

SECTION 24(2) OF THE CHARTER – EXCLUSION OF EVIDENCE

Learning Objectives

- To develop students' knowledge of section 24(2) of the *Charter*, including the legal test used to determine whether or not evidence obtained through a *Charter* breach should be excluded.
- To develop legal reasoning skills by having students apply legal concepts and tests to case studies.

Materials

- Copies of the case study, *R v AM* (one per person)
- Copies of the student handout, *Exclusion of Evidence* (one per person)
- Copies of the student handout, *Applying the Grant Test* (one per person)
- Copies of OJEN resource, *In Brief: Section 8 of the Charter – the Right to be Secure Against Unreasonable Search and Seizure* (optional)

Teaching and Learning Strategies

1. Activate students' knowledge of the topic by having them consider the case study of *R v AM*. Once students have reviewed the facts of the case discuss whether they think the evidence should have been excluded and why, and what factors they based their decision on.
2. Have students review the handout, *Exclusion of Evidence*, and discuss the related questions. After each section, clarify any points and check for understanding. Remind students that it is a balancing process to determine whether or not to exclude evidence that was obtained in breach of an individual's *Charter* rights. The court must assess the effect of admitting evidence on society's confidence in the justice system.

3. Provide students with the first two pages of the *Applying the Grant Test* handout (i.e. the facts and the Grant test flow chart). Have students read the facts of *R v Harrison* and use the chart to apply the *Grant* test to the case. Have a discussion about how students would rule on each ground of the test.
4. Distribute the remainder of the *Applying the Grant Test* handout (i.e. the decision and discussion questions). Have students review the decision made by the SCC and discuss how their rulings compared to the actual ruling in the case.
5. Have students either discuss or provide written responses to one or more of the discussion questions. Debrief as a class, particularly with respect to the different decisions made in *R v Grant* and *R v Harrison*.

Extension

Have students complete the OJEN resource, *In Brief: Section 8 of the Charter – the Right to be Secure Against Unreasonable Search and Seizure*.