Publisher's Note

An Update has Arrived in Your Library for:

Please circula	ate this notice to anyone in your office who may be interested in this publication. Distribution List

SEARCH AND SEIZURE LAW IN CANADA

Scott C. Hutchison and Michael P. Bury Release No. 8, September 2025

This publication provides comprehensive coverage of search and seizure law, an essential element of both the criminal process and regulatory regimes. The effect of the Charter protection against unreasonable search and seizure is examined. Individual chapters examine various types of searches including electronic surveillance, administrative and regulatory searches, motor vehicle searches, firearms and weapon searches and mail searches. Detailed coverage is provided of the execution of search warrants, solicitor-client privilege, the disposition of seized property and Charter remedies including the exclusion of evidence.

THOMSON REUTERS®

Customer Support

1-416-609-3800 (Toronto & International) 1-800-387-5164 (Toll Free Canada & U.S.)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

This release features updates to the case law and commentary in the following Current Caselaw Digests: 1 (Defining "Search": The Scope of Section 8), 3 (Searches Incident to Arrest), 4 (Electronic Surveillance), 5 (Administrative and Regulatory Searches), 6 (Motor Vehicle Searches), 8 (Firearms and Weapons), 11 (Search, Seizure, and Other Constitutional Rights), 16 (Criminal Search Warrants), 17 (Execution of Search Warrants), and 19 (Constitutional Remedies), as well as updates to Appendix WP, Words & Phrases.

CASE HIGHLIGHTS

- **Electronic Surveillance** Although, at trial, the accused successfully established that his s. 8 *Charter* rights had been violated, the judge held the text messages between the accused and the complainant to be admissible under s. 24(2). The accused appealed his convictions for sexual assault, sexual interference and child luring by means of telecommunications, but the Court of Appeal dismissed his appeal. According to the appellate court, the trial judge erred in concluding that the accused had standing to assert his s. 8 rights -- the text messages at issue did not attract any protection under s. 8 because they were the means by which the accused had committed the offence of child luring: *R. v. Knelsen*, 2024 ONCA 501, 2024 CarswellOnt 9399 (Ont. C.A.), leave to appeal refused 2025 CarswellOnt 3199, 2025 CarswellOnt 3200 (S.C.C.).
- Constitutional Remedies Charged with first-degree murder, as well as drugs, weapons, and criminal organization offences, the accused applied for a stay of proceedings or the exclusion of evidence on the basis of the police having repeatedly intercepted, overheard, summarized and shared his privileged communications with his lawyer. The court found the accused not to have proven that his audio calls had been improperly intercepted, handled or overheard, but found that the privileged text messages between the two had established violations of his Charter rights under ss. 7 and 8. While the breaches did not warrant a stay, the court found exclusion of evidence to be warranted, in light of the seriousness of the breaches and the significant impact they had on the accused's Charter-protected interests. The court ordered the exclusion of all text messages intercepted for all of the accused's numbers after the date of the initial breach, in light of their temporal and contextual connections to the breaches. This remedy was limited to the text communications, as the remaining intercepted communications were found to be too remote and too tenuously connected to the breaches: R. v. Al-Ramahi, 2024 ONSC 3754, 2024 CarswellOnt 9900 (Ont. S.C.J.).