

Index

ABSCONDING

- Inference from, **A:66 [CC s. 475]**
- Preliminary hearing, at, **A:87 [CC s. 544]**
- Proof of, **A:62 [CC s. 462.38]**

ADMISSIBILITY GENERALLY

- Case law, **1:14, 1:16**
 - common law rules, changes to, **1:14**
 - condition precedent to, **1:14**
 - duty of trial judge, **1:14**
 - estoppel, and, **1:14**
 - exclusions, discretionary, **1:16**
 - general principles, **1:14**
 - fact v. opinion, **1:14**
 - hypnotically-induced testimony, **1:14**
 - jury instructions, **1:14**
 - precedent
 - application of, **1:14**
 - condition, **1:14**
 - probative value, **1:14**
 - probative value v. prejudicial effect: appellate review, **1:14**
 - reconsideration of admissibility hearings, **1:14**
 - relevance, and, **1:14**
 - role of trial judge, **1:14**
 - seized items under warrant, **1:14**
 - standard of proof, **1:14**
- Commentary, **1:14**
- Jury instructions (WMCJJ), **1:14, 1:15**
- Procedure to determine admissibility, **1:15**
 - case law, **1:15**
 - blended voir dire, **1:15**

ADMISSIBILITY GENERALLY

—Cont'd

- Procedure to determine admissibility, **1:15**—Cont'd
 - case law, **1:15**—Cont'd
 - evidentiary rulings, duty to give reason for, **1:15**
 - general principles, **1:15**
 - issue estoppel and, **1:15**
 - reconsideration of admissibility hearings, **1:15**
 - voir dire evidence at trial, use of, **1:15**
 - voir dire on party admissions, **1:15, 4:12**
 - voir dire, blended, **1:15**
 - voir dire, exhibits on, **1:15**
 - voir dire, form of, **1:15**
 - voir dire, re-opening, **1:15**
 - waiver, **1:15**
- commentary, **1:15**
- related provisions and principles, **1:15**
- Related provisions and principles, **1:14**

ADMISSIONS

- Adoptive admissions, **8:4**
 - case law, **8:4**
 - admissions by response or silence after allegation, **8:4**
 - admissions by response or silence after statement of co-accused or accomplice, **8:4**
 - failure to reply after caution, **8:4**
 - general principles, **8:4**

ADMISSIONS—Cont'd

Adoptive admissions, **8:4**—Cont'd
case law, **8:4**—Cont'd
jury instructions, **8:4**
methods of adoption, **8:4**
role of trial judge, **8:4**
specific examples, **8:4**
commentary, **8:4**
related provisions and principles,
8:4

Conduct, admissions by, **8:5**
case law, **8:5**
commentary, **8:5**
related provisions and privileges,
8:5

Formal admissions, **8:1**
case law, **8:1**
binding effect, **8:1**
conditions precedent, **8:1**
Criminal Code admissions, **8:1**
elements of an admission, **8:1**,
8:2
pleas of guilty, **8:1**
relevance re disclosure, test
for, **8:1**
transcripts, **8:1**
withdrawal, availability of, **8:1**
commentary, **8:1**
jury instructions (WMCJI), **8:1**
related provisions and privileges,
8:1

trial, at, **A:101 [CC s. 655]**
case law, **A:101 [CC s. 655]**
admissions of conditions
precedent to admis-
sibility of statements,
A:101 [CC s. 655]
Charter considerations,
A:101 [CC s. 655]
general principles, **A:101**
[CC s. 655]

Hearsay exception at common law,
4:12
case law, **4:12**
effect of, **4:12**

ADMISSIONS—Cont'd

Hearsay exception at common law,
4:12—Cont'd
case law, **4:12**—Cont'd
in-court, **4:12**
out-of-court, **4:12**
sources, **4:12**
spouse, **4:12**
commentary, **4:12**
related provisions and principles,
4:12

Informal admissions, general
principles of, **8:2**
case law, **8:2**
“against interest” requirement,
8:2
coercion and admissions, **8:2**,
8:6
exclusion, discretionary, **8:2**
form of admissions, **8:2**
formal and informal admis-
sions, **8:2**
hearsay rule and admissions,
8:2
other rules and admissions, **8:2**
rationale for admissions, **8:2**
commentary, **8:2**
related provisions and privileges,
8:2

see also **CONFESSIONS**

Vicarious admissions, **8:3**
case law, **8:3**
commentary, **8:3**
common purpose doctrine, **8:3**
conditions precedent, **8:3**
jury instructions (WMCJI), **8:2**
related provisions and principles,
8:3

**ADVERSE AND HOSTILE
WITNESS**

see **EXAMINATION OF WIT-
NESSES**

ANNUAL REPORT

Generally, **B:72 [CEA s. 38.17]**

APPEAL, EVIDENCE ON

- Generally, **A:114 [CC s. 683]**
- Case law, **A:114 [CC s. 683]**
 - admissibility requirement, **A:114 [CC s. 683]**
 - conduct of trial, new evidence re competence of counsel, **A:114 [CC s. 683]**
 - general principles, **A:114 [CC s. 683]**
 - juror misconduct, **A:114 [CC s. 683]**
 - recantation case, **A:114 [CC s. 683]**
- Crown, new evidence introduced by, **A:114 [CC s. 683]**
- due diligence requirement, **A:114 [CC s. 683]**
- examination of witnesses, **A:114 [CC s. 683]**
- general principles re new evidence, **A:114 [CC s. 683]**
- governing principles for introducing new evidence, **A:114 [CC s. 683]**
- judicial notice, **A:114 [CC s. 683]**
- new evidence, **A:114 [CC s. 683]**
- procedural issues, **A:114 [CC s. 683]**
- production of materials, **A:114 [CC s. 683(1)(a), CC s. 683]**

AUDIO RECORDINGS

- Generally, **1:25, A:118 [CC ss. 714.1 to 714.8]**

BATTERED WIFE SYNDROME

- Generally, **5:3**

BOOK OR RECORD

- Controlled Drugs and Substances Act, seized under, copies of, **B:89 [CEA s. 54]**
- Copies of entries, **B:32 [CEA s. 29]**
 - case law, **B:32 [CEA s. 29]**
 - general principles, **B:32 [CEA s. 29]**

BOOK OR RECORD—Cont'd

- Copies of entries, **B:32 [CEA s. 29]**
 - Cont'd
 - case law, **B:32 [CEA s. 29]**
 - Cont'd
 - notice, **B:32 [CEA s. 29]**
 - records, entries and copies, s. 29(1), **B:32 [CEA s. 29]**
 - commentary, **B:32 [CEA s. 29]**
 - related provisions and principles, **B:32 [CEA s. 29]**
- Notice of publication of, **B:31 [CEA s. 28]**
 - case law, **B:31 [CEA s. 28]**
 - commentary, **B:31 [CEA s. 28]**
 - related provisions and principles, **B:31 [CEA s. 28]**

BREAK AND ENTER OR BREAK OUT OFFENCES

- Proof of intent and prior conduct in, **A:44 [CC s. 348]**
 - case law, **A:44 [CC s. 348]**
 - Charter considerations, **A:44 [CC s. 348]**
 - presumptions and evidence to contrary, **A:44 [CC s. 348]**
 - recent possession, doctrine of, **A:44 [CC s. 348]**

BREAK-IN INSTRUMENTS

- Possession and trafficking of, **A:47, A:48 [CC ss. 351, 352]**
 - case law, **A:47 [CC s. 351]**
 - Charter considerations, **A:47 [CC s. 351]**
 - general principles, **A:47 [CC s. 351]**

BURDEN OF PROOF

- Allocation of burden of proof, **1:51**
 - case law, **1:51**
 - general principles: burden and individual items of evidence, **1:51**

BURDEN OF PROOF—Cont'd

Allocation of burden of proof, **1:51**

—Cont'd

case law, **1:51**—Cont'd
specific issues and defences,
1:51

commentary, **1:51**

jury instructions (WMCJI), **1:51**
related provisions and principles,
1:51

Evidential burden, **1:52**

case law, **1:52**

commentary, **1:52**

related provisions and principles,
1:52

General principles, **1:50**

case law, **1:50**

appellate review, **1:50**

credibility, **1:50**

general principles, **1:50**

jury instruction on disbelieved
exculpatory evidence,
1:50

jury instructions, **1:50**

procedural considerations,
1:50

provocation, **1:50**

reliability of evidence and,
1:50

commentary, **1:50**

jury instructions (WMCJI), **1:50**

burden of proof defined, **1:50**

related provisions and principles,
1:50

Legal burden of proof, **1:53**

case law, **1:53**

general principles, **1:53**

jury instructions on standard of
proof, **1:53**

jury instructions on standard of
proof and uncontradicted
evidence, **1:53**

standard of review for jury
instructions on the stan-
dard of proof, **1:53**

BURDEN OF PROOF—Cont'd

Legal burden of proof, **1:53**

—Cont'd

commentary, **1:53**

jury instructions (WMCJI), **1:53**

related provisions and principles,
1:53

see also STANDARD OF PROOF

BUSINESS RECORDS

Case law, **4:8, B:33** [CEA s. 30]

affidavit, **4:8, B:33** [CEA s.
30(3)]

general principles, **B:33** [CEA s.
30]

hospital records, **B:33** [CEA s.
30]

notice, **4:8, B:33** [CEA s. 30(7)]

other rules, effect of, **4:8**

procedure to determine admis-
sibility, **4:8**

record made in usual and
ordinary course of business,
4:8, B:33 [CEA s. 30(1),
(2)]

records not admissible, **4:8, B:33**
[CEA s. 30(10)]

relationship with the common
law exception, **B:33** [CEA
s. 30]

Commentary, **4:8, B:33** [CEA s. 30]

Related provisions and principles,
4:8, B:33 [CEA s. 30]

see also DOCUMENTARY EVI-
DENCE

Canada Evidence Act

Adverse witness applications, **B:11**
[CEA s. 9(1)]

case law, **B:11** [CEA s. 9]

determination of “adverse,”
B:11 [CEA s. 9]

evidentiary value of statement,
B:11 [CEA s. 9]

general principles, **B:11** [CEA
s. 9]

Canada Evidence Act—Cont’d

Adverse witness applications, **B:11**
[CEA s. 9(1)]—Cont’d

case law, **B:11** [CEA s. 9]

—Cont’d

meaning of “adverse,” **B:11**
[CEA s. 9]

procedure on applications,
B:11 [CEA s. 9]

commentary, **B:11** [CEA s. 9]

related provisions and principles,
B:11 [CEA s. 9]

Application of Act

Part I, **B:3** [CEA s. 2]

commentary, **B:3** [CEA s. 2]

related provisions and
principles, **B:3** [CEA s. 2]

Part II, to foreign courts, **B:78**
[CEA s. 43]

commentary, **B:78** [CEA s. 43]

related provisions and
principles, **B:78** [CEA s.
43]

Part III, to diplomatic officials,
B:87 [CEA s. 52]

commentary, **B:87** [CEA s. 52]

related provisions and
principles, **B:87** [CEA s.
52]

Attested documents, proof of, **B:45**
[CEA s. 34]

Book or record

copies of entries, **B:32** [CEA s.
29]

case law, **B:32** [CEA s. 29]

general principles, **B:32**
[CEA s. 29]

notice, **B:32** [CEA s. 29]

records, entries and copies:
s. 29(1), **B:32** [CEA s.
29]

commentary, **B:32** [CEA s. 29]

related provisions and
principles, **B:32** [CEA s.
29]

Canada Evidence Act—Cont’d

Book or record—Cont’d

notice of publication of, **B:31**
[CEA s. 28]

case law, **B:31** [CEA s. 28]

commentary, **B:31** [CEA s. 28]

related provisions and
principles, **B:31** [CEA s.
28]

Business records, see BUSINESS
RECORDS,
DOCUMENTARY EVI-
DENCE

Capacity of witness in question, see
CAPACITY OF WITNESS IN
QUESTION and CHILD WIT-
NESSES

Child witnesses, see CHILD WIT-
NESSES

Competence and compellability,
B:4, B:5 [CEA ss. 3, 4]

accused and spouse, **B:5** [CEA s.
4(1), (2), (6)]

case law, **1:7, B:5** [CEA s. 4]

Charter considerations, **1:7,**
B:5 [CEA s. 4]

comment on failure to
testify: in joint trials s.
4(6), **B:5** [CEA s. 4]

comment on failure to
testify: meaning of
“comment,” **B:5** [CEA
s. 4]

competence and compel-
lability of spouses for
crown, exceptions

common law, **1:7, B:5**
[CEA s. 4]

statutory, **1:7, B:5** [CEA
s. 4]

competence of persons
charged in joint
proceedings, **B:5** [CEA
s. 4]

competence of persons
charged in separate

Canada Evidence Act—Cont'd

Competence and compellability,
B:4, B:5 [CEA ss. 3, 4]
 —Cont'd
 accused and spouse, **B:5 [CEA s. 4(1), (2), (6)]**—Cont'd
 case law, **1:7, B:5 [CEA s. 4]**
 —Cont'd
 proceedings, **B:5 [CEA s. 4]**
 competence of persons
 charged: organizational
 accused, **B:5 [CEA s. 4]**
 competence of spouses of
 accused: general
 principles, **1:7, B:5 [CEA s. 4]**
 competence of spouses of
 persons charged: mean-
 ing of “husband and
 wife,” **1:7, B:5 [CEA s. 4]**
 determining competence,
B:5 [CEA s. 4]
 failure to testify and infer-
 ences of guilt, **B:5 [CEA s. 4]**
 general principles of compe-
 tence, **B:5 [CEA s. 4]**
 jury instructions on failure
 to testify, **B:5 [CEA s. 4]**
 relationship between compe-
 tence and compellabil-
 ity, **B:5 [CEA s. 4]**
 commentary, **B:5 [CEA s. 4]**
 failure to testify, comment
 prohibited, **B:5 [CEA s. 4(6)]**
 related provisions and
 principles, **B:5 [CEA s. 4]**
 communications during marriage,
B:5 [CEA s. 4(3)]
 case law, **B:5 [CEA s. 4]**
 marital communication priv-

Canada Evidence Act—Cont'd

Competence and compellability,
B:4, B:5 [CEA ss. 3, 4]
 —Cont'd
 communications during marriage,
B:5 [CEA s. 4(3)]—Cont'd
 case law, **B:5 [CEA s. 4]**
 —Cont'd
 ilege: s. 4(3), **1:7, B:5 [CEA s. 4]**
 failure to testify, comment
 prohibited, **B:5 [CEA s. 4(6)]**
 case law, **B:5 [CEA s. 4]**
 comment on failure to
 testify: general
 principles governing s.
 4(6), **B:5 [CEA s. 4]**
 comment on failure to
 testify: in joint trials s.
 4(6), **B:5 [CEA s. 4]**
 interest or crime, **B:4 [CEA s. 3]**
 commentary, **B:4 [CEA s. 3]**
 related provisions, **B:4 [CEA s. 3]**
 Construction, of Part I of Act, **B:47 [CEA s. 36]**
 case law, **B:47 [CEA s. 36]**
 general principles, **B:47 [CEA s. 36]**
 hearsay exceptions, **B:47 [CEA s. 36]**
 commentary, **B:47 [CEA s. 36]**
 related provisions, **B:47 [CEA s. 36]**
 Construction, of Part II of Act, **B:80 [CEA s. 45]**
 commentary, **B:80 [CEA s. 45]**
 related provisions, **B:80 [CEA s. 45]**
 Copies published in Canada
 Gazette, admissibility, **B:43 [CEA s. 32(2)]**
 commentary, **B:43 [CEA s. 32]**
 related provisions, **B:43 [CEA s. 32]**

Canada Evidence Act—Cont'd

Definitions

- “business,” **B:33 [CEA s. 30(12)]**
- “cause,” **B:79 [CEA s. 44]**
- “computer system,” **B:42 [CEA s. 31.8]**
- “copy,” **B:33 [CEA s. 30(12)]**
- “corporation,” **B:34 [CEA s. 31(1)]**
- “council,” **B:73 [CEA s. 39(2)]**
- “court,” **B:32, B:79 [CEA ss. 29(9), 44]**
- “data,” **B:42 [CEA s. 31.8]**
- “electronic document,” **B:42 [CEA s. 31.8]**
- “electronic documents system,” **B:42 [CEA s. 31.8]**
- “financial institution,” **B:32 [CEA s. 29(9)]**
- “government,” **B:34 [CEA s. 31(1)]**
- “judge,” **B:53, B:79 [CEA ss. 38, 44]**
- “legal proceeding,” **B:32, B:33 [CEA s. 29(9), 30(12)]**
- “oath,” **B:79 [CEA s. 44]**
- “official,” **B:48 [CEA s. 36.1]**
- “participant,” **B:53 [CEA s. 38]**
- “photographic film,” **B:34 [CEA s. 31(1)]**
- “potentially injurious information,” **B:53 [CEA s. 38]**
- “proceeding,” **B:53 [CEA s. 38]**
- “prosecutor,” **B:53 [CEA s. 38]**
- “record,” **B:33 [CEA s. 30(12)]**
- “secure electronic signature,” **B:42 [CEA s. 31.8]**
- “sensitive information,” **B:53 [CEA s. 38]**
- Part II of Act, for purposes of, **B:79 [CEA s. 44]**
 - “cause,” **B:79 [CEA s. 44]**
 - “court,” **B:79 [CEA s. 44]**
 - “judge,” **B:79 [CEA s. 44]**

Canada Evidence Act—Cont'd

Definitions—Cont'd

- Part II of Act, for purposes of, **B:79 [CEA s. 44]**—Cont'd
 - “oath,” **B:79 [CEA s. 44]**
 - commentary, **B:79 [CEA s. 44]**
 - related provisions, **B:79 [CEA s. 44]**
- Deposition of witness in criminal investigation, **B:12 [CEA s. 10(2)]**
- Depositions taken abroad
 - admissibility of related documents, **B:89 [CEA s. 54]**
 - commentary, **B:89 [CEA s. 54]**
 - related provisions, **B:89 [CEA s. 54]**
 - deemed validity, **B:88 [CEA s. 53]**
 - commentary, **B:88 [CEA s. 53]**
 - related provisions, **B:88 [CEA s. 53]**
 - persons authorized to administer, **B:87 [CEA s. 52]**
 - commentary, **B:87 [CEA s. 52]**
 - related provisions, **B:87 [CEA s. 52]**
- Disabled witnesses, evidence of, **B:7, B:8 [CEA ss. 6, 6.1]**
 - commentary, **B:7, B:8 [CEA ss. 6, 6.1]**
 - related provisions, **B:7, B:8 [CEA ss. 6, 6.1]**
- Electronic documents, see ELECTRONIC DOCUMENTS
- Examination of witness in Canada, for purpose of foreign proceedings
 - administering oath in ordered proceedings, parties authorized, **B:84 [CEA s. 49]**
 - commentary, **B:84 [CEA s. 49]**
 - related provisions and principles, **B:84 [CEA s. 49]**

Canada Evidence Act—Cont'd

Examination of witness in Canada,
for purpose of foreign proceedings—Cont'd
authority to issue order for, **B:81**
[CEA s. 46(1)]
case law, **B:81** [CEA s. 46]
general principles, **B:81**
[CEA s. 46]
pre-requisites of order, **B:81**
[CEA s. 46]
commentary, **B:81** [CEA s. 46]
related provisions and
principles, **B:81** [CEA s.
46]
Canadian law respecting wit-
nesses applicable to ordered
proceedings, **B:85** [CEA ss.
50(1.1), (1.2)]
commentary, **B:85** [CEA s. 50]
related provisions and
principles, **B:85** [CEA s.
50]
enforcement of order for, **B:82**
[CEA s. 47]
commentary, **B:82** [CEA s. 47]
related provisions and
principles, **B:82** [CEA s.
47]
expenses and conduct money
associated with ordered
proceedings, **B:83** [CEA s.
48]
commentary, **B:83** [CEA s. 48]
related provisions and
principles, **B:83** [CEA s.
48]
self-crimination protection in
ordered proceedings, **B:85**
[CEA s. 50(1), (2)]
commentary, **B:85** [CEA s. 50]
related provisions and
principles, **B:85** [CEA s.
50]
supporting evidence
commentary, **B:86** [CEA s. 51]

Canada Evidence Act—Cont'd

Examination of witness in Canada,
for purpose of foreign proceed-
ings—Cont'd
supporting evidence—Cont'd
court may issue rules relating
to requirements for, **B:86**
[CEA s. 51(1)]
letters rogatory deemed suf-
ficient, absent order, **B:86**
[CEA s. 51(2)]
related provisions and
principles, **B:86** [CEA s.
51]
video-links authorized, **B:81**
[CEA s. 46(2)]
commentary, **B:81** [CEA s. 46]
related provisions and
principles, **B:81** [CEA s.
46]
Expert witnesses, **B:9** [CEA s. 7]
case law, **B:9** [CEA s. 7]
admissibility of expert evi-
dence, **B:9** [CEA s. 7]
conflicting expert evidence,
B:9 [CEA s. 7]
number of witnesses, **B:9**
[CEA s. 7]
commentary, **B:9** [CEA s. 7]
related provisions and principles,
B:9 [CEA s. 7]
Forged instruments, impounding of,
B:46 [CEA s. 35]
commentary, **B:46** [CEA s. 35]
related provisions, **B:46** [CEA s.
35]
Handwriting
comparison, **B:10** [CEA s. 8]
case law, **B:10** [CEA s. 8]
commentary, **B:10** [CEA s. 8]
related provisions and
principles, **B:10** [CEA s.
8]
proof of person certifying, **B:44**
[CEA s. 33]
commentary, **B:44** [CEA s. 33]

Canada Evidence Act—Cont'd

Handwriting—Cont'd
 proof of person certifying, **B:44**
 [CEA s. 33]—Cont'd
 related provisions and
 principles, **B:44** [CEA s.
 33]
 Insurance companies, authorized
 takers of affidavits, affirma-
 tions and declarations for, **B:77**
 [CEA s. 42]
 commentary, **B:77** [CEA s. 42]
 related provisions and principles,
 B:77 [CEA s. 42]
 Integrity, proof of, **B:36**, **B:37**,
 B:40 [CEA ss. 31.2, 31.3,
 31.6]
 Interest or crime, competence and,
 B:4 [CEA s. 3]
 commentary, **B:4** [CEA s. 3]
 related provisions and principles,
 B:4 [CEA s. 3]
 International relations, objection
 relating to, see PRIVILEGE
 Judicial documents, see PUBLIC
 AND JUDICIAL DOCU-
 MENTS
 Judicial notice, see JUDICIAL
 NOTICE
 Judicial proceedings, evidence of,
 B:26 [CEA s. 23]
 case law, **B:26** [CEA s. 23]
 commentary, **B:26** [CEA s. 23]
 related provisions and principles,
 B:26 [CEA s. 23]
 National defence or security, objec-
 tion relating to, see PRIVI-
 LEGE and sensitive informa-
 tion
 Notarial acts in Quebec, admissibil-
 ity of, **B:30** [CEA s. 27]
 commentary, **B:30** [CEA s. 27]
 related provisions, **B:30** [CEA s.
 27]
 Oaths, see OATHS

Canada Evidence Act—Cont'd

Order signed by Secretary of State,
 B:43 [CEA s. 32(1)]
 commentary, **B:43** [CEA s. 32]
 related provisions, **B:43** [CEA s.
 32]
 Photographs, prints admissible in
 evidence, **B:34** [CEA s. 31]
 case law, **B:34** [CEA s. 31]
 commentary, **B:34** [CEA s. 31]
 related provisions and principles,
 B:34 [CEA s. 31]
 Potentially injurious information,
 see PRIVILEGE
 Previous convictions
 examination as to, **B:14** [CEA s.
 12]
 case law, **B:14** [CEA s. 12]
 “convicted of any offence,”
 circumstances of
 offence and conviction,
 B:14 [CEA s. 12]
 “convicted of any offence,”
 meaning of “convic-
 tion,” **B:14** [CEA s.
 12]
 “convicted of any offence,”
 meaning of “offence,”
 B:14 [CEA s. 12]
 “may be questioned,” **B:14**
 [CEA s. 12]
 discretion to exclude, **B:14**
 [CEA s. 12]
 evidentiary value of prior
 convictions, **B:14**
 [CEA s. 12]
 other discreditable conduct,
 B:14 [CEA s. 12]
 procedure, **B:14** [CEA s.
 12]
 commentary, **B:14** [CEA s. 12]
 related provisions and
 principles, **B:14** [CEA s.
 12]
 proof of, **B:14** [CEA s. 12(1.1),
 (2)]
 case law, **B:14** [CEA s. 12]

