

Table of Contents

CHAPTER 1. CRIMINAL LAW

I. GENERAL PRINCIPLES

- § 1:1 *Mens Rea*
- § 1:2 Causation
- § 1:3 Possession Offences
- § 1:4 Included Offences
- § 1:5 Party Liability

II. OFFENCES

- § 1:6 Administration of Justice Offences
- § 1:7 Fraud
- § 1:8 Homicide-related Offences—Murder
- § 1:9 —Criminal Negligence Causing Death
- § 1:10 —Accessory after the fact to murder (s. 240)
- § 1:11 Motor Vehicle Offences—Dangerous Driving
- § 1:12 —Impaired Driving
- § 1:13 —Failing to Comply with a Demand
- § 1:14 Sexual Offences—Sexual Assault
- § 1:15 —Procuring and Obtaining a Material Benefit
- § 1:16 —Transmission of Sexually Explicit Material
- § 1:17 —Indecent Act in a Public Place
- § 1:18 —Child Pornography

III. DEFENCES

- § 1:19 Not Criminally Responsible—Fitness to Stand Trial
- § 1:20 —NCR Assessment
- § 1:21 —Procedures
- § 1:22 Entrapment
- § 1:23 Duress, Compulsion or Coercion
- § 1:24 Self Defence
- § 1:25 Provocation
- § 1:26 Mistaken Belief in Consent/Age
- § 1:27 Alibi
- § 1:28 Res Judicata—*Kienapple* principle
- § 1:29 —Issue Estoppel
- § 1:30 Intoxication

- § 1:31 Extreme Intoxication
- § 1:32 Colour of Right/Honest Belief
- § 1:33 Lawful Excuse/Legal Justification

CHAPTER 2. POLICING AND THE CHARTER

I. SECTION 1 – REASONABLE LIMITS

- § 2:1 Generally

II. SECTION 7 – LIFE, LIBERTY AND SECURITY OF THE PERSON

- § 2:2 Generally

III. SECTION 8 – UNREASONABLE SEARCH AND SEIZURE

- § 2:3 Reasonable Expectation of Privacy
- § 2:4 Was the Search Authorized by Law?—Common Law
- § 2:5 —Statute
- § 2:6 Was the Law Itself Reasonable?
- § 2:7 Was the Manner of Search Reasonable?

IV. SECTION 9 – ARBITRARY DETENTION

- § 2:8 Generally

V. SECTION 10 – RIGHTS ON ARREST OR DETENTION

- § 2:9 Section 10(a)
- § 2:10 Section 10(b)

VI. SECTION 11(B) – TRIAL WITHIN A REASONABLE TIME

- § 2:11 Generally

VII. CHARTER REMEDIES

- § 2:12 Section 24(1)
- § 2:13 Section 24(2)

TABLE OF CONTENTS

CHAPTER 3. EVIDENCE

I. WITNESSES AND PRESENTATION OF EVIDENCE

- § 3:1 Testimony Via Video Link
- § 3:2 Credibility & Reliability—Accused’s Motive to Lie
- § 3:3 —General Credibility
- § 3:4 —Direct Examination of Witnesses
- § 3:5 Cross-Examination of Witnesses—Trial Fairness
- § 3:6 —The Rule in *Browne v. Dunn*
- § 3:7 Fresh Evidence on Appeal

II. METHODS OF PROOF

- § 3:8 Confessions—Voluntariness
- § 3:9 —Recording of Statements
- § 3:10 Identification
- § 3:11 Circumstantial Evidence—After-the-Fact/Post-Offence Conduct
- § 3:12 —Available Inferences from Circumstantial Evidence
- § 3:13 —Demeanour
- § 3:14 Judicial Notice
- § 3:15 Need for Corroboration
- § 3:16 Sections 276 & 278—Section 278.92: Admissibility of “Records”
- § 3:17 —General ss. 276/278 Applications
- § 3:18 —Sexual History Evidence as Fresh Evidence on Appeal
- § 3:19 —Crown-Side Sexual History Evidence
- § 3:20 —Application of s. 276 to Non-Listed Offences

