



Law Society
of Ontario

Barreau
de l'Ontario

TAB 1

The Six-Minute Criminal Court Judge 2020

The *Calnen* Solution

The Honourable David Watt
Court of Appeal for Ontario

January 25, 2020





The *Calnen* Solution

Justice David Watt
Court of Appeal for
Ontario
Toronto, Ontario



What is Evidence of After-the-Fact Conduct?

Words spoken

Things done

After offence committed

- *R. v. Calnen*, 2019 SCC 6, at para. 106

The Fundamental Nature of the Evidence

Circumstantial evidence

Reasoning is retrospectant

- *Calnen*, at paras. 111-112

Getting the Evidence Admitted

Relevance

Materiality

Admissibility

- Exclusionary rule
- Exclusionary discretion
- *Calnen*, at paras. 107-110

Dispelling the Myths

The range of inferences

- *Calnen*, at para. 112

Intent and levels of culpability

- *Calnen*, at para. 119

Bright line rules

- *Calnen*, at para. 139

Jury Instructions

Identifying purpose and use

- *Calnen*, at paras. 113, 115

Permitted and prohibited uses

- *Calnen*, at para. 113

General instruction

- *Calnen*, at para. 117

Specific cautions

- *Calnen*, at para. 118