Canada Evidence Act—Cont'd

Previous convictions—Cont'd
 proof of, **B:14 [CEA s. 12(1.1), (2)]—Cont'd**
 commentary, **B:14 [CEA s. 12]**
 related provisions and principles, **B:14 [CEA s. 12]**

Previous oral statements, cross-examination as to, **B:13 [CEA s. 11]**
 case law, **B:13 [CEA s. 11]**
 evidentiary value of statement, **B:13 [CEA s. 11]**
 general principles, **B:13 [CEA s. 11]**
 jury instructions, **B:13 [CEA s. 11]**
 procedural considerations, **B:13 [CEA s. 11]**
 commentary, **B:13 [CEA s. 11]**
 related provisions and principles, **B:13 [CEA s. 11]**

Previous written/recorded statements, cross-examination as to, **B:12 [CEA s. 10(1)]**
 case law, **B:12 [CEA s. 10]**
 evidentiary value of prior statement, **B:12 [CEA s. 10]**
 form of statement, **B:12 [CEA s. 10]**
 general principles, **B:12 [CEA s. 10]**
 jury instruction on prior inconsistent statements, **B:12 [CEA s. 10]**
 commentary, **B:12 [CEA s. 10]**
 related provisions and principles, **B:12 [CEA s. 10]**

Prior inconsistent statement applications, **B:11 [CEA s. 9(2)]**
 case law, **B:11 [CEA s. 9]**
 cross-examination on statement under s. 9(2), **B:11 [CEA s. 9]**

Canada Evidence Act—Cont'd

Prior inconsistent statement applications, **B:11 [CEA s. 9(2)]**
 —Cont'd
 case law, **B:11 [CEA s. 9]**
 —Cont'd
 evidentiary value of prior statement, **B:11 [CEA s. 9]**
 form of statement, **B:11 [CEA s. 9]**
 general principles of s. 9(2), **B:11 [CEA s. 9]**
 commentary, **B:11 [CEA s. 9]**
 related provisions and principles, **B:11 [CEA s. 9]**

Provincial laws of evidence, applicability of, **B:75 [CEA s. 40]**
 case law, **B:75 [CEA s. 40]**
 general principles, **B:75 [CEA s. 40]**
 specific applications: language of trial, **B:75 [CEA s. 40]**
 specific applications: motor vehicle accident reports, **B:75 [CEA s. 40]**
 specific applications: motor vehicle records, **B:75 [CEA s. 40]**
 commentary, **B:75 [CEA s. 40]**
 related provisions and principles, **B:75 [CEA s. 40]**

Public documents, **B:27 to B:30 [CEA ss. 24, 25, 26, 27]**
 case law, **B:27 [CEA ss. 24]**
 commentary, **B:27 to B:30 [CEA ss. 24, 25, 26, 27]**
 related provisions and principles, **B:27 to B:30 [CEA ss. 24, 25, 26, 27]**

Public interest immunity, objection based on, see PRIVILEGE

Queen's Privy Council, objection relating to confidence of, see PRIVILEGE

Canada Evidence Act—Cont'd

Represents bullet
 authentication, **B:35** [CEA s. 31.1]
 commentary, **B:45** [CEA s. 34]
 related provisions, **B:45** [CEA s. 34]
 see also specific topics
 Self-crimination, protection against,
B:6, B:85 [CEA ss. 5, 50]
 case law, **B:6** [CEA s. 5]
 Charter considerations, **B:6**
 [CEA s. 5]
 jury instructions, **B:6** [CEA s. 5]
 objection to answer, **B:6** [CEA s. 5(2)]
 privilege against self-crimination, **B:6** [CEA s. 5(1)]
 scope of section, **B:6** [CEA s. 5]
 commentary, **B:6, B:85** [CEA ss. 5, 50]
 related provisions and principles, **B:6, B:85** [CEA ss. 5, 50]
 Sensitive information, see PRIVILEGE
 Short title, **B:2** [CEA s. 1]
 commentary, **B:2** [CEA s. 1]
 related provisions and principles, **B:2** [CEA s. 1]
 Solemn affirmations, see SOLEMN AFFIRMATIONS
 Solemn declaration, **B:76** [CEA s. 41]
 commentary, **B:76** [CEA s. 41]
 related provisions, **B:76** [CEA s. 41]
 Specified public interest, see PRIVILEGE
 Statutory instruments, proof of,
B:23 to B:25 [CEA ss. 20, 21, 22]
 case law, **B:23, B:24** [CEA ss. 20, 21]

Canada Evidence Act—Cont'd

Statutory instruments, proof of,
B:23 to B:25 [CEA ss. 20, 21, 22]—Cont'd
 commentary, **B:23 to B:25** [CEA ss. 20, 21, 22]
 related provisions and principles, **B:23 to B:25** [CEA ss. 20, 21, 22]

CAPACITY OF WITNESS IN QUESTION

Under 14 years of age, **B:19** [CEA s. 16.1]
 Case law, **B:18** [CEA s. 16]
 Charter considerations, **B:18**
 [CEA s. 16]
 commentary, **B:18** [CEA s. 16]
 evidence in promise to tell truth, **B:18** [CEA s. 16]
 hearsay evidence of children's statements, **B:18** [CEA s. 16]
 jury instructions on evidence of children, **B:18** [CEA s. 16]
 nature and procedure of inquiry, **B:18** [CEA s. 16]
 related provisions and principles, **B:18** [CEA s. 16]

CHARACTER OF ACCUSED

Bad character, evidence of
 co-accused, bad character of, **6:6**
 case law, **6:6**
 nature of evidence of bad character, **6:6**
 right of co-accused to adduce, **6:6**
 commentary, **6:6**
 jury instructions (WMCJI), **6:6**
 related provisions and principles, **6:6**
 expert opinion evidence, **6:7**
 case law, **6:7**
 commentary, **6:7**
 jury instructions (WMCJI), **6:7**

CHARACTER OF ACCUSED

—Cont'd

Bad character, evidence of—Cont'd
 expert opinion evidence, **6:7**
 —Cont'd
 related provisions and principles, **6:7**
 general principles, **6:5**
 case law, **6:5**
 evidence of antecedents to rebut claim of inadequate investigation, **6:5**
 evidence of drug associations, dealings, and use, **6:5**
 evidence of false testimony, **6:5**
 evidence of gang and other criminal associations, **6:5**
 evidence of lifestyle as credibility factor, **6:5**
 evidence of lifestyle through details of prior conduct, **6:5**
 evidence of lifestyle to explain mental element, **6:5**
 evidence of lifestyle to explain relevant relationship, **6:5**
 evidence of lists of prior crimes, **6:5**
 evidence of possession and display of child pornography, **6:5**
 evidence of prior assaults, **6:5**
 evidence of prior imprisonment, **6:5**
 evidence of sexual interests and lifestyle, **6:5**
 evidence of sexual orientation, **6:5**
 evidence of suppression of evidence, **6:5**

CHARACTER OF ACCUSED

—Cont'd

Bad character, evidence of—Cont'd
 general principles, **6:5**—Cont'd
 case law, **6:5**—Cont'd
 evidence of threats, **6:5**
 exceptions, **6:5**
 general principles, **6:5**
 jury instructions: permitted and prohibited use, **6:5**
 premises, character of, **4:1**
 commentary, **6:5**
 related provisions and principles, **6:5**
 Good character, evidence of
 expert opinion of good character, **6:4**
 case law, **6:4**
 commentary, **6:4**
 related provisions and principles, **6:4**
 general principles, **6:1**
 case law, **6:1**
 form of evidence, **6:1**
 jury instructions, **6:1**
 peaceful disposition of victim, **6:1**
 relevance of evidence of good character of accused, **6:1**
 relevance of evidence of good character of victim, **6:1**
 commentary, **6:1**
 character trait, **6:1**
 general reputation, **6:1**
 jury instructions (WMCJI), **6:1**
 related provisions and principles, **6:1**
 putting character in issue, **6:2**
 case law, **6:2**
 criminal record, by denying, **6:2**
 cross-examination of accused when character

CHARACTER OF ACCUSED

—Cont'd

- Good character, evidence of
 - Cont'd
 - putting character in issue, **6:2**
 - Cont'd
 - case law, **6:2**—Cont'd
 - in issue, **6:2**
 - cross-examination of
 - defence character witness, **6:2**
 - defence, by adducing evidence, **6:2**
 - procedural considerations, **6:2**
 - prosecutorial attempts, **6:2**
 - commentary, **6:2**
 - jury instructions (WMCJI), **6:2**
 - related provisions and principles, **6:2**
 - rebuttal of evidence of good character, **6:3**, **A:109 [CC s. 666]**
 - case law, **6:3**, **A:109 [CC s. 666]**
 - evidentiary value of rebutting evidence, **6:3**
 - expert evidence, **6:3**
 - general principles, **6:3**, **A:109 [CC s. 666]**
 - putting character in issue, **A:109 [CC s. 666]**
 - reputation evidence, **6:3**
 - scope of rebutting evidence
 - when character put in issue, **A:109 [CC s. 666]**
 - sexual assault, in cases of, **A:109 [CC s. 666]**
 - similar acts, **6:3**
 - specific acts, **6:3**
 - commentary, **6:3**
 - jury instructions (WMCJI), **6:3**
 - related provisions and principles, **6:3**

CHARACTER OF

NON-ACCUSED PERSONS

- Complainants, see victims/ complainants
- Deceased persons in homicide cases, **6:9**
 - case law, **6:9**
 - disposition for violence, **6:9**
 - general principles, **6:9**
 - good character, **6:9**
 - means of proof, **6:9**
 - peaceable character, **6:9**
 - rebuttal, evidence in, **6:9**
 - sexual activity as context, other, **6:11**
 - commentary, **6:9**
 - related provisions and principles, **6:9**
- Non-accused witnesses, **6:8**
 - case law, **6:8**
 - defence witnesses, character of, **6:8**
 - general principles, **6:8**
 - jury instructions, **6:8**
 - prosecution witnesses, character of, **6:8**
 - unsavoury witness warnings
 - appellate review, **6:8**
 - child complainants, and, **6:8**
 - confirmation evidence, **6:8**
 - defence witness and, **6:8**
 - essential features, **6:8**
 - joint trials, **6:8**
 - judge alone trials, **6:8**
 - judicial discretion, **6:8**
 - language used, **6:8**
 - listing confirmatory evidence, **6:8**
 - mixed witnesses, **6:8**
 - mutual confirmation, **6:8**
 - witnesses (non-accused), **6:8**
 - commentary, **6:8**
 - jury instructions (WMCJI), **6:8**
 - related provisions and principles, **6:8**

**CHARACTER OF
NON-ACCUSED PERSONS
—Cont'd**

Sexual offence complainants, **6:11**
case law, **6:11**
commentary, **6:11**
jury instructions (WMCJI), **6:11**
related provisions and principles,
6:11

Third party perpetrators, known
alleged, **6:12**
case law, **6:12**
conditions precedent, **6:12**
disclosure of records about
third party suspects, **6:12**
general principles, **6:12**
joint trials, evidence in, **6:12**
jury instructions, **6:12**
nature of evidence, **6:12**
rebuttal, evidence in, **6:12**
unknown, **6:12**
commentary, **6:12**
jury instructions (WMCJI), **6:12**
related provisions and principles,
6:12

Victims/complainants, **6:10**
case law, **6:10**
bad character, generally, **6:10**
evidence of veracity, **6:10**
unsavoury witness warnings,
6:10
commentary, **6:10**
jury instructions (WMCJI), **6:10**
related provisions and principles,
6:10

CHARTER EXCLUSION

Adjudication on merits, inquiry into
society's interest in, **9:15**
case law, **9:15**
commentary, **9:15**
discoverability, **9:15**
related provisions and principles,
9:15

CHARTER EXCLUSION—Cont'd

Charter voir dire, **9:12**
case law, **9:12**
forum: trial court, **9:12**
onus and standard of proof,
9:12
procedural requirements, **9:12**
reconsideration of rulings,
9:12
commentary, **9:12**
related provisions and privileges,
9:12

General principles, **9:11**
case law, **9:11**
appellate review of s. 24(2)
decisions, **9:11**
application of s. 24(2) to
foreign evidence, **9:11**
Charter-infringing state
conduct, seriousness of,
9:11
court of competent jurisdic-
tion, **9:11**
derivative evidence, **9:11**
discoverability and derivative
evidence, **9:11**
evidence obtained in a manner,
9:11
right to counsel, **9:11**
right to silence, **9:11**
testimony of witnesses, **9:11**
unreasonable searches, **9:11**
evidence of bodily substances,
9:11
exclusion under s. 24(1), **9:11**
exclusivity of s. 24(2), **9:11**
foreign evidence, **9:11**
general principles, **9:11**
impact on Charter-protected
interests, **9:11**
lines of inquiry, relationship of,
9:11
nature of evidence as factor
affecting admissibility,
9:11

CHARTER EXCLUSION—Cont'd

General principles, **9:11**—Cont'd
 case law, **9:11**—Cont'd
 onus and standard of proof, **9:11**
 relationship of s. 24(2) factors, **9:11**
 relevant factors, **9:11**
 society's interest in adjudicating on merits, **9:11**
 standing to seek exclusion, **9:11**
 use of evidence as a factor affecting admissibility, **9:11**
 commentary, **9:11**
 effects, **9:11**
 infringement, **9:11**
 relationship, **9:11**
 related provisions and principles, **9:11**
 Impact of infringement on Charter-protected interests, inquiry into, **9:14**
 case law, **9:14**
 impact on D's Charter-protected interests, **9:14**
 seriousness of the violation inquiry, **9:14**
 commentary, **9:14**
 related provisions and principles, **9:14**
 see also CHARTER RIGHTS
 Seriousness of Charter-infringing conduct, inquiry into, **9:13**
 case law, **9:13**
 general principles, **9:13**
 influence of good faith, **9:13**
 nature of state conduct, **9:13**
 relevance of legal uncertainty, **9:13**
 relevance of urgency, **9:13**
 role of policy, **9:13**
 systemic conduct, **9:13**
 commentary, **9:13**

CHARTER EXCLUSION—Cont'd

Seriousness of Charter-infringing conduct, inquiry into, **9:13**
 —Cont'd
 related provisions and principles, **9:13**

CHARTER RIGHTS

Right to counsel
 general principles, **9:1**
 case law, **9:1**
 continued questioning after Charter advice, **9:1**
 detention, **9:1**
 cell phone, availability of, **9:1**
 in customs and immigration cases, **9:1**
 in driving cases, **9:1**
 encounters with police, **9:1**
 factors to consider, **9:1**
 general principles, **9:1**
 investigative, **9:1**
 need for demand or direction, **9:1**
 psychological detention, **9:1**
 serving prisoners, and, **9:1**
 implementation component: general principle, **9:1**
 purpose of right to counsel, **9:1**
 purpose of right to counsel: custodial interrogation, **9:1**
 relationship with s. 10(a), **9:1**
 relationship with voluntariness and common law admissibility, **9:1**
 scope of right, **9:1**
 scope of right: counsel of choice, **9:1**

CHARTER RIGHTS—Cont'd

Right to counsel—Cont'd
 general principles, **9:1**—Cont'd
 case law, **9:1**—Cont'd
 scope of right: presence of
 counsel at police
 interview, **9:1**
 statutory compulsion, and,
 9:1
 continued questioning
 after Charter advice,
 9:1
 general principles, **9:1**
 obligation to provide duty
 counsel, **9:1**
 without delay, **9:1**
 commentary, **9:1**
 related provisions and
 principles, **9:1**
 implementation component, **9:3**
 case law, **9:3**
 changes in circumstances,
 9:3
 counsel of choice, **9:3**
 counsel, repeated requests to
 speak to, **9:3**
 delay, circumstances justify-
 ing, **9:3**
 denial of right, **9:3**
 diligence, requirement of,
 9:3
 general principles, **9:3**
 jury instructions, **9:3**
 presence of counsel, **9:3**
 right to privacy, **9:3**
 roadside detentions, **9:3**
 standard required, **9:3**
 urgency, considerations of,
 9:3
 waiver, **9:3**
 burden of proof, **9:3**
 general principles, **9:3**
 standard required, **9:3**
 commentary, **9:3**

CHARTER RIGHTS—Cont'd

Right to counsel—Cont'd
 implementation component, **9:3**
 —Cont'd
 related provisions and
 principles, **9:3**
 information component, **9:2**
 case law, **9:2**
 changes in circumstances,
 9:2
 detainee's comprehension,
 9:2
 duty counsel or legal aid,
 advice about, **9:2**
 general principles, **9:2**
 investigative detention, **9:2**
 mental capacity and its
 proof, **9:2**
 “prosper” warnings, **9:2**
 re-advice, **9:2**
 relationship with s. 10(a),
 9:2
 right to privacy, **9:2**
 waiver, **9:2**
 commentary, **9:2**
 related provisions and
 principles, **9:2**
 Right to silence
 “Mr
 Big” operations, see
 undercover operations
 custodial interrogation, **9:5**
 case law, **9:5**
 assertions of right and, **9:5**
 credibility and, **9:5**
 custodial interrogation, **9:5**
 failure to reply, evidentiary
 value of, **9:5**
 commentary, **9:5**
 jury instructions (WMCJI), **9:5**
 related provisions and
 principles, **9:5**
 general principles, **9:4**
 case law, **9:4**
 alibi, **9:4**

CHARTER RIGHTS—Cont'd

Right to silence—Cont'd
 general principles, **9:4**—Cont'd
 case law, **9:4**—Cont'd
 cross-examination and failure to give statement, **9:4**
 cross-examination/comment on failure to testify, **9:4**
 elicitation requirement, **9:4**
 failure to reply after caution, and, **9:4**
 information component, **9:4**
 joint ventures, and, **9:4**
 jury instructions on refusal to consent to psychiatric examination, **9:4**
 jury instructions on silence, **9:4**
 jury instructions on silence after caution, **9:4**
 jury instructions on silence after Charter advice, **9:4**
 photographs, and, **9:4**
 pre-trial questioning, **9:4**
 relationship to other rights and principles, **9:4**
 right to choose, and, **9:4**
 scientific tests, and, **9:4**
 scope of right, **9:4**
 triggering mechanism, **9:4**
 voluntariness and, **9:4**
 commentary, **9:4**
 jury instructions (WMCJI), **9:4**
 related provisions and principles, **9:4**
 state agency requirement, **9:4**
 physical tests, **9:6**
 “Mr. Big” operations, **9:7**
 case law, **9:6**
 general principles, **9:6**
 psychiatric examination, refusal to undergo, **9:6**

CHARTER RIGHTS—Cont'd

Right to silence—Cont'd
 physical tests, **9:6**—Cont'd
 commentary, **9:6**
 jury instructions (WMCJI), **9:6**
 related provisions and principles, **9:6**
 undercover operations, **9:7**
 abuse of process, **9:7**
 case law, **9:7**
 commentary, **9:7**
 confessions, **9:7**
 jury instructions (WMCJI), **9:7**
 oath-helping, **9:7**
 related provisions and principles, **9:7**
 see also CHARTER EXCLUSION
 Self-crimination, right against
 accused persons, compellability, **9:10, B:5 [CEA s. 4]**
 case law, **9:10, B:5 [CEA s. 4]**
 corporate accused, compellability of, **9:10, 1:10**
 See also COMPELLABILITY
 persons charged, compellability of, **9:10**
 commentary, **9:10, B:5 [CEA s. 4]**
 related provisions and principles, **9:10, B:5 [CEA s. 4]**
 general principles, **9:8**
 case law, **9:8**
 border questioning, **9:8**
 failure to testify, comments on, **9:8**
 general principles (common law), **9:8**
 incriminating questions under CEA s. 5, **9:8**
 exceptions, **9:8**
 jury instructions, **9:8**
 procedural requirements, **9:8**

CHARTER RIGHTS—Cont'd

Self-crimination, right against
—Cont'd
general principles, **9:8**—Cont'd
case law, **9:8**—Cont'd
incriminating questions
under CEA s. 5, **9:8**
—Cont'd
scope of application, **9:8**
scope of protection, **9:8**
physical features, observations of, **9:8**
prior testimony, cross-examination on, **9:8**
refusal to answer police questions, **9:8**
refusal to participate in lineup, **9:8**
refusal to perform tests, **9:8**
refusal to provide samples, **9:8**
refusal to submit to psychiatric examination, **9:8**
scope of Charter right, **9:8**
general, **9:8**
under s. 11(c), **9:8**
under s. 13, **9:8**
under s. 7, **9:8**
self-crimination under the Charter: “incriminating evidence,” **9:8**
commentary, **9:8**
subsequent use immunity, **9:8**
testimonial compulsion, **9:8**
related provisions and principles, **9:8**
witness, self-crimination by, **9:9**
case law, **9:9**
compelled testimony, and, **9:9**
corporate accused, and, **9:9**
prior testimony, cross-examination on, **9:9**
right against self-crimination and compellability

CHARTER RIGHTS—Cont'd

Self-crimination, right against
—Cont'd
witness, self-crimination by, **9:9**
—Cont'd
case law, **9:9**—Cont'd
of persons charged, **9:9**
commentary, **9:9**
related provisions and principles, **9:9**

CHILD ABUSE PROSECUTIONS

Generally, **5:8**

CHILD WITNESSES

Age, proof of, **A:107, D:7** [CC s. 658, YCJA s. 148]
Capacity in question, **B:18** [CEA s. 16]
under 14 years of age, **B:19** [CEA s. 16.1]
case law, **B:18** [CEA s. 16]
appellate review of competence decisions, **B:18** [CEA s. 16]
Charter considerations, **B:18** [CEA s. 16]
evidence on promise to tell truth, **B:18** [CEA s. 16]
general principles, **B:18** [CEA s. 16]
hearsay evidence of children's statements, **B:18** [CEA s. 16]
inquiry into competence under s. 16(3), **B:18** [CEA s. 16]
jury instructions on evidence of children, **B:18** [CEA s. 16]
nature and procedure of inquiry, **B:18** [CEA s. 16]
questions re understanding of promise, **B:18** [CEA s. 16(3.1)]
relationship to unfitness, **B:18** [CEA s. 16]

CHILD WITNESSES—Cont'd

Capacity in question, **B:18** [CEA s. 16]—Cont'd

case law, **B:18** [CEA s. 16]

—Cont'd

requirements of testimonial competence, **B:18** [CEA s. 16]

testimony on promise to tell the truth: evidence under s. 16(3), **B:18** [CEA s. 16]

testimony on promise to tell the truth: nature of inquiry, **B:18** [CEA s. 16]

commentary, **B:18** [CEA s. 16]
related provisions and principles, **B:18** [CEA s. 16]

Competence, **1:2**

case law, **1:2**

appellate review of competence decisions, **1:2**

credibility, challenging, **1:2**

evidence under oath or affirmation, **1:2**

evidence, unsworn, **1:2**

general principles, **1:2**

inquiry, necessity of, **1:2**

jury instructions, **1:2**

nature of inquiry, **1:2**

obstructed view testimony, **1:2**

procedural considerations, **1:2**

promise to tell the truth, **1:2**

related provisions and principles, **1:2**

reliability, challenging, **1:2**

sequestered testimony, **1:2**

testimonial aids, **1:2**

unsworn evidence, **1:2**

commentary, **1:2**

jury instructions (WMCJI), **1:2**

Evidence of, **A:68, A:108** [CC ss. 486, 659]

case law, **A:68** [CC s. 486]

exclusion of public access to exhibits, **A:68** [CC s. 486]

CHILD WITNESSES—Cont'd

Evidence of, **A:68, A:108** [CC ss. 486, 659]—Cont'd

case law, **A:68** [CC s. 486]

