



# Vancouver Chapter

## CONTACT NUMBERS FOR THE 2009 BOARD OF DIRECTORS

Colin Parcher	604 953 5232
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Annette Bieberstein	604 661 2713
Linda Murray	250 755 6988
Jean Michel	604 682 1562

## VANCOUVER CHAPTER COMMITTEES

Following are the Chairs and committee members for each committee as agreed at our first board meeting of the new year.

### ETHICS

*Linda Murray*

### MEMBERSHIP/OUTREACH LIAISON

*Jim Blatchford*  
*Shane Troyer*

### NEWSLETTER

*Pat McDowell*  
*Karrie Kaszczuk*  
*Russ Lefler*

### PROFESSIONAL DEVELOPMENT AND TRAINING

*Kim Marsh*  
*Colin Parcher*

### WEBSITE

*Russ Lefler*  
*Agnes Lee*  
*Pat McDowell*

We are always looking for help with the various committees.

Committee members do not have to be members of the board, so let us know if there is an area where you would like to help out.

Contact the committee chair directly or send an email to:

[information@cfevancouver.com](mailto:information@cfevancouver.com)

## PRESIDENT'S REPORT

The end of another year is upon us, which means the dark and dreary days of winter are as well. The year has been a good one for the Chapter. We have maintained a solid membership base, co-hosted the fraud conference with the IIA Vancouver Chapter, won the newsletter of the year again, were picked to host the 2010 ACFE Canadian Fraud Conference, and hosted the Computer Aided Investigations session in November.



By all accounts the Computer Aided Investigations was all that it was billed to be and more. The Annual General Meeting (AGM), which followed day two, was a great success with an outstanding meal and some very interesting information shared by RCMP Superintendent Joe McAllister on his tour of duty in Afghanistan.

Our annual election of directors took place at the AGM, which is reported elsewhere in this newsletter and as in the past few years, required a vote. This is notable because many Chapters, including Vancouver in its early years, have historically had difficulty in convincing people to run for the board positions. The fact that we have held elections for the past few years is a strong indication of the commitment of the Chapter board and this draws others to want to be involved, rather than sit on the sidelines.

In my four years as Chapter President I have had the opportunity to witness this first hand as virtually everyone has contributed to making the Vancouver Chapter one of the ACFE's model Chapters. While I truly appreciate the efforts of each board member I personally want to acknowledge one board member in particular for her outstanding performance in her duties as treasurer this past year. Jo Orton has done an outstanding job in her efforts to ensure the Chapter and the joint conference books were in order. The Chapter Treasurer is one of the most time consuming positions and, like the rest of us, Jo has recently taken on a brand new day job as well, so the extra work off the side of her desk has been greatly appreciated. My thanks to all of those who have served on the board over the past year, as well as to all who preceded them. It has made my four years as president a lot easier.

We now begin to prepare for the 2010 Canadian Conference. I have been in regular contact with Allan Bachman, the education manager in Austin, and I can share that we have nearly filled all the speakers' positions and, as well, we have secured some very exciting keynote speakers. More information will come on this; however, I encourage you to build this conference into your training budget and mark of the first week of May for the conference.

Prior to our December luncheon, the new board will select our 2010 Officers. Remember, the December 10th luncheon is strictly a social affair so come out and network with other anti-fraud professionals and bring a colleague or friend.

In closing I would also like to take this opportunity to wish the best of the season to you and your families. ■

*Colin G Parcher CFE*  
*President, Vancouver Chapter*

## UPCOMING EVENTS

### MONTHLY LUNCHEON

**Holiday Reminder:** Our December luncheon will be held on a special day in order to accommodate scheduling difficulties associated with the holiday season. In keeping with the season, the theme of this luncheon will be to connect with colleagues to network while raising funds for *Covenant House*. We are asking everyone who can to bring a gift to the luncheon. One of the gifts received will be given away as a door prize, while the rest will be auctioned off in Chinese auction format. Proceeds from the auction and from a 50/50 draw will go to Covenant House.

The Hornby Banquet Centre is above the Keg at Hornby and Dunsmuir, on the 3<sup>rd</sup> floor and the entry is on Hornby Street. ■

**When:** Thursday, December 10<sup>th</sup>, 2009

**Time:** 12:00 Noon

**Where:** Hornby Banquet Centre  
595 Hornby Street,  
Vancouver

**Price:** \$20 members and students,  
\$30 for non-members

Contact Jean Michel to register today, send email to: [cfevancouver@yahoo.ca](mailto:cfevancouver@yahoo.ca)

Visa™ and MasterCard™ accepted.

