Inspections vs. Investigations: Did They Need a Warrant and What Happens if They Did?



Recorded: May 10, 20176

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Title: Webinar:Inspections vs. Investigations: Did They Need a Warrant and What Happens if They Did?

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OHS regulators are given broad powers to collect and gather information. If they use them as part of an inspection to verify compliance with OHS legislation, there may be little to complain about. However, if those powers are used to investigate and gather evidence that will be used to prosecute, exposing the target to the prospect of significant penalties, the OHS regulator needs a warrant. Failing to get one may breach the right to be free from unreasonable search and seizure and mean that evidence can be excluded. This session will discuss this complex and challenging area through legal and practical commentary on issues including:

- What, if any, difference is there between inspecting and investigating?
- What are the signs or signals that an inspection has or is becoming an investigation?
- What can be done to help prepare to enforce your rights?
- How does the right to be free from unreasonable search and seizure apply to health and safety or other regulatory cases?
- What differences are there between company and individual rights?
- What if I am “cautioned” by an OHS officer?
- What kind of evidence can be excluded if it’s gathered illegally?
- Is illegally obtained evidence always excluded?
- Can you exclude evidence even if it wasn’t gathered illegally?

About Our Speaker

Jeremy Warning is a partner at Matthews, Dinsdale & Clark LLP. He’s a former health and safety prosecutor with special expertise in OHS matters. Jeremy provides proactive and strategic advice to organizations and management following serious workplace incidents, during regulatory inspections, and on sensitive health and safety issues. He’s also an experienced advocate who defends charges under health and

safety and other regulatory legislation, represents employers and management in appeals or reprisal proceedings before administrative tribunals, and appears as counsel during Coroner’s Inquests. Jeremy also designs and delivers training for organizations, officers, directors, supervisors and managers on a range of health and safety and workplace law issues. Jeremy, a frequent speaker and writer on health and safety and other issues, is a co-author of the Annotated Occupational Health and Safety Act, a leading text used by lawyers and human resources and health and health and safety professionals. He’s ranked as a “consistently recommended” OHS lawyer in the Canadian Legal Lexpert Directory and is listed in the Best Lawyers in Canada as a leading OHS lawyer.