—Cont'd

exclusion of public—Cont'd
general, **A:68** [CC s. 486]

informer testimony, **A:68** [CC s. 486]

juror inquiries, **A:68** [CC s. 486]

procedure, **A:68** [CC s. 486]

sexual offences, **A:68** [CC s. 486]

general rule, **A:68** [CC s. 486]

jury instructions, **A:68** [CC s. 486.2, 486.4]

obstructed view testimony, **A:68** [CC s. 486.2]

publication restrictions, **A:68** [CC s. 486.4]

testimony outside courtroom, **A:68** [CC s. 486.2]

Young offender proceedings, **D:7** [YCJA s. 151]

CIRCUMSTANTIAL EVIDENCE

Consciousness of guilt (after-the-fact conduct), evidence of, **1:22**

case law, **1:22**

admissibility: complicity and level of culpability, **1:22**

admissibility: credibility, **1:22**

admissibility: criminal responsibility, **1:22**

admissibility: culpable and nonculpable conduct, **1:22**

admissibility: general principles, **1:22**

admissibility: state of mind, **1:22**

admissibility: voluntary surrender, evidence of, **1:22**

demeanour evidence, **1:22**

CIRCUMSTANTIAL EVIDENCE
—Cont'd

Consciousness of guilt (after-the-fact conduct), evidence of, **1:22**—Cont'd
 case law, **1:22**—Cont'd
 destruction and fabrication of evidence, **1:22**
 disbelief, **1:22**
 fabricated accusations against third party, **1:22**
 fabrication, **1:22**
 false alibi
 distinction between fabrication and disbelief, **1:22**
 proof of fabrication, **1:22**
 flight, **1:22**
 general principles, **1:22**
 jury instructions
 generally, **1:18**
 manner, **1:22**
 need for a warning, **1:22**
 obligation to, **1:22**
 probative value, **1:22**
 standard, **1:22**
 terminology, **1:22**
 lack of concern, **1:22**
 lies, **1:22**
 rebut defence, to, **1:22**
 refusal to participate in tests on investigation, **1:22**
 sentencing factor, as, **1:22**
 sexual offence complainant, conduct of, **1:22**
 silence on arrest, **1:22**
 suicide, attempts at, **1:22**
 threats, **1:22**
 commentary, **1:22**
 jury instructions (WMCJI), **1:22**
 related provisions and principles, **1:22**
 General principles, **1:18**
 assumptions, common sense, **1:36**

CIRCUMSTANTIAL EVIDENCE
—Cont'd

General principles, **1:18**—Cont'd
 case law, **1:18**
 after-the-fact conduct, **1:22**
 disposition for violence, proof of, **1:18**
 documents-in-possession rule, **1:18**
 fingerprints, **1:18**
 general principles: appellate review of inference-drawing process, **1:18**
 general principles: conspiracy cases, **1:18**
 general principles: evidence of other crimes, **1:18**
 general principles: proof, **1:18**
 habit, evidence of, **1:18**
 jury instructions, **1:18**
 knowledge, proof of, **1:18**
 narrative, re the, **1:18**
 parties, relationship between, **1:18**
 recent possession, doctrine of, **1:36**
 state of mind, proof of, **1:18**
 stereotypical reasoning, **1:36**
 third party participation, **1:18**
 twin myth reasoning, **1:36**
 commentary, **1:18**
 jury instructions (WMCJI), **1:18**
 related provisions and principles, **1:18**
 stereotypical reasoning, inferences and, **1:36**
 third party participation, **1:18**
 twin myth reasoning, **1:36**
 Means, skill, capacity and expertise, evidence of, **1:20**
 case law, **1:20**
 capacity, evidence of, **1:20**
 expertise, evidence of, **1:20**
 means, evidence of, **1:20**
 commentary, **1:20**

CIRCUMSTANTIAL EVIDENCE

—Cont’d

Means, skill, capacity and expertise,
evidence of, **1:20**—Cont’d
related provisions and principles,
1:20

Motive, evidence of, **1:21**

case law, **1:21**

financial difficulties, **1:21**

financial pressures, **1:21**

general principles, **1:21**

insurance proceeds, **1:21**

jealousy, **1:21**

jury instructions on other
crimes as evidence of
motive, **1:21**

other crimes, evidence of, **1:21**

relationship between
principals, **1:21**

sexual intimacy, **1:21**

theft, **1:21**

threats, violence and hostility:
general, **1:21**

threats, violence and hostility:
jury instructions, **1:21**

threats, violence and hostility:
proof, manner of, **1:21**

commentary, **1:21**

jury instructions (WMCJI), **1:21**
related provisions and principles,
1:21

Opportunity, evidence of, **1:19**

case law, **1:19**

evidence of exclusive
opportunity, **1:19**

evidence of opportunity, **1:19**
opportunity of third parties,
1:19

commentary, **1:19**

jury instructions (WMCJI), **1:19**
related provisions and principles,
1:19

COMMISSION EVIDENCE

Generally, **A:117, B:81 [CC ss. 709
to 714, CEA s. 46]**

COMMISSION EVIDENCE

—Cont’d

Case law, **A:117 [CC s. 709]; A:117
[CC s. 713]; A:117 [CC s.
714]; A:117 [CC ss. 710 to
712]**

Charter considerations, **A:117
[CC s. 713]**

discretion, **A:117 [CC s. 709]**

general principles, **A:117 [CC s.
709]**

notice of application, **A:117 [CC
s. 709]**

presence of accused, **A:117 [CC
s. 713]**

proceedings, **A:116 [CC s. 709]**

Miscarriage of Justice Review
Commission, **A:116 [CC ss.
696.7 to 696.87]**

Order for examination of witness in
Canada, **B:81 [CEA s. 46]**

case law, **B:81 [CEA s. 46]**

general principles, **B:81 [CEA
s. 46]**

prerequisites of order, **B:81
[CEA s. 46]**

**COMMUNICATION,
INTERCEPTION OF**

Authorization, application for, **A:19
[CC s. 185]**

COMPELLABILITY

Accused persons, compellability of,
1:10

case law, **1:9; 1:10**

accused, separately charged,
1:10

Charter considerations, **1:9**

compel attendance, issuing
process to, **1:9**

competence and compellabil-
ity, **1:9**

inmate witnesses, **1:9**

joint trial, **1:10**

potential accused, **1:9**

COMPELLABILITY—Cont'd

Accused persons, compellability of,
1:10—Cont'd
 case law, **1:9; 1:10—Cont'd**
 witnesses and religious beliefs,
1:9
 commentary, **1:9; 1:10**
 related provisions and principles,
1:9
 right against self-crimination,
9:10
 case law, **9:10**
 commentary, **9:10**
 related provisions and
 principles, **9:10**
 see also COMPETENCE AND
 COMPELLABILITY UNDER
 CEA
 Spouses of accused, compellability
 of, **1:11**
 case law, **1:11**
 common law exception, **1:11,**
1:7
 communication privilege, **1:11,**
B:5 [CEA s. 4(3)]
 marital communications, **1:11,**
B:5 [CEA s. 4(3)]
 spouses of accused persons,
1:11
 commentary, **1:7, 1:11**
 related provisions and principles,
1:11

COMPETENCE

Accused persons, competence of,
1:6
 case law, **1:6**
 accused charged separately,
1:6
 co-accused and formal co-ac-
 cused, **1:6**
 corporate accused, **1:6**
 related provisions and
 principles, **1:6**
 commentary, **1:6**
 jury instructions (WMCJI), **1:6**

COMPETENCE—Cont'd

Accused persons, competence of,
1:6—Cont'd
 see also spouses of accused
 persons
 Child witnesses, **1:2**
 case law, **1:2**
 credibility, challenging, **1:2**
 general principles, **1:2**
 jury instructions, **1:2**
 nature of inquiry, **1:2**
 procedural considerations, **1:2**
 related provisions and
 principles, **1:2**
 reliability, challenging, **1:2**
 unsworn evidence, **1:2**
 commentary, **1:2**
 jury instructions (WMCJI), **1:2**
 General principles of competence,
1:1
 burden of proof, **1:1**
 commentary, **1:1**
 compellability, relationship to,
1:1
 governing principles, **1:1**
 presumption of truthfulness, **1:1**
 procedural considerations, **1:1**
 related provisions and principles,
1:1
 Judges, jurors and lawyers, **1:8**
 case law, **1:8**
 judges, **1:8**
 lawyers, **1:8**
 related provisions and
 principles, **1:8**
 commentary, **1:8**
 Mental capacity, witnesses of
 limited, **1:3**
 case law
 appellate review of compe-
 tence decisions, **1:3**
 evidence on competence issue,
1:3
 fitness, relation between com-
 petence and, **1:3**

COMPETENCE—Cont'd

- Mental capacity, witnesses of limited, **1:3**—Cont'd
- case law—Cont'd
 - general principles, **1:3**
 - inquiry into testimonial competence, **1:3**
 - promise to tell the truth: understanding required, **1:3**
 - requirements of testimonial competence: general principles, **1:3**
 - testimony on promise to tell the truth: evidence, **1:3**
 - testimony on promise to tell the truth: generally, **1:3**
 - related provisions and principles, **1:3**
- Oath and affirmation, **1:4**
 - case law, **1:4**
 - commentary, **1:4**
 - related provisions and principles, **1:4**
- Procedure to determine competence, **1:5**
 - case law, **1:5**
 - ability to communicate evidence, **1:2**
 - form of inquiry, **1:5**
 - nature of evidence re competence, **1:5**
 - standard of proof, **1:5**
 - timing of inquiry, **1:5**
 - commentary, **1:5**
 - related provisions and principles, **1:5**
- Scope of inquiry, **1:5**
- see also COMPETENCE AND COMPELLABILITY UNDER CEA
- Spouses of accused persons, **1:7**
 - case law, **1:7, B:5 [CEA s. 4]**
 - Charter considerations, **1:7**
 - common law exceptions, **1:7, B:5 [CEA s. 4(5)]**

COMPETENCE—Cont'd

- Spouses of accused persons, **1:7**
 - Cont'd
 - case law, **1:7, B:5 [CEA s. 4]**
 - Cont'd
 - general principles, **1:7**
 - joint trials, **1:7**
 - related provisions and principles, **1:7**
 - separated and divorced spouses, **1:7, B:5 [CEA s. 4(3)]**
 - spousal communication privilege, **1:7**
 - statutory exceptions, **1:7, B:5 [CEA ss. 4(1), 4(2), 4(4)]**
 - commentary, **1:7**
 - see also COMPETENCE AND COMPELLABILITY UNDER CEA
- COMPETENCE AND COMPELLABILITY UNDER CEA**
- Accused or spouse, **B:5 [CEA s. 4]**
 - case law, **B:5 [CEA s. 4]**
 - “husband” or “wife,” **B:5 [CEA s. 4]**
 - Charter considerations, **B:5 [CEA s. 4]**
 - comment on failure to testify, **B:5 [CEA s. 4(6)]**
 - communication privilege, **B:5 [CEA s. 4(3)]**
 - general principles, **B:5 [CEA s. 4]**
 - person charged, **B:5 [CEA s. 4]**
 - commentary, **B:5 [CEA s. 4]**
 - related provisions and principles, **B:5 [CEA s. 4]**
- Fitness and, **1:3**
- Interest or crime, **B:4 [CEA s. 3]**
 - commentary, **B:4 [CEA s. 3]**
 - related provisions and principles, **B:4 [CEA s. 3]**

**CONDITIONAL SENTENCE
ORDER, CONDITIONS OF**

Abstain from alcohol or drugs,
A:128 [CC s. 742.3(2)(a)]
Provide samples for testing
designations re sampling, **A:128**
[CC s. 742.3(6) to (8)]
destruction of samples, **A:128**
[CC s. 742.3(9)]
notice of sampling at regular
intervals, **A:128 [CC s.**
742.3(5)]
prohibited disclosure and uses,
A:129 [CC s. 742.31]
at regular intervals, **A:128 [CC s.**
742.3(2)(a.2)]
regulations re, **A:128 [CC s.**
742.3(10)]
on request, **A:128 [CC s.**
742.3(2)(a.1)]
restriction, **A:128 [CC s.**
742.3(8)]

CONFESSIONS

Confession rule, scope of, **8:6**
“Mr. Big” confessions, **8:6**
case law, **8:6**
abuse of process, **8:6**
actus reus of crime, as to, **8:6**
appellate review, **8:6**
Charter voir dire, **8:6**
Charter, relationship with, **8:6**
derived confessions rule, **8:6**
general principles, **8:6**
goals of, **8:6**
issue estoppel, application of,
8:6
Mr. Big confessions, **8:6**
rules, relationship with other,
8:6
video recordings and
demonstrations, **8:6**
voluntariness, scope of, **8:6**
commentary, **8:6**
jury instructions (WMCJI), **8:6**

CONFESSIONS—Cont’d

Confession rule, scope of, **8:6**
—Cont’d
related provisions and principles,
8:6
Cross-examination on, **8:12**
case law, **8:12**
general principles, **8:12**
joint trials, **8:12**
jury instructions, **8:12**
commentary, **8:12**
jury instructions (WMCJI), **8:12**
related provisions and principles,
8:12
Evidentiary use of, **8:11**
case law, **8:11**
admissibility, procedural issues
relating to, **8:11**
conditions precedent to jury
use, **8:11**
confessions, “Mr. Big,” **8:11**
in cross-examination, **8:11**
duties of trier of fact, **8:11**
editing of statements, **8:11**
evidentiary value of confes-
sions, confirmations by
subsequent evidence, **8:11**
evidentiary value of confes-
sions, contradiction by
other evidence, **8:11**
evidentiary value of confes-
sions, expert evidence
about reliability, **8:11**
evidentiary value of confes-
sions, factors affecting
weight, **8:11**
evidentiary value of confes-
sions, general principles,
8:11
evidentiary value of confes-
sions, jury instructions,
8:11
evidentiary value of successive
statements, **8:11**
in joint trials, **8:11**

CONFESSIONS—Cont’d

- Evidentiary use of, **8:11**—Cont’d
 - case law, **8:11**—Cont’d
 - jury instructions, burden of proof, **8:11**
 - jury instructions, confessions in joint trials, **8:11**
 - jury instructions, factors affecting weight, **8:11**
 - jury instructions, necessity for caution, **8:11**
 - jury instructions: “Mr. Big” confessions, **8:11**
 - procedural issues relating to use, **8:11**
 - third party participation, to prove, **8:11**
 - voice identification, to prove, **8:11**
 - commentary, **8:11**
 - conditions precedent, **8:11**
 - jury instructions (WMCJI), **8:11**
 - related provisions and principles, **8:11**
- Onus and standard of proof, **8:10**
 - case law, **8:10**
 - general principles, **8:10**
 - issues to be decided, **8:10**
 - making of statement, **8:10**
 - voluntariness, **8:10**
 - commentary, **8:10**
 - related provisions and principles, **8:10**
- Persons in authority, **8:7**
 - case law, **8:7**
 - burden of proof, **8:7**
 - doctors and other health professionals, **8:7**
 - general principles, **8:7**
 - procedural issues, **8:7**
 - social workers and spiritual advisors, **8:7**
 - test applied, **8:7**
 - undercover operators and non-investigating police, **8:7**

CONFESSIONS—Cont’d

- Persons in authority, **8:7**—Cont’d
 - case law, **8:7**—Cont’d
 - victims, witnesses, employers and informants, **8:7**
 - commentary, **8:7**
 - related provisions and principles, **8:7**
- see also ADMISSIONS
- Voir dire, requirement of, **8:8**
 - case law, **8:8**
 - accident reports, **8:8**
 - authority, statements of persons in, **8:8**
 - calling of witnesses, **8:8**
 - coroner’s inquests, **8:8**
 - form of the voir dire, **8:8**
 - general principles, **8:8**
 - person in authority, **8:8**
 - proof of statement, **8:8**
 - proof of voluntariness, **8:8**
 - property owners, **8:8**
 - role of the jury, **8:8**
 - scope of proof, **8:8**
 - statements held for cross examination, **8:8**
 - undercover police, **8:8**
 - waiver, **8:8**
 - witnesses, need to call, **8:8**
 - commentary, **8:8**
 - related provisions and principles, **8:8**
- Voluntariness, **8:9**
 - case law, **8:9**
 - “off the record” statements, **8:9**
 - appellate review, **8:9**
 - cautions, **8:9**
 - confidential statements, **8:9**
 - confinement, **8:9**
 - cross-examination, **8:9**
 - derived confessions rule, general principles, **8:9**
 - display of other statements, effect of, **8:9**

CONFESSIONS—Cont'd

Voluntariness, **8:9**—Cont'd
 case law, **8:9**—Cont'd
 fraud, and, **8:9**
 general principles, nature and
 scope of inquiry, **8:9**
 inaccurate or incomplete
 records, effect on, **8:9**
 inducements: appeals to con-
 science, **8:9**
 inducements: bail discussions,
 8:9
 inducements: general
 principles, **8:9**
 inducements: help, offers of,
 8:9
 inducements: opportunity to
 speak, **8:8**
 inducements: polygraph, **8:9**
 inducements: statements of
 others, **8:9**
 inducements: third party
 involvement, **8:9**
 nature of inquiry, **8:9**
 operating mind, **8:9**
 oppression, **8:9**
 Reid technique, **8:9**
 right to counsel and, **8:9**
 right to silence and, **8:9**
 scope of inquiry, **8:9**
 statutory compulsion, **8:9**
 successive statements, **8:9**
 threats, **8:9**
 tricks, **8:9**
 warnings, **8:9**
 witnesses, need to call, **8:8**
 commentary, **8:9**
 what constituting “oppres-
 sion,” **8:9**
 related provisions and principles,
 8:9

**CONTROLLED DRUGS AND
 SUBSTANCES ACT**

Certificate issued pursuant to
 regulations, **B:85 [CEA s. 50]**

**CONTROLLED DRUGS AND
 SUBSTANCES ACT—Cont'd**

Certificate of analyst, **B:86 [CEA s.
 51]**
 admissibility, probative value,
 and weight, **B:86 [CEA s.
 51(1)]**
 case law, **B:86 [CEA s. 51]**
 basis of analyst's opinion,
 B:86 [CEA s. 51]
 defects in certificate, **B:86**
 [CEA s. 51]
 effect of certificate, **B:86**
 [CEA s. 51]
 effect of destruction of
 sample on probative
 value, **B:86 [CEA s.
 51]**
 evidence to the contrary,
 B:86 [CEA s. 51]
 proof of nature of substance,
 B:86 [CEA s. 51]
 purpose of certificate, **B:86**
 [CEA s. 51]
 attendance of analyst, **B:86**
 [CEA s. 51(2)]
 case law
 requiring attendance, **B:86**
 [CEA s. 51]
 notice requirements, **B:86, B:87**
 [CEA ss. 51(3), 52]
 case law
 defects in form and
 substance in copy of
 certificate, **B:86 [CEA**
 s. 51]
 form and timing of notice,
 B:86 [CEA s. 51]
 nature of service, **B:86**
 [CEA s. 51]
 requirement of notice, **B:86**
 [CEA s. 51]
 Continuity of possession, **B:88**
 [CEA s. 53]
 case law
 continuity and related issues,
 B:88 [CEA s. 53]

**CONTROLLED DRUGS AND
SUBSTANCES ACT—Cont'd**

Copies
 of books, **B:89 [CEA s. 54]**
 of documents, **B:84, B:89 [CEA
 ss. 49, 54]**
 of records, **B:89 [CEA s. 54]**
 Limitation period, **B:82 [CEA s.
 47(1)]**
 Notice
 certificate of analyst, of, **B:86
 [CEA s. 51]**
 proof of, **B:87 [CEA s. 52]**
 Proving exception, burden of, **B:83
 [CEA s. 48]**
 Venue, **B:82 [CEA s. 47(2)]**

CONVEYANCES

Definitions, **A:37 [CC s. 320.11]**
 Evidentiary matters, **A:39 [CC ss.
 320.31 to 320.35]**
 breath samples, **A:39 [CC s.
 320.31]**
 certificates, **A:39 [CC s. 320.32]**
 disclosure, **A:39 [CC s. 320.34]**
 presumption of alcohol
 concentration, **A:39 [CC s.
 320.31]**
 presumption of operation, **A:39
 [CC s. 320.35]**
 printouts from approved instru-
 ment, **A:39 [CC s. 320.33]**
 General provisions, **A:40 [CC s.
 320.36]**
 Investigative matters, **A:38 [CC ss.
 320.27 to 320.28]**
 demand, **A:38 [CC s. 320.27]**
 DRE evidence, **A:39 [CC s.
 320.31]**
 “immediately,” requirement re,
 A:38 [CC s. 320.27]
 reasonable grounds to believe,
 A:38 [CC s. 320.28]
 samples of breath/blood for
 alcohol, **A:38 [CC s.
 320.28]**

CONVEYANCES—Cont'd

Investigative matters, **A:38 [CC ss.
 320.27 to 320.28]**—Cont'd
 testing for presence of alcohol/
 drug, **A:38 [CC ss. 320.27,
 320.3]**
 warrants to obtain samples, **A:38
 [CC s. 320.29]**

CREDIBILITY

After-the-fact, conduct of complain-
 ant, **A:10, A:28, A:30 [CC ss.
 151, 271, 275]**
 Challenging, **1:2**

CRIMINAL CODE

Absconding
 inference from, **A:66 [CC s. 475]**
 case law, **A:66 [CC s. 475]**
 Charter considerations, **A:66
 [CC s. 475]**
 inference adverse to
 accused, **A:66 [CC s.
 475(2)]**
 inquiry into reasons for D's
 absence, **A:66 [CC s.
 475]**
 proof of, **A:62 [CC s. 462.38]**
 Accommodation fraud, presumption
 of, **A:51 [CC s. 364]**
 Age
 presumption in child luring cases,
 A:14 [CC s. 172.1(3)]
 Annual rate of interest, proof of
 effective, **A:43 [CC s. 347]**
 Appeal, evidence on, **A:114 [CC s.
 683]**
 Arson cases
 proof of fraudulent intent in,
 A:56 [CC s. 435]
 proof of negligence, **A:57 [CC s.
 436]**
 Assisted death, **A:26 [CC s. 241.2]**
 Audio evidence, **A:118 [CC ss.
 714.3 to 714.8]**
 consent, **A:118 [CC s. 714.8]**

CRIMINAL CODE—Cont'd

Audio evidence, **A:118** [CC ss. 714.3 to 714.8]—Cont'd
costs of technology, **A:118** [CC s. 714.7]
oath or affirmation, given under, **A:118** [CC s. 714.5]
other laws about witnesses to apply, **A:118** [CC s. 714.6]
reasons, **A:118** [CC s. 714.4]
witness in Canada, **A:118** [CC s. 714.1]
witness outside Canada, **A:118** [CC s. 714.3]
Bigamy prosecutions, proof of marriage by certificate in, **A:34** [CC s. 291]
Break and enter or break out offences, proof of intent and prior conduct in prosecutions for, **A:44** [CC s. 348]
Case management
court record, **A:89** [CC s. 551.4]
hearing to adjudicate issues, **A:88, A:90** [CC ss. 551.3(1)(g), (2) to (4), 551.7]
joint hearings, **A:90** [CC s. 551.7]
powers of case management judge, **A:88** [CC s. 551.3]
Cattle, proof of ownership of, **A:41** [CC s. 338]
Child luring
presumption of age, **A:14** [CC s. 172.1(3)]
Common law rules, **A:2** [CC s. 8]
Communications, authorization to intercept, **A:19** [CC s. 185]
Conditional sentence order, conditions of, see **CONDITIONAL SENTENCE ORDER, CONDITIONS OF**
Conspiracy, **A:65** [CC s. 465(1)]
Contradictory evidence, giving, **A:8** [CC s. 136]

CRIMINAL CODE—Cont'd

Conveyances, see **CONVEYANCES**
Counterfeit, proof of, **A:60** [CC s. 461]
case law, **A:60** [CC s. 461]
effect of evidence, **A:60** [CC s. 461]
qualifications, **A:60** [CC s. 461]
Criminal interest rate
case law
meaning of “interest,” **A:43** [CC s. 347]
proof of effective, **A:43** [CC s. 347]
Cruelty to animals, evidence of, **A:58, A:59** [CC ss. 445.1, 446]
Defamatory matter, proof of publication of, **A:36** [CC s. 316]
Designated counsel, appearance by, **A:96, A:97** [CC ss. 650.01, 650.02]
Disclosure, **A:92** [CC s. 603]
case law
prosecutor's disclosure obligations
form of disclosure, **A:92** [CC s. 603]
inquiries about jurors, **A:92** [CC s. 603]
police-prosecutor relationship, **A:92** [CC s. 603]
self-represented, the, **A:92** [CC s. 603]
third party records, **A:92** [CC s. 603]
remedies for failed or late disclosure, **A:92** [CC s. 603]
exclusion of evidence, **A:92** [CC s. 603]
new trial, **A:92** [CC s. 603]
proof of entitlement, **A:92** [CC s. 603]

