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SENTENCING DRUG OFFENDERS

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Release No. 35, August 2018

What's New in this Update:

- A new Section 2:1600, "Carfentanil". Carfentanil is a fentanyl analogue listed in Schedule I of the CDSA. Carfentanil is about 100 times more potent than fentanyl and 10,000 times more potent than morphine. Due to its extreme toxicity, carfentanil has no safe or beneficial human use, even within the medical community in highly controlled environments.

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- New case law, including:
 - *R. v. Mann*, 2018 BCCA 265: Karan-Jit Singh Mann pleaded guilty to trafficking in fentanyl mixed with heroin, threatening death and possession of a firearm while in a motor vehicle. Sarabjit Singh Mann pleaded guilty to trafficking in fentanyl, fentanyl mixed with heroin and U-47700, fentanyl mixed with heroin and 3-methylfentanyl, carfentanil, cocaine, and possession of a loaded firearm. There was evidence at the sentencing hearing that, due to the extreme toxicity of carfentanyl, there is no way to effectively and safely mix it for any sort of street-level distribution. Karan-Jit was sentenced to five years' imprisonment; Sarabjit to seven years.
 - *R. v. Peters*, 2018 ONCA 493: Peters was found guilty after a trial of importing three kilograms of cocaine. Peters was the subject of a "lookout" on the Canadian Border Services Agency ("CBSA") computer and was sent to a secondary customs inspection at Pearson Airport on his return to Toronto. A CBSA officer found sealed plastic bags in his luggage each containing puck-like objects wrapped in brown packing tape that contained white powder. There was nothing present in the case which mitigated the degree of the accused's responsibility for the commission of this offence. However, the trial judge found that there were factors, such as a lack of criminal record, the presence of family support, a history of employment and good character references, which suggested that the accused had good prospects for rehabilitation. The trial judge sentenced Peters to 6.5 years in jail and the Court of Appeal found that the trial judge had carefully considered the relevant mitigating and aggravating factors and imposed a sentence at the lower end of the applicable range of six to eight years set out by the court in *R. v. Cunningham* (1996), 104 C.C.C. (3d) 542 (Ont. C.A.).