## ACFE BOARD OF REGENTS

The ACFE's Nominations Committee has selected nine candidates to compete for three positions on the 2010-2011 Board of Regents. Included on this prestigious list is our own Colin Parcher. The Chapter strongly supports Colin's candidacy, and encourages all Certified Fraud Examiners to show their support for Colin by casting a vote in his favour.

CFEs in good standing may vote online now through midnight (Central time) December 31, 2009 at [www.acfe.com](http://www.acfe.com). To vote for up to three candidates, scroll down on the HIGHLIGHTS tab on the homepage to the article title 'CFEs: Cast Your Vote'.

Clicking on 'Read More' will take you to the candidate bios and log-in link. ■



## 2009 AGM SPEAKER SUMMARY

Our thanks to RCMP Superintendent Joe

McAllister who was the keynote speaker at the Chapter's 2009 AGM, held November 17th at the Empire Landmark Hotel in Vancouver. Supt. McAllister has served with the RCMP for 28 years in a number of areas including the musical ride, the Special Emergency Response Team and the Immigration Task Force Unit to name a few. Currently he is the Bronze Commander of the Incident Command Centre for the Vancouver 2010 Integrated Security Unit. Prior to accepting this position he served on three peacekeeping missions ranging from Kosovo to East Timor to Afghanistan. Joe spoke candidly to us of his time in Afghanistan working as a police advisor on a special task force. The task force's ongoing role is to develop civilian police mentors in an effort to assist the Afghanistan National Police (ANP) in rebuilding their civilian police force. While he was posted overseas Supt. McAllister provided regular email updates titled "Songs from the Sandbox".

Supt. McAllister described the mission in Afghanistan as a counter-insurgency operation (COIN) rather than a conventional war. It is classified as such because those fighting are part of the same local population. The basic goals of the mission are to: Define (the problem), Shape (the future plan), Clear (the obstacles), Hold (the position), Build & Enable (the locals). He indicated that police are especially effective in COIN operations because of their specialized training and it is this training that is being passed on to existing and new Afghan police officers to enable them to become self-reliant in fighting civilian crime. Coinciding with this training, the Afghan Ministry of the Interior is working with the international community to eliminate corruption and has attached priorities to a number of goals. Included is a commitment to provide the ANP with the education, recognition, and financial security to make policing a challenging and rewarding career. This is an important success factor when considering that Afghanistan loses about 1,200 police officers per year to homicide, including the Chief of Police who was recently murdered by his own people.

Although operations in the northern and western parts of the country have seen great success, McAllister noted that similar success in more volatile regions like eastern Afghanistan has been a harder fight. The majority of US troops are stationed in this area, which is heavily involved in a Pashtan war that was founded and continues to be funded by the Taliban. Further complicating the general situation is the fact that Afghanistan does not possess a railroad system. As such, all supplies must be trucked throughout the country along numerous roadways which must be secured. It is also well known that weapons commonly make their way across Afghanistan's long border with Pakistan and it is estimated that there are from 5-7 million landmines spread throughout the country. To this end, securing borders (especially with Pakistan), has been a primary security goal that the combined forces have had to address ahead of matters needing attention inside the country.

Troops from Canada, Britain, Australia and the Netherlands are stationed primarily along the southern part of the country. Canada is one of many players actively assisting the ANP to develop effective police services through Focused District Development (FDD) training. FDD is a police reform program that involves retraining, equipping and mentoring district police forces as consolidated units that can take over six to eight months or longer.

Canada renewed its commitment to remain in Afghanistan past 2009 following the release of a report detailing the findings and recommendations of an independent panel study, called for by Prime Minister Harper and led by former liberal deputy prime minister John Manley. The panel recommended that Canada remain in Afghanistan beyond 2009 but that it shift its military focus from combat to providing training for Afghanistan's national security forces.

The primary goal of training has been to enable locals to manage their own affairs. To date this training has encompassed everything from teaching basic life skills (literacy, communication, decision making and accountability), to developing skills that support the community (such as building and vehicle maintenance, logistics management, operations planning, etc.). In addition they are being taught the important skills for ►

## PD OPPORTUNITIES

### CANADA

#### **2010 ACFE CANADIAN FRAUD CONFERENCE**

VANCOUVER BC May 2010

### USA

#### **PRINCIPLES OF FRAUD EXAMINATION**

Austin TX December 7-10, 2009

#### **FRAUD PREVENTION/MORTGAGE FRAUD**

Las Vegas NV December 14-16, 2009

#### **CONDUCTING INTERNAL INVESTIGATIONS**

Dallas TX January 28-29, 2010

#### **MONEY LAUNDERING: TRACING ILLICIT FUNDS**

Charlotte NC February 4-5, 2010

#### **FINANCIAL STATEMENT FRAUD**

Phoenix AZ February 8-9, 2010

#### **CFE EXAM REVIEW COURSE**

Las Vegas NV February 8-11, 2010

For more information and registration details, go to [www.acfe.com](http://www.acfe.com). Click on **Training & Events**, and then **Calendar of Events** to see all the options available.

