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WORKING MANUAL OF CRIMINAL LAW

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This manual summarizes the current law on issues arising in criminal practice. The expert commentary integrates the statutory provisions and case law relevant to a particular topic. The commentary is divided into six sections: defences, evidence, substantive offences, procedure, sentencing, and *Canadian Charter of Rights and Freedoms*. This publication facilitates preparation and is of assistance in the courtroom. Regular releases ensure that the text is current, accurate and reliable.

This release features updates to the case law and commentary in Chapters 3 (Procedure) and 4 (Sentencing).

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Release Highlights

New entries introduced with this release include the following:

- **Procedure — Mistrial — Situations in which Application for Mistrial Has Not Been Granted — The Judge Expresses their Preliminary Views** — Commentary under this new heading focuses upon *R. v. Mohammed*, 2025 ONCA 835, 2025 CarswellOnt 20076 (Ont. C.A.), wherein the appellate court considered whether a mistrial should be ordered after the trial judge had acknowledged the possibility of an inclination to accept a witness’s evidence based on his good character and likeability; and had asked counsel whether another witness’s evidence could raise a reasonable doubt if the accused’s evidence were rejected. The Court of Appeal dismissed the application for a mistrial, and expressed that judges are permitted to express their tentative views midtrial, provided they could not be reasonably perceived as closing their minds to the arguments of counsel.
- **Procedure — Mistrial — Situations in which Application for Mistrial Has Not Been Granted — Juror’s Spouse’s Conduct** — Commentary under this new heading concentrates on the questionable behaviour of an observer of a trial who was also a member of the jury. In *R. v. Pan*, 2025 SCC 12, 2025 CarswellOnt 4989 (S.C.C.), the Supreme Court of Canada considered the dismissals of two applications for mistrial. The first application concerned the spouse having texted the juror information overheard in a hallway conversation, including the identity of an upcoming witness, comments on the physical appearance of a witness, and reasons for delays in the proceedings. The second application was based on the spouse having applauded a key Crown witness during his testimony and having later approached the witness to deliver feedback on his testimony and his presentation of same.
- **Sentencing — Parity** — According to the Supreme Court of Canada, the principle of parity of sentences should reflect consistency with other proportionate sentences imposed under similar circumstances — there is no value in conforming a sentence to those deemed to have been deflated, inflated or otherwise disproportionate. Further, sentencing judges having the benefit of sentencing principles that have undergone revision over time must apply contemporary principles, even when doing so would result in a sentence that is dissimilar to those previously imposed for the offence in question: *R. v. Sheppard*, 2025 SCC 29, 2025 CarswellAlta 2230 (S.C.C.).