism for employees to report inappropriate behaviour
- Working with HR, legal and security during the investigation

10:30-11:00 NETWORKING BREAK

11:00-11:45

PLANNING THE INVESTIGATION: HOW TO KEEP THE INVESTIGATION FOCUSED AND AVOID SCOPE CREEP

Rui Rodrigues, National Director, Loss Prevention, Staples Business Depot Ltd.

Beginning an investigation is like turning over a rock - there may be all manner of things lying underneath. And while one wants to leave no stone unturned, during an investigation one must also be wary of "scope creep" that can sidetrack the investigation and bring it to a sudden halt. Many investigations remain open too long and become increasingly complex and difficult to bring to closure. This discussion details a disciplined approach to conducting an investigation and how to keep the investigation focused on the original issue, while providing some best practices on how to document other issues that arise while not allowing them to derail the investigation.

- Determining the aim and goals of the investigation at the outset
- Creating a roadmap for the investigation, to include course of action, who will be involved, what tools are required
- Periodic evaluation of the direction of the investigation
- Updating the necessary parties
- Dealing with scope creep if it occurs and documenting other issues that require follow up
- When to open up a second investigation when new issues arise

11:45-12:30

CONDUCTING WORKPLACE INVESTIGATIONS AT THE LCBO

Janet Naidu, Manager, Diversity Management & Ombuds Office, Liquor Control Board of Ontario

At the LCBO, whenever a complaint is filed no matter how large or small, an investigation is deemed necessary. An effective and reliable reporting system further emphasizes the organization's commitment to finding out the facts for each case. This discussion details how to best set up a framework for strong investigations, resolving complaints and disclosing findings, based on the policies and procedures implemented by the LCBO.

- Ensuring that complaints are investigated: implementing strong policies
- Determining whether to mediate or investigate
- Separately staged interviews: complainants and respondents
- Proper disclosure of findings and resolving complaints
- Online incident reporting system: designed for employees

12:30-1:30 LUNCH

INVESTIGATION METHODS AND TECHNIQUES

CHAIR: Graeme Eastmure, Executive Vice President – Operations,
Safeguard Security & Investigation Services Ltd.

SESSION 2

Tuesday, April 12th

1:30-2:15

MANAGING THE INVESTIGATION

Tyson Johnson, Director, Global Security & Investigations, Celestica

Effective management and awareness of the many obstacles that can hinder the course of an investigation will ensure that the investigation stays on track. This discussion by an experienced senior investigator, will detail real-life stumbling blocks that can derail the investigation and how to overcome them successfully.

- Managing expectations of management
- Minimizing workplace disruption while conducting the investigation
- How much investigation is enough: when can you stop and still have a fair investigation?
- Ensuring quality control

2:15-3:00

PROTECTING WHISTLEBLOWERS DURING WORKPLACE INVESTIGATIONS

*Sean Sportun, Manager, Loss Prevention & Security -
Central Canada, Mac's Convenience Stores*

In order for employees to come forward and disclose sensitive information on incidents of workplace dishonesty and harassment, the organization must have a credible whistle-blowing policy. This discussion details how Mac's policy works in the context of investigating workplace dishonesty and harassment.

- Best practices in encouraging whistleblowers to come forward
- Assessing whistleblower credibility
- Establishing clear complaint channels
- Developing well-defined and well-publicized procedures for receiving and investigating reports
- Establishing a protocol for protecting employee complainants and witnesses from possible retaliation

3:00-3:30 NETWORKING BREAK

3:30-4:00

ENSURING PRIVACY/CONFIDENTIALITY DURING THE INVESTIGATION

*Gregory Dack, Program Manager, Corporate Security Division,
City of Ottawa*

Privacy issues are at the forefront of today's workplace investigations. But the sheer amount of regulation and the different regimes has left many organizations wondering how to conduct an effective workplace investigation without running afoul of privacy issues. How do the regulations affect the conduct of workplace investigations? What can the employer do and what can you no longer do when investigating an employee? This discussion detail how to implement an investigation in light of privacy regulations.

