

# Table of Contents

<i>Foreword</i> .....	iii
<i>Preface</i> .....	vii
Table of Contents .....	ix
Table of Cases.....	TC-1
<b><i>Chapter 1</i></b>	
<b>Rights of Victims and Third Parties in Context</b>	<b>1-1</b>
1. A Historical Perspective .....	1-1
2. Increased Protection and Rights of Participation.....	1-4
3. The Impact of the <i>Canadian Charter of Rights and Freedoms</i> .....	1-6
4. Restorative Justice Reform Initiatives.....	1-9
5. Federal Legislative Reform 2010 and Onwards.....	1-12
(a) General .....	1-12
(b) Canadian Victims Bill of Rights.....	1-12
6. Conclusion .....	1-16
<b><i>Chapter 2</i></b>	
<b>Pre-Trial Issues</b>	<b>2-1</b>
1. The Initial Stages .....	2-1
(a) Police Laid Charges .....	2-1
(i) Terminating Police Laid Charges.....	2-3
(b) Support Services .....	2-5
(c) Resolution Discussions and Victim Input .....	2-7
(d) Victims' Rights to Disclosure.....	2-9
(i) Access to the Crown Brief.....	2-10
(ii) Accessing the Records of Young Persons.....	2-13
2. Private Prosecutions .....	2-14
(a) Statutory Provisions .....	2-14
(b) Related Statutory Provisions.....	2-18
(c) Commentary .....	2-27
(d) Case Law .....	2-30
(i) Laying a Private Information.....	2-30

BALANCING CHARTER INTERESTS

(ii)	Receipt of Information.....	2-30	
(iii)	Pre-Enquete Hearing Prior to Issuing Process .....	2-32	
(iv)	Failure to Conduct Pre-Enquete Hearing.....	2-36	
(v)	Issuing Process .....	2-37	
(v.1)	Review of Refusal to Issue Process .....	2-39	
(vi)	Limitations on Right to Lay Private Information .....	2-42	
	(A) Offences Requiring Consent of Provincial Attorney General .....	2-42	
	(B) Offences Requiring Consent of Attorney General of Canada .....	2-43	
	(C) Consent Not Required for Inchoate Offences .....	2-44	
	(D) Timing of Consent .....	2-44	
	(E) Consent to Relay Offence .....	2-44	
	(F) Review of Attorney General's Consent .....	2-45	
(vii)	Form of Information.....	2-45	
(viii)	Service Outside of Limitation Period .....	2-46	
(ix)	Conducting the Prosecution.....	2-46	
(x)	Preferred and Direct Indictments of Privately Laid Charges.....	2-46	
(xi)	Limitations on Right to Conduct Private Prosecution.....	2-47	
	(A) Intervention by the Attorney General .....	2-47	
	(B) Timing of Intervention.....	2-49	
	(C) Continuation of Prosecution following Intervention ...	2-51	
	(D) No Obligation to Consult Informant.....	2-52	
	(E) Attorney General Not Bound by Informant's Undertaking.....	2-53	
	(F) Judicial Review of Intervention .....	2-54	
	(G) Intervention and the Rights of the Informant .....	2-54.3	
	(H) Youth Proceedings .....	2-54.3	
(xii)	Disclosure of Information .....	2-54.3	
(xiii)	Appeals of Indictable Offences.....	2-54.4	
(xiv)	Appeals of Summary Conviction Offences .....	2-54.4	
(xv)	Private Prosecutions to Collect Debts.....	2-54.4	
3.	Bail Hearings.....	2-56	
	(a) Statutory Provisions .....	2-56	
	(b) Related Statutory Provisions.....	2-68	
	(c) Commentary .....	2-81	
	(i) Release by the Police .....	2-82	
		(A) Release on an Undertaking .....	2-83
		(B) Replacement of Undertaking .....	2-84
		(C) Variation of Undertaking or Recognizance .....	2-84
	(ii) Release by a Justice .....	2-85	

CONTENTS

	(A) Conditions of an Undertaking or Recognizance.....	2-86
	(B) Variation of Undertaking or Recognizance .....	2-87
	(C) Remand with Conditions .....	2-87
(iii)	Detention Order with Conditions .....	2-88
(iv)	Evidence Regarding Victims at Bail Hearings.....	2-89
(v)	Victims as Sureties.....	2-89
4.	Peace Bonds.....	2-90
(a)	Statutory Provisions .....	2-90
(b)	Commentary.....	2-108
(c)	Case Law.....	2-111
(i)	Purpose of a Recognizance .....	2-111
(ii)	Laying an Information.....	2-113
(iii)	Issuing Process .....	2-114
(iv)	Compelling Attendance .....	2-115
(v)	Limitation Period .....	2-117
(vi)	Grounds to Order Recognizance .....	2-117
(vii)	Standard of Proof.....	2-125
(viii)	Evidence .....	2-126
(ix)	Duration of Recognizance.....	2-130
(x)	Conditions of a s. 810 Recognizance .....	2-130
(xi)	Conditions of a Criminal Organization Offence Recognizance .....	2-132
(xii)	Conditions of a Sexual Offence Recognizance .....	2-133
(xiii)	Conditions of a Serious Personal Injury Offence Recognizance .....	2-136
(xiv)	Variation of Conditions .....	2-138
(xv)	Refusal to Enter into Recognizance .....	2-138
(xvi)	Renewal of Recognizance .....	2-140
(xvii)	Breach of Recognizance .....	2-140
(xvii.1)	Appellate Review.....	2-143
(xviii)	Dismissal of Application does Not Bar Criminal Proceedings .....	2-144
(xix)	<i>Charter of Rights</i> .....	2-145
(xx)	Common Law Peace Bond.....	2-146
	(A) Application Process Chart.....	2-153
(xxi)	Peace Bond is Not a Conviction.....	2-153
(xxii)	Application to Young Persons.....	2-154
5.	Publication Bans.....	2-155
(a)	Statutory Provisions .....	2-155
(b)	Related Statutory Provisions.....	2-158
(c)	Commentary.....	2-160
(d)	Case Law.....	2-163

