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

**Gibson**

**Release No. 8, November 2025**

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: 53 (Preliminary Inquiry Procedure) and 61 (Sentencing: Procedural Aspects of).

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## Release Highlights

New cases discussed with this release include the following:

- **Sentencing** – The principles of natural justice applicable to a sentencing hearing includes the offender’s right to respond to allegations made against him or her. In this instance, the defendant pled guilty to offences arising from his threats made with a loaded handgun to a store clerk, and the sentencing judge treated as an aggravating factor evidence indicating that the defendant had told others of his intention to kill the clerk, even though the Crown had not advanced this evidence and the defendant made no admission regarding the facts it had indicated. The Court of Appeal for Ontario held the court’s duty of procedural fairness to bar sentencing judges from finding aggravating facts based on such evidence, without notifying the parties and giving them the opportunity to make submissions and to call responsive evidence: *R. v. Habib*, 2024 ONCA 830, 2024 CarswellOnt 17335 (Ont. C.A.).
- **Sentencing** – According to the Supreme Court of Canada, courts should grant enhanced credit to an offender for pre-sentence custody, unless the offender had intentionally delayed court proceedings by wrongful conduct – whereas mere indecision as how to proceed should not be held against the offender, the Crown may meet its burden of proving wrongful conduct by establishing the offender’s frivolous applications during the trial process: *R. v. J.W.*, 2025 SCC 16, 2025 CarswellOnt 7643 (S.C.C.).

## 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.