- What impact does MFIPPA/PIPEDA/recent arbitrator rulings have on investigations?
- Can you delve beyond an employee's reasonable expectation of privacy?
- Establishing permissible bounds of workplace surveillance
- Searches of offices, desks, lockers:
personal vs. company property
- Impact of provincial and municipal legislation
- Who has access to company computers?
- Handling the evidence collected during the investigation

4:00-4:30

EFFECTIVE INTERVIEWING TECHNIQUES

*Graeme Eastmure, Executive Vice President – Operations,
Safeguard Security & Investigation Services Ltd.*

Whether it is talking to suspects, witnesses, victims or even job candidates, the art of interviewing is still one of the most effective methods for gathering information. Indeed, mastering key interviewing techniques will greatly improve the chances of a successful outcome of the investigation. This discussion details key techniques for mastering this challenging aspect of workplace investigations.

- Planning and conducting interviews and interrogations
- Getting beyond the words and obtaining the facts
- Techniques for creating the right atmosphere for an effective interview
- Common mistakes made during an interview
- Interpreting the subject's responses and demeanor
- Dealing with defensive, evasive and other uncooperative behaviour
- Dealing with an overzealous subject

4:30-5:00

CRITICAL LEGAL ISSUES IN CONDUCTING WORKPLACE INVESTIGATIONS

Brian P. Smeenk, Partner, Fasken Martineau DuMoulin LLP

This discussion details critical strategies for avoiding the most dangerous legal snares when conducting workplace investigations.

- The legal traps you can easily fall into
- What constitutes an inappropriate investigation?
- The scope of privacy rights: is there a "reasonable expectation of privacy" in the workplace?
- Legal issues surrounding surveillance - at work and elsewhere
- Uses of evidence in legal proceedings: civil vs. criminal
- Can you make an investigation report privileged?
- Legal issues when conducting an investigation in a unionized environment

SPECIFIC INVESTIGATION STRATEGIES

CHAIR: Minaz Jivraj, Chief Security Officer,
Dufferin-Peel Catholic District School Board

SESSION 3

Wednesday, April 13th

9:00-9:45

INVESTIGATING WORKPLACE VIOLENCE AND HARASSMENT

*Luciano Cedrone, Director of Security and Life Safety,
Cadillac Fairview Corporation Limited*

With the introduction of Bill 168, employers are required to develop and implement a procedure for investigating and addressing incidents of workplace harassment, as well as developing policies to address workplace violence. This discussion details Cadillac Fairview's approach to workplace violence and harassment investigations.

- Conducting an assessment of the vulnerability to various categories of violence
- Procedures for reporting, investigating and documenting incidence of violence and threat
- Determining when to conduct an investigations, who should conduct them and what should be investigated
- Ensuring the investigation does not compromise any criminal prosecution
- Complying with fairness standards for investigations
- Ensuring proper documentation and note taking
- Weighing the evidence and making a decision
- Incorporating Bill 168 into the workplace violence and harassment program
- Domestic violence as a workplace issue

9:45-10:30

INVESTIGATING WORKPLACE THEFT

John Burdett, Director Loss Prevention, ATS Retail Solutions

When it comes to investigating employee theft, the best sources of information are often other employees who are familiar with the habits and routines of individuals they work with. This discussion details ATS's approach to investigating workplace theft.

- Having a written policy in place regarding disciplinary action for employee theft
- The importance of ensuring confidentiality among management and investigators
- How to handle employee searches
- Obtaining the right evidence: documentation, witness statements, video or physical evidence
- Conducting the interview

10:30-11:00 NETWORKING BREAK

11:00-11:45

CONDUCTING A FRAUD INVESTIGATION

Jim Maddin, Security Manager, Canada's Wonderland

As with any investigation, preparation, documentation and conducting the investigation in a fair and impartial manner are the essential requirements of a successful fraud investigation. This discussion details how a seasoned investigator handles fraud investigations and provides a few examples of cases from his experience.

