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CANADIAN CRIMINAL CODE OFFENCES

John L. Gibson

Release No. 8, October 2023

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 features updates to the commentary and case law in the following chapters: 23 (Impaired Operation of A Conveyance), 30 (Murder and Manslaughter), 37 (Robbery), 39 (Sexual Assault), 40 (Sexual Services), and 47 (Weapons and Firearms – Pointing, Discharging; Using for Indictable Offences).

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Release Highlights

New cases discussed with this release include the following:

- **Impaired Operation of a Conveyance – Mandatory Roadside Screening** – In the course of arresting the driver for possession of a stolen car, the officer noticed an odour of liquor and screened the driver’s breath. The defence claimed a breach of the driver’s s. 10(b) *Charter* rights, since several minutes had elapsed between the arrest and the officer’s offer of legal advice. The Court of Appeal for Ontario held the officer’s statutory obligation to test breath immediately to have justified the delay prior to completion of the explanation of the driver’s right to counsel: *R. v. Haist*, 2023 ONCA 465 (Ont. C.A.).
- **Sexual Assault – Communication of Agreement** – The Court of Appeal of Alberta held, and the Supreme Court of Canada affirmed, an expectation that a complainant would enjoy a specific sexual act to be no substitute for contemporaneously communicated consent – in this instance, the contentious sexual act was anal intercourse, and, the appellate courts found the accused could not rely solely on the complainant’s previous expressions of enjoyment of digital penetration to infer that he may proceed to genital penetration: *R. v. Hay*, 2022 ABCA 246 (Alta. C.A.), affirmed by 2023 SCC 15 (S.C.C.).

ProView Developments

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- The opening page is now the title page of the book as you would see in the print work
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- The Table of Cases and Index are now in PDF with no searching and linking
- The now has internal links to every chapter and section of the book within ProView
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