CRIMINAL CODE—Cont'd

Disclosure, **A:92** [CC s. 603]
 —Cont'd
 case law—Cont'd
 scope of P's obligation, **A:92**
 [CC s. 603]
 orders prohibiting, **A:73** [CC s.
 487.0191]
 Disturbance, proof of, **A:16** [CC s.
 175]
 Drift timber, proof of property in
 and possession of, **A:42** [CC s.
 339]
 Driving offences, see CONVEY-
 ANCES
 Electronic surveillance, see
 intercepted communications
 Enlistment, evidence of, **A:55** [CC
 s. 421]
 Euthanasia (medically assisted
 death), **A:26** [CC s. 241.2]
 Evidence previously taken, **A:119**
 [CC s. 715]
 case law, **A:119** [CC s. 715]
 absent from Canada, **A:119**
 [CC s. 715]
 application of section, **A:119**
 [CC s. 715]
 Charter considerations, **A:119**
 [CC s. 715]
 common law rules and, **A:119**
 [CC s. 715]
 cross-examination, opportunity
 for, **A:119** [CC s. 715]
 discretion to exclude, **A:119**
 [CC s. 715]
 jury instructions, **A:119** [CC s.
 715]
 refusal to testify, **A:119** [CC s.
 715]
 scope of section, **A:119** [CC s.
 715]
 Failure to attend, appear or comply,
 certificate evidence in prosecu-
 tions, **A:9** [CC s. 145]

CRIMINAL CODE—Cont'd

Financial data, production re, **A:71**
 [CC s. 487.018]
 Firearms prosecutions, proof in,
 A:6 [CC ss. 117.11, 117.12,
 117.13]
 case law, **A:6** [CC ss. 117.11,
 117.12, 117.13]
 certificate of analysis, **A:6** [CC s.
 117.13]
 Fresh evidence on appeal, **A:114**
 [CC s. 683]
 case law
 admissibility, **A:114** [CC s.
 683]
 due diligence, **A:114** [CC s.
 683]
 general principles, **A:114** [CC
 s. 683]
 judicial notice, **A:114** [CC s.
 683]
 jurisdiction, **A:114** [CC s. 683]
 post-sentence reports, **A:114**
 [CC s. 683]
 procedural considerations,
 A:114 [CC s. 683]
 production of materials, **A:114**
 [CC s. 683(1)(a)]
 third party records, **A:114** [CC
 s. 683]
 trial conduct: competence of
 counsel, **A:114** [CC s.
 683]
 trial conduct: generally, **A:114**
 [CC s. 683]
 trial conduct: juror
 misconduct, **A:114** [CC s.
 683]
 trial conduct: recantations,
 A:114 [CC s. 683]
 Full answer and defence, right to,
 A:95 [CC s. 650]
 case law
 representation by counsel,
 A:95 [CC s. 650]

CRIMINAL CODE—Cont'd

Full answer and defence, right to, **A:95 [CC s. 650]**—Cont'd
 case law—Cont'd
 right to counsel, **A:95 [CC s. 650]**
 Gaming house prosecutions, onus of proof, **A:24 [CC s. 197]**
 Gaming in stocks, proof of bona fide intention in prosecutions for, **A:52 [CC s. 383]**
 Intercepted communications
 admissibility of, and destruction of records, **A:17 [CC s. 184.1]**
 authorization
 case law
 basket clauses, **A:20 [CC s. 186]**
 Charter considerations, **A:20 [CC s. 186]**
 conditions precedent: criminal organizations, **A:20 [CC s. 186]**
 conditions precedent:
 investigative necessity, **A:20 [CC s. 186(1)(b)]**
 designation of interceptions, **A:20 [CC s. 186]**
 entry clauses, **A:20 [CC s. 186]**
 extra-provincial execution, **A:20 [CC s. 186]**
 manner of interception, **A:20 [CC s. 186]**
 offence description, **A:20 [CC s. 186]**
 offences, anticipated, **A:20 [CC s. 186]**
 pay telephones, **A:20 [CC s. 186]**
 period of interception, **A:20 [CC s. 186(4)(e)]**
 place of interception, **A:20 [CC ss. 186, 186(4)(c)]**
 renewal, **A:20 [CC s. 186]**

CRIMINAL CODE—Cont'd

Intercepted communications
 —Cont'd
 authorization—Cont'd
 case law—Cont'd
 solicitor-client conditions, **A:20 [CC s. 186]**
 time of interception, **A:20 [CC s. 186]**
 content and limitation, **A:20 [CC s. 186(4)]**
 grounds for issuance, **A:20 [CC s. 186(1)]**
 installation of device, **A:20 [CC s. 186(5.1)]**
 exception for criminal organizations, **A:20 [CC s. 186(1.1)]**
 persons designated, **A:20 [CC s. 186(5)]**
 related provisions and principles, **A:20 [CC s. 186]**
 removal of device, **A:20 [CC s. 186(5.1) to (5.2)]**
 renewal of, **A:20 [CC s. 186(5.2) to (7)]**
 solicitor's office, **A:20 [CC s. 186(2)]**
 terms and conditions, **A:20 [CC s. 186(3)]**
 where not to be given, **A:20 [CC s. 186(2)]**
 electronic surveillance cases,
 notice and privilege in, **A:22 [CC s. 189(5)]**
 case law, **A:22 [CC s. 189]**
 admissibility, **A:22 [CC s. 189]**
 amplification, **A:22 [CC s. 189]**
 appellate review, **A:22 [CC s. 189]**
 authorization review, **A:22 [CC s. 189]**
 authorization, proof of, **A:22 [CC s. 189]**

CRIMINAL CODE—Cont'd

Intercepted communications

—Cont'd

- electronic surveillance cases, notice and privilege in, **A:22 [CC s. 189(5)]**—Cont'd
 - case law, **A:22 [CC s. 189]**—Cont'd
 - cross-examination, right of, **A:22 [CC s. 189]**
 - informers, **A:22 [CC s. 189]**
- intercepted private communications as non-conscriptive evidence, **A:22 [CC s. 189]**
- notice of intention to introduce primary evidence, **A:22 [CC s. 189(5)]**
- privileged communications, **A:22 [CC s. 189(6)]**
- standing to challenge admissibility, **A:22 [CC s. 189]**
- tapes and transcripts as exhibits, **A:22 [CC s. 189(5)]**
- viva voce evidence, **A:22 [CC s. 189]**
- voice identification, tape integrity and related issues, **A:22 [CC s. 189]**
- installation of device, **A:20 [CC s. 186(5.1)]**
- investigative necessity, **A:20 [CC s. 186]**
 - case law, **A:20 [CC s. 186]**
 - conditions precedent, **A:20 [CC s. 186]**
- removal of device, **A:20 [CC s. 186.(5.1) to (5.2)]**
- sealed packet, disclosure and editing of contents of, **A:21 [CC s. 187]**
 - case law, **A:21 [CC s. 187]**
 - opening of sealed packet:

CRIMINAL CODE—Cont'd

Intercepted communications

—Cont'd

- sealed packet, disclosure and editing of contents of, **A:21 [CC s. 187]**—Cont'd
 - case law, **A:21 [CC s. 187]**—Cont'd
 - general principles, **A:21 [CC s. 187]**
- Jury proceedings
 - demonstrative aids, **A:93 [CC s. 647]**
 - disclosure of, **A:94 [CC s. 649]**
 - case law
 - common law rule, **A:94 [CC s. 649]**
 - common law rule: Charter considerations, **A:94 [CC s. 649]**
 - verdict impeachment, **A:94 [CC s. 649]**
 - sequestration, **A:93 [CC s. 647]**
- Lawyer-client communication privilege, **1:44, A:80 [CC s. 488.1]**
 - case law
 - Charter considerations, **A:80 [CC s. 488.1]**
- Medically assisted death, **A:26 [CC s. 241.2]**
- Mental disorder, proof of, **A:3 [CC s. 16]**
 - case law, **A:3 [CC s. 16]**
 - Charter considerations, **A:3 [CC s. 16]**
 - expert evidence, **A:3 [CC s. 16]**
 - see also EXPERT OPINION EVIDENCE
 - expert opinion and hearsay rule, **A:3 [CC s. 16]**
 - presumption of no mental disorder, **A:3 [CC s. 16]**
 - prosecution evidence in reply, **A:3 [CC s. 16]**

CRIMINAL CODE—Cont'd

Mental disorder, proof of, **A:3 [CC s. 16]**—Cont'd
 case law, **A:3 [CC s. 16]**
 —Cont'd
 raising issue of mental disorder, **A:3 [CC s. 16]**
 refusal to submit to psychiatric examination, **A:3 [CC s. 16]**
 Mining offences, presumptions in, **A:53, A:102 [CC ss. 396, 656]**
 Miscarriages of justice
 applications for Ministerial Review, **A:115 [CC ss. 696.1 to 696.6]**
 review commission, **A:116 [CC ss. 696.7 to 696.87]**
 Mistrial
 effect on evidentiary rulings, **A:100 [CC s. 653.1]**
 N.S.F. cheque, presumption from, **A:50 [CC s. 362]**
 “cheque” defined, **A:50 [CC s. 362]**
 case law, **A:50 [CC s. 362]**
 Charter considerations, **A:50 [CC s. 362]**
 Net worth, inference from, **A:63 [CC s. 462.39]**
 Obliterated vehicle identification number, **A:49 [CC s. 354]**
 proof of unlawful origin of property, **A:49 [CC s. 354]**
 case law, **A:49 [CC s. 354]**
 Charter considerations, **A:49 [CC s. 354]**
 doctrine of recent possession, **A:49 [CC s. 354]**
 effect of presumptions of unlawful origin and knowledge of spurious character, **A:49 [CC s. 354]**
 evidence to contrary, **A:49 [CC s. 354]**

CRIMINAL CODE—Cont'd

Off-shore location, certificate of, **A:67 [CC s. 477.4]**
 Overt acts, evidence of, **A:5 [CC s. 55]**
 Ownership and value of property, **A:104 [CC s. 657.1]**
 Particulars, **A:73 [CC s. 487.0192]**
 Peace bond, conditions of, see **PEACE BOND, CONDITIONS OF**
 Perjury, corroboration in, **A:7 [CC s. 133]**
 case law, **A:7 [CC s. 133]**
 admissions and, **A:7 [CC s. 133]**
 evidence which implicates accused, **A:7 [CC s. 133]**
 material particular, **A:7 [CC s. 133]**
 only one witness, **A:7 [CC s. 133]**
 related offences, **A:7 [CC s. 133]**
 Port of shipment, presumption from, **A:54 [CC s. 414]**
 Preliminary inquiry, see **PRELIMINARY INQUIRY**
 Presence of accused, **A:95 to A:97 [CC ss. 650 to 650.02]**
 appearance by video link, **A:95 [CC s. 650(1.1) to (1.2)]**
 case law, **A:95 [CC s. 650]**
 presence requirement, **A:95 [CC s. 650]**
 right to counsel, **A:95 [CC s. 650]**
 whole of trial, **A:95 [CC s. 650(1)]**
 by designated counsel, **A:96, A:97 [CC ss. 650.01, 650.02]**
 exceptions, **A:95 to A:97 [CC ss. 650(2), 650.01, 650.02]**
 Presence of defence counsel
 remote appearance, **A:97, A:114 [CC s. 650.02, 683(2.1)]**

CRIMINAL CODE—Cont'd

Presence of prosecutor
 remote appearance, **A:97, A:114**
 [CC ss. 650.02, 683(2.1)]
 Preservation demand, **A:71** [CC s.
487.012]
 Preservation order
 conditions in, re, **A:72** [CC s.
487.019]
 generally, **A:71** [CC s. 487.013]
 Probation order, conditions of, see
 PROBATION ORDER,
 CONDITIONS OF
 Proceeds of crime, see PROCEEDS
 OF CRIME
 Procuring feigned marriage, corrob-
 oration requirements in prose-
 cution for, **A:35** [CC s. 292]
 Production orders
 conditions in, re, **A:72** [CC s.
487.019]
 financial data, re, **A:71** [CC s.
487.018]
 general, **A:71** [CC s. 487.014]
 particulars, **A:73** [CC s.
487.0192]
 review of, **A:74** [CC s.
487.0193]
 self-incrimination, **A:75** [CC s.
487.0196]
 Production orders: commercial/
 financial information
 contents, **1:33**
 identification of person named,
 for, **1:33**
 power to make, **1:33**
 revocation, renewal or variation,
1:33
 Production orders: data /documents
 contents, **1:30**
 copies, probative force, **1:30**
 copies, return of, **1:30**
 definitions, **A:71** [CC s. 487.011]
 detention of things seized, **1:30**
 power to make, **1:30**
 restitution of things seized, **1:30**

CRIMINAL CODE—Cont'd

Production orders: data /documents
 —Cont'd
 revocation, renewal or variation,
1:30
 tracing communications, **A:71**
 [CC s. 487.015]
 tracking data, **A:71** [CC s.
487.017]
 transmission data, **A:71** [CC s.
487.016]
 Production orders: specified com-
 munication to trace, **A:71** [CC
 s. 487.015]
 Production orders: third party
 records, **A:83** [CC s. 537]
 see also sexual offence prosecu-
 tions
 Production orders: transmission
 data, **A:71** [CC s. 487.016]
 Providing necessities of life prosec-
 tions, presumptions in, **A:25**
 [CC s. 215]
 Recognizance
 conditions of, see
 RECOGNIZANCE,
 CONDITIONS OF
 default certificate, **A:131** [CC s.
770]
 Remote appearance
 accused, **A:114** [CC s. 683(2.1)]
 defence counsel, **A:97, A:114**
 [CC ss. 650.02, 683(2.1)]
 prosecutor, **A:114** [CC s.
683(2.1)]
 witnesses, **A:114, A:117** [CC ss.
683(2.1), 714.1 to 714.4]
 Self-incrimination, **A:75** [CC s.
487.0196]
 Sexual offence prosecutions
 corroboration in, **A:29** [CC s.
274]
 exploitation, **A:12** [CC s. 153]

CRIMINAL CODE—Cont'd

Sexual offence prosecutions

—Cont'd

other sexual activity of complainant, evidence of, **A:31 [CC ss. 276]**

case law, **A:31 [CC ss. 276]**

“sexual activity” defined, **A:31 [CC s. 276]**

“specific instances” requirement, **A:31 [CC s. 276]**

admissibility, conditions for, **A:31 [CC s. 276]**

admissibility, principles governing, **A:31 [CC s. 276]**

admissibility, procedure to determine, **A:31 [CC s. 276]**

Charter considerations generally, **A:31 [CC s. 276]**

evidence of sexual activity, **A:31 [CC s. 276]**

reasonable notice, **A:31 [CC s. 276]**

production and disclosure of records, **A:33 [CC ss. 278.1 to 278.97]**

case law

appeal, **A:33 [CC s. 278.97]**

application of provisions, **A:33 [CC s. 278.3]**

Charter considerations, **A:33 [CC ss. 278.2, 278.3]**

common law procedure, **A:33 [CC s. 278.3]**

complainant's records in accused's possession, **A:33 [CC s. 278.92]**

factors considered, **A:33 [CC s. 278.5]**

general principles, **A:33 [CC ss. 278.1, 278.2]**

general principles, statutory scheme, **A:33 [CC s. 278.3]**

CRIMINAL CODE—Cont'd

Sexual offence prosecutions

—Cont'd

production and disclosure of records, **A:33 [CC ss. 278.1 to 278.97]**—Cont'd

case law—Cont'd

hearing in camera, **A:33 [CC s. 278.4]**

hearing with jury and public excluded, **A:33 [CC s. 278.94]**

hearing, application for, **A:33 [CC s. 278.93]**

jury instructions re use of evidence, **A:33 [CC s. 278.9]**

presence, requirement of, **A:33 [CC s. 278.3]**

production and cross-examination, **A:33 [CC s. 278.3]**

scope of provisions, **A:33 [CC s. 278.1]**

reasons, **A:33 [CC s. 278.97]**

recent complaint rules, abrogation of, **A:30 [CC s. 275]**

reputation evidence, **A:32 [CC s. 277]**

sexual assault, **A:28 [CC s. 271]**

touching, **A:11 [CC s. 152]**

young persons, **A:11, A:12 [CC ss. 152, 153]**

Taking a view, **A:98 [CC s. 652]**

Tax information, objection to disclosure of, **A:64 [CC s. 462.48]**

Telewarrant, proof of, **A:77 [CC s. 487.1]**

Torture, statement obtained by, **A:27 [CC s. 269.1]**

Tracking data, **A:71 [CC s. 487.017]**

Treason and high treason, corroboration in, **A:4 [CC s. 47]**

CRIMINAL CODE—Cont'd

Valuable minerals, presumptions in proceedings respecting theft or possession of, **A:102** [CC s. 656]

Video link evidence, **A:118** [CC ss. 714.1 to 714.2, 714.5 to 714.8]

consent, **A:118** [CC s. 714.8]

costs of technology, **A:118** [CC s. 714.7]

oath or affirmation, given under, **A:118** [CC s. 714.5]

other laws about witnesses to apply, **A:118** [CC s. 714.6]

reasons, **A:118** [CC s. 714.4]

witness in Canada, **A:118** [CC s. 714.1]

witness outside Canada, **A:118** [CC s. 714.2]

Warrant, information for general, **A:70** [CC s. 487.01(1)]

case law, **A:70** [CC s. 487.01]

execution in Canada, **A:70** [CC s. 487.01(6)]

extension of period for giving notice, **A:70** [CC s. 487.01(5.2)]

limitation, **A:70** [CC s. 487.01(2)]

notice after covert entry, **A:70** [CC s. 487.01(5.1)]

provisions to apply, **A:70** [CC s. 487.01(5), (6), (7)]

search or seizure to be reasonable, **A:70** [CC s. 487.01(3)]

video surveillance, **A:70** [CC s. 487.01(4)]

Warrant, information for search, **A:69** [CC s. 487]

CROSS-EXAMINATION OF WITNESSES

see EXAMINATION OF WITNESSES, see PRIVILEGE

DANGEROUS AND LONG-TERM OFFENDER PROCEEDINGS

Evidence of character, **A:130** [CC s. 757]

DEMONSTRATIONS

Confessions, **8:6**

case law, **8:6**

General principles, **1:23**

case law, **1:23**

commentary, **1:23**

gestures in testimony, **1:23**

jury use of, **1:23**

related provisions and principles, **1:23**

see also REAL EVIDENCE

DIRECT EVIDENCE

General principles, **1:15**

case law

direct evidence of third party involvement, **1:17**

commentary, **1:17**

jury instructions (WMCJI), **1:15**

related provisions and principles, **1:17**

DISCLOSURE

Accused's rights to, **A:92** [CC s. 603]

Defence disclosure

alibi, of, **3:5**

case law, **3:5**

general principles, **3:5**

jury instructions, **3:5**

commentary, **3:5**

jury instructions (WMCJI), **3:5**

related provisions and principles, **3:5**

complaint, records re, **3:7**

expert evidence, of, **A:106**, **B:9**, **B:10** [CC s. 657.3, CEA ss. 7, 8]

related provisions and principles, **B:9**, **B:10** [CEA ss. 7, 8]

DISCLOSURE—Cont'd

Defence disclosure—Cont'd

general principles, **3:4**

case law, **3:4**

commentary, **3:4**

related provisions and principles, **3:4**

mental state, evidence of, **3:6**

case law, **3:6**

Charter considerations, **3:6**

privilege and waiver, **3:6**

commentary, **3:6**

jury instructions (WMCJI), **3:6**

related provisions and principles, **3:6**

Intercepted information, **A:23 [CC s. 193]**

Prosecutorial disclosure

complaint, records re, **3:7**

expert evidence, of, **A:106, B:9, B:10 [CC s. 657.3, CEA ss. 7, 8]**

related provisions and principles, **B:9, B:10 [CEA ss. 7, 8]**

general principles, **3:1**

case law, **3:1**

appeals from disclosure orders, **3:1**

applications for further disclosure, **3:1**

basic principles, **3:1**

cellphone records, **3:1**

child pornography prosecutions, **3:1**

disclosure obligations and, **3:1**

evidence of bad character, **3:1**

form of disclosure, **3:1**

full answer and defence, and, **3:1**

identification evidence, **3:1**

legal advice to police, **3:1**

DISCLOSURE—Cont'd

Prosecutorial disclosure—Cont'd

general principles, **3:1**—Cont'd

case law, **3:1**—Cont'd

loss or destruction of evidence, **3:1**

obligations of defence

counsel regarding

disclosure requests, **3:1**

obligations of prosecutor:

police-prosecutor relationship, **3:1**

obligations of prosecutor: principles, underlying, **3:1**

obligations of prosecutor:

scope of disclosure, **3:1**

obligations of prosecutor:

test of relevance, **3:1**

obligations of prosecutor:

triggering mechanism, **3:1**

participation in public investigations, **3:1**

police disciplinary records, **3:1**

police misconduct, **3:1**

prosecution's duty to the defence, **3:1**

prosecutorial discretion as to the timing and content of disclosure, **3:1**

remedies for failed/late disclosure: adjournments, **3:1**

remedies for failed/late disclosure: appellate review, **3:1**

remedies for failed/late disclosure: costs, **3:1**

remedies for failed/late disclosure: discipline, **3:1**

remedies for failed/late disclosure: examination of witnesses, **3:1**

DISCLOSURE—Cont’d

Prosecutorial disclosure—Cont’d
 general principles, **3:1**—Cont’d
 case law, **3:1**—Cont’d
 remedies for failed/late disclosure: exclusion of evidence, **3:1**
 remedies for failed/late disclosure: proof of entitlement, **3:1**
 remedies for failed/late disclosure: stay of proceedings, **3:1**
 restitution, **3:1**
 self-represented parties, **3:1**
 statements, **3:1**
 subject matter of, **3:1**
 third party suspects, **3:1**
 commentary, **3:1**
 jury instructions (WMCJI), **3:1**
 related provisions and principles, **3:1**
 public interest immunity, and, **3:2**
 case law, **3:2**
 commentary, **3:2**
 governing principles and exception, **3:2**
 procedural considerations, **3:2**
 related provisions and principles, **3:2**
 third party records, of, **3:3, A:33** [CC ss. **278.1 to 278.91**]
 case law, **3:3, A:33** [CC ss. **278.1, 278.3, 278.5**]
 “likely relevance” test, **3:3**
 application of provisions, **A:33** [CC s. **278.3**]
 applications common law rules, **3:3, A:33** [CC s. **278.3**]
 applications, specific records, **3:3**
 applications, statutory procedure, general, **3:3, A:33** [CC s. **278.3**]

DISCLOSURE—Cont’d

Prosecutorial disclosure—Cont’d
 third party records, of, **3:3, A:33** [CC ss. **278.1 to 278.91**]
 —Cont’d
 case law, **3:3, A:33** [CC ss. **278.1, 278.3, 278.5**]
 —Cont’d
 applications, statutory procedure, likely relevance test, **3:3, A:33** [CC s. **278.7**]
 Charter considerations, **A:33** [CC ss. **278.2, 278.3**]
 common law procedure, **A:33** [CC s. **278.3**]
 factors considered, **A:33** [CC s. **278.5**]
 forum, **3:3**
 general principles, **A:33** [CC ss. **278.1, 278.2**]
 general principles, statutory scheme, **A:33** [CC ss. **278.3**]
 obligation to disclose, **3:3**
 production and cross-examination, **A:33, A:83** [CC s. **278.3, 537**]
 scope of provisions, **A:33** [CC s. **278.1**]
 commentary, **3:3**
 related provisions and principles, **3:3**

DISMISSAL, ORDER OF

Admissibility of, **A:134** [CC s. **808**]

DISTURBANCE, PROOF OF

Generally, **A:16** [CC s. **175**]

