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THE CANADIAN CHARTER OF RIGHTS

McLeod, Takach, Morton, Segal

Release No. 12, December 2025

This resource is a practical working text that will shorten preparation time and be a valuable in-court reference. It deals with the ever expanding effect of the *Charter* on the issues arising in criminal proceedings and the prosecution of statutory offences. Organized conceptually rather than in chronological order by section of the *Charter*, this work pulls together the reported and unreported case law determining the impact of the *Charter* on the legislative provisions, the substantive law and the practice in this area.

Highlights:

This release features case law and commentary updates to Chapters 5 (Life, Liberty and Security of the Person), 6 (Search and Seizure), 12 (Trial Within a Reasonable Time), 21 (Cruel and Unusual Treatment or Punishment), 22 (Interpreter), 23 (Fundamental Freedoms), 27 (Other Rights), 28 (Remedies — General), and 29 (Exclusionary Rule).

- **Search and Seizure — The Wording of Section 8 — “the right to be secure against” — Standing** — According to the Court of Appeal for Ontario, where a *Garofoli* review results in excisions to parts of an Information to Obtain granted to an accused on the basis of infringements of that accused's *Charter* rights, it does not necessarily follow that the excisions must also apply to his or her co-accused — the co-accused must first establish his or her own personal standing in order to benefit from excision: *R. v. Maric*, 2024 ONCA 665, 2024 CarswellOnt 13614 (Ont. C.A.).

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- **Exclusionary Rule — “that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute”** — Having found to be deliberate the failure of the police to file a Report to Justice until twelve days after seizing the accused’s phone, the Court of Appeal for Nova Scotia ordered the exclusion of the evidence obtained as a result of this seizure: *R. v. Drake*, 2023 NSSC 364, 2023 CarswellNS 1176 (N.S. S.C.).