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### **CRIMINAL LAW EVIDENCE, PRACTICE AND PROCEDURE**

**Gibson**

**Release No. 2024-4, July 2024**

This publication offers step-by-step guidance to more than 60 evidentiary, procedural and practice topics that arise in criminal law practice.

This release features updates to the commentary and case law in the following chapters: 45 (Jury Trials and General Procedure); 57 (Re-Election Procedure); 61 (Sentencing: Procedural Aspects of); 63 (Similar Fact Evidence); 65 (Undercover Agents Procedure); and 68 (Wiretap Evidence).

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### Release Highlights

- **Jury Trials and General Procedure** – Consistent with its earlier *Villaroman* decision, the Supreme Court of Canada held that, provided a trial judge’s instructions adequately explains to the jury that the Crown must prove the offence beyond a reasonable doubt and that the defence need not prove anything, the jury may consider not only the evidence, but also gaps in the evidence, when deciding what inferences it will draw: *R. c. Vernelus*, 2022 SCC 53, 2022 CarswellQue 17992 (S.C.C.).
- **Wiretap** – Although the standard to permit interceptions of a named target’s communications requires only that the measure “may assist” the police investigation, the Court of Appeal for Ontario cautioned that the application must, in a global way, nevertheless meet the standard of reasonable grounds to believe, short of establishing a likelihood, that each known target will say something that proves the offence: *R. v. Hafizi*, 2023 ONCA 639, 2023 CarswellOnt 14826 (Ont. C.A.).

### ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView generated PDFs of entire sections and pages.