DNA TESTING

Generally, **5:8**

Use of bodily substances and results of forensic DNA analysis, **A:76** [CC s. **487.08**]

DOCUMENTARY EVIDENCE

Accused, records and documents in possession of, **1:35**
case law, **1:35**
general principles, **1:35**
commentary, **1:35**
related provisions and principles, **1:35**
Accused's rights to, **A:92 [CC s. 603]**
Banking records, see financial institutions, records of
Best evidence rule, **1:31**
case law, **1:31**
application of rule with audio and video tape, **1:31**
general application of rule, **1:31**
commentary, **1:31**
related provisions and principles, **1:31**
Business records, **1:34**
case law, **4:8**
affidavit, **4:8**
notice, **4:8**
other rules, effect of, **4:8**
procedure to determine admissibility, **4:8**
record made in usual and ordinary course of business, **4:8**
records not admissible, **4:8**
commentary, **4:8**
related provisions and principles, **4:8**
Electronic documents, see ELECTRONIC DOCUMENTS
Financial institutions, records of, **1:33, A:71 [CC ss. 487.011, 487.013 to 487.016]**
case law, **1:33**
"record," "entry," "copy," **1:33**
evidentiary use of records, **1:33**

DOCUMENTARY EVIDENCE

—Cont'd

Financial institutions, records of, **1:33, A:71 [CC ss. 487.011, 487.013 to 487.016]**—Cont'd
case law, **1:33**—Cont'd
notice, **1:33**
proof of record, **1:33**
records in possession of accused, **1:33**
commentary, **1:33**
production orders, **1:33, A:71 [CC ss. 487.011, 487.013 to 487.016]**
related provisions and principles, **1:33**
General principles, **1:30**
case law, **1:30**
admissibility issues, **1:30**
documents in possession of accused, **1:30**
summaries and schedules, **1:30**
commentary, **1:30**
Preservation demand, **A:71 [CC ss. 487.012]**
preservation order, **A:71, A:72 [CC ss. 487.013, 487.019]**
production orders, **1:30, A:71 [CC ss. 487.014]**
related provisions and principles, **1:30**
Public and judicial documents, **1:32**
case law, **1:32**
judicial documents, **1:32**
public documents, **1:32**
commentary, **1:32**
"judicial document" defined, **1:32**
"public document" defined, **1:32**
related provisions and principles, **1:32**

DRINKING AND DRIVING

see CONVEYANCES

**DRIVING WHILE
DISQUALIFIED
PROSECUTIONS**

see CONVEYANCES

**DWELLING-HOUSE,
UNLAWFUL ENTRY OF**

Proof of intent, **A:45 [CC s. 349]**

case law, **A:45 [CC s. 349]**

Charter considerations, **A:45
[CC s. 349]**

presumptions and evidence to
contrary, **A:45 [CC s.
349]**

Proof of unlawful entry, **A:46 [CC
s. 350]**

case law, **A:46 [CC s. 350]**

Charter considerations, **A:46
[CC s. 350]**

deemed to have broken and
entered, **A:46 [CC s. 350]**

ELECTRONIC DOCUMENTS

Affidavit, proof of admissibility
requirements by, **B:40 [CEA s.
31.6]**

best evidence rule, application of,
to printouts, **B:40 [CEA s.
31.6(1)]**

commentary, **B:40 [CEA s.
31.6]**

related provisions, **B:40 [CEA
s. 31.6]**

cross-examination on affidavit,
B:40 [CEA s. 31.6(1)]

commentary, **B:40 [CEA s.
31.6]**

related provisions, **B:40 [CEA
s. 31.6]**

presumption of integrity, and,
B:40 [CEA s. 31.6(1)]

commentary, **B:40 [CEA s.
31.6]**

related provisions, **B:40 [CEA
s. 31.6]**

standards, evidence of, and, **B:40**

ELECTRONIC DOCUMENTS

—Cont'd

Affidavit, proof of admissibility
requirements by, **B:40 [CEA s.
31.6]**—Cont'd

[CEA s. 31.6(1)]

commentary, **B:40 [CEA s.
31.6]**

related provisions, **B:40 [CEA
s. 31.6]**

Application of CEA provisions
to authentication and best evi-
dence rules alone, **B:41**

[CEA s. 31.7]

commentary, **B:41 [CEA s.
31.7]**

related provisions, **B:41 [CEA
s. 31.7]**

Authentication, **B:35 [CEA s. 31.1]**

commentary, **B:35 [CEA s. 31.1]**

related provisions, **B:35 [CEA s.
31.1]**

Best evidence rule, application to,
B:36 [CEA s. 31.2]

commentary, **B:36 [CEA s. 31.2]**

related provisions, **B:36 [CEA s.
31.2]**

Defined, **B:42 [CEA s. 31.8]**

commentary, **B:42 [CEA s. 31.8]**

related provisions, **B:42 [CEA s.
31.8]**

Definitions, **B:42 [CEA s. 31.8]**

“computer system,” **B:42 [CEA
s. 31.8]**

“data,” **B:42 [CEA s. 31.8]**

“electronic document system,”
B:42 [CEA s. 31.8]

“electronic document,” **B:42
[CEA s. 31.8]**

“secure electronic signature,”
B:42 [CEA s. 31.8]

commentary, **B:42 [CEA s. 31.8]**

related provisions and principles,
B:42 [CEA s. 31.8]

ELECTRONIC DOCUMENTS

—Cont'd

- Electronic signatures, secure presumptions regarding, **B:38 [CEA s. 31.4]**
 - commentary, **B:38 [CEA s. 31.4]**
 - related provisions, **B:38 [CEA s. 31.4]**
- Presumptions
 - of integrity, **B:37, B:38 [CEA ss. 31.3, 31.4(b)]**
 - commentary, **B:37, B:38 [CEA s. 31.3, 31.4]**
 - related provisions, **B:37, B:38 [CEA s. 31.3, 31.4]**
 - secure electronic signatures, regarding, **B:38 [CEA s. 31.4]**
 - commentary, **B:38 [CEA s. 31.4]**
 - related provisions, **B:38 [CEA s. 31.4]**
- Standards, evidence of, admissible to determine admissibility of, **B:39 [CEA s. 31.5]**
 - commentary, **B:39 [CEA s. 31.5]**
 - related provisions, **B:39 [CEA s. 31.5]**

ELECTRONIC SURVEILLANCE

- Admissibility of intercepted communications, and destruction of records, **A:17 [CC s. 184.1]**
- Authorization
 - content and limitation, **A:20 [CC s. 186(4)]**
 - grounds for issuance, **A:20 [CC s. 186(1)]**
 - installation of device, **A:20 [CC s. 186(5.1)]**
 - exception for criminal organizations, **A:20 [CC s. 186(1.1)]**
 - persons designated, **A:20 [CC s. 186(5)]**

ELECTRONIC SURVEILLANCE

—Cont'd

- Authorization—Cont'd
 - removal of device, **A:20 [CC ss. 186(5.1) to (5.2)]**
 - renewal of, **A:20 [CC ss. 186(5.2) to (7)]**
 - solicitor's office, **A:20 [CC s. 186(2)]**
 - terms and conditions, **A:20 [CC s. 186(3)]**
 - where not to be given, **A:20 [CC s. 186(2)]**
 - Installation of device, **A:20 [CC s. 186(5.1)]**
 - Investigative necessity, **A:20 [CC s. 186]**
 - case law, **A:20 [CC s. 186]**
 - Notice and privilege in, **A:22 [CC s. 189]**
 - Removal of device, **A:20 [CC ss. 186(5.1) to (5.2)]**
 - Sealed packet, disclosure and editing of, **A:21 [CC s. 187]**
- ## EXAMINATION OF WITNESSES
- In Canada, for purposes of foreign proceedings, see Canada Evidence Act
 - Cross examination
 - bias, interest and corruption, on, **2:20**
 - case law, **2:20**
 - contradiction of denials, **2:20**
 - cross- examination to establish corruption, **2:20**
 - cross- examination to establish interest, **2:20**
 - cross-examination to establish bias, **2:20**
 - commentary, **2:20**
 - related provisions and principles, **2:20**
 - character, on, **2:19**
 - case law, **2:19**
 - general principles, **2:19**

EXAMINATION OF WITNESSES

—Cont'd

Cross examination—Cont'd
 character, on, **2:19**—Cont'd
 commentary, **2:19**
 related provisions and
 principles, **2:19**
 confessions, **8:11, 8:12**
 case law, **8:11, 8:12**
 general principles, **8:12**
 joint trials, **8:12**
 jury instructions, **8:12**
 commentary, **8:12**
 related provisions and
 principles, **8:12**
 discreditable conduct, on, **2:17**,
B:14 [CEA s. 12]
 case law, **2:17, B:14 [CEA s.**
12]
 of accused, **2:17**
 of defence witness, **2:17**
 jury instructions on wit-
 nesses of unsavoury
 character, **2:17**
 of non-accused witness on
 antecedents, **2:17**
 of non-accused witness on
 mode of life, **2:17**
 of non-accused witness on
 outstanding charges,
2:17
 of non-accused witness on
 results of prior
 proceedings, **2:17**
 of non-accused witness to
 show complicity, **2:17**
 commentary, **2:17, B:14 [CEA**
s. 12]
 jury instructions (WMCJI),
2:17
 related provisions and
 principles, **2:17, B:14**
[CEA s. 12]
 extrinsic misconduct
 case law, **7:5**

EXAMINATION OF WITNESSES

—Cont'd

Cross examination—Cont'd
 general principles, **2:14**
 case law, **2:14**
 appellate review, **2:14**
 bad character, to show, **2:14**
 basis for contradiction, to
 establish, **2:14**
 bias and motive, on, **2:14**
 Browne v. Dunn, rule in,
2:14
 credibility—general
 principles, **2:14**
 credibility—jury instruc-
 tions, **2:14**
 cross-examination of D on
 “theory of case,” **2:14**
 cross-examination of D on
 Crown disclosure, **2:14**
 cross-examination of D on
 impact of charges on
 D’s reputation, **2:14**
 cross-examination of D on
 lifestyle, lies, and other
 misconduct, **2:14**
 cross-examination of D on
 plea of guilty to lesser
 offence, **2:14**
 cross-examination of D on
 previous convictions,
2:14
 cross-examination of D on
 prior acquittals, **2:14**
 cross-examination of D on
 prior convictions and
 discharges, **2:14, 2:18**
 cross-examination of D on
 prior evidence, **2:14**
 cross-examination of D on
 resolution discussions,
2:14
 cross-examination of D,
 seeking comments on
 witnesses or subjects,
2:14

EXAMINATION OF WITNESSES

—Cont'd

Cross examination—Cont'd
 general principles, **2:14**—Cont'd
 case law, **2:14**—Cont'd
 cross-examination of D: and
 putting character in
 issue, **2:14**
 cross-examination of D:
 failure to produce evi-
 dence, on, **2:14**
 cross-examination of D:
 general principles, **2:14**
 cross-examination of D:
 solicitor-client com-
 munications, **2:14**
 documents, on, **2:14**
 failure or inability to
 complete, **2:14**
 failure to cross-examine,
 effect of, **2:14**
 failure to cross-examine:
 rule in *Brown v. Dunn*,
2:14
 favourable witness, limita-
 tions on, **2:14**
 general principles, **2:14**
 investigative failures, to
 show, **2:14**
 inviting argument, **2:14**
 inviting comments on cred-
 ibility in cross-exami-
 nation, **2:14**
 making suggestions in, **2:14**
 party's own witness, **2:14**
 rejection of prior testimony,
 on, **2:14**
 commentary, **2:14**
 jury instructions (WMCJI),
2:14
 related provisions and
 principles, **2:14**
 joint trials, in, **2:15**
 case law, **2:15**
 evidentiary value of co-ac-
 cused's evidence, **2:15**

EXAMINATION OF WITNESSES

—Cont'd

Cross examination—Cont'd
 joint trials, in, **2:15**—Cont'd
 case law, **2:15**—Cont'd
 general principles, **2:15**
 statements of co-accused,
 on, **2:15**
 commentary, **2:15**
 jury instructions (WMCJI),
2:15
 related provisions and
 principles, **2:15**
 previous convictions, on, **2:18**,
B:14 [CEA s. 12]
 case law, **2:18**, **B:14 [CEA s.**
12]
 “convicted of any offence,”
B:14 [CEA s. 12]
 “conviction,” acquittals,
2:18
 “conviction,” details, **2:18**
 “conviction,” discharges,
2:18
 “conviction,” foreign, **2:18**
 “conviction,” others, of,
2:18
 “conviction,” pardoned,
2:18
 “conviction,” under appeal,
2:18
 “conviction,” under other
 statutes, **2:18**
 “conviction,” withdrawn
 charges, **2:18**
 accused witness, **2:18**
 character in issue, when,
2:18
 discretion to exclude, **2:18**,
B:14 [CEA s. 12]
 evidentiary value of prior
 convictions, **B:14**
[CEA s. 12]
 general principles, **2:18**,
B:14 [CEA s. 12]
 jury instructions, **2:18**

EXAMINATION OF WITNESSES

—Cont’d

Cross examination—Cont’d
 previous convictions, on, **2:18, B:14 [CEA s. 12]**—Cont’d
 case law, **2:18, B:14 [CEA s. 12]**—Cont’d
 other discreditable conduct, **B:14 [CEA s. 12]**
 procedure, **B:14 [CEA s. 12]**
 proof of prior convictions, **2:18, B:14 [CEA s. 12(1.1), (2)]**
 substantive evidence, **2:18**
 commentary, **2:18, B:14 [CEA s. 12]**
 jury instructions (WMCJI), **2:18**
 related provisions and principles, **2:18, B:14 [CEA s. 12]**
 previous oral statements, **B:13 [CEA s. 11]**
 case law, **B:13 [CEA s. 11]**
 general principles, **B:13 [CEA s. 11]**
 jury instructions, **B:13 [CEA s. 11]**
 procedural considerations, **B:13 [CEA s. 11]**
 commentary, **B:13 [CEA s. 11]**
 related provisions and principles, **B:13 [CEA s. 11]**
 prior statements, on, **2:16, B:12 [CEA s. 10]**
 case law, **2:16**
 “statement,” **2:16**
 accused, cross-examination of, **2:16**
 adoption of prior inconsistent statements, **2:16**
 civil discovery evidence, **2:16**

EXAMINATION OF WITNESSES

—Cont’d

Cross examination—Cont’d
 prior statements, on, **2:16, B:12 [CEA s. 10]**—Cont’d
 case law, **2:16**—Cont’d
 confessions as prior statements, **2:16**
 cross-examination on, **2:16**
 evidentiary value of prior inconsistent statements, **2:16, B:12 [CEA s. 10]**
 form of statement, **B:12 [CEA s. 10]**
 general principles, **2:16, B:12 [CEA s. 10]**
 jury instructions on prior inconsistent statements, **2:16**
 production, **B:12 [CEA s. 10]**
 proof of prior inconsistent statements, **2:16**
 replaying prior inconsistent statements, **2:16**
 right to cross-examine, **B:12 [CEA s. 10]**
 statements as exhibits, **2:16**
 commentary, **2:16, B:12 [CEA s. 10]**
 jury instructions (WMCJI), **2:16**
 related provisions and principles, **2:16, B:12 [CEA s. 10]**
 Examination-in-chief
 adverse and hostile witnesses, **2:10, B:11 [CEA s. 9]**
 case law, **2:10, B:11 [CEA s. 9]**
 “adverse” and “hostile,” **2:10**
 cross-examination on statement, **B:11 [CEA s. 9]**
 determination of adverse, **2:10, B:11 [CEA s. 9(1)]**

EXAMINATION OF WITNESSES

—Cont'd

Examination-in-chief—Cont'd
 adverse and hostile witnesses,
 2:10, B:11 [CEA s. 9]
 —Cont'd
 case law, **2:10, B:11 [CEA s. 9]**—Cont'd
 evidentiary value of
 statement/testimony,
 2:10, B:11 [CEA s. 9]
 form of statement (pre-
 amendment authori-
 ties), **B:11 [CEA s. 9]**
 general principles, **2:10,**
 B:11 [CEA s. 9]
 meaning of “adverse,” **B:11**
 [CEA s. 9(1)]
 prior statement, evidentiary
 value of, **B:11 [CEA s.**
 9]
 procedural considerations,
 2:10
 commentary, **2:10, B:11 [CEA**
 s. 9]
 proof of statement, **2:10**
 related provisions and
 principles, **2:10, B:11**
 [CEA s. 9]
 applications under CEA s. 9(2)
 [prior inconsistent state-
 ment], **2:9**
 case law, **2:9, B:11 [CEA s. 9]**
 evidentiary value of state-
 ment under, **B:6, B:11**
 [CEA s. 5, CEA ss. 9,
 9(2)]
 form of statement, **2:9, B:11**
 [CEA s. 9]
 procedure under CEA s.
 9(2), **2:9**
 relationship between s. 9(2)
 and B. (K.G.), **2:9**
 scope of permitted cross-
 examination, **2:9, B:11**
 [CEA s. 9]

EXAMINATION OF WITNESSES

—Cont'd

Examination-in-chief—Cont'd
 applications under CEA s. 9(2)
 [prior inconsistent state-
 ment], **2:9**—Cont'd
 case law, **2:9, B:11 [CEA s. 9]**
 —Cont'd
 standard applied, **2:9**
 statement as exhibit, **2:9**
 commentary, **2:9, B:11 [CEA**
 s. 9]
 related provisions and
 principles, **2:9, B:11**
 [CEA s. 9]
 credibility, bolstering, **2:7**
 case law, **8:6**
 “Mr. Big” confessions, **8:6**
 general principles, **8:6**
 oath-helping, **8:6**
 polygraph tests, **8:6**
 commentary, **8:6**
 related provisions and
 principles, **8:6**
 general principles, **2:5**
 case law, **2:5**
 contradiction by other evi-
 dence, **2:5**
 general principles, **2:5**
 oath and affirmation, **2:5**
 religious beliefs, **2:5**
 commentary, **2:5**
 related provisions and
 principles, **2:5**
 leading questions, **2:6**
 case law, **2:6**
 exceptions, **2:6**
 general principles, **2:6**
 commentary, **2:6**
 jury instructions (WMCJI), **2:6**
 related provisions and
 principles, **2:6**
 prior consistent statements, **2:12**
 case law, **2:12**
 “flashbacks,” **2:12**

EXAMINATION OF WITNESSES

—Cont'd

- Examination-in-chief—Cont'd
 - prior consistent statements, **2:12**
 - Cont'd
 - case law, **2:12**—Cont'd
 - complaints, depositions, and prior descriptions, **2:12**
 - fabrication, rebutting alleged, **2:12**
 - general principles, **2:12**
 - jury instructions, **2:12**
 - general principles, **2:12**
 - mixed statements, **2:12**
 - prior consistent statements admitted as narrative, **2:12**
 - prior consistent statements admitted to rebut allegation of recent fabrication, **2:12**
 - narrative exception, **2:12**
 - polygraph, offers to take, **2:12**
 - prior consistent statements and exceptions, general principles of rule against, **2:12**
 - prior consistent statements of accused, **2:12**
 - prior identification, **2:12**
 - prior inconsistent statements, **2:12**
 - rebuttal of allegations of recent fabrication, **2:12**
 - recent complaints, **2:12**, **A:30** [CC s. 275]
 - recent fabrication, **2:12**
 - statements as exhibits, **2:12**
 - statements of the accused, **2:12**
 - commentary, **2:12**
 - related provisions and principles, **2:12**

EXAMINATION OF WITNESSES

—Cont'd

- Examination-in-chief—Cont'd
 - prior convictions, **2:13**
 - case law, **2:13**
 - commentary, **2:13**
 - jury instructions (WMCJI), **2:13**
 - related provisions and principles, **2:13**
 - prior inconsistent statement, see applications under CEA s 9(2)
 - prior statements as substantive evidence, **2:11**
 - case law, **2:11**
 - adoption of prior statements, **2:11**
 - conduct, to explain, **2:11**
 - identification, prior, **2:11**
 - jury instructions on prior evidence, **2:11**
 - principled hearsay statement for prior statements, **2:11**
 - purpose of cross-examination under CEA s. 9(2), **2:9**
 - relationship between s. 9(2) and B. (K.G.), **2:9**
 - statements as past recollection recorded, prior, **2:11**
 - commentary, **2:11**
 - jury instructions (WMCJI), **2:11**
 - related provisions and principles, **2:11**
 - refreshing memory, **2:8**
 - case law, **2:8**
 - documents as evidence, **2:8**
 - jury instructions, **2:8**
 - past recollection recorded, **2:8**
 - procedure to refresh memory, **2:8**

EXAMINATION OF WITNESSES

—Cont'd

- Examination-in-chief—Cont'd
 - refreshing memory, **2:8**—Cont'd
 - case law, **2:8**—Cont'd
 - production of aide-memoire, **2:8**
 - refreshing memory at trial, **2:8**
 - refreshing memory prior to trial, **2:8**
 - commentary, **2:8**
 - related provisions and principles, **2:8**
- Preliminary matters
 - defence case, **2:4**
 - case law, **2:4**
 - general principles, **2:4**
 - joint trials, **2:4**
 - order of witnesses, **2:4**
 - commentary, **2:4**
 - jury instructions (WMCJI), **2:4**
 - related provisions and principles, **2:4**
 - exclusion of witnesses, **2:1**
 - case law, **2:1**
 - general principles, **2:1**
 - judicial authority to call witnesses, **2:1**
 - witnesses and religious beliefs, **2:1**
 - commentary, **2:1**
 - related provisions and principles, **2:1**
 - interpreters, **2:2**
 - case law, **2:2**
 - credibility, impact on assessment of, **2:2**
 - scope of right: communications with counsel, **2:2**
 - scope of right: persons charged, **2:2**
 - witnesses and their translations, **2:2**
 - commentary, **2:2**

EXAMINATION OF WITNESSES

—Cont'd

- Preliminary matters—Cont'd
 - interpreters, **2:2**—Cont'd
 - related provisions and principles, **2:2**
 - prosecution case, **2:3**
 - case law, **2:3**
 - adverse inferences, **2:3**
 - calling of witnesses, **2:3**
 - challenging defences, **2:3**
 - conspiracy cases, **2:3**
 - cross examination of D on theory of the case, **2:14**
 - cross-examination of prosecution witnesses, **2:3**
 - failure to call witnesses, **2:3**
 - judicial authority to call witnesses, **2:3**
 - order of proof, **2:3**
 - splitting case, **2:3**
 - trial judge calling witness, **2:3**
 - witness, recall of, **2:3**
 - witnesses, unfavourable, **2:3**
 - commentary, **2:3**
 - related provisions and principles, **2:3**
- Prosecutorial disclosure
 - case law, **3:1**
 - breathalyzer records, **3:1**
 - disclosure and the right to make full answer and defence, **3:1**
 - disclosure requests and the obligation to investigate defences, **3:1**
 - evidence of bad character, **3:1**
 - experts' draft reports, **3:1**
 - form of disclosure, **3:1**
 - identification evidence, **3:1**
 - loss or destruction of evidence, **3:1**
 - obligations of defence counsel regarding disclosure requests, **3:1**

EXAMINATION OF WITNESSES

—Cont'd

- Prosecutorial disclosure—Cont'd
 - case law, **3:1**—Cont'd
 - obligations of the prosecutor regarding scope of disclosure, **3:1**
 - police inquiries about prospective jurors, **3:1**
 - prosecutorial discretion as to the timing and content of disclosure, **3:1**
 - remedies for failed or late disclosure: new trial, **3:1**
 - scope of prosecutor's disclosure obligations: production of inventory, **3:1**
 - statements, **3:1**
 - subject matter of, **3:1**
 - third party records, disclosure obligations and, **3:1**
- Re-examination, **2:21**
 - general principles, **2:21**
 - case law, **2:21**
 - commentary, **2:21**
 - credibility: general principles, **2:21**
 - credibility: jury instructions, **2:21**
 - cross-examination in re-examination, **2:21**
 - re-examination after impeachment by prior inconsistent statement, **2:21**
 - re-examination on inadmissible evidence, **2:21**
 - refreshing memory in re-examination, **2:21**
 - related provisions and principles, **2:21**
- Re-opening and reply
 - collateral facts rule, **2:24**
 - case law, **2:24**
 - exceptions, **2:24**
 - general principles, **2:24**

