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#### 1. Admissibility of Youth Statements: SCC

A 4-3 majority of the Supreme Court held in [R. v. L.T.H.](#), 2008 SCC 49 that the test for compliance with [s. 146\(2\)\(b\) of the Youth Criminal Justice Act](#) is objective in that it does not require the Crown to prove that a young person actually understood the rights and options explained to them. But, compliance with those provisions requires the use of an individualized approach, taking into account the age, understanding, sophistication and other personal characteristics of the particular young person being questioned. The court went on to note that all of the factors listed in that section must be proven beyond a reasonable doubt in order for a statement by a youth to be admissible.

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#### 2. Postponement of Implementation of Practice Directives

A [September 30, 2008 Notice](#) from the Provincial Court advises that the implementation of the [July 2008 Practice Directives](#) of the Provincial Court, originally scheduled to take effect on October 6, 2008 has been postponed and no new implementation date has been set.

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#### 3. Necessity of s.24 (2) Analysis: C.A.

In [R. v. Banman](#), 2008 MBCA 103 (CanLII) the Court of Appeal considered whether "...upon a finding that reasonable and probable grounds do not exist for the making of a breathalyzer demand under [s. 254\(3\)](#), a certificate of analysis from the breathalyzer tests tendered at trial is inadmissible without the necessity of conducting a [s. 24\(2\) Charter analysis](#)." The court found that a complete s. 24(2) *Charter* analysis is necessary in these circumstances.

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#### 4. Upcoming CLEs

The [Criminal Justice section](#) of the Manitoba Bar Association is presenting two upcoming CLE programs:

- Streamlining Cases - on Wednesday, October 22, 2008 at 12:00 noon in the Law Society Classroom, 219 Kennedy Street, with Chief Justice Marc Monnin of the Court of Queen's Bench, Sarah Inness, and Geoffrey Bayly presenting.
- Section 24(2) of the *Charter* - the Exclusion of Evidence - on Monday, November 3, 2008 at 5:30 p.m. in the Blackstone Lounge, 9th Floor, 400 St. Mary Avenue with Sarah Inness and

[Contact the Manitoba Bar Association](#) for further details and to register.

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## **5. Researching Post-Conviction DNA Testing**

The legal research and technology website, [LLRX.com](#), recently posted the article [Criminal Law Resources: DNA Post-Conviction Resources](#) which contains abundant links to both primary and secondary online legal research materials on the subject of post-conviction testing of genetic materials.

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