Publisher's Note

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DRUG OFFENCES IN CANADA FOURTH EDITION

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What's New in this Update:

This release features updates to Chapter 4 (Possession), Chapter 5 (Trafficking), Chapter 7 (Possession for the Purpose of Trafficking, Distributing, Selling or Exporting), Chapter 8 (Production), Chapter 9 (Importing Exporting).

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Highlights:

- Two recent cases are instructive in considering circumstantial evidence. Where more than one person is charged with possession of drugs seized during the execution of a search warrant, attribution of the drugs to any particular person may be difficult for the Crown to prove. The Manitoba Court of Appeal considered arguments that the Crown had failed to prove possession for either individual found in a house the police searched in *R. v. Sinclair*, 2025 MBCA 51. In the second case, *R. v. Lugela*, 2025 ABCA 194, the Alberta Court of Appeal provided thorough assistance for trial courts dealing with circumstantial evidence of possession. These cases are discussed in Chapter 4 (Possession).
- The minefield of identification evidence was considered by several courts of appeal. In *R. v. Bowcock*, 2025 BCCA 124, the court looked at the difficult issue of how juries should be instructed when eyewitness testimony contains both inculpatory and exculpatory features. In *R. v. Chief*, 2025 MBCA 56, the court looked at the difference between identification evidence and recognition evidence. Finally, in *R. v. Sarroino*, 2025 QCCA 573, the court looked at how the Supreme Court of Canada's decision in *R. v. W.(D.)* applies in eyewitness identification cases. All of these cases are discussed in Chapter 5 (Trafficking).
- Courts impose significant constraints on attempts by the Crown to lead evidence of discreditable conduct by the accused. But what about the situation where the discreditable conduct evidence is elicited by the defence? The Ontario Court of Appeal considered that situation in *R. v. Kovacs*, 2025 ONCA 49. The case is discussed in Chapter 7 (Possession for the Purpose of Trafficking).
- Expert evidence, like eyewitness identification evidence, has been frequently implicated in wrongful conviction cases. The Ontario Court of Appeal gave some useful guidance on expert evidence in the context of drug cases in *R. v. Chiarelli*, 2025 ONCA 428. The case is discussed in Chapter 7 (Possession for the Purpose of Trafficking).
- Residential cultivation of up to four cannabis plants by persons 19 years of age and older became lawful in Manitoba on May 1, 2025. Prior to this, Manitoba, along with Quebec, prohibited residential cultivation of cannabis. We discuss the provincial regulation of cannabis production in Chapter 8 (Production).
- The Crown cannot undermine an accused's right to silence by suggesting that an accused, for example, ought to have given a statement to the police when found in possession of drugs. These situations can be quite nuanced, however. In *R. v. Verma*, 2025 ONCA 122, the accused a large quantity of drugs was found in the accused's luggage on his return from abroad. He gave the investigators some very limited information. Did the Crown undermine his right to silence in in the course of arguing that his story made no sense? The case is discussed in Chapter 9 (Importing/Exporting).

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