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<p>CRIMINAL PRACTICE MANUAL A Practical Guide to Handling Criminal Cases Release No. 6, July 2025</p>
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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 updates to Chapter 1—Commission of the Alleged Offence, Chapter 2—Investigation: Rights and Powers, Chapter 3—The Trial Process—From Investigation to Trial and Chapter 4—Evidence.

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Case Law Highlights

- **Commission of the Alleged Offence—Elements of the Offence: The Act and Fault Requirements—The Fault Element—Intention:** The accused was charged with assaulting the complainant by using her dog as a weapon. The dog attacked the first complainant after obeying the accused's gesture and then attacked the second complainant, even though there was no direct command to attack her. The trial judge inferred that the dog would not have attacked without the accused's commands based on the dog's behavior during the police encounter and its familiarity with the accused's gestures. The accused claimed the intent should not have transferred to her because the dog was animate and capable of independent action. In dismissing the appeal, the Court found the trial judge erred in finding there had been transferred intent. It was determined that the assaults on the complainants were distinct acts with separate intents. Despite this, the court found the accused had sufficient knowledge or was wilfully reckless in foreseeing the dog's attack on the second complainant. Sufficient knowledge or wilful recklessness satisfied the intent requirement for assault with a weapon: *R. v. Park*, 2024 MBCA 93, 2024 CarswellMan 405 (Man. C.A.).
- **Investigation: Rights and Powers—Powers of the State—Power of Search or Seizure—Challenging Prior Judicial Authorization/Warrant for the Search—What does the Court Look for?:** The accused was acquitted on drug trafficking charges after the trial judge found confidential sources credible but not compelling, because their information was found to be basic and not firsthand. The trial judge also emphasized there was a lack of corroborative evidence of drug activity at the places to be searched. In allowing the Crown's appeal and ordering a new trial, the Court found the trial judge misapprehended evidence by failing to recognize that confidential sources provided firsthand and specific information about the accused's drug trafficking activities. This misapprehension of evidence was central to the trial judge's conclusion regarding the compelling nature of the information. Requiring corroboration of criminal activity was not necessary and neutral facts such as accused's vehicles and address were sufficient to support the reliability of sources. The trial judge erred in implying that there was a need for direct evidence of drug activity at the accused's address: *R. v. Ifesimeshone*, 2024 ONCA 834, 2024 CarswellOnt 17683 (Ont. C.A.).
- **Evidence—Character Evidence—Responding to Character Evidence—Responding to Bad Character Evi-**

dence of Accused: The Supreme Court of Canada considered whether evidence of historical acts of violence could be admitted as evidence to support the charge of trafficking in persons and receiving material benefit. The Court found the text, context, and purpose of s. 279.01 of the *Criminal Code* supported the position that the Crown can adduce evidence of the accused's violent relationship with the victim, or regular violence and threats of violence, to establish the actus reus of s. 279.01. Furthermore, *mens rea* can be inferred from the finding of exploitation and regular violence. Threats of violence by the accused can be relevant and material to the definition of exploitation. The trial judge assessed the evidence based on the wrong legal principle by determining that evidence of violence and threats of violence by the accused towards the complainant was evidence of past discreditable conduct in the context of the trafficking offence, leading to a misapprehension of evidence: *R. v. T.J.F.*, 2024 SCC 38, 2024 CarswellNS 908 (S.C.C.).