- Understanding how and by whom the fraud was committed
- Determining the extent and the pervasiveness of the fraud
- Obtaining documents and electronic evidence
- Interviewing/confronting the suspect
- Documenting the investigation and writing the report
- The case of a recent credit card scam at Canada's Wonderland

11:45-12:30

CONDUCTING INVESTIGATIONS IN A UNIONIZED ENVIRONMENT

*Minaz Jivraj, Chief Security Officer,
Dufferin-Peel Catholic District School Board*

Conducting an internal investigation in a unionized workplace is one of the greatest challenges facing management, employees and unions. The resulting clash of interests makes this type of investigation one of the most difficult to undertake. This discussion details how to avoid potential pitfalls when conducting an internal investigation in a unionized environment.

- Impact of collective bargaining agreement on workplace investigations
- Interaction of the grievance process and the investigation
- Making sure a union member's right to representation is respected
- Conducting an investigative interview in a unionized environment
- When to use a third-party investigator
- Making the investigation prompt, thorough and effective as a defence to employee grievances and related claims

12:30-1:30 LUNCH

EVIDENCE AND INFORMATION GATHERING

CHAIR: Gene McLean, Principal,
McLean Security Advisory & Associates Inc.

SESSION 4

Wednesday, April 13th

1:30-2:15

EFFECTIVE ELECTRONIC EVIDENCE GATHERING

Gene McLean, Principal, McLean Security Advisory & Associates Inc.

It seems like almost every workplace investigation these days has a digital component to it. E-mail files are perhaps the most common type of evidence and were certainly instrumental in bringing down the likes of Enron and Arthur Anderson. However, one must be wary when gathering electronic files during an investigation, not to do it in such a way that compromises the evidence. This discussion details what is possible and what is not with electronic evidence gathering.

- Gathering e-mails and electronic files from suspects and from their servers/hard drives
- Looking beyond e-mail and hard drives: finding relevant data on flash drives, PDAs, back-up files, network drives and servers
- Analyzing the electronic evidence collected
- Having a broad focus when developing search terms or search parameters for digital documents
- Getting professional advice on data preservation and digital forensics
- Documenting your efforts at preserving evidence: using social media
- Data mining
- Implications of cloud computing
- The importance of digital footprints and metadata

2:15-3:00

WRITING A FAIR AND BALANCED INVESTIGATION REPORT THAT WILL PASS COURT SCRUTINY

Doug Geralde, Director, Corporate Audits and Investigations, CSA Group

Convincing your organization of the thoroughness of the investigation is one thing, but convincing the arbitrator or judge is another matter. Indeed, providing a well-documented report, one that appears fair and balanced, is a crucial yet often overlooked component of any workplace investigation. This discussion details how to write the investigation report.

- Understanding what the arbitrator or judge is looking for in terms of evidence and facts in the report
- What is the appropriate style and use of language?
- Key components that should be included in the investigation report
- How to compile investigation details and what to put down in writing
- Writing an analysis of the data of the investigation in an objective, logical and factual way

3:00-3:30 NETWORKING BREAK

3:30-4:15

EFFECTIVE WORKPLACE INVESTIGATIONS AT OLG

Steven Byrd, Director, Investigative Services, Office of Player Protection, Ontario Lottery & Gaming Corporation

The very nature of the OLG's business requires the corporation to have an effective workplace investigative process. This discussion details the OLG's approach to workplace investigations.

- Triggering the investigative process: type of investigation
- Taking immediate action: integrity issues
- Planning the investigation: investigative process
- Gathering evidence and supporting documentation: interviews and information
- Documenting the investigation: updates and reports
- Follow-up with business unit and HR: closing the loop

4:15-5:00

SURREPTITIOUS EVIDENCE GATHERING IN CHALLENGING THEFT CASES

John Nowell, Manager, Resource Protection, AstraZeneca Canada Inc.

