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DISCLOSURE & PRODUCTION IN CRIMINAL CASES

Murray D. Segal
Release No. 5, May 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in August 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 August 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 release features updates to the case law and commentary in Chapters 1 (Introduction), 2 (Principles), 3 (Exceptions to Disclosure), 5 (Defence Counsel), 6 (Police), 7 (Remedies for Breach), and 8 (Production of Confidential Third Party Records).

Case Highlights

- **Remedies for Breach — Trial — Adjournment — Specific Examples** — British Columbia’s Court of Appeal found no error on the part of the trial judge who had refused to grant a mistrial as a remedy for late disclosure — there had been no bad faith by the Crown, and the evidence was not completely new. The appellate court held an adjournment at trial to have been properly granted: *R. v. Vallee*, 2022 BCCA 11, 2022 CarswellBC 38 (B.C. C.A.).
- **Production of Confidential Third Party Records — General Procedure: Post-O’Connor — Second Step: Review and Balancing** — The Court of Queen’s Bench of Saskatchewan declined to admit, under s. 278.92, a picture of the complainant in a state of undress taken the day of the offence, after having found it to have been of marginal relevance and its prejudicial effect to have outweighed its probative value: *R. v. Friesen*, 2021 SKQB 293, 2021 CarswellSask 761 (Sask. Q.B.).

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