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### CRIMINAL CODE DRIVING OFFENCES

McLeod, Takach, Segal  
Release No. 3, March 2024

### What's New in this Update:

This release features updates to the Chapters 1, 2, 3, 4, and 5.

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## Highlights

New case law discussed with this release includes the following:

- **The Offence of Dangerous Operation (Driving) — Sentencing — Dangerous Driving** — After being stopped by police, the 32-year-old accused drove off quickly with a passenger in his vehicle. During his flight, he rammed police vehicles, hit other cars, ignored an officer who had drawn his weapon, and drove through yards in order to avoid apprehension. He pleaded guilty, and the court imposed a sentence of 2.5 years' imprisonment, a restitution order, and a three-year driving prohibition – in arriving at this sentence, the court considered the accused's lack of success with drug treatments; his criminal record, which had dated back twelve years, his prior conviction for dangerous driving, for which he received a sentence of 540 days, and *Gladue* factors: *R. v. Morgan*, 2023 BCSC 2236, 2023 CarswellBC 3733 (B.C. S.C.).
- **Criminal Code Prohibition Orders — Discretionary Order of Prohibition** — The accused pled guilty to criminal negligence causing death, for which he received a sentence of four years in custody and a four-year prohibition order under subs. 320.24(4) of the *Criminal Code*. The accused appealed with the argument that the court had no jurisdiction to impose the prohibition order, to which the Crown replied that the accused would have been convicted of dangerous driving in this instance, if this charge were pursued. The Court of Appeal noted that criminal negligence causing death was not among the offences listed under subs. 320.24(4), for which a guilty verdict would qualify for a prohibition order. Although the court suspected the omission to be merely a drafting omission on the part of Parliament, it refused to interpret the provision to include additional offences to those specifically listed: *R. v. Francisco*, 2023 BCCA 450, 2023 CarswellBC 3592 (B.C. C.A.).

## ProView Developments

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