

CRIMINAL PROCEDURE

INTRODUCTION

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Chapter 1

Introduction¹

[§1.01] Introduction

Lawyers who intend to specialize in the practice of criminal law are well advised to attend meetings and become active in the Criminal Justice Subsection of the BC Branch of the Canadian Bar Association in their area. These meetings bring together both Crown and defence counsel and often have speakers presenting papers on current issues in criminal law and practice. For information contact the Canadian Bar Association in Vancouver at 687-3404.

Lawyers should also attend courses and seminars relating to the practice of criminal law put on by the Continuing Legal Education Society of British Columbia. The materials produced for these programs are topical and current. Also available from CLE are materials from courses conducted in previous years.

Another excellent educational opportunity is provided each summer under the auspices of the Federation of Law Societies of Canada. The National Criminal Law Program presents, in alternating years, a Substantive Law Program and a Criminal Evidence and Procedure Program.

Criminal lawyers who want advice on matters of practice, including ethical issues that may arise should consider contacting the Canadian Bar Association's Criminal Practice Advisory Committee. The Committee consists of senior criminal counsel who are prepared to give guidance on such matters. The names of current members of the committee may be obtained from the CBA itself, or from the *BC Lawyers Directory*, which is published annually by the BC Branch of the CBA.

Defence counsel should not hesitate to contact Crown counsel as many prosecutors are willing to help by discussing procedural questions and other matters of mutual concern.

[§1.02] Bibliography

All criminal lawyers must have at hand at least one annotated *Criminal Code*. *Martin's Annual Criminal Code* (Aurora: Canada Law Book) is the most commonly used version. Statutes relevant to criminal practice and conveniently collected in *Martin's* are:

Canada Evidence Act
Part I of the Constitution Act, 1982, the Canadian Charter of Rights and Freedoms
Criminal Code
Controlled Drugs and Substances Act
Food and Drugs Act
Young Offenders Act

In addition to an annotated *Code*, criminal lawyers need a copy of the *Criminal Appeal Rules – 1986*, *Criminal Rules, 1991*, *Criminal Rules 1997*, and *Practice Directions*, the *Evidence Act (BC)* and the *Summary Conviction Appeal Rules, 1991*. Most of these Rules and *Practice Directions* are gathered together in the *British Columbia Rules of Court and Related Enactments*, published by the Queen's Printers for British Columbia.

Listed below are law reports, texts and looseleaf services which are resources for the working library of a criminal lawyer. These resource materials also are available through the various branches of the BC Courthouse Library Society and in the libraries of the two law schools in the province.

As well as books, QUICKLAW and CriminalSource accounts are indispensable in a criminal practice.

1. Annotated Codes, Digests and Reports

BC Decisions: Criminal Cases
Canadian Criminal Cases Criminal Reports
Canadian Abridgment: Criminal Law Digest
Crankshaw's Criminal Code of Canada
Canadian Criminal Cases Criminal Reports
Criminal Law Partner (CD-ROM)
Martin's Criminal Code
Supreme Court of Canada Decisions
Supreme Court Reports
Tremear's Annual Criminal Code
Weekly Criminal Bulletin
CLE's Criminal Case Digest Subscription Service

¹ Reviewed and revised in March 2002 for aboriginal law content by Tina L. Dion, Blake, Cassels & Graydon, Vancouver.

2. Criminal Procedure

Atrens, J., P. Burns, and Donald J. Egleston. *Criminal Procedure: Canadian Law and Practice*. Vancouver: Butterworths (looseleaf).

Bouck et al. *British Columbia Annual Criminal Practice*. Aurora: Canada Law Book.

Ewaschuk, E.G. *Criminal Pleadings and Practice in Canada*, 2nd ed. Aurora, Ontario: Canada Law Book (looseleaf).

Gold, A. D., *The Practitioner's Criminal Code 1997*. Markham: Butterworths.

Hamilton, K. *Judicial Interim Release—Bail Manual*, 4th ed. Vancouver: Butterworths (looseleaf).

Kenkel, J. F. *Criminal Lawyers' Trial Book*. Markham: Butterworths (looseleaf).

Levy, Earl J. Q.C. *Examination of Witnesses in Criminal Cases*, 5th ed. Toronto: Carswell, 2004.

Meyers, P.R. *Criminal Lawyers' Commonplace Book*. Markham: Butterworths (looseleaf).

Salhany, The Honourable R.E. *Canadian Criminal Procedure*, 6th ed. Aurora: Canada Law Book (looseleaf).

Salhany, The Honourable R.E. *Criminal Trial Handbook*. Toronto: Carswell, supplemented text.

Sopinka, Houston and Sopinka. *The Trial of an Action*, 2nd ed. Markham: Butterworths, 1998.

Watt, D. *Criminal Law Precedents*. Toronto: Carswell (looseleaf).

3. Evidence

(a) Generally

Cross on Evidence, 7th ed. Markham: Butterworths, 1990.

Gibson, John L. *Criminal Law Evidence, Practice and Procedure*. Toronto: Carswell, (looseleaf).

Hageman et al. *DNA Handbook*. Markham: Butterworths, 2002.