## MARK YOUR CALENDAR!!!

The Vancouver Chapter of the Association of Certified Fraud Examiners is proud to remind everyone that once again we are hosting the 2010 ACFE Canadian Fraud Conference. This is the premier event of the year for Canadians and our friends and colleagues everywhere who are involved in fraud education, prevention and detection, and will be held in early May 2010, in Vancouver! Stay tuned for details as they become available. ■

## AGM FOLLOW UPS

When the new board meets on December 10th before the Christmas Luncheon, we will elect the slate of officers, including the new president. Roseanne Terhart rejoins the board this year as Annette Bieberstein retires her position. ■

► maintaining security including police tactics, weapons training, search and seizure practices, map reading, combat tactics and first aid.

Supt. McAllister closed by saying that some of the greatest challenges faced in the mission involve changing long-held habits and customs within the region. For example, in order to rebuild trust within the community, local police had to break the habit of policing simply by manning a checkpoint. Instead they have been re-trained to make foot patrols throughout the community to connect with the people they are protecting by asking them if there are any 'bad guys' in the neighborhood and finding out what more they can do to help. Success in this area is not to be understated, considering that the country continues to struggle with organizational weakness, poor communication, corruption, and the remnants of a top-down leadership style left over from Russia's involvement in the region. Other Russian influences include persisting poverty, illiteracy, insurgency and a lack of the analytical thinking needed to generate the focus needed to move beyond short-term solutions. In addition, the Russian destruction of infrastructure has left the country with a system of roads and dams that must be rebuilt in order to allow for and sustain any longer term development.

Most important to note though, is that the combined forces are seeing progress and are documenting many successes along the way. Canada has made a \$20 million investment in the country's education system, and Kandahar University is proving to be one of these success stories as it continues to thrive among the chaos. No decision has been made yet regarding Canada's commitment to remain in Afghanistan beyond 2011, however, Supt. McAllister will leave for another tour of duty in June 2010. We wish him safe travels on his journey and look forward to receiving updated *Songs from the Sandbox*. ■

Prepared by Linda Murray, CFE

## JANUARY SPEAKER PREVIEW

### **Negligent Investigation**

By Michael Hewitt, B.Comm, LL.B

The legal environment for Canadian police officers was changed forever when the Supreme Court of Canada recently decided that police may be sued by a criminal suspect for damages caused by a negligent police investigation.

This Court's October 4, 2007 decision in Hill v. Hamilton Wentworth Regional Police 'et al' acknowledged, to the surprise of many, that a police officer owes a legal duty to a suspect under investigation to conduct a reasonable investigation. Therefore, when an investigation is conducted unreasonably and results in damages to the suspect, that person now may bring a civil claim against the officer and/or the police force.

In this recent case the plaintiff/suspect Mr. Hill was charged with robbery after a police investigation. He was convicted and spent 20 months in jail for a crime he did not commit. After his successful appeal he sued over the manner in which the investigation was conducted. Specifically, he alleged that the police were negligent for these reasons:

- The police released the suspect's photo to the media, then utilized a photo lineup for witnesses where all other persons in the lineup were of a different race than the suspect.
- Investigators interviewed two witnesses together with a photo of Hill present.
- Police maintained the charge even after learning of exculpatory evidence, which pointed away from the suspect and toward a specific similar looking person as the perpetrator.

Despite those allegations against investigating officers and the police force, those defendants were found not to have acted negligently. However, the Court recognized the legal existence of a claim for negligent investigation, as follows:

*"...the police owe a duty of care in negligence to suspects being investigated ...their conduct during the course of an investigation should be measured against the standard of how a reasonable officer in like circumstances would have acted."*

While it has long been established that a suspect can sue police for misconduct such as assault, false arrest or gross negligence, it was not until now settled that a claim may be made for mere negligence in the investigation. This decision has broad implications for ►



## FIND A FRAUD EXAMINER

The Vancouver Chapter website [www.cfevancouver.com](http://www.cfevancouver.com) has a section called **Find a Fraud Examiner** where members in private practice or those willing to take outside jobs can advertise.