Many investigations follow a predictable pattern and the standard means of evidence gathering and investigation should be applied. However, occasionally an investigation requires a more creative approach. This discussion details some real-life examples of some of the more surreptitious approaches to evidence gathering.

- Using an undercover operative
- Use of "bait" in stolen goods cases
- Employing covert cameras
- Working with the police to crack a stolen goods case involving a company employee

OPTIONAL WORKSHOP A

Thursday, April 14th - 9:00-noon

DEVELOPING A PROCEDURE FOR INVESTIGATING WORKPLACE HARASSMENT IN LIGHT OF BILL 168 *David Hyde, Principal, David Hyde & Associates*

Recently adopted, Bill 198 puts the onus on employers to protect employees from workplace harassment and violence as never before. The Bill has also created much confusion among HR and security leaders as to its implications for investigating workplace harassment and violence. Build on what you have learned from the conference and get much more detailed advice on conducting investigations in light of Bill 168.

- Procedures for reporting, investigating and documenting incidence of violence and threat
- When to conduct an investigations, who should conduct them and what should be investigated?
- Conducting a complete risk assessment
- Complying with fairness standards for investigations
- Ensuring proper documentation and note taking
- Incorporating Bill 168 into the workplace violence and harassment program
- Developing policies and procedures to mitigate and respond to workplace harassment and violence
- Taking reasonable precautions to protect employees you are aware are at risk
- Developing the mechanisms for monitoring the workplace and taking proactive action

David Hyde is a security & risk management specialist with a wide range of professional distinctions. He is an industry-recognized leader, respected senior advisor, and lifelong learner & educator. Over his 26-year career he has owned and operated an award-winning business, guided security at some of Canada's most iconic landmarks and led the enterprise security program for a \$17 billion global corporation. As a corporate security executive with Cadillac Fairview, David built the national security strategy and set company policy for security & crisis management across 83 site locations. He assembled a well-respected team of 5 regional directors, 40 site security managers and 550 front-line security staff. In 2008, he was nominated for Canadian Security's 'Security Director of the Year' award. David left Cadillac Fairview in early 2010, assembling a small group of leading industry professionals to form his own consulting practice, David Hyde & Associates. The firm currently provides security, crime prevention & risk management advisory services to a growing list of clients across many industry sectors.

OPTIONAL WORKSHOP B

Thursday, April 14th - 1:30-4:30

EFFECTIVE ELECTRONIC EVIDENCE GATHERING *Peter Vakof, Partner, PricewaterhouseCoopers LLP*

From e-mails to Facebook accounts to PDAs, the ability to gather electronic evidence is becoming a core practice of any investigative process - and it will only continue to increase. What steps must be taken to identify, capture, review and analyze this key electronic evidence? Expand on what you have learned from the conference and get much more detailed advice on how to gather electronic evidence without compromising the investigation.

- What are the key forms of digital evidence?
- Recovering e-mails
- Interpreting the data
- Documenting your efforts at preserving evidence
- Using social media
- Data mining
- Implications of cloud computing
- The importance of digital footprints or metadata

Peter Vakof is a partner with PricewaterhouseCoopers LLP's Forensics Practice. He is a Chartered Accountant (CA), a CA-designated specialist in investigative and forensic accounting (CA-IFA), a Certified Fraud Examiner (CFE) and a Certified Information Systems Security Professional (CISSP) with over 25 years of international professional experience, including forensic investigation and litigation support. Peter has extensive experience in forensic investigation, electronic discovery and data analytics. He has provided forensic accounting, cybercrime investigation, computer forensics, data analytics and e-discovery services to clients in a variety of industries including telecommunication, healthcare, entertainment, manufacturing, mining, retail, insurance, pharmaceutical, technology and financial services.

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"Great event. Well organized. Excellent quality of speakers."

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