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CRIMINAL PRACTICE MANUAL A Practical Guide to Handling Criminal Cases Release No. 2, March 2026
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This manual will assist the criminal law practitioner, whether defence counsel, Crown counsel, judge or law enforcement officer, with a quick understanding and approach to frequently encountered problems. Topics covered include statutory interpretation, investigation, rights and powers; the trial process—from investigation to trial; evidence, legislative compliance with the Constitution, and appeals.

This release features case law and commentary updates in Chapter 1—Commission of the Alleged Offence, Chapter 2—Investigation: Rights and Powers, and Chapter 4—Evidence.

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Case Law Highlights

- **Investigation: Rights and Powers—Powers of the State—Powers of Search or Seizure—The Section 8 Protection—The Privacy Interest:** Police executed a search warrant on the accused's apartment. Police attended the unit following complaints from the property manager. A warrant was obtained using information gathered through police observation of activity in and around the accused's apartment, as well as the building's common areas and parking lot. In dismissing the accused's appeal, the Court found the accused's section 8 *Charter* rights were not breached because he did not have a reasonable expectation of privacy in the circumstances. The accused was expressly warned about the increase in police surveillance. The building's common areas were accessible because locks were broken. The property manager had a duty to ensure the safety of residents which included alerting police of unusual activity. Police observations were limited to what any building resident or guest could have seen and they did not use any audio/video recording technology: *R. v. Unrau*, 2025 ABCA 239, 2025 CarswellAlta 1499 (Alta. C.A.).
- **Evidence—Supporting the Credibility of Your Witness—Exception to the General Rule—(Some) Prior Consistent Statements—Introduction—Mixed Out-of-Court Statements:** These are instances where the accused has made statements out-of-court that are both inculpatory and exculpatory. There are two ways in which mixed out-of-court statements can be used. One is to rely on the statement for the truth of its contents, either to assess the inculpatory part of the mixed statement or to consider the statement as a whole. The second type of use relates to the declaratory aspect of the statement because of the context in which it was uttered. While the admissibility of mixed statements does not need to fit into an exception to the exclusion of prior consistent statements, the underlying rationales of these exceptions can help assess the probative value of the statement when an accused's proposed use of the statement aligns with an exception: *R. v. N.S.*, 2025 ONCA 399, 2025 CarswellOnt 8744 (Ont. C.A.).
- **Evidence—Miscellaneous Issues—Post-Offence Conduct (Consciousness of Guilt)—How to: Introduce Evidence of Prior Sexual History:** Social media communications that included discussions of complainant's sexual activity and inactivity were presumptively inadmissible sexual history evidence (*R. v. Kinamore*, 2025 SCC 19, 2025 CarswellBC 1704).