

***An Update has  
Arrived in Your  
Library for:***

**Please circulate this notice to anyone  
in your office who may be interested  
in this publication.**

*Distribution List*

	<input type="checkbox"/>

**The Law of Privilege in Canada**

**Robert W. Hubbard, Susan Magotiaux and Suzanne M. Duncan**

**Release No. 50, February 2019**

The Law of Privilege in Canada is a comprehensive guide to privilege and confidentiality. It includes chapters on each type of privilege with “key points”, case law and commentary as well as a table of cases, relevant legislation, and an index.

**What’s New in this Update:**

The authors have updated the commentary and case law regarding informer privilege, public interest privilege, national interest privilege, confidences of the Queen’s privy council and parliamentary privilege.

In particular they have examined the following issues in detail:

- **Chapter 1—Introduction to Privilege:** A new section summarizing the *Stinchcombe* and *O’Connor* regimes has been added - see 1.20.15.
- **Chapter 2—Informer Privilege:** A new section discussing the need for a first stage hearing and recent case law on this topic has been added -

**THOMSON REUTERS CANADA**

**Customer Support**

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

Email CustomerSupport.LegalTaxCanada@TR.com

This publisher’s note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

see 2.110.35.

## Highlights

- *R. v. Gubbins*, [2018] 11 W.W.R. 583 (S.C.C.): The Court determined whether maintenance records of breathalyzer instruments were first or third party records and whether, on the facts, should have been produced. The Court summarizes the differences in disclosure requirements for first and third party records.
- *Chagnon v. Syndicat de la fonction publique et parapublique du Québec* (2018), 426 D.L.R. (4th) 585 (S.C.C.): The Court concluded that parliamentary privilege did not permit the President of the Legislative Assembly to dismiss security guards who were governmental employees without regard to their labour rights.
- *Nova Scotia (Attorney General) v. Judges of the Provincial Court and Family Court of Nova Scotia* (2018), 299 A.C.W.S. (3d) 233 (N.S. C.A.): The court rejected the claim of executive privilege invoked by the government to preclude disclosure of the Report and Recommendation of the Attorney General and Minister of Justice in the context of a review of a judges' salary award.
- *R. v. Pilbeam*, 2018 MBCA 128 (Man. C.A.): The court endorsed the modern trend for more information about informers being placed in affidavits in support of warrants because the information can be placed in tear-away portions of the affidavits that only judges can see.
- *R. v. Herta*, 2018 ONCA 927 (Ont. C.A.): The court noted the perils of only invoking step 5 of *Garofoli* in instances where the sufficiency of the ITO is suspect.
- *R. v. Warsame* (2018), 150 W.C.B. (2d) 226 (Alta. C.A): The court confirmed that a lack of detail about an informer's antecedents is often necessary to protect them.
- *Duffy v. Senate of Canada*, 2018 ONSC 7523 (Ont. S.C.J.): The court dismissed Duffy's civil claims on the basis of parliamentary privilege.
- *Re Application by Immunity Applicant Witnesses at First Stage Hearing*, 2018 ONSC 6301 (Ont. S.C.J.): This case discusses whether disclosure of witnesses who were granted immunity for testifying should be delayed until disclosure is necessary.
- *R. v. Named Person X* (2018), 150 W.C.B. (2d) 147 (Alta. Q.B.): The court confirmed that innocence-at-stake hearings are best heard at the end of the Crown's case.

- *Perreault v. Peel Police Services Board* (2018), 298 A.C.W.S. (3d) 864 (Ont. S.C.J.): In the context of a civil action, the court determined how to deal with informant information that had been both inadvertently disclosed and, in some instances, entered at trial.
- *R. v. AAA*, 2015 NSPC 98 (N.S. Prov. Ct.): This case summarizes how first stage informer hearings should take place.