III. EXCLUSIONARY RULES

- § 3:21 Character Evidence—Similar Fact Evidence (*R. v. Handy*)
- § 3:22 —Evidence of Bad Character/Discreditable Conduct of the Accused
- § 3:23 —Character of Victim/Complainant
- § 3:24 Hearsay—The Principled Exception to the Hearsay Rule
- § 3:25 —State of Mind
- § 3:26 —Spontaneous Utterances
- § 3:27 —Admissions
- § 3:28 Hearsay—Business Records

- § 3:29 Opinion Evidence—Non-Expert Opinion
- § 3:30 —Expert Opinion
- § 3:31 Prior Consistent Statements
- § 3:32 Prior Inconsistent Statements
- § 3:33 Privilege—Public Interest Privilege
- § 3:34 —Self-Incrimination

CHAPTER 4. CRIMINAL PROCEDURE

I. PRE-TRIAL PROCEDURE

- § 4:1 Bail
- § 4:2 Election
- § 4:3 Preliminary Inquiry
- § 4:4 Form of Indictment/Laying of Information
- § 4:5 Disclosure/Production
- § 4:6 Severance
- § 4:7 Pleas

II. TRIAL PROCEDURE

- § 4:8 Jury Selection—Challenge for Cause
- § 4:9 Other Issues
- § 4:10 Conduct of the Trial
- § 4:11 Reasonable Apprehension of Bias
- § 4:12 Trial Fairness
- § 4:13 Publication Bans and the Open Court Principle
- § 4:14 Language of Trial
- § 4:15 Charging the Jury

III. POST-TRIAL PROCEDURE

- § 4:16 Right to Appeal
- § 4:17 Appeals by the Crown
- § 4:18 Appeals by the Accused—Unreasonable Verdicts
- § 4:19 —Errors of Law—*W.(D.)* and Other Reasonable Doubt Issues
- § 4:20 — —Other Issues
- § 4:21 —Miscarriages of Justice
- § 4:22 —Insufficient Reasons
- § 4:23 —Curative Proviso
- § 4:24 Remedies
- § 4:25 Extraordinary Remedies

TABLE OF CONTENTS

CHAPTER 5. SENTENCING

I. SENTENCING PROCEDURES AND HEARINGS

- § 5:1 *Gardiner* Hearing and Right to be Heard
- § 5:2 *Functus Officio*
- § 5:3 Section 724(2) *Criminal Code*

II. SENTENCING PRINCIPLES AND RULES

- § 5:4 Aggravating and Mitigating Factors—General
- § 5:5 —Guilty Pleas
- § 5:6 —Mental Illness
- § 5:7 —Youthfulness and Immaturity
- § 5:8 —Prior Record
- § 5:9 —*Charter* Violations and State Misconduct
- § 5:10 Collateral Consequences—Family Consequences
- § 5:11 —Immigration Consequences
- § 5:12 —Mandatory Minimum Sentences and Other
Charter Issues—*Criminal Code*, s. 745(a)
- § 5:13 — —*Criminal Code*, s. 745.6
- § 5:14 Aboriginal Sentencing Principles
- § 5:15 The Step-Up Principle
- § 5:16 Departing from the Crown’s Submissions: *Nahanee*
- § 5:17 Departing from Joint Sentencing Submissions:
Anthony-Cook

III. SENTENCING OPTIONS

- § 5:18 Conditional Sentences
- § 5:19 Forfeiture
- § 5:20 Section 161 *Criminal Code* Orders
- § 5:21 Sex Offender Registries
- § 5:22 Driving Prohibitions
- § 5:23 Parole Eligibility

IV. SENTENCING SPECIFIC OFFENCES

- § 5:24 Sexual Offences—Sexual Offences Against Children
- § 5:25 —Child Luring
- § 5:26 —Voyeurism and Child Pornography
- § 5:27 Murder and Related Offences

APPENDIX

- Appendix A. Significant Legislative Developments

Table of Cases
Index