McWilliams, P.K. *Canadian Criminal Evidence*, 4th ed. Aurora: Canada Law Book (looseleaf).

Rose, David and Lisa Goos, *DNA: A Practical Guide*. Toronto: Carswell, supplemented text.

Salhany, Mr. Justice R.E. *The Practical Guide to Evidence in Criminal Cases*, 6th ed. Toronto: Carswell, 2002.

Segal, M. *Disclosure and Production in Criminal Cases*. Toronto: Carswell (supplemented book).

Sopinka, Lederman, Bryant, *The Law of Evidence in Canada*, 2nd ed. Markham: Butterworths (hardcover and supplement), 2004.

Watt's Manual of Criminal Evidence 2006. Toronto: Carswell, 2006 (annual).

(b) Search & Seizure

Fontana, The Honourable James A. *The Law of Search and Seizure in Canada*, 6th ed. Markham: Butterworths, 2005.

Hutchinson Scott C. and James C. Morton. *Search and Seizure Law in Canada*. Toronto: Carswell (looseleaf).

Search and Seizure. Vancouver: CLE, 2001.

4. Substantive Law

(a) Generally

Gibson, John L. *Canadian Criminal Code Offences*. Toronto: Carswell (looseleaf).

Gold, A. *Annual Review of Criminal Law*. Toronto: Carswell.

Mewett and Manning On Criminal Law, 3rd ed. Markham: Butterworths, 1994.

Sinclair-Prowse, Janet A. and Elizabeth Bennett. *Working Manual of Criminal Law*. Toronto: Carswell (looseleaf).

Stuart, D. *Canadian Criminal Law: A Treatise*, 4th ed. Toronto: Carswell, 2000.

(b) Drinking and Driving

Impaired Driving and Driving Under Suspension – 2003. Vancouver: CLE

McLeod, R. QC, and Judge J.D. Takach, and M.D. Segal. *Breathalyzer Law in Canada: The Prosecution and Defence of Drinking and Driving Offences*. Toronto: Carswell (looseleaf)

Motor Vehicle Reports. Toronto: Carswell

Segal, M. *Manual of Motor Vehicle Law*. 3rd ed. Toronto: Carswell (looseleaf)

- (c) Drugs
- Brauti, P.M. and Brian G. Puddington, *Prosecuting and Defending Drug Offences*. Aurora: Canada Law Book, 2003.
- Brucker, Theresa M. *The Practical Guide to the Controlled Drugs and Substances Act*. 3rd ed. Toronto: Carswell, 2002.
- MacFarlane, Bruce A. Q.C. et al. *Drug Offences in Canada*, 3rd ed. Aurora: Canada Law Book (looseleaf).
5. Canadian Charter of Rights and Freedoms
- Canadian Rights Reporter*. Markham: Butterworths.
- Charter of Rights Annotated*. Aurora: Canada Law Book (looseleaf).
- Charter of Rights Decisions*. Vancouver: Western Legal Publications.
- Criminal Law and the Charter – 2005*. Vancouver: CLE, 2005.
- McLeod, R. M. QC, and Judge J.D. Takach. *Canadian Charter of Rights: The Prosecution and Defence of Criminal and Other Statutory Offences*. Toronto: Carswell (looseleaf).
6. Advocacy
- (a) Witnesses
- Mewett, Alan W., Q.C. *Witnesses*. Toronto: Carswell, (looseleaf).
- Salhany, Roger E. *Cross-Examination: The Art of the Advocate*. 2nd ed. Markham: Butterworths, 1999.
- (b) Jury Trials
- Balfour, Q. H. Der. *The Jury—A Handbook of Law and Procedure*. Markham: Butterworths, (looseleaf).
- Ferguson, G.A., and J.C. Bouck. *CRIMJI - Canadian Criminal Jury Instructions*. Vancouver: CLE (looseleaf).
- Melnitzer, J., D.F. Dawson, and C. Bentley. *The Defence Lawyers Trial Book*. Markham: Butterworths (looseleaf).
- (c) Appeals
- Bennett, Elizabeth. *Indictable Appeals in BC*. Toronto: Carswell, 1995.
- Scarbrick, Philip. *Summary Conviction Appeals in BC. 1997*. Toronto: Carswell, 1997.
7. Sentencing
- Nemet-Brown, S., Canada Sentencing Digest. LexisNexis Canada (looseleaf).
- Nadin-Davis, P., and C. Sproule. *Canadian Sentencing Digest*. Toronto: Carswell (looseleaf).
- Ruby, C. *Sentencing*, 6th ed. Markham: Butterworths, 2004.
- Green, Ross Gordon. *Justice and Aboriginal Community: Sentencing Alternatives*. Saskatoon: Purich Publishing, 1998.
8. Youth Criminal Justice
- Harris, Mr. Justice Peter, *Youth Justice Act Manual*. Aurora, Ontario: Canada Law Book (looseleaf).
- Platt, P. *Young Offenders Law in Canada*, 2nd ed. Markham: Butterworths, 1995.
- Tuck-Jackson, Andrea E.E. et al. *Annotated Youth Justice Act* (looseleaf).
- Tustin, L. and R. Lutes, Q.C. *A Guide to the Youth Criminal Justice Act*, 2007 ed.