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### **CRIMINAL LAW EVIDENCE, PRACTICE AND PROCEDURE**

**Gibson**

**Release No. 9, December 2024**

This publication offers step-by-step guidance to more than 60 evidentiary, procedural and practice topics that arise in criminal law practice.

This release features updates to the commentary and case law in the following chapters: 9 (Arrest and Detention); 16 (Character Evidence); 17 (Children and Vulnerable Witnesses); 19 (Confessions); 23 (Cross-Examination and Rebuttal on a Prior Inconsistent Statement); and 24 (Dangerous Offender and Long-Term Offender Procedure).

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### Release Highlights

- **Arrest and Detention – Case Law – Rights Arising on Detention or Arrest – What Information the Officer Must convey** – The implementational duty under s. 10(b) does not include a requirement that the police give the detained person legal advice. However, if the police do give legal advice, it must not be misleading. Police advice on a legal matter should not be held to a standard of accuracy or completeness but it must not be actively misleading, or it runs the risk of undermining the legal advice given by the lawyer, or the detainee’s confidence in that lawyer.” *R. v. Hunter*, 2023 CarswellAlta 1722, 2023 ABCA 201.
- **Confessions – Case Law – Use of Statement – What the Jury May Consider** – Where the statement forms part of the evidence and the defendant testifies, the trier of fact may not use matches between the accused’s prior statement and his testimony to find that the statement corroborates the testimony; but the trier of fact can consider the exculpatory parts of the statement and the testimony to see whether either raises a reasonable doubt. *R. v. Bagherzadeh*, 2023 CarswellOnt 16340, 2023 ONCA 706.
- **Arrest and Detention – Case Law – Arrest without Warrant – Sufficiency of Grounds** – The judge who reviews the reasonableness of an officer’s beliefs is not restricted to the information and observations that the officer articulates as the ones which established those beliefs. The judge may consider all of the information known to the officer at the time. *R. v. Fyfe*, 2023 CarswellOnt 16433, 2023 ONCA 715.

### ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView generated PDFs of entire sections and pages.