EXAMINATION OF WITNESSES

—Cont'd

- Re-opening and reply—Cont'd
 - collateral facts rule, **2:24**
 - Cont'd
 - case law, **2:24**—Cont'd
 - prior convictions to rebut evidence of good character, **2:24, A:109 [CC s. 666]**
 - role of judicial discretion, **2:24**
 - third party motive, proof of, **2:24**
 - commentary, **2:24**
 - “collateral fact” defined, **2:24**
 - related provisions and principles, **2:24**
 - re-opening, general principles of, **2:22**
 - case law, **2:22**
 - alibi, rebuttal of, **2:23**
 - appellate review, **2:22**
 - character evidence, rebuttal of, **2:23**
 - conduct of defence, **2:22**
 - conviction, after, **2:22**
 - cumulative evidence in reply, **2:23**
 - exclusion order and reply witness, **2:23**
 - expert evidence in reply, **2:23**
 - general principles, **2:23**
 - joint trials, reply in, **2:23**
 - nature of evidence, **2:22**
 - prior convictions, proof of, **2:23, B:14 [CEA s. 12]**
 - prior statements or complaints, proof of, **2:23**
 - prosecution's witness, recall of, **2:22**
 - reply evidence where mental disorder or state of

EXAMINATION OF WITNESSES

—Cont'd

Re-opening and reply—Cont'd
re-opening, general principles of, **2:22**—Cont'd
case law, **2:22**—Cont'd
mind is issue, **2:23**
timing, **2:22**
commentary, **2:22**
related provisions and principles, **2:22**
reply, general principles of, **2:23**
case law, **2:23**
Collateral Facts Rule, **2:23**
essential elements of prosecution, **2:23**
unanticipated defence, **2:23**
commentary, **2:23**
related provisions and principles, **2:23**
Surrebuttal
general principles, **2:25**
case law, **2:25**
commentary, **2:25**
related provisions and principles, **2:25**

**EXCLUSION OF OTHERWISE
ADMISSIBLE EVIDENCE,
DISCRETIONARY**

Case law, **1:16**
admissions, **1:16**
after-the-fact conduct, **1:16, 1:22**
appellate review, **1:16**
defence evidence, **1:16**
general principles, **1:16**
hearsay, **1:16**
hypnotically-induced testimony, **1:16**
separately charged persons, **1:16**
Commentary, **1:16**
Prior convictions, cross-examination on, **2:18**
Related provisions and principles, **1:16**

EXPERT OPINION EVIDENCE

Affidavits of experts, **A:106** [CC s. **657.3**]
Bad character of accused, **6:7**
Character and disposition, of, **5:5**
case law, **5:5**
evidence concerning disposition, **5:5**
of accused: behavioural capacity, lack of, **5:5**
of accused: distinctive group exception, **5:5**
of accused: joint trials, **5:5**
of accused: rebuttal evidence, as, **5:5**
of complainant, **5:5**
of third party, **5:5**
gang membership, features of, **5:5**
commentary, **5:5**
jury instructions (WMCJI), **5:5**
related provisions and principles, **5:5**
Credibility and reliability, re, **5:7**
case law, **5:7**
confessions, reliability of, re, **5:7**
credibility in sexual abuse cases, **5:7**
eyewitness identification evidence, reliability of, re, **5:7**
factors effecting credibility and reliability, re, **5:7**
hearsay statements, reliability of, re, **5:7**
polygraphs and related evidence, **5:7**
reliability of confessions, **5:7**
reputation evidence, **5:7**
truthfulness, evidence supporting, **5:7**
commentary, **5:7**
jury instructions (WMCJI), **5:7**

EXPERT OPINION EVIDENCE

—Cont'd

- Credibility and reliability, re, **5:7**
 - Cont'd
 - related provisions and principles, **5:7**
- Disclosure and notice, **A:106 [CC s. 657.3]**
 - related provisions and principles, **B:9, B:10 [CEA ss. 7, 8]**
- Examination of experts and hypothetical questions, **5:3, A:3 [CC s. 16]**
 - case law, **5:3**
 - cross-examination on authoritative texts, **5:3**
 - cross-examination on rejection of prior testimony, **5:3**
 - demonstrations, **5:3**
 - examination of experts, **5:3**
 - hypothetical questions, **5:3**
 - commentary, **5:3**
 - jury instructions (WMCJI), **5:3**
 - related provisions and principles, **5:3**
- General principles, **5:1**
 - case law, **5:1**
 - absence of exclusionary rule, **5:1**
 - admissibility, principles governing, **5:1**
 - appellate review, **5:1**
 - conditions precedent, **5:1**
 - disclosure obligations, scope of, **5:1**
 - evidentiary value of statement made to expert, **5:1**
 - experts' draft reports, disclosure of, **5:1**
 - fact v. opinion, **5:1**
 - independent research by trier of fact, **5:1**
 - jury instructions, **5:1**
 - necessity, **5:1**
 - properly qualified expert, **5:1**

EXPERT OPINION EVIDENCE

—Cont'd

- General principles, **5:1**—Cont'd
 - case law, **5:1**—Cont'd
 - qualification of, **5:2**
 - relevance, **5:1**
 - statement made to expert, evidentiary value of, **5:2**
 - ultimate issue rule, **5:1**
 - commentary, **5:1**
 - four criteria, **5:1**
 - jury instructions (WMCJI), **5:1**
 - related provisions and principles, **5:1**
- Good character of accused, **6:4**
- Hearsay rule, expert opinion evidence, and, **5:4, A:3 [CC s. 16]**
 - case law, **5:4**
 - evidentiary value, general principles governing, **5:4**
 - jury instructions, **5:4**
 - commentary, **5:4**
 - jury instructions (WMCJI), **5:4**
 - related provisions and principles, **5:4**
- Mental capacity or state of mind, of, **5:6**
 - case law, **5:6**
 - amnesia, **5:6**
 - basis of opinion, **5:6**
 - effect of evidence, **5:6**
 - expert opinion evidence, **5:6**
 - intoxication, **5:6**
 - normal mental state, **5:8**
 - recklessness, **5:6**
 - reliability of statements or evidence, **5:8**
 - stress, effect of, **5:6**
 - commentary, **5:6**
 - jury instructions (WMCJI), **5:6**
 - related provisions and principles, **5:6**

EXPERT OPINION EVIDENCE

—Cont'd

- Notice of, **A:106 [CC s. 657.3]**
 - related provisions and principles, **B:9, B:10 [CEA ss. 7, 8]**
- Opinions outside expertise, **5:2**
- Qualifications of experts, **5:2**
 - case law, **5:2**
 - qualifications of expert, **5:2**
 - subject matter of expertise, **5:2**
 - commentary, **5:2**
 - related provisions and principles, **5:2**
- Reliability of evidence, re, **5:7**
 - case law, **5:7**
 - confessions, re, **5:7**
 - eyewitness identification evidence, re, **5:7**
 - factors affecting reliability, **5:7**
 - hearsay statements, re, **5:7**
 - commentary, **5:7**
 - related provisions and principles, **5:7**
- Reports of experts, **A:106 [CC s. 657.3]**
- Scientific evidence, new, **5:8**
 - case law, **5:8**
 - armed persons, characteristics of, **5:8**
 - battered wife syndrome, **5:8**
 - child abuse prosecutions: behaviour of abused persons, **5:8**
 - child abuse prosecutions: credibility of complainant, **5:8**
 - child abuse prosecutions: delay in/ failure of complaint, **5:8**
 - criminal profiling evidence, **5:8**
 - DNA testing, **5:8**
 - exclusion of other suspects, **5:8**
 - footprint comparison, **5:8**
 - general principles, **5:8**

EXPERT OPINION EVIDENCE

—Cont'd

- Scientific evidence, new, **5:8**
 - Cont'd
 - case law, **5:8**—Cont'd
 - staged crime scenes, **5:8**
 - commentary, **5:8**
 - related provisions and principles, **5:8**
- Witnesses, expert, **B:9 [CEA s. 7]**
 - case law, **B:9 [CEA s. 7]**
 - admissibility of expert evidence, **B:9 [CEA s. 7]**
 - conflicting expert evidence, **B:9 [CEA s. 7]**
 - number of witnesses, **B:9 [CEA s. 7]**
 - commentary, **B:9 [CEA s. 7]**
 - related provisions and principles, **B:9 [CEA s. 7]**

EXTRINSIC MISCONDUCT

- General principles, **7:5**
 - case law, **7:5**
 - cross-examination of accused on extrinsic misconduct, **7:5**
 - evidence of D's relationship with deceased: enmity, **7:5**
 - evidence of D's relationship with deceased: fear, **7:5**
 - evidence of D's relationship with deceased: hatred, **7:5**
 - evidence of D's relationship with deceased: hostility, **7:5**
 - evidence of D's relationship with deceased: prior abuse, **7:5**
 - evidence of D's relationship with deceased: prior acts of deceased, **7:5**
 - evidence of D's relationship with deceased: prior threats, **7:5**

EXTRINSIC MISCONDUCT

—Cont'd

General principles, **7:5**—Cont'd
 case law, **7:5**—Cont'd
 evidence of extrinsic evidence
 to establish a motive, **7:5**
 evidence of extrinsic
 misconduct and
 undercover operations,
 7:5
 evidence of extrinsic
 misconduct as part of nar-
 rative, **7:5**
 evidence of extrinsic
 misconduct to prove
 animus, **7:5**
 evidence of extrinsic
 misconduct to prove
 capacity, **7:5**
 evidence of extrinsic
 misconduct to prove com-
 plicity and identity, **7:5**
 evidence of extrinsic
 misconduct to prove
 motive or an essential
 mental element, **7:5**
 evidence of extrinsic
 misconduct to prove pos-
 session of instruments of
 crime, **7:5**
 evidence of extrinsic
 misconduct to prove
 unlawful agreement or
 purpose, **7:5**
 evidence of extrinsic
 misconduct to provide
 context, **7:5**
 general principles governing
 evidence of extrinsic
 misconduct, **7:5**
 jury instructions, **7:5**
 undercover operations, **7:5**
 commentary, **7:5**
 jury instructions (WMCJI), **7:5**
 related provisions and principles,
 7:5
 see also SIMILAR ACTS

**FAILURE TO ATTEND, APPEAR
OR COMPLY**

Certificate evidence in prosecutions
 for, **A:9 [CC s. 145]**

**FINANCIAL INSTITUTIONS,
RECORDS OF**

Generally, **1:33**
 Book or record, admissibility of,
B:32 [CEA s. 29]
 case law, **B:32 [CEA s. 29]**
 general principles, **B:32 [CEA**
 s. 29]
 records, entries and copies,
 B:32 [CEA s. 29]
 commentary, **B:32 [CEA s. 29]**
 related provisions and principles,
 B:32 [CEA s. 29]
 See also DOCUMENTARY EVI-
 DENCE

**FIREARMS PROSECUTIONS,
PROOF**

Generally, **A:6 [CC ss. 117.11,**
117.12, 117.13]

FITNESS

Burden of proof on issues of, **A:113**
[CC s. 672.32]
 Competence and, **1:3**
 Presumption of, **A:112 [CC s.**
672.22]

HANDWRITING

Generally, **5:11**
 Comparison, **B:10 [CEA s. 8]**
 case law, **B:10 [CEA s. 8]**
 commentary, **B:10 [CEA s. 8]**
 related provisions and principles,
 B:10 [CEA s. 8]
 Proof of person certifying, **B:44**
[CEA s. 33]
 commentary, **B:44 [CEA s. 33]**
 related provisions, **B:44 [CEA s.**
 33]
 See also LAY OPINION EVI-
 DENCE

HEARSAY

Exceptions at common law, see also
 principled hearsay exceptions
 admissions, **4:12**
 case law, **4:12**
 “in furtherance” require-
 ment, **4:14**
 admissions by response to
 statements or allega-
 tions, **4:12**
 agents, admissions by, **4:12**
 application of rule, **4:12**
 application of rule,
 procedural
 considerations, **4:14**
 co-conspirators, **4:14**
 conduct, admissions by,
4:12
 dying declarations, **4:12**
 implied admissions, **4:12**
 jury instructions, substantive
 offences, **4:14**
 participation in a conspir-
 acy: proof of actual
 membership, **4:14**
 participation in a conspir-
 acy: proof of possible
 membership, **4:14**
 commentary, **4:12**
 party admissions, need for
 unequivocal, **4:12**
 scope of rule, preliminary
 and substantive crimes,
4:14
 silence, admissions by, **4:12**
 unequivocal, party
 admissions, **4:12**
 related provisions, **4:12**
 declarations against pecuniary or
 proprietary interest, **4:6**
 commentary, **4:6**
 related provisions and
 principles, **4:6**
 declarations against penal inter-
 est, **4:7**
 case law, **4:7**
 conditions precedent of

HEARSAY—Cont’d

Exceptions at common law, see also
 principled hearsay exceptions
 —Cont’d
 declarations against penal inter-
 est, **4:7**—Cont’d
 case law, **4:7**—Cont’d
 exception, **4:7**
 against the declarant’s inter-
 est, **4:7**
 procedural considerations,
4:7
 commentary, **4:7**
 related provisions and
 principles, **4:7**
 declarations connected with rele-
 vant act, **4:11**
 case law, **4:11**
 character of premises, decla-
 rations to show, **4:11**
 conditions precedent of
 exception, **4:11**
 declarations to prove
 identity, **4:11**
 jury instructions, **4:11**
 motive, declarations as evi-
 dence of, **4:11**
 possession, declarations to
 explain, **4:11**
 procedural considerations,
4:11
 commentary, **4:11**
 jury instructions (WMCJI),
4:11
 related provisions and
 principles, **4:11**
 declarations in course of duty, **4:8**
 case law, **4:8**
 conditions precedent of
 exception, **4:8**
 commentary, **4:8**
 public documents, **4:8**
 related provisions and
 principles, **4:8**
 declarations in furtherance of

HEARSAY—Cont'd

Exceptions at common law, see also
 principled hearsay exceptions
 —Cont'd
 common unlawful design,
 4:14
 case law, **4:14**
 “in furtherance” require-
 ment, **4:14**
 acts in furtherance, **4:14**
 application of rule, condi-
 tions precedent, **4:14**
 application of rule,
 procedural
 considerations, **4:14**
 co-conspirators, **4:14**
 conspiracy or unlawful
 purpose, proof of, **4:14**
 form of indictment, **4:14**
 guilty pleas, **4:14**
 jury instructions, conspiracy,
 4:14
 jury instructions, substantive
 offences, **4:14**
 order of proof, **4:14**
 post-arrest words and
 conduct and pleas of
 guilty, **4:14**
 principled hearsay exception
 and, **4:14**
 rationale, underlying, **4:14**
 scope of rule, **4:14**
 commentary, **4:14**
 jury instructions (WMCJI),
 4:14
 related provisions and
 principles, **4:14**
 declarations of bodily feelings
 and conditions, **4:9**
 case law, **4:9**
 commentary, **4:9**
 related provisions and
 principles, **4:9**
 declarations of mental or emo-
 tional state, **4:10**
 case law, **4:10**
 conditions precedent, **4:10**

HEARSAY—Cont'd

Exceptions at common law, see also
 principled hearsay exceptions
 —Cont'd
 declarations of mental or emo-
 tional state, **4:10**—Cont'd
 case law, **4:10**—Cont'd
 declarations of mental state
 as hearsay, **4:10**
 declarations of mental state
 to prove motive, **4:10**
 jury instructions, **4:10**
 procedural considerations,
 4:10
 statements of intention as
 hearsay, **4:10**
 statements of intention as
 non-hearsay, **4:10**
 commentary, **4:10**
 related provisions, **4:10**
 dying declarations, **4:5**
 case law, **4:5**
 burden of proof, **4:4**
 conditions precedent, **4:4**
 jury instructions, **4:4**
 procedural considerations,
 4:4
 settled expectation of death,
 4:5
 commentary, **4:5**
 related provisions and
 principles, **4:5**
 general principles, **4:4**
 case law, **4:4**
 commentary, **4:4**
 circumstantial probability of
 trustworthiness, **4:4**
 necessity, **4:4**
 related provisions and
 principles, **4:4**
 prior testimony, **4:15**
 case law, **4:15**
 conditions precedent, **4:15**
 jury instructions, **4:15**

HEARSAY—Cont'd

Exceptions at common law, see also
 principled hearsay exceptions
 —Cont'd
 prior testimony, **4:15**—Cont'd
 case law, **4:15**—Cont'd
 procedural considerations,
 need for voir dire, **4:15**
 commentary, **4:15**
 related provisions and
 principles, **4:15**
 spontaneous explanation, **4:12**
 case law, **4:12**
 conditions precedent, **4:12**
 exceptions, **4:12**
 jury instructions, **4:12**
 commentary, **4:12**
 related provisions and
 principles, **4:12**
 Identification of hearsay: hearsay or
 non-hearsay
 general principles, **4:1**
 case law, **4:1**
 adoptive admissions, **4:1**
 airline tickets, **4:1**
 calls, disorderly house, **4:1**
 calls, drug purchase, **4:1**
 documents in possession
 rule, **4:1**
 evidence of threats, **4:1**
 general principles, **4:1**
 inventory sheets and other
 records, **4:1**
 investigative hearsay:
 admissibility and use,
 4:1
 investigative hearsay:
 hearsay or non-hearsay,
 4:1
 measurements, **4:1**
 narrative evidence, **4:1**
 negative results of inquiries,
 4:1
 photographs: hearsay or
 non-hearsay, **4:1**

HEARSAY—Cont'd

Identification of hearsay: hearsay or
 non-hearsay—Cont'd
 general principles, **4:1**—Cont'd
 case law, **4:1**—Cont'd
 proof of consent, **4:1**
 statements accompanying/
 establishing relevant
 act, **4:1**
 statements of identification,
 4:1
 statements of intention, **4:1**
 statements on labels, **4:1**
 statements reflecting state of
 mind, **4:1**
 statements to experts, **4:1**
 statements to explain knowl-
 edge, **4:1**
 commentary, **4:1**
 classic hearsay situation, **4:1**
 traditional formulation of
 rule, **4:1**
 jury instructions (WMCJI), **4:1**
 related provisions and
 principles, **4:1**
 hearsay by conduct, **4:3**
 case law, **4:3**
 commentary, **4:3**
 jury instructions (WMCJI), **4:3**
 related provisions and
 principles, **4:3**
 implied assertions as hearsay, **4:2**
 case law, **4:2**
 drug purchase calls, **4:2**
 statements by alleged third
 party perpetrators, **4:2**
 commentary, **4:2**
 jury instructions (WMCJI), **4:2**
 related provisions and
 principles, **4:2**
 Principled hearsay exceptions
 general principles, **4:16**
 case law, **4:16**
 burden of proof, **4:16**
 conditions precedent, **4:16**

HEARSAY—Cont'd

Principled hearsay exceptions
—Cont'd
general principles, **4:16**—Cont'd
case law, **4:16**—Cont'd
jury instructions, **4:16**
necessity and reliability:
admissibility by agree-
ment, **4:16**
necessity and reliability:
child declarants and
complainants, **4:16**
necessity and reliability:
general principles, **4:16**
necessity and reliability:
prior evidence, **4:16**
necessity and reliability:
prior statements, **4:16**
necessity and reliability:
public documents, **4:16**
necessity and reliability:
records, **4:16**
necessity and reliability:
third party perpetrators,
4:16
presumptive inadmissibility
of hearsay, **4:16**
principled approach and
existing exceptions,
relationship between,
4:16
procedural considerations,
4:16
commentary, **4:16**
jury instructions (WMCJI),
4:16
related provisions and
principles, **4:16**
necessity, principle of, **4:17**
case law, **4:17**
child hearsay declarants,
and, **4:17**
cumulative evidence and,
4:17
meaning of necessity, **4:17**
prior complaints, and, **4:17**

HEARSAY—Cont'd

Principled hearsay exceptions
—Cont'd
necessity, principle of, **4:17**
—Cont'd
case law, **4:17**—Cont'd
prior inconsistent statement
cases, in, **4:17**
prior testimony, and, **4:17**
proof of necessity, **4:17**
commentary, **4:17**
related provisions and
principles, **4:17**
reliability, principle of, **4:18**
case law, **4:18**
absence of reliability, **4:18**
appellate review of reli-
ability findings, **4:18**
corroborative evidence, **4:18**
importance requirement,
4:18
meaning of reliability, **4:18**
proof of reliability, **4:18**
manner, **4:18**
procedural, **4:18**
recantations and
inconsistencies, **4:18**
relevance of motive, **4:18**
substantive, **4:18**
videotape statements,
4:18
reliability factors, **4:18**
reliability requirement, **4:18**
commentary, **4:18**
jury instructions (WMCJI),
4:18
related provisions and
principles, **4:18**
see also EXPERT OPINION EVI-
DENCE

HYPOTHETICAL QUESTIONS

Generally, **5:3**
See also EXPERT OPINION EVI-
DENCE

IMPAIRMENT

see CONVEYANCES

INFERENCES

General principles, **1:36**

case law, **1:36**

failure to call witnesses, **1:36**

failure to disclose evidence,
1:36

recent possession, doctrine of,
1:36

explanation of accused and,
1:36

general principles, **1:36**

jury instructions, **1:36**

scope of application, **1:36**

stereotypical reasoning, **1:36**

twin myth reasoning, **1:36**

commentary, **1:36**

related provisions and principles,
1:36

State of mind, inference of, **1:37**

case law, **1:37**

intention, inference of, **1:37**

mental disorder, **1:37**

natural and probable conse-
quences of acts, **1:37**

commentary, **1:37**

jury instructions (WMCJI), **1:37**

related provisions and principles,
1:37

Statutory inferences, **1:38**

case law, **1:38**

commentary, **1:38**

related provisions and principles,
1:38

**JOURNALIST SOURCE
PRIVILEGE**

Generally, **1:49**

See also PRIVILEGE

**JUDICIAL INTERIM RELEASE,
EVIDENCE ON**

Generally, **A:82 [CC s. 518]**

**JUDICIAL INTERIM RELEASE,
EVIDENCE ON—Cont'd**

Case law, **A:82 [CC s. 518]**

“examined ... respecting the
offence,” **A:82 [CC s. 518]**

evidence considered credible or
trustworthy, **A:82 [CC s.
518(1)(e)]**

JUDICIAL NOTICE

Acts of Canada, **B:21, B:22 [CEA
ss. 18, 19]**

case law, **1:40, B:21, B:22 [CEA
ss. 18, 19]**

common terminology, **1:40**

facts, judicial notice of, **1:40**

foreign law, **1:40, 1:42**

general principles, **1:40**

geographical location, **1:40**

historical facts, **1:40**

independent research, **1:40**

law, judicial notice of, **1:40**

procedural practices, **1:40**

Commentary, **1:40, B:20 to B:22
[CEA ss. 17, 18, 19]**

Facts, judicial notice of, **1:41**

case law, **1:41**

common terminology, **1:41**

elements of proof, **1:41**

general principles, **1:40, 1:41**

geographic locations, **1:41**

historical facts, **1:41**

legislative vs. adjudicative
facts, **1:41**

medical conditions, **1:41**

nature, matters of, **1:41**

scientific matters, **1:41**

commentary, **1:41**

related provisions, **1:41**

Generally, **A:132 [CC s. 781]**

Imperial Acts, etc., **B:20 [CEA s.
17]**

case law, **B:20 [CEA s. 17]**

commentary, **B:20 [CEA s. 17]**

JUDICIAL NOTICE—Cont'd

Imperial Acts, etc., **B:20** [CEA s. 17]—Cont'd
related provisions and principles, **B:20** [CEA s. 17]

Imperial proclamations, etc., **B:23, B:24** [CEA ss. 20, 21]
case law, **B:23, B:24** [CEA ss. 20, 21]
commentary, **B:23, B:24** [CEA ss. 20, 21]
related provisions and principles, **B:23, B:24** [CEA ss. 20, 21]

