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CANADIAN CRIMINAL CODE OFFENCES

John L. Gibson

Release No. 4, May 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in July 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the July 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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This publication is an acclaimed practice manual for Crown counsel, defence counsel, judges and police. The manual brings together in one place essential information about more than 50 commonly charged *Criminal Code* offences. The offences are organized alphabetically into individual, tabbed chapters for immediate access. Each chapter contains the full text of the *Criminal Code* sections and any other statutory provisions that relate to the offence, available defences, the best wording of the charge, the elements to be proved, procedural considerations, up-to-date case law, recent, significant changes in the law, and forms.

This release updates Chapters 4 (Assault and Unlawfully Causing Bodily Harm), 5 (Assault, Obstruct or Resist a Peace Officer), 7 (Breach of Bail, Probation and Other Court Orders), 8 (Break and Enter), 9 (Conspiracy), 11 (Criminal Negligence), 13 (Dangerous Operation of a Conveyance), and 22 (Harassment and Harassing Telecommunications).

Release Highlights

New cases discussed with this release include the following:

- **Breaking and Entering — Definitions — “Breaking and Entering”** — Even if the Crown theory posits a specific entry point, the Crown need not prove its theory. It suffices that the court be satisfied beyond a reasonable doubt that the defendant entered somehow without authority, either with intent or then committing the indictable offence: *R. v. Conway*, 2021 BCCA 460 (B.C. C.A.).
- **Criminal Negligence — Failing to Provide the Necessaries of Life** — Unlike criminal negligence, in a prosecution of failing to provide the necessities of life, the prosecution need not prove that the defendant caused harm. The offence is complete when the defendant endangered their dependent. The endangerment is complete once it is objectively foreseeable that the dependent is in need of medical treatment or other necessary of life. Therefore, where a child died of a disease, the prosecution need not prove that medical treatment would have saved the child. But the prosecution does need to prove that the defendant ought to have foreseen the danger: *R. v. Stephan*, 2021 ABCA 82 (Alta. C.A.).
- **Dangerous Operation of a Conveyance — Actus Reus** — If a driver engages in a pattern of bad driving culminating in an injury, the trier of fact should not artificially separate earlier incidents of dangerous operation from the final operation which causes injury. After a dispute in a bar, the defendant drove his truck angrily toward a crowd. He stopped for several seconds, and then accelerated forwards, injuring someone in his path. Whether or not the second advance was dangerous, it could not be separated from the initial approach toward the crowd: *R. v. Berto*, 2021 ONCA 839 (Ont. C.A.).

ProView Developments

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