

Evidence Rules

Admissible	Non admissible
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Direct/Solid	illegally obtained
Trace evidence (bite, hair, footprint, DNA)	Evidence that has been tampered with
Photographs (if image is accurate)	Hearsay
Expert Testimony (specific occupations)	Inflammatory
intoxilyzer (technician proves is was working)	opinions of non expert
confessions (voluntary and infromed of rights)	Polygraph evidence
wiretapping (warrent)	self incrimination

meathod of trial & crown disclosure

What is the difference between the Ontario Court of justice and the superior Court of Justice?

meathod of trial & crown disclosure (cont)

Ontario Court of Justice: Court of Inferior Jurisdiction whose judges are appointed by the provincial government. Deals with provincially appointed judges

Ontario Superior Court of Justice: Court of Superior Jurisdiction, Judges are appointed by the Federal Government. (Judge or Jury)

What determines the court in which the accused's trial will take place?

Summary and Hybrid convictions are dealt with judge alone, Indictable offences can be pursued with a judge or jury.

What is the difference between a "preliminary hearing" and a "preliminary conference"

A Preliminary Inquiry

meathod of trial & crown disclosure (cont)

is only held in cases where the accused is charged with offences that are not within the exclusive jurisdiction of the Ontario Court of Justice. Held before a judge to determine if there is enough evidence to commit the accused to trial.

A Preliminary conference held under section 625.1. :

This hearing includes the judge, crown attorney and accused and their lawyer. This trial discusses matters that promote fair and speedy hearing, would be better decided

What is disclosure and why must the crown attorney do this prior to a trial.

The crown must disclose all relevant information acquired in police investigations as the crown has access to more resources in preparation for the trial.

impact of charter on police powers

what is Habeas corpus

a writ requiring a person under arrest to be brought before a judge or into court, especially to secure the person's release unless lawful grounds are shown for their detention

What is meant by "to bring the justice system into disrepute"?

An action that would cause society to lose its faith in the justice system

Why must the police get permission from a judge to get a warrant?

Must show cause for search, must have judicial authorization for warrant, must list specific items they're looking for

What must the police show a judge in order to be granted a warrant for arrest or search?

must show just cause for a warrent

What does section 8 of the Charter of Rights and Freedoms protects citizens from?

protects against unlawful search and sezure



impact of charter on police powers (cont)

What does "search incidental to arrest" mean? Why have the canadian courts allowed this?

This means to search an arrest persons area after placing them under arrest, this is allowed in canadian courts out of interests; protecting police and public, protect evidence, discover evidence.

Ensuring the Accused's Appearance in Court Why might the accused not be released while they're awaiting trial?

Establish the identity, secure and preserve evidence, prevent continuation and repetition of offence. Ensure the accused appears in court.

Appearance Notice:

A document designated to ensure the accused's appearance in court; issued by a police officer when no arrest is made

summons

A document designated to ensure an accused's attendance in court; issued by a justice or judge after an arrest is made.

What are bail and surety

A sum of money paid in exchange for release from jail upon awaiting their trial. A surety is an individual who pays bail for you and assure you will appear in court.

impact of charter on police powers (cont)

What is a 'show cause hearing'

Show the accused isn't a flight risk Is no longer a threat to society or themselves Ensure the accused won't interfere with the investigation or trial

who is the burden on?

rown proves they are risk to community

Promise to appear: A

document designed to ensure an accused attendance in court: issued by the officer in charge of the police station after an arrest is made

Recognizance: A document designated to ensure an accused's appearance in court; issued by the officer in charge of the police station after an arrest where the accused promises to pay a sum of money if she/he fails to appear.

Crime Scene index

what does CSI stand for

Similar fact evidence

what is "continuity of evidence"

Continuous chain of possession that ensures the safekeeping of evidence, legal authorities must be able to account for evidence from seizure to trial.

What is a case officer

Officer in charge of investigation

Crime Scene index (cont)

what are latent finger prints (whorl, loop, arches)

A fingerprint made when it comes into contact with a surface, leaving residue of oil and perspiration from the fingerprint

how many similarities must exist to identify a fingerprint match

10-12

what is ridgeology

study of fingerprints arches loops and whirls

what is trace evidence

Other evidence found at crime scene (hair, fibers)

what can blood tell investigators

Blood type, Alc%, Height of where blood fell from(size of drop), Direction of travel (shape), wall splatter indicated force and direction of blow. Where victim is injured.

what is gun shot residue what can it tell investigators

Fine particles released when a firearm is fired. It can show the distance the weapon was from the target when fired and if found on hands can show who operated the firearm.

what is DNA? what can be found by using it?

Deoxyribonucleic Acid Biological compound that forms chromosomes, genetic info can be obtained

Crime Scene index (cont)

who is Alex jeffery

Invented DNA testing, geneticist at Leicester Uni

what is a 487.05 warrant? what would police acquire one for

Warrant for a DNA sample from a convicted offender ordered by judge

National DNA data bank

Consists of the CSI and CODIS located in Ottawa

CODIS & CSI? Cross Reference and why?

CODIS- Convicted Offender Index (evidence obtained by an offender legally) CSI- Crime Scene Index (evidence obtained at a crime scene)It is important to cross reference these two databases to see if an unidentified evidence from a crime scene matches an already convicted offender.

What is the DNA identification Act and why was it created by canadian government

Authorizes judges to issue a warrant for DNA evidence from violent offenders

wrongful convictions

What is the classic pattern of wrongful convictions

They look for easy suspects quick in an attempt to calm the public, ie last person seen with them.

wrongful convictions (cont)

Who were the four major canadian cases studied that resulted in wrongful convictions?

Steven Truscott, David Milgaard, Donald Marshall Jr. and Guy Paul Morin

Steven

Lynn Harper

Culprit: Alexander Kalichuck

Rape and Murder

10 Yrs Served (Jail)

6.5M dollars compensation

They did not investigate any

other possible suspects as

truscott was last seen with the

victim

David

victim Gail Miller

Culprit: Larry Fischer

Rape and Murder

23 Years

10 Million Dollars compensation

An anonymous tip was received

stating they saw blood on david's

clothes

Donald

Sandy seale

2nd degree murder

5 years imprisonment conviction

overturned

25,000\$ changed to

wrongful convictions (cont)

270,000 (105,000) legal fees

They chose him as the prime

suspect because he was the

last person seen with her.

Guy Paul

Christine Jessop

muder , rape

18 months in prison

1.25 million

compensation

Poor communication between

separate police forces



By [Ariahna10](#)

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Page 3 of 3.

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