



# **CRIMINAL INTELLIGENCE SERVICE ONTARIO**

## **MOBILE SURVEILLANCE TRAINING PROGRAM**

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Lesson Plan

CASE LAW PRESENTATIONS

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February 2003

## **ADMINISTRATIVE STATEMENT**

Information directly related to specific investigative procedures is contained within this document. Therefore, due to current and ongoing operational field investigative considerations, and the Occupational Health and Safety legislation for the Province of Ontario, the contents of this document is considered “**Classified**” and may only be released to those individuals and/or agencies upon appropriate justification being submitted to and on the authority of the Director, C.I.S.O. - Provincial Bureau. The general release of this information is prohibited as such release would unduly jeopardize current investigative projects, and, place peace officers, agents and/or informants at unacceptable personal risk.

For accurate references to the Criminal Code and any other related federal and/or provincial statutes, including related case decisions, recourse must be made to the official volumes.

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**TOPIC: CASE LAW PRESENTATIONS****OBJECTIVE:**

At the conclusion of the case law pre-course assignment and the training course, the student will be able to:

- (1) Identify specific issues in case law relating to Mobile Surveillance Operations;
- (2) Prepare a report on case law detailing issues and their impact on Mobile Surveillance Operations;
- (3) Prepare and deliver a presentation on case law to other persons detailing and explaining the impact of the case law on Mobile Surveillance Operations;

through the use of question & answer technique, guided discussion, individual/syndicate and practical exercises, as assessed by Course Staff.

**STUDENT LEVEL:** Experienced Peace Officer

**METHODOLOGY:** Student Presentation  
Guided Discussion and Debriefing  
Individual and Syndicate Assignments

**TIME ALLOWED:** Classroom Session: 1.5 hours.

**VENUES:** Classroom.

**REQUIREMENTS:** Student Notes/binder and as determined by Course Staff.

**STAFFING:** Course Staff as assigned / Experienced M.S.O.

**EQUIPMENT:** Classroom: Overhead projector, flip charts and markers

**HANDOUTS:** Classroom: Precourse Case Law Manual.

**REFERENCES:**

C.I.S.O. Physical Surveillance Manual  
Canadian Criminal Cases  
Criminal Code of Canada (R.S.C.)  
C.D.S.A. (R.S.C.)

Canada Evidence Act (R.S.C.)  
Police Services Act (R.S.O.)  
Highway Traffic Act (R.S.O.)

## NOTES TO INSTRUCTOR:

The following instructions, including the relevant case law, have been given to the students prior to attending this course:

### CASE LAW RESEARCH – GENERAL INSTRUCTIONS

1. Each syndicate will be assigned one or more cases which will deal with subjects to be covered throughout this course.
2. Each syndicate is to prepare a brief report for each case outlining the following:
  - The court which heard the case;
  - The grounds upon which the appeal was based;
  - A short synopsis of the arguments presented by both sides;
  - A synopsis of the ruling of the court (wiretap issues only);
  - The effects of the ruling on police procedures;
  - The reasoning the court used to arrive at their decision.
3. Each syndicate is to prepare a written report for each assigned case. One member of the syndicate will be selected by the instructors to present the results of the research the following morning during the first class period and the written report will be handed in.
4. After the presentation to the class, individual members of the syndicate may be called upon to answer specific questions regarding the case. It is suggested that each student research the assigned cases by themselves after which the syndicate should meet to formulate their report.
5. Instructors will be available to assist with any difficulties.

### GENERAL HINTS FOR REVIEWING CASE LAW

1. Read the entire decision and not just the last few pages or the “catchlines” (the summary given at the beginning).
2. Re-read the decision and highlight those areas that are important.
3. Try to see the logic the court has used in reaching the decision. In particular, look for covert hints they may be dropping that may indicate how they will deal with future cases. “Wong” is a good example because, here they said that the police do not have unlimited authority to conduct surreptitious video interceptions, just because there is lack of legislation. They were giving a clear indication that in the future they would rule against similar cases.
4. In many court decisions the same cases are cited time and time again. Try to become familiar with these other cases as it will help you understand the logic of the courts.
5. When you have read and re-read the case, make yourself a synopsis of how the decision affects our operations. Attach a copy of your synopsis to the front of the decision so you will have it handy for future reference.