Jury instructions (WMCJI), **1:40**

Law, judicial notice of, **1:42**
case law, **1:42**
foreign law, **1:42**
proclamations and orders-incouncil, **1:42**
regulations, **1:42**
commentary, **1:42**
Related provisions and principles, **1:40, B:20 to B:22** [CEA ss. 17, 18, 19]
Statutory instruments, **B:23 to B:25** [CEA ss. 20, 21, 22]
case law, **B:23, B:24** [CEA ss. 20, 21]
commentary, **B:23 to B:25** [CEA ss. 20, 21, 22]
related provisions and principles, **B:23 to B:25** [CEA ss. 20, 21, 22]

**JUDICIAL PROCEEDINGS,
EVIDENCE OF**

Generally, **B:26** [CEA s. 23]

JURY

Instructions re evidentiary rulings, **1:15**
Instructions re failure of accused to testify, **B:5** [CEA s. 4]
Instructions re good character, **6:1**
Instructions re right to silence, **9:4**
Sequestration of jurors, **A:93** [CC s. 647]

**JUSTICE SYSTEM
PARTICIPANTS**

Exclusion of public to protect, **A:68** [CC s. 486(1)]

**LAWYER-CLIENT
COMMUNICATION
PRIVILEGE**

Generally, **1:44, A:80** [CC s. 488.1]
See also PRIVILEGE

LAY OPINION EVIDENCE

General principles, **5:9**
case law, **5:9**
confessions, truth of, **5:9, 5:12**
credibility, re, **5:9, 5:10**
crime scene observations, **5:9**
demeanor, **5:10**
disappearance of deceased, about, **5:9**
equipment, nature of, **5:9**
footprints, about, **5:9**
general principles, **5:9**
identification, **5:10**
intoxication evidence, **5:9**
physical condition, re, **5:9**
valuation evidence, **5:9**
commentary, **5:9**
related provisions and principles, **5:9**
Handwriting, of, **5:11**
case law, **5:11**
jury comparisons, **5:11**
jury instructions, **5:11**
qualifications, **5:11**
standard of proof, **5:11**
commentary, **5:11**
related provisions and principles, **5:11**

Identity, of, **5:10**
case law, **5:10; B:23, B:24** [CEA ss. 20, 21]
descriptions re identity, **5:10**
dock identification, **5:10**
eyewitness identification, **5:10**
general principles, **5:10**

LAY OPINION EVIDENCE

—Cont'd

Identity, of, **5:10**—Cont'd
 case law, **5:10; B:23, B:24** [CEA ss. 20, 21]—Cont'd
 hearsay rule, **5:10**
 identification parades, **5:10**
 jury instructions, **5:10**
 out of court identification and hearsay rule, **5:10**
 photographs, eyewitnesses and, **5:10**
 recognition evidence: general principles, **5:10**
 recognition evidence: procedural considerations, **5:10**
 videotape identification on, **5:10**
 visual identification, jury instructions re: general, **5:10**
 visual identification, jury instructions re: in-court identification, **5:10**
 visual identification, jury instructions re: recognition, **5:10**
 visual identification, jury instructions re: Turnbull approach, **5:10**
 visual identification, jury instructions re: weaknesses, specific, **5:10**
 voice identification, **5:10**
 voice identification: means of proof, **5:10**
 commentary, **5:10; B:23, B:24** [CEA ss. 20, 21]
 jury instructions (WMCJI), **5:10**
 related provisions and principles, **5:10; B:23, B:24** [CEA ss. 20, 21]
 Mental capacity or state of mind, of, **5:12**
 case law, **5:12**

LAY OPINION EVIDENCE

—Cont'd

Mental capacity or state of mind, of, **5:12**—Cont'd
 commentary, **5:12**
 related provisions and principles, **5:12**

MAPS, MODELS, DUPLICATES AND DIAGRAMS

Generally, **1:27**
 See also REAL EVIDENCE

MATERIALITY

Case law, **1:13**
 general principles, **1:13**
 Commentary, **1:13**
 Related provisions and principles, **1:13**

MENTAL DISORDER

Burden of proof on issues of fitness, **A:113** [CC s. 672.32]
 Fitness, presumption of, **A:112** [CC s. 672.22]
 Proof of, **A:3** [CC s. 16]
 see also EXPERT OPINION EVIDENCE
 Witness whose capacity is in question, **B:17** [CEA s. 15]

OATHS

Children under 14 years of age, **B:19** [CEA s. 16.1]
 Taken abroad
 admissibility of related documents, **B:89** [CEA s. 54]
 commentary, **B:89** [CEA s. 54]
 related provisions, **B:89** [CEA s. 54]
 deemed validity, **B:88** [CEA s. 53]
 commentary, **B:88** [CEA s. 53]
 related provisions, **B:88** [CEA s. 53]
 persons authorized to administer, **B:87** [CEA s. 52]
 commentary, **B:87** [CEA s. 52]

OATHS—Cont'd

Taken abroad—Cont'd

persons authorized to administer,
B:87 [CEA s. 52]—Cont'd
related provisions, **B:87 [CEA
s. 52]**

Who may administer, **B:15, B:16,
B:87 [CEA ss. 13, 14, 52]**
case law, **B:15, B:16 [CEA s. 13,
14]**
incompetent to take oath,
**B:15, B:16 [CEA ss. 13,
14]**
commentary, **B:15, B:16, B:87
[CEA s. 13, 14, 52]**
related provisions and principles,
**B:15, B:16, B:87 [CEA s.
13, 14, 52]**

OPINION

see EXPERT OPINION EVI-
DENCE , see LAY OPINION
EVIDENCE

PARLIAMENTARY

LEGISLATIVE AUTHORITY

Generally, **B:75 [CEA s. 40]**
Case law, **B:75 [CEA s. 40]**
commentary, **B:75 [CEA s. 40]**
general principles, **B:75 [CEA s.
40]**
related provisions and principles,
B:75 [CEA s. 40]
specific applications, **B:75 [CEA
s. 40]**

PEACE BOND, CONDITIONS OF

Certificate evidence in breach
proceedings, **A:141 [CC s.
811.1]**

Provide samples for testing
designations re sampling, **A:139
[CC ss. 810.3(1) to (3)]**
destruction of samples, **A:139
[CC s. 810.3(4)]**
notice of sampling at regular
intervals, **A:139 [CC s.
810.3(6)]**

**PEACE BOND, CONDITIONS OF
—Cont'd**

Provide samples for testing
—Cont'd
prohibited disclosure and uses,
A:140 [CC s. 810.4]
at regular intervals, **A:135, A:138
[CC ss. 810(3.02)(c),
810.3(6)]**
regulations re, **A:139 [CC s.
810.3(5)]**
on request, **A:135 [CC s.
810(3.02)(b)]**
restriction, **A:139 [CC s.
810.3(3)]**
specifications re sampling, **A:138
[CC s. 810.3]**
see also RECOGNIZANCE,
CONDITIONS OF

PHOTOGRAPHS

Generally, **1:24, A:81 [CC s. 491.2]**
Print admissible in evidence, **B:34
[CEA s. 31]**
case law, **B:34 [CEA s. 31]**
“government,” **B:34 [CEA s.
31]**
conditions precedent, **B:34
[CEA s. 31]**
general principles, **B:34 [CEA
s. 31]**
commentary, **B:34 [CEA s. 31]**
related provisions and principles,
B:34 [CEA s. 31]
See also REAL EVIDENCE

POLICE INFORMER PRIVILEGE

Generally, **1:48**
See also PRIVILEGE

POSSESSION OF PROPERTY

Proof of theft in possession cases,
A:105 [CC s. 657.2]

PRELIMINARY INQUIRY

Absconding accused at, **A:87 [CC
s. 544]**

PRELIMINARY INQUIRY

—Cont'd

- Accused's statement of, evidence of, **A:103 [CC s. 657]**
- Confessions at, **A:86 [CC s. 542]**
 - case law, **A:86 [CC s. 542]**
 - voluntariness of statement and its determination, **A:86 [CC s. 542]**
- Defence evidence at, **A:85 [CC s. 541]**
 - case law, **A:85 [CC s. 541]**
 - opportunity to call witnesses, **A:85 [CC ss. 541(3), (4)]**
 - repetition of address, **A:85 [CC s. 541(1)]**
- Evidence at, **A:84 [CC s. 540]**
 - case law, **A:84 [CC s. 540(1)(a)]**
 - cross-examination, **A:84 [CC s. 540(1)(a)]**
 - documents, production of, **A:84 [CC s. 540]**
 - evidence at the inquiry, **A:84 [CC s. 540]**
 - recording evidence, **A:84 [CC s. 540]**
- Evidence previously taken at, **A:119 [CC s. 715]**
 - case law, **A:119 [CC s. 715]**
 - absent from Canada, **A:119 [CC s. 715]**
 - application of s. 715(1), **A:119 [CC s. 715]**
 - Charter considerations, **A:119 [CC s. 715]**
 - common law rules and, **A:119 [CC s. 715]**
 - cross-examine, full opportunity to, **A:119 [CC s. 715(1)]**
 - exclusion of evidence, **A:119 [CC s. 715]**
 - jury instructions, **A:119 [CC s. 715]**
 - refusal to testify, **A:119 [CC s. 715]**

PRELIMINARY INQUIRY

—Cont'd

- Evidence previously taken at, **A:119 [CC s. 715]**—Cont'd
 - case law, **A:119 [CC s. 715]**
 - Cont'd
 - scope of section, **A:119 [CC s. 715]**
 - Powers of court, **A:83 [CC s. 537]**

PRESUMPTIONS

- General principles, **1:39**
 - case law, **1:39**
 - general principles, **1:39**
 - incapacity, presumption of, **1:39**
 - regularity, presumption of, **1:39**
 - statutory presumptions:
 - Charter considerations, **1:39**
 - truthfulness, presumption of, **1:39**
 - commentary, **1:39**
 - irrebuttable presumption of law, **1:39**
 - presumption of fact, **1:39**
 - rebuttable presumption of law, **1:39**
 - related provisions and principles, **1:39**

PREVIOUS CONVICTION, PROOF OF

- Case law, **A:110 [CC s. 667]**
- Charter considerations, **A:110 [CC s. 667]**
- general principles, **A:103 [CC s. 657]**

PRIVILEGE

- Banking information, in, **1:43, A:71 [CC ss. 487.013, 487.016]**
- Diplomatic immunity, **1:43**
- Family counselling, re, **1:46**
- General principles
 - case law, **1:43**
 - specific privileges: banking information, **1:43**

PRIVILEGE—Cont'd

General principles—Cont'd

case law, **1:43**—Cont'd

specific privileges: diplomatic immunity, **1:43**

specific privileges: doctor-patient communications, **1:43**

specific privileges: implied undertaking rule, **1:43**

specific privileges: journalist-confidential source communications, **1:43**

specific privileges: MLAs, **1:43**

specific privileges: plea negotiation discussions, **1:43**

specific privileges: reconciliation attempts, **1:43**

specific privileges: settlement privilege, **1:43**

specific privileges: social work files, **1:43**

specific privileges: spiritual advisors, **1:43**

waiver: the requirements, **1:43**
commentary, **1:43**

Journalistic source, **1:49**

case law, **1:49**

appeal, rights of, **1:49**

disclosure applications, **1:49**

general principles, **1:49**

Lawyer-client communication privilege, **1:44, A:80 [CC s. 488.1]**

case law, **1:44, A:80 [CC s. 488.1]**

assertion of claim, **1:44**

Charter considerations, **A:80 [CC s. 488.1]**

disclosure, **1:48**

duration of privilege, **1:44**

duty to advise, **1:44**

essential elements, **1:44**

PRIVILEGE—Cont'd

Lawyer-client communication privilege, **1:44, A:80 [CC s. 488.1]**

—Cont'd

case law, **1:44, A:80 [CC s. 488.1]**—Cont'd

exceptions, **1:44**

allegations of professional misconduct, **1:44**

Crown counsel advice, **1:44**

expert testimony, **1:44**

in furtherance of crime, **1:44**

innocence at stake, **1:44**

public safety, **1:44**

facts and communications, **1:44**

joint representation, and, **1:44**

legal aid and agents, **1:44**

limitations on privilege, **1:44**

loyalty and confidentiality, **1:44**

mischief exception, **1:48**

nature of privilege, **1:44**

non-payment of fees, **1:44**

procedural considerations, **1:44**

asserting claim, **1:44**

challenging disclosure orders, **1:48**

notice, **1:48**

parallel proceedings, **1:48**

search warrants: applications and execution, **1:44**

setting aside privilege, **1:44**

prosecutors and in-house counsel, **1:44**

relationship with other privileges, **1:44**

reporting letters, **1:44**

scope of protection

experts, **1:44**

third parties and privilege, **1:44**

third parties' information, **1:44**

PRIVILEGE—Cont'd

Lawyer-client communication privilege, **1:44, A:80 [CC s. 488.1]**
 —Cont'd
 case law, **1:44, A:80 [CC s. 488.1]**—Cont'd
 waiver, **1:44**
 commentary, **1:44**
 related provisions and principles, **1:44**
 Legislative privilege, **1:43**
 Litigation privilege, **1:44**
 Marital communication privilege, **1:45**
 case law, **1:45**
 competence, compellability and privilege, **1:45, B:5 [CEA s. 4]**
 intercepted private communications, privilege and, **1:45**
 jury instructions, **1:45**
 third parties, privilege and, **1:45**
 commentary, **1:45**
 related provisions and principles, **1:45**
 MLA's, of, **1:43**
 Other confidential relationships, **1:46**
 case law, **1:46**
 doctor-patient communications, **1:46**
 family counselling, **1:46**
 journalist-confidential source communications, **1:46**
 physiotherapist-patient, **1:46**
 plea negotiation discussions, re, **1:43, 1:46**
 probation officers, **1:46**
 psychiatrist-patient, **1:46**
 psychologist-patient, **1:46**
 reconciliation attempts, **1:43, 1:46**
 religious advisors, **1:46**

PRIVILEGE—Cont'd

Other confidential relationships, **1:46**—Cont'd
 commentary, **1:46**
 related provisions and principles, **1:46**
 Physiotherapist-patient, **1:46**
 Plea negotiation discussions, re, **1:43, 1:46**
 Police informer privilege, **1:48**
 case law, **1:48**
 “innocence at stake” exception, **1:48**
 appellate rights, **1:48**
 Charter considerations, **1:48**
 conduct of proceedings and, **1:48**
 duration of privilege: death of the informer, **1:48**
 duty to protect the privilege, **1:48**
 essential elements of, **1:48**
 exceptions, **1:48**
 general principles, **1:48**
 holder of privilege, **1:48**
 informant status, proof of, **1:48**
 informers and police agents, **1:48**
 judicial discretion and, **1:48**
 observation post privilege, **1:48**
 procedure to challenge disclosure orders, **1:48**
 procedure to determine, **1:48**
 proof of the police-informer relationship, **1:48**
 relationship with other privileges, **1:48**
 scope of privilege, **1:48**
 waiver of, **1:48**
 commentary, **1:48**
 related provisions and principles, **1:48**
 Potentially injurious information, see sensitive information

PRIVILEGE—Cont'd

- Probation officers, **1:46**
- Psychiatrist-patient, **1:46**
- Psychologist-patient, **1:46**
- Public interest immunity, see specified public interest
- Queen's Privy Council, objection relating to confidence of, **B:73 [CEA s. 39]**
 - case law, **B:73 [CEA s. 39]**
 - certification, **B:73 [CEA s. 39]**
 - constitutional considerations, **B:73 [CEA s. 39]**
 - general principles, **B:73 [CEA s. 39]**
 - review of certification, **B:73 [CEA s. 39]**
 - scope of protection, **B:73 [CEA s. 39]**
 - waiver, **B:73 [CEA s. 39]**
 - commentary, **B:73 [CEA s. 39]**
 - related provisions and principles, **B:73 [CEA s. 39]**
- Reconciliation attempts, re, **1:43, 1:46**
- Religious advisors, **1:46**
- Secure administrative review proceedings, **B:72.10 to B:72:260 [CEA ss. 38.2 to 38.45]**
- Sensitive information
 - agreement to disclose, **B:57, B:58 [CEA ss. 38.031, 38.04(6) to (7)]**
 - commentary, **B:57 [CEA s. 38.031]**
 - related provisions and principles, **B:57 [CEA s. 38.031]**
 - appeals from orders concerning, **B:58, B:63 to B:66 [CEA ss. 38.04(7), 38.09, 38.1, 38.11, 38.12]**
 - case law, **B:63 [CEA s. 38.09]**
 - scope of review, **B:63 [CEA s. 38.09]**

PRIVILEGE—Cont'd

- Sensitive information—Cont'd
 - appeals from orders concerning, **B:58, B:63 to B:66 [CEA ss. 38.04(7), 38.09, 38.1, 38.11, 38.12]**—Cont'd
 - case law, **B:63 [CEA s. 38.09]**
 - Cont'd
 - standard of review, **B:63 [CEA s. 38.09]**
 - commentary, **B:58, B:63 to B:66 [CEA ss. 38.04, 38.09, 38.1, 38.11, 38.12]**
 - related provisions and principles, **B:58, B:63 to B:66 [CC ss. 38.04, 38.09, 38.1, 38.11, 38.12]**
 - applications to Federal Court re Attorney General of Canada, by, **B:58 [CEA s. 38.04(1)]**
 - case law, **B:58 [CEA s. 38.04]**
 - constitutionality, **B:58 [CEA s. 38.04]**
 - commentary, **B:56, B:58, B:65, B:66 [CEA ss. 38.03, 38.04, 38.11, 38.12]**
 - confidentiality of, **B:58 [CEA s. 38.04(4)]**
 - evidence admissible to determine, **B:60 [CEA s. 38.06(3.1)]**
 - ex parte representations, **B:65 [CEA s. 38.11(2), (3)]**
 - general, **B:58 [CEA s. 38.04(2)]**
 - procedure, **B:58 [CEA s. 38.04(5)]**
 - protective order, **B:66 [CEA s. 38.12]**
 - commentary, **B:66 [CEA s. 38.12]**
 - related provisions and principles, **B:66 [CEA s. 38.12]**

PRIVILEGE—Cont'd

Sensitive information—Cont'd
 applications to Federal Court re
 —Cont'd
 related provisions and
 principles, **B:56, B:58,
 B:65, B:66** [CEA ss.
 **38.03, 38.04, 38.11,
 38.12**]
 special rules, **B:65** [CEA s.
 38.11(1), (1.1)]
 case law: Charter
 considerations, **B:65**
 [CEA s. **38.11**]
 commentary, **B:65** [CEA s.
 38.11]
 related provisions and
 principles, **B:65** [CEA
 s. **38.11**]
 termination, **B:58** [CEA s.
 38.04(7)]
 authorization by Attorney Gen-
 eral of Canada, **B:56** [CEA
 s. **38.03**]
 commentary, **B:56** [CEA s.
 38.03]
 related provisions and
 principles, **B:56** [CEA s.
 38.03]
 certificate prohibiting disclosure,
 B:67, B:68, B:72 [CEA ss.
 38.13, 38.131, 38.17]
 annual report re, **B:72** [CEA s.
 38.17]
 commentary, **B:67, B:68**
 [CEA ss. **38.13, 38.131**]
 related provisions and
 principles, **B:67, B:68**
 [CEA ss. **38.13, 38.131**]
 review of certificate, **B:68**
 [CEA s. **38.131**]
 court records, **B:58, B:66** [CEA
 ss. **38.04(4), 38.12(2)**]
 definitions, **B:53** [CEA s. **38**]
 commentary, **B:53** [CEA s. **38**]
 related provisions and

PRIVILEGE—Cont'd

Sensitive information—Cont'd
 definitions, **B:53** [CEA s. **38**]
 —Cont'd
 principles, **B:53** [CEA s.
 38]
 disclosure order, **B:60 to B:62**
 [CEA ss. **38.06, 38.07,
 38.08**]
 case law, **B:60** [CEA s. **38.06**]
 release of information, **B:60**
 [CEA s. **38.06**]
 review, **B:60** [CEA s. **38.06**]
 standard to be applied, **B:60**
 [CEA s. **38.06**]
 commentary, **B:60 to B:62**
 [CEA ss. **38.06, 38.07,
 38.08**]
 related provisions and
 principles, **B:60 to B:62**
 [CEA ss. **38.06, 38.07,
 38.08**]
 disclosure prohibited, **B:55, B:60**
 [CEA ss. **38.02, 38.06(3)**]
 commentary, **B:55** [CEA s.
 38.02]
 order confirming prohibition,
 B:60, B:61 [CEA ss.
 38.06(3), 38.07]
 related provisions and
 principles, **B:55** [CEA s.
 38.02]
 entities, designated, **B:54, B:55**
 [CEA ss. **38.01(6), (8),
 38.02(1.1)**]
 fiat of Attorney General taking
 over prosecution, **B:70,
 B:72** [CEA ss. **38.15, 38.17**]
 annual report re, **B:72** [CEA s.
 38.17]
 commentary, **B:70** [CEA s.
 38.15]
 related provisions and
 principles, **B:70** [CEA s.
 38.15]
 limitation periods for appeals,

PRIVILEGE—Cont'd

Sensitive information—Cont'd

B:63, B:64 [CEA ss.

