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WEAPONS OFFENCES MANUAL

The Honourable Justice Miriam Bloomenfeld

Release No. 2, June 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in September 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 September 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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What's New in this Update:

- *R. v. Hawryluk*, 2022 ONCA 36 — A sentencing judge is not required to consider s. 113 when imposing a s. 109 prohibition: **19:4, 19:23**
- *R. v. Laing*, 2022 NSCA 23 — The Court of Appeal increased the effective global sentence of 18 months' imprisonment to 24 months for a series of convictions for careless use of a firearm (s. 86(1)) and unauthorized possession of a firearm while in a motor vehicle (s. 94(1)). The Court of Appeal found that the sentencing judge had erred in principle in using a flawed analytical template for determining consecutive versus concurrent sentences in applying the totality principle. The correct approach is to first determine whether multiple terms of imprisonment should be served concurrently or consecutively and then adjust for totality if the resulting sentence would be excessively harsh and disproportionate: **28:16, 28:68**
- *R. v. Green*, 2021 ONCA 932 — The Court of Appeal upheld the effective global sentence of ten years' imprisonment for a number of drug and firearms offences including convictions relating to the offender's possession of an illegal, loaded firearm. The "firearms" component of the sentence was four years' imprisonment for possession and one year for the breach of firearms prohibition: **28:59**
- *Canada (Attorney General) v. Smykot*, 2022 ABQB 61 — The Court of Queen's Bench dismissed the Attorney General's application for certiorari in relation to the provincial court judge's determination that he had jurisdiction to review the revocation of the respondents' firearms registration certificates. The Attorney General had argued that the registration certificates were nullified by operation of law and therefore the provincial court did not have jurisdiction to hear the reference. The provincial court judge disagreed and determined that the respondents' certificates had been revoked by the Registrar and therefore the court had jurisdiction to conduct a s. 74 reference hearing. The Court of Queen's Bench held that the Registrar had exercised its discretion in revoking the certificates and therefore the provincial court judge had correctly determined that he had the requisite *Firearms Act* jurisdiction. The matter was remitted to the provincial court for a substantive determination on the reference: **27:13**
- *R. v. Penner*, 2022 BCSC 175 — The *Criminal Code*, s. 236(a) mandatory minimum sentence of four years' imprisonment for manslaughter with a firearm violates s. 12 of the Charter and is not saved by s. 1. The appropriate range of sentence where this first offender accidentally discharged a firearm, killing the victim, was 18 to 24 months' imprisonment: **22:2, 28:7**

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
- Footnote text only appears in ProView-generated PDFs of entire sections and pages