6. Consult with your most experience Crown and get his or her opinion as to the results of the decision. Discuss your own views with him or her. Make necessary changes to your synopsis.
7. Consult with other police services as to their interpretation and the interpretation of their Crown's.

It is important to remember that it is not so much what was said in a decision but, how it was said, and the reasoning that led up to the final decision. Try to stay current with recent decisions and always try to see in which direction the court is going. Anticipation can be our greatest asset.

The class must be divided into balanced syndicates prior to assigning the case law exercise.

## **INTRODUCTION:**

The final public judgement of the appropriateness of our investigations lies within the jurisdiction of those various courts trying the cases and hearing the related appeals, whether made by the crown or the defense. Not only do the courts make comment on the case before them, but actually by their ruling set down the guidelines to govern our future enforcement conduct. Notice is given to the law enforcement community that while the decision to act or not act as the case may be remains with the investigator, the court will simply remind us of the previous case and apply that judgement to the case we are now presenting.

Therefore, it is imperative that law enforcement officers pay close attention to decisions made by the courts. To assist in completing the task, to avoid lengthy and costly appeals, and to avoid unnecessary dismissals of our cases, law enforcement officers must pay due diligence to reading, interpreting and applying the rules set out by the court in the case law decisions.

You have been provided with the case law decisions relating to Mobile Surveillance Operation prior to attending this course.

You will now be assigned to a syndicate and your task is set out in the instructions on page 4 of your Pre-course Case Law Manual.

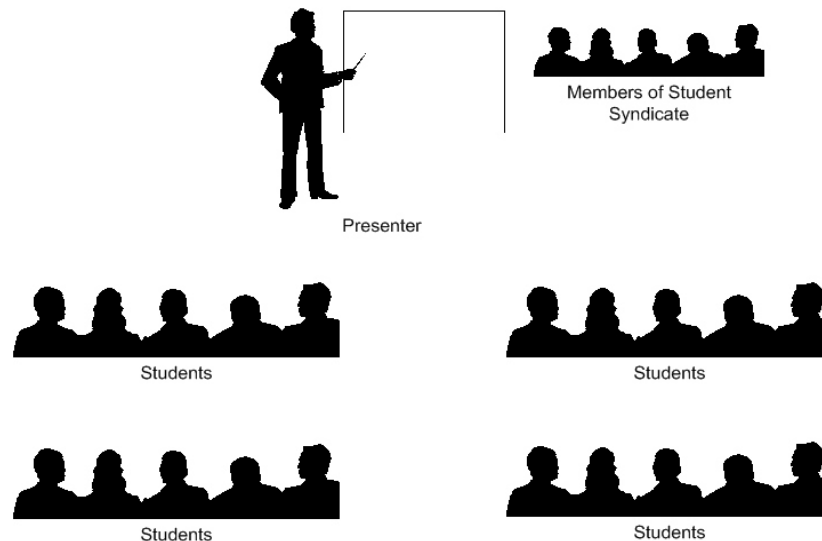
Your syndicate will be required to step forward and make a formal presentation of your assigned case(s) and answer questions from the staff and students on your findings.

An assessment of your work will be completed by the adjudicating staff member.

A further test of your understanding of the case law will be made through practical exercise application during this course.

**DIRECTIONS TO INSTRUCTOR:**

Set the classroom up for presentation by one person with sufficient seating across the front of the room behind the presenting student. A sample of the room set up is shown below.



When the presenting student is complete, the syndicate will be required to answer questions and clarify issues raised by the other students and/or instructional staff.

Ensure that you have the complete case in front of you and a checklist of points to be raised from the case for the attention of a surveillance officer when carrying out a surveillance.

**SUMMARY / CONCLUSION:**

Case Law provides us with a direction which the courts have deemed as acceptable when conducting our investigations. It may be validating things we have done or it may be providing us with new procedural direction. Until the case law ruling is adopted into statute form, the ruling must be treated as the direction to be followed. As a surveillance officer, you **MUST** keep abreast of all case law decisions which directly or indirectly affect your surveillance activities.