If you are a CFE and a current member of the Vancouver Chapter of the Association of Certified Fraud Examiners and you would like your name and contact information on our website, please send the following information to us at [website@cfevancouver.com](mailto:website@cfevancouver.com) and put 'Find a Fraud Examiner' in the subject line.

**Name:**  
**Professional Designation(s):**  
**Title:**  
**Company:**  
**Address:**  
**Telephone #:**  
**Fax:**  
**Cell Phone #:**  
**Email:**  
**Website:**  
**Specialty or Area(s) of Practice: \***

\* For instance, Forensic Accounting, Risk Consulting, Investigation, Employment Law, etc. We can also accept a short narrative description of your services.

Note that other than name, each of these fields is entirely optional.

## FREE LUNCH PROGRAM

When the Vancouver Chapter of the ACFE introduced the Free Lunch program, we planned to draw one of the names of the free lunch winners to also receive a free AGM dinner.

Recently I received several suggestions to make this process fairer. The Board agreed to simply draw from the names of all the members who attended the AGM to determine who would receive a refund of the \$50 AGM dinner costs.

Let us know whether you want this program to begin anew in 2010, and if so, any changes you would like to see.

Pat McDowell CFE

► policing and therefore will generate considerable debate in Canadian society. Many will question how effectively police officers can be expected to perform with the threat of lawsuits hanging over their heads. Others who have felt, or seen the brunt of an unfavourable police investigation, will see this decision as an important step forward in Canadian jurisprudence. However, this is now a political and not a legal debate. From a legal perspective, our highest Court has concluded the debate with a single decision; making it now time to assess what the consequences of these new principles are likely to be.

Looking forward, the important legal issue immediately becomes what standards the courts are likely to impose on police conduct when considering a negligence claim. Like many decisions of the Supreme Court that dictate dramatic changes to the law, the ultimate effect likely will not be as dramatic as it might now seem. The lower courts may well maintain a high level of deference to police discretion by interpreting the legal standard cautiously.

The Court in *Hill* clearly favoured the notion of placing controls on this type of litigation through a cautious approach to the standard of care, rather than barring it completely for policy reasons. Compelling arguments were made to the effect that it was unwise and unfair to subject the police to the threat of litigation, and indeed that it would create a conflict with the duty owed by the police to the public. Rather than accept that argument as a bar to any claim, the Court focused on the protections built into our legal system that are likely to prevent a flood of litigation or a chilling effect on police work.

As noted above, the general standard that applies is that of the "reasonable investigator". This general concept applies throughout the law of negligence. While flexible, it is not particularly instructive. Therefore the standard of care must develop on a case-by-case basis, considering the facts of that specific case and precedents. In the *Hill* case, the Supreme Court did provide some additional insight into what will be considered reasonable:

- Acceptable conduct will vary depending on the stage of the investigation.
- Where the officer has special skills and experience, that officer will be measured against a standard of a reasonable officer in like circumstances.
- The potential harm caused by police conduct will inform what is reasonable.
- The standard should "be applied in a manner that gives due recognition to the discretion inherent in police investigation".
- An error in judgment will not in itself breach the standard.
- The standard of the day will change over time as police practices evolve.

The result in the *Hill* case itself illustrates the fact that a conservative approach to the standard of care is appropriate and will be encouraged by the Court. Although the plaintiff spent substantial time in custody for a crime he did not commit, the Court described the impugned practices as "questionable" rather than finding the defendants guilty of negligent investigation. As there was credible evidence to support the charge, the Court distinguished the difference between "tunnel vision" and the exercise of discretion.

One thing is certain in the wake of this decision: a new industry of litigation support experts will now develop. Expert witnesses will be required to assist the courts with opinions as to what a reasonable investigator would do in a particular case. Those witnesses are likely to be drawn from the ranks of retired police officers and former members of other investigatory bodies that fall under the scrutiny of this principle.

Another question to be decided after this decision is whether the same principles will apply to investigators who are not police officers, such as regulatory enforcement officers, private investigators and corporate fraud and security investigators. The answer is that they probably will. The real question again will be how the courts will define the standards that apply to them.

Finally, it is worth noting that the Court's decision could end up being of little concern if legislators decide to override it with legislation. Protections already exist in policing legislation, making it easy enough for a government to pass amendments to the *Police Act*, for example, providing police officers immunity from these lawsuits. However, it remains to be seen whether such laws would be politically viable. ■

(Michael will join us in January to kick off our 2010 Monthly Luncheon Speaker Series.)