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### CRIMINAL TRIAL HANDBOOK

Roger E. Salhany  
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This release features updates to the commentary and case law in Chapters 1 (Pre-Trial Review), 6 (Role of the Judge), 9 (Kinds of Evidence), 10 (Excluded Evidence), 11 (Order of Proof), 12 (Addresses of Counsel and the Charge to the Jury), and 15 (Sentencing).

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## Highlights

- **Kinds of Evidence—Other Specific Types of Evidence—Slide Show Presentations**—The Supreme Court of Canada advised that a party seeking to furnish the jury with an aid should disclose it to the opposing party as early as possible, and would need to make an application to the court to tender it. Where the jury aid is contested, the trial judge should solicit submissions. Before giving the jury access to the aid during deliberations, the judge must be satisfied that the evidence it incorporates is so vast, complex or technical in nature that a jury would struggle to make sense of it without assistance or without expending an unreasonable amount of effort and time. Further, the judge must be satisfied that the jury aid summarizes the evidence accurately, without distortion, misstatement or obscurement of any evidence involved. Finally, the judge must be satisfied that permitting the aid to be used by the jury would be fair, by weighing the aid’s explanatory value against its prejudicial effect, and by considering resource imbalances, if any, between the parties: *R. v. Pan*, 2025 SCC 12, 2025 CarswellOnt 4988 (S.C.C.).
- **Sentencing—Commencement of Sentence**—According to the Supreme Court of Canada, where long periods of pre-sentence detention stem from the wrongful conduct of the offender, then that offender would likely not be granted enhanced credit in sentencing. A court deciding what constitutes “wrongful conduct” must consider the purpose of s. 719(3.1), which imposes a cap on enhanced credit, and which aims to remove incentive for an offender to strive for longer time in remand custody, while providing transparency to the public regarding the fitness of a sentence, and the amount and reasons for any credit granted. Although to be determined on a case-by-case basis, the Supreme Court instructed that findings of “wrongful conduct” must be consistent with the purposes, objectives and principles of sentencing. Finally, the Supreme Court held the Crown to bear the burden of proving that the offender had engaged in wrongful conduct: *R. v. J.W.*, 2025 SCC 16, 2025 CarswellOnt 7643 (S.C.C.).