38.09(2), 38.1]

commentary, **B:64 [CEA s.**

38.1]

related provisions and principles, **B:64 [CEA s.**

38.1]

military proceedings, in, **B:54, B:56 [CEA ss. 38.01(5), 38.03(2)]**

notice to Attorney General of Canada, **B:54 to B:56 [CEA ss. 38.01, 38.02(1.1) to (2), 38.03(3)]**

commentary, **B:54 [CEA s.**

38.01]

exceptions, **B:54, B:55 [CEA ss. 38.01(6) to (8), 38.02(2)]**

related provisions and principles, **B:54 [CEA s.**

38.01]

regulations concerning, power to make, **B:71 [CEA s. 38.16]**

commentary, **B:71 [CEA s.**

38.16]

related provisions and principles, **B:71 [CEA s.**

38.16]

report relating to proceedings, **B:59 [CEA s. 38.05]**

review of orders concerning, automatic, **B:62, B:58 [CEA ss. 38.08, 38.04(7)]**

right to fair trial, protection of, and, **B:69 [CEA s. 38.14]**

case law

authority of trial judge, **B:69 [CEA s. 38.14]**

Charter considerations, **B:69 [CEA s. 38.14]**

general principles, **B:69 [CEA s. 38.14]**

commentary, **B:69 [CEA s.**

38.14]

PRIVILEGE—Cont'd

Sensitive information—Cont'd

right to fair trial, protection of, and, **B:69 [CEA s. 38.14]**

—Cont'd

related provisions and principles, **B:69 [CEA s. 38.14]**

Specified public interest

appeals of orders relating to, **B:50, B:51 [CEA ss. 37.1, 37.2]**

case law: procedural issues, **B:50 [CEA s. 37.1]**

commentary, **B:50, B:51 [CEA ss. 37.1, 37.2]**

related provisions, **B:50, B:51 [CEA ss. 37.1, 37.2]**

case law, **1:47, B:49, B:50 [CEA ss. 37, 37.1]**

Charter considerations, **B:49 [CEA s. 37]**

general principles, **1:47, B:49 [CEA s. 37]**

nature of proceeding, **B:49 [CEA s. 37]**

notice, **1:47**

preliminary inquiry, claim at, **1:47**

procedural considerations, **1:47, B:49 [CEA s. 37]**

procedural issues, **B:50 [CEA s. 37.1]**

relationship with other privileges, **1:47**

scope of immunity, **1:47**

status to object, **B:49 [CEA s. 37]**

commentary, **1:47, B:48 to B:52 [CEA ss. 36.1, 37 to 37.3]**

disclosure order, **B:49, B:52 [CEA ss. 37(4.1) to (5), (8) to (9), 37.3]**

limitation periods for appeals and objections, **B:49 to B:51**

PRIVILEGE—Cont'd

Specified public interest—Cont'd
 [CEA ss. 37(4), 37.1(2), 37.2]
 objection to disclosure of, **B:49**
 [CEA s. 37(1)]
 application to Federal Court
 for determination, **B:49**
 [CEA ss. 37(3)(a)]
 body other than superior court,
 to, **B:49** [CEA s. 37(3)]
 evidence admissible to
 determine, **B:49** [CEA ss.
 37(6.1), (9)]
 obligation of court, person or
 body, **B:49** [CEA s.
 37(1.1)]
 right to fair trial, protection of,
 B:52 [CEA s. 37.3]
 commentary, **B:52** [CEA s.
 37.3]
 related provisions, **B:52**
 [CEA s. 37.3]
 superior court, to, **B:49** [CEA
 ss. 37(2), 37(3)(b)]
 when determination effective,
 B:49 [CEA s. 37(7)]
 prohibition order, **B:49** [CEA s.
 37(6)]
 related provisions and principles,
 1:47, B:48 to B:52 [CEA ss.
 36.1, 37 to 37.3]
 right to fair trial, protection of,
 B:52 [CEA s. 37.3]
 commentary, **B:52** [CEA s.
 37.3]
 related provisions, **B:52** [CEA
 s. 37.3]

**PROBATION ORDER,
 CONDITIONS OF**

Abstain from alcohol or drugs,
 A:126 [CC s. 732.1(3)(c)]
 Certificate evidence in breach
 proceedings, **A:124, A:124**
 [CC ss. 729, 729.1]

**PROBATION ORDER,
 CONDITIONS OF—Cont'd**

Provide samples for testing
 designations re sampling, **A:126**
 [CC ss. 732.1(8) to (10)]
 destruction of samples, **A:126**
 [CC s. 732.1(11)]
 notice of sampling at regular
 intervals, **A:126** [CC s.
 732.1(7)]
 prohibited disclosure and uses,
 A:127 [CC s. 732.11]
 at regular intervals, **A:126** [CC
 ss. 732.1(3)(c.2), 732.1(7)]
 regulations re, **A:126** [CC s.
 732.1(12)]
 on request, **A:126** [CC s.
 732.1(3)(c.1)]
 restriction, **A:126** [CC s.
 732.1(10)]

PROCEEDS OF CRIME

“designated offence” defined, **A:61**
 [CC s. 462.3(1); Can. Reg.
 2002 to 63 generally]
 Net worth, inference from, **A:63**
 [CC s. 462.39]

PRODUCTION ORDERS

see CRIMINAL CODE , see —pro-
 duction orders

PROTECTED STATEMENTS

Case law
 exception of, **A:111** [CC ss.
 672.21(3)(f), 672.21]
 general principles, **A:111** [CC s.
 672.21]

**PUBLIC AND JUDICIAL
 DOCUMENTS**

Generally, **1:32**
 Certified copies, **B:27** [CEA s. 24]
 case law, **B:27** [CEA s. 24]
 commentary, **B:27** [CEA s. 24]
 related provisions and principles,
 B:27 [CEA s. 24]

PUBLIC AND JUDICIAL DOCUMENTS—Cont'd
 See also CANADA EVIDENCE ACT and DOCUMENTARY EVIDENCE

PUBLIC INTEREST
 see PRIVILEGE

PUBLICATION BANS
 Generally, A:68 [CC s. 486]

PUBLICATION RESTRICTIONS
 Child pornography, A:68 [CC s. 486.4(3)]
 Conditions, A:68 [CC s. 486.5(8)]
 Factors, A:68 [CC s. 486.5(7)]
 Inform, duty to, A:68 [CC s. 486.4(3.2), 486.5(8.2)]
 Inquiry by court, A:68 [CC s. 486.4(3.1)]
 Judge or justice, duties of, A:68 [CC s. 486.5(5.1), (8.2)]
 Limitations, A:68 [CC ss. 486.4(4), (5), 486.5(3), (3.1)]
 Offence, A:68 [CC s. 486.6(1)]
 Other witnesses, A:71 [CC s. 486.5(1)]
 Prohibitions, A:68 [CC s. 486.5(9)]
 Prosecutions, A:68 [CC s. 486.6]
 Revocations, A:68 [CC s. 486.51]
 Sexual offences, A:68 [CC s. 486.4(1)]
 Variations, A:68 [CC s. 486.51]
 Victims, A:68 [CC s. 486.4(5), 486.5(1), (3.1)]

REAL EVIDENCE
 Audio recording, 1:25
 case law, 1:25
 admissibility issues, 1:25
 audio recordings as proof of conspiracy, 1:25
 demeanour evidence, 1:23
 evidentiary value, 1:25
 foreign language recordings, 1:25

REAL EVIDENCE—Cont'd
 Audio recording, 1:25—Cont'd
 case law, 1:25—Cont'd
 jury use and instructions, 1:25
 transcripts, 1:25
 voice identification: general principles, 1:25
 voice identification: means of proof, 1:25
 voice identification: standard of proof, 1:25
 commentary, 1:25
 jury instructions (WMCJI), 1:25
 related provisions and principles, 1:26
 Demonstrations, 1:28
 case law, 1:28
 demonstrations, 1:28
 video re-enactments, 1:28
 commentary, 1:28
 related provisions and principles, 1:28
 General principles, 1:23
 case law, 1:23
 continuity of physical evidence, 1:23
 exhibits, jury use of, 1:23
 general principles, 1:23
 public access to exhibits, 1:23
 scientific testing, release of exhibits for, 1:23
 voir dire, exhibits on, 1:23
 commentary, 1:23
 jury instructions (WMCJI), 1:23
 related provisions and principles, 1:23
 Maps, models, duplicates and diagrams, 1:27
 commentary, 1:27
 jury instructions, specimen, 1:27
 related provisions and principles, 1:27
 Photographs, 1:24
 case law, 1:24
 photographs, 1:24

REAL EVIDENCE—Cont'd

Photographs, **1:24**—Cont'd
 case law, **1:24**—Cont'd
 photographs of deceased and
 crime scenes, **1:24**
 police sketches, **1:24**
 x-rays, **1:24**
 commentary, **1:24**
 jury instructions (WMCJI), **1:24**
 related provisions and principles,
1:24

Video recording, **1:26**

case law, **1:26**
 admissibility issues, **1:26**
 identification from videotapes,
1:26
 jury use and instructions, **1:26**
 commentary, **1:26**
 jury instructions (WMCJI), **1:26**
 related provisions and principles,
1:26

Views, **1:29**

case law, **1:29**
 judge alone trials, **1:29**
 presence of accused, **1:29**
 timing, **1:29**
 commentary, **1:29**
 related provisions and principles,
1:29

**RECENT POSSESSION,
DOCTRINE OF**

Generally, **1:36, A:44, A:49** [CC ss.
348, 354]

**RECOGNIZANCE, CONDITIONS
OF**

Certificate evidence in breach
 proceedings, **A:141** [CC s.
811.1]
 Certificate of default, **A:131** [CC s.
770]
 Provide samples for testing
 designations re sampling, **A:139**
 [CC ss. **810.3(1) to (3)**]

**RECOGNIZANCE, CONDITIONS
OF—Cont'd**

Provide samples for testing

—Cont'd

destruction of samples, **A:139**
 [CC s. **810.3(4)**]

notice of sampling at regular
 intervals, **A:139** [CC s.
810.3(6)]

prohibited disclosure and uses,
A:140 [CC s. **810.4**]

at regular intervals

criminal organization offence,
A:136, A:138 [CC ss.
810.01(4.1)(g), 810.3(6)]

intimidation offence, **A:136,**
A:138 [CC ss.
810.01(4.1)(g), 810.3(6)]

serious personal injury offence,
A:138, A:138 [CC ss.
810.2(4.1)(g), 810.3(6)]

sexual offence, **A:137, A:138**
 [CC ss. **810.1(3.02)(i),**
810.3(6)]

terrorism offence, **A:136,**
A:138 [CC ss.
810.01(4.1)(g), 810.3(6)]

regulations re, **A:139** [CC s.
810.3(5)]

on request

criminal organization offence,
A:136 [CC s.
810.01(4.1)(g)]

intimidation offence, **A:136**
 [CC s. **810.01(4.1)(g)**]

serious personal injury offence,
A:138 [CC s.
810.2(4.1)(f)]

sexual offence, **A:137** [CC s.
810.1(3.02)(h)]

restriction, **A:139** [CC s.
810.3(3)]

specifications re sampling, **A:138**
 [CC s. **810.3**]

see also PEACE BOND, CONDI-
 TIONS OF

RECOGNIZANCE, DEFAULT ON
Certificate of, **A:131 [CC s. 770]**

RELEVANCE

- Case law, **1:12**
 - general principles, **1:12**
 - relevance of earlier proceedings, **1:12**
- Commentary, **1:12**
- Related provisions and principles, **1:12**

RIGHT TO COUNSEL

- see **CHARTER RIGHTS**

RIGHT TO SILENCE

- see **CHARTER RIGHTS**

SELF-CRIMINATION, RIGHT AGAINST

- Canada Evidence Act, **B:6, B:85 [CEA ss. 5, 50]**
 - case law, **B:6 [CEA s. 5]**
 - border questioning, **9:8**
 - Charter considerations, **B:6 [CEA s. 5]**
 - comments on failure to testify, **9:8**
 - jury instructions, **B:6 [CEA s. 5]**
 - objection to answer, **B:6 [CEA s. 5(2)]**
 - privilege against self-crimination, **B:6 [CEA s. 5(1)]**
 - scope of section, **B:6 [CEA s. 5]**
 - statutory compulsion and, **9:8**
 - commentary, **B:6, B:85 [CEA ss. 5, 50]**
 - related provisions and principles, **B:6, B:85 [CEA ss. 5, 50]**
- Charter rights, **9:8**
 - case law, **9:8**
 - cross-examination on prior testimony, **9:8**
 - general principles (Charter), **9:8**

SELF-CRIMINATION, RIGHT AGAINST—Cont'd

- Charter rights, **9:8—Cont'd**
 - case law, **9:8—Cont'd**
 - general principles (common law), **9:8**
 - incriminating questions privilege at common law, **9:8**
 - commentary, **9:8**
 - related provisions and principles, **9:8**
 - witnesses, by, **9:9**

SEXUAL OFFENCE PROSECUTIONS

- Character of complainant, **6:11**
- Corroboration in, **A:29 [CC s. 274]**
 - case law, **A:29 [CC s. 274]**
 - Charter considerations, **A:29 [CC s. 274]**
 - corroboration, **A:29 [CC s. 274]**
 - requirement of caution, **A:29 [CC s. 274]**
- Other sexual activity of complainant, **A:31 [CC s. 276]**
 - case law, **A:31 [CC s. 276]**
 - consent, apprehended, **6:11**
 - context, to provide, **6:11**
 - narrative, as, **6:11**
 - principles governing admissibility, **A:31 [CC s. 276]**
 - procedure to determine admissibility, **A:31 [CC s. 276]**
 - sexual activity, evidence of, **A:31 [CC s. 276]**
- Production and disclosure of records, **A:33 [CC ss. 278.1 to 278.91]**
 - case law, **A:33 [CC ss. 278.1, 278.3, 278.4]**
 - application of provisions, **A:33 [CC s. 278.3]**
 - Charter considerations, **A:33 [CC ss. 278.2, 278.3]**

SEXUAL OFFENCE

PROSECUTIONS—Cont'd

- Production and disclosure of
 - records, **A:33** [CC ss. **278.1** to **278.91**]—Cont'd
 - case law, **A:33** [CC ss. **278.1**, **278.3**, **278.4**]—Cont'd
 - common law procedure, **A:33** [CC s. **278.3**]
 - factors considered, **A:33** [CC s. **278.5**]
 - general principles, **A:33** [CC ss. **278.1**, **278.2**]
 - general principles, statutory scheme, **A:33** [CC s. **278.3**]
 - production and cross-examination, **A:33** [CC s. **278.3**]
 - scope of provisions, **A:33** [CC s. **278.1**]
- Rebuttal of evidence of good character, **A:109** [CC s. **666**]
- Recent complaint rules, abrogation of, **A:30** [CC s. **275**]
- case law, **A:30** [CC s. **275**]
- admissibility issues, **A:30** [CC s. **275**]
- jury instructions, **A:30** [CC s. **275**]
- Reputation evidence, **A:32** [CC s. **277**]
- case law, **A:32** [CC s. **277**]
- application of section, **A:32** [CC s. **277**]
- Charter considerations, **A:32** [CC s. **277**]

SIMILAR ACTS

- Burden of proof, **7:3**
- case law, **7:3**
- burden and standard of proof
 - for jury use of evidence of similar acts, **7:3**
- burden and standard of proof
 - on collusion, **7:3**
- burden and standard of proof
 - on issue of admissibility, **7:3**

SIMILAR ACTS—Cont'd

- Burden of proof, **7:3**—Cont'd
- commentary, **7:3**
- related provisions and procedures, **7:3**
- General principles, **7:1**
- case law, **7:1**
- admissibility of similar act
 - evidence, test for, **7:1**
- appellate review re admissibility, **7:1**
- authorship, requirement of, **7:1**
- category approach, **7:1**
- Charter convictions, **7:1**
- collusion, evidence of, **7:1**
- counts, other, **7:1**
- evidence for context, **7:1**
- exclusionary rule, **7:1**
- general principles governing
 - similar act evidence, **7:1**
- group similar act, **7:1**
- jury instructions on similar act
 - evidence, **7:1**
- need for similarity, **7:1**
- prior acquittals, **7:1**
- prior convictions, **7:1**
- prior discharges, **7:1**
- prior stayed proceedings, **7:1**
- probative value, determination of, **7:1**
- relevance, examples of, **7:1**
- scope of rule, **7:1**
- single similar act, **7:1**
- subsequent acts, **7:1**
- surrounding circumstances, **7:1**
- uses of similar act evidence
 - to complete narrative, **7:1**
 - counts, other, **7:1**
 - to establish motive, **7:1**
 - to negate defence, **7:1**
 - to prove a mental element, **7:1**
 - to prove commission of offence, **7:1**

SIMILAR ACTS—Cont'd

General principles, **7:1**—Cont'd
 case law, **7:1**—Cont'd
 uses of similar act evidence
 —Cont'd
 to prove identity, **7:1**
 child killing prosecutions,
7:1
 domestic homicide
 prosecutions, **7:1**
 gang or group acts, **7:1**
 nature and extent of
 similarity, **7:1**
 other counts, **7:1**
 with respect to different
 crimes, **7:1**
 with respect to other counts,
7:1
 to support credibility, **7:1**
 commentary, **7:1**
 prejudicial effect, **7:1**
 probative value, **7:1**
 relevance, **7:1**
 jury instructions (WMCJI), **7:1**
 related provisions and principles,
7:1
 Jury instructions, **7:4**
 case law, **7:4**
 complicity, evidence to prove,
 re, **7:4**
 credibility, evidence to sup-
 port, **7:4**
 evidence of other counts simi-
 lar acts, re, **7:4**
 mental element, evidence to
 prove, re, **7:4**
 motive to fabricate, re, **7:4**
 multi-count indictments
 without evidence of simi-
 lar acts, **7:4**
 need for instructions, **7:4**
 permitted use, re, **7:4**
 prohibited use, re, **7:4**
 commentary, **7:4**
 jury instructions (WMCJI), **7:4**

SIMILAR ACTS—Cont'd

Jury instructions, **7:4**—Cont'd
 related provisions and principles,
7:4
 Procedure to determine admissibil-
 ity, **7:2**
 case law, **7:2**
 form of inquiry, **7:2**
 jury instruction: authorship,
7:2
 proof of authorship: prior
 convictions as evidence,
7:2
 steps to determine: general
 principles, **7:2**
 steps to determine: similar acts
 of groups, **7:2**
 commentary, **7:2**
 related provisions and principles,
7:2
 see also EXTRINSIC
 MISCONDUCT

SOLEMN AFFIRMATIONS

By children under 14 years of age,
B:19 [CEA s. 16.1(2)]
 By deponent, **B:17 [CEA s. 15]**
 commentary, **B:17 [CEA s. 15]**
 related provisions and principles,
B:17 [CEA s. 15]
 Taken abroad
 admissibility of related docu-
 ments, **B:89 [CEA s. 54]**
 commentary, **B:89 [CEA s. 54]**
 related provisions, **B:89 [CEA**
s. 54]
 deemed validity, **B:88 [CEA s.**
53]
 commentary, **B:88 [CEA s. 53]**
 related provisions, **B:88 [CEA**
s. 53]
 persons authorized to administer,
B:87 [CEA s. 52]
 commentary, **B:87 [CEA s. 52]**
 related provisions, **B:87 [CEA**
s. 52]

SOLEMN AFFIRMATIONS

—Cont'd

- By witness, instead of oath, **B:16**
[CEA s. 14]
- case law, **B:16** [CEA s. 14]
- commentary, **B:16** [CEA s. 14]
- incompetent to take an oath, **B:16**
[CEA s. 14]
- related provisions and principles,
B:16 [CEA s. 14]

SOLICITOR-CLIENT

PRIVILEGE

- Generally, **1:44**, **A:80** [CC s. 488.1]
- Case law, **1:44**, **A:80** [CC s. 488.1]
- assertion of claim, **1:44**
- Charter considerations, **A:80**
[CC s. 488.1]
- duty to advise, **1:44**
- essential elements, **1:44**
- exceptions, **1:44**
 - allegations of professional
misconduct, **1:44**
 - Crown counsel advice, **1:44**
 - expert testimony, **1:44**
 - in furtherance of crime, **1:44**
 - general principles, **1:44**
 - innocence at stake, **1:44**
 - public safety, **1:44**
- facts and communications, **1:44**
- legal aid and agents, **1:44**
- limitations on privilege, **1:44**
- loyalty and confidentiality, **1:44**
- nature of privilege, **1:44**
- procedural considerations, **1:44**
 - asserting claim, **1:44**
 - search warrants: applications
and execution, **1:44**
 - setting aside privilege, **1:44**
- relationship with other privileges,
1:44
- third parties and privilege, **1:44**
- waiver, **1:44**
- Commentary, **1:44**

SOLICITOR-CLIENT

PRIVILEGE—Cont'd

- Related provisions and principles,
1:44
- See also PRIVILEGE

STANDARD OF PROOF

- General principles, **1:54**
- case law, **1:54**
 - appellate review of instruc-
tions, **1:54**
 - assumptions about behaviour,
1:54
 - credibility, factors affecting,
1:54
 - evidence, absence of, **1:54**
 - fabrication, motives for, **1:54**
 - general principles, **1:54**
 - jury instructions, **1:54**
 - “reasonable doubt” defined,
1:54
 - reliability, factors affecting,
1:54
 - standards of proof, **1:54**
 - uncontradicted evidence, and,
1:54
 - use of particular terms, **1:54**
- commentary, **1:54**
- jury instructions (WMCJI), **1:54**
- related provisions and principles,
1:54, **A:118** [CC ss. 714.1
to 714.2, 714.5 to 714.8]

VALUABLE MINERALS, EVIDENCE OF THEFT OR POSSESSION OF

- Generally, **A:102** [CC s. 656]

VIDEO-RECORDED EVIDENCE

- “communicate evidence,” **A:122**
[CC s. 715.2]
- “within a reasonable time,” **A:121**,
A:121 [CC ss. 715.1, 715.2]
- Generally, **1:26**, **A:118**, **A:120** to
A:122 [CC ss. 714.1 to 714.2,
714.5 to 714.8, 715.01, 715.1,
715.2]

VIDEO-RECORDED EVIDENCE

—Cont'd

- Acts complained of, **A:121, A:121**
[CC ss. 715.1, 715.2]
admissibility issues, **1:26**
- Adopts contents, **A:121, A:121** [CC
ss. 715.1, 715.2]
- Case law, **1:26, A:121, A:121** [CC
ss. 715.1, 715.2]
admissibility issues, **1:26**
- Charter considerations, **A:121**
[CC s. 715.1]
- common law rules and, **A:121**
[CC s. 715.1]
- general principles, **A:121** [CC s.
715.1]
- identification from videotapes,
1:26
- jury instructions, **1:26, A:121**
[CC s. 715.1]
- Discretion to exclude, **A:121,**
A:121 [CC ss. 715.1, 715.2]
- General principles, **A:121, A:121**
[CC ss. 715.1, 715.2]
- identification from videotape,
1:26
- jury use and instructions, **1:26**
- See also REAL EVIDENCE
- Transcripts of evidence, **A:120** [CC
s. 715.01]
- Witnesses
under 18, **A:121** [CC s. 715.1]
commentary, **1:26**
disability, **A:122** [CC s. 715.2]
related provisions and principles,
1:26

VIEWS

- Generally, **1:29**
- See also REAL EVIDENCE
- Taking a view, **A:98** [CC s. 652]
case law, **A:98** [CC s. 652]
jury trials, **A:98** [CC s. 652]
non-jury trials, **A:98** [CC s.
652]

VOIR DIRE

- Charter voir dire, **9:12**
- case law, **9:12**
confessions rule and, **9:12**
entitlement to a voir dire, **9:12**
exclusion of evidence: appel-
late review of findings,
9:12
forum: trial court, **9:12**
onus and standard of proof,
9:12
procedural requirements, **9:12**
trial management power, **9:12**
commentary, **9:12**
related provisions and principles,
9:12
- Requirement of, **8:8**
case law, **8:8**
calling of witnesses, **8:8**
form of voir dire, **8:8**
general principles, **8:8**
waiver, **8:8**
commentary, **8:8**
related provisions and principles,
8:8

WARRANT OF COMMITTAL, ADMISSIBILITY OF

- Generally, **A:135** [CC s. 810]

WITNESSES

- Cross-examination
criminal harassment, **A:68** [CC s.
486.3(4)]
factors, **A:68** [CC s. 486.3(3)]
other witnesses, **A:68** [CC s.
486.3(2)]
witness under 18, **A:68** [CC s.
486.3(1)]
- Publication restrictions
case law
Charter, **A:68** [CC s. 486.4]
general, **A:68** [CC s. 486.4]
jury instructions, **A:68** [CC s.
486.4]

WITNESSES—Cont'd

Publication restrictions—Cont'd
 case law—Cont'd
 offence, breach of order, **A:68**
 [CC s. 486.6]
 reviewability, **A:68** [CC s.
 486.4]
 child pornography, **A:68** [CC s.
 486.4(3)]
 conditions, **A:68** [CC s.
 486.5(8)]
 factors, **A:68** [CC s. 486.5(7)]
 inform, duty to, **A:68** [CC s.
 486.5(8.2)]
 judge or justice, duties of, **A:68**
 [CC s. 486.5(5.1), (8.2)]
 limitations, **A:68** [CC ss.
 486.4(4), (5), 486.5(3),
 (3.1)]
 offence, **A:68** [CC s. 486.6(1)]
 other witnesses, **A:68** [CC s.
 486.5(1)]
 prohibitions, **A:68** [CC s.
 486.5(9)]
 sexual offences, **A:68** [CC s.
 486.4(1)]
 victims, **A:68** [CC s. 486.4(5),
 486.5(1), (3.1)]
 see also EXAMINATION OF WIT-
 NESSES
 Support person
 factors, **A:68** [CC s. 486.1(3)]
 other witnesses, **A:68** [CC s.
 486.1(2)]
 witness under 18, **A:68** [CC s.
 486.1(1)]
 Testimony outside court
 availability, **A:68** [CC ss.
 486.2(4), (5)]

WITNESSES—Cont'd

Testimony outside court—Cont'd
 case law
 Charter considerations, **A:68**
 [CC s. 486.2]
 general, **A:68** [CC s. 486.2]
 obstructed view, Charter, **A:68**
 [CC s. 486.2]
 obstructed view, general, **A:68**
 [CC s. 486.2]
 obstructed view, jury instruc-
 tions, **A:68** [CC s. 486.2]
 conditions, **A:68** [CC s.
 486.2(7)]
 factors, **A:68** [CC s. 486.2(3)]
 other witnesses, **A:68** [CC s.
 486.2(2)]
 witness under 18, **A:68** [CC s.
 486.2(1)]

YOUTH CRIMINAL JUSTICE ACT

Admissibility of statements of
 young persons, **D:7** [YCJA ss.
 146, 147]
 Admissions, **D:7** [YCJA s. 149]
 Consensual admission of evidence,
 D:7 [YCJA s. 150]
 Evidence of child or young person,
 D:7 [YCJA s. 151]
 Parents, notices to, **D:3** [YCJA s.
 26]
 Proof of age of young persons, **D:7**
 [YCJA s. 148]
 Proof of service, signature and
 related matters, **D:7** [YCJA s.
 152]
 Right to counsel, **D:2** [YCJA s. 25]
 Seal not required, **D:7** [YCJA s.
 153]