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CRIMINAL TRIAL HANDBOOK

Roger E. Salhany
Release No. 1, March 2024

This release features updates to the commentary and case law in Chapters 1 (Pre-Trial Review), 2 (Pre-Arrest Matters), 6 (Role of the Judge), 7 (The Accused at Trial), 10 (Excluded Evidence), 11 (Order of Proof), 12 (Addresses of Counsel and the Charge to the Jury), 13 (Deliberations of the Jury) and 15 (Sentencing).

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Highlights

- **Pre-Trial Review — The Pre-Trial Hearing — Pre-Trial Publicity**
— The Supreme Court of Canada held that the automatic publication ban in s. 648(1) of the *Criminal Code* applies not only after the jury is empanelled, but also before the jury is empanelled in respect of s. 645(5) matters, after having found Parliamentary intentions of ensuring verdicts based only on evidence found to be admissible in court and of diminishing delay: *La Presse inc. v. Quebec*, 2023 SCC 22, 2023 CarswellQue 13875 (S.C.C.).
- **Sentencing — Particular Problems — Constitutional Guarantees**
— According to the Supreme Court of Canada, the s. 172.1(2) mandatory minimum sentences of one year's imprisonment for child luring as an indictable offence and of six months' imprisonment for child luring on summary conviction were excessive for achieving the sentencing objectives of denunciation and deterrence, and thereby infringed s. 12 of the *Charter* – the offence of luring, as well as that of sexual interference, captures a wide range of conduct involving varying degrees of moral culpability, which renders the effects of such minimum sentences to be harsh on at least some reasonably foreseeable offenders: *R. v. Bertrand Marchand*, 2023 SCC 26, 2023 CarswellQue 15457 (S.C.C.).

ProView Developments

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- The Table of Contents now has internal links to every chapter and section of the book within ProView
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