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CANADIAN CRIMINAL CODE OFFENCES

John L. Gibson

Release No. 8, December 2024

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: 4 (Assault and Unlawfully Causing Bodily Harm), 7 (Breach of Bail, Probation and Other Court Orders), 23 (Impaired Operation of A Conveyance), 30 (Murder and Manslaughter), 31 (Obscenity and Child Pornography), 33 (Party Liability), 38 (Sexual Abuse of Young and Vulnerable Persons), 39 (Sexual Assault), 40 (Sexual Services), and 44 (Weapons and Firearms – Definitions and Background).

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Release Highlights

New cases discussed with this release include the following:

- **Party Liability – Case Law – Definitions – Co-Principal** – Where a group executes a criminal offence with sufficient coordination, the court may infer that the group planned it. Where a member of such a group plays a central role, the court may infer responsibility for the acts of the others, either as co-principal under s. 21(1) or by virtue of common intention under s. 21(2): *R. v. Owusu-Boamah*, 2024 ONCA 704.
- **Sexual Abuse of Young and Vulnerable Persons – Case Law – Sexual Exploitation – Relationships of trust, authority, dependency and exploitation** – The determination of a relationship of trust is objective. In the trial of sexual offences against children, the determination of a relationship of trust is objective. It is not necessary for the Crown to prove that the complainant herself viewed the relationship as one of trust: *R. v. R.S.*, 2023 CarswellOnt 14862, 2023 ONCA 626 (Ont. C.A.).
- **Sexual Assault – Case Law – Sexual Reputation and Activity of Complainant – Application to admit evidence of extrinsic sexual activity** – In the trial of sexual offences, a defendant must apply to court for permission to tender evidence of extrinsic sexual activity, or to cross-examine the complainant on it. The court then considers in two stages whether to grant the application. Subject to any restrictions the court may order, the Crown must disclose the application to the complainant if the court orders a Stage 2 hearing. Before that point, the prosecution may exercise discretion regarding how much information to give the complainant about the application. Disclosing the defendant's version of the incident does not necessarily undermine trial fairness: *Fairy v. R.*, 2024 CarswellNB 350, 2024 NBCA 92 (N.B. C.A.).

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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