BALANCING CHARTER INTERESTS

(i)	General Principles .....	2-163
(ii)	Application Procedure .....	2-168
(iii)	Obligation to Inform Complainant of Rights .....	2-169
(iv)	Notice of Application .....	2-169
(v)	Timing of Application .....	2-170
(vi)	Evidence in Support of Application .....	2-170
(vii)	Hearing of Application .....	2-174
(viii)	Third Party Standing .....	2-175
(ix)	Grounds for Ordering Publication Ban .....	2-176
(x)	Publication Ban <i>Ex Proprio Motu</i> .....	2-176
(xi)	Determining the Necessity of a Publication Ban .....	2-177
(xii)	Salutary vs. Deleterious Effects .....	2-179
(xiii)	Alternatives to a Publication Ban .....	2-181
(xiv)	Scope of Order .....	2-182
	(A) An Unsuccessful Application .....	2-183
(xv)	Validity of Two or More Publication Bans .....	2-183
(xvi)	Duration of Order .....	2-183
(xvii)	Revocation or Variation of Publication Bans .....	2-185
	(A) Revocation or Variation of Mandatory Bans .....	2-185
	(B) Revocation or Variation of Discretionary Bans .....	2-188
(xviii)	Appellate Review .....	2-188
	(A) Appeal by a Party .....	2-188
	(B) Appeal by a Third Party .....	2-191
	(C) Standard of Review .....	2-193
(xix)	Violation of Ban .....	2-193
(xx)	Interests of Victims under the <i>Charter</i> .....	2-196
(xxi)	Interests of Accused Persons under the <i>Charter</i> .....	2-198
(xxii)	Interests of the Media under the <i>Charter</i> .....	2-199
(xxiii)	Balancing of <i>Charter</i> Interests .....	2-203
(xxiv)	Constitutionality of Mandatory Bans .....	2-204
(xxv)	Access to Court Records .....	2-205
(xxv.1)	Media Access to Youth Court Records .....	2-216
(xxvi)	Publication Bans in Review Board Proceedings .....	2-219

**Chapter 3**

**Trial Proceedings — Testimonial Aids, Procedural Issues and Evidentiary Issues 3-1**

1.	Exclusion of Public .....	3-1
	(a) Statutory Provisions .....	3-1
	(b) Commentary .....	3-2
	(c) Case Law .....	3-3
	(i) General Principles .....	3-3

CONTENTS

(ii)	Application Procedure .....	3-7
(iii)	Third Party Standing on Applications.....	3-7
(iv)	Grounds for Exclusion.....	3-8
	(A) “Interest of Public Morals” .....	3-11
	(B) “Maintenance of Order”.....	3-12
	(C) “Proper Administration of Justice”.....	3-12
(v)	Scope of Order .....	3-15
(vi)	<i>Charter of Rights</i> and Constitutional Issues .....	3-16
(vii)	Variation of Order.....	3-18
(viii)	Appellate Review.....	3-19
	(A) Route of Appeal .....	3-19
	(B) Grounds for Review .....	3-21
	(C) Remedy .....	3-22
2.	Support Person .....	3-22.1
	(a) Statutory Provisions .....	3-22.1
	(b) Commentary.....	3-22.2
	(c) Case Law .....	3-24
	(i) General Principles .....	3-24
	(ii) Grounds for Making Order .....	3-25
	(iii) Application.....	3-27
	(iv) Nature of Order .....	3-27
	(v) Appellate Review.....	3-29
	(vi) <i>Charter</i> and Constitutional Issues .....	3-30
3.	Closed-Circuit Television and Screen Applications.....	3-30
	(a) Statutory Provisions .....	3-30
	(b) Related Statutory Provisions.....	3-32
	(c) Commentary.....	3-32
	(d) Case Law .....	3-38
	(i) Application Procedure .....	3-38
	(ii) Grounds .....	3-43
	(A) Grounds for a Mandatory Order .....	3-43
	(B) Grounds for Discretionary Order .....	3-50
	(B.1) Grounds for a Discretionary Order in Proceedings of Criminal Organization and Terrorism Related Offences.....	3-55
	(C) Mental or Physical Disability .....	3-58
	(iii) Scope of the Order.....	3-58
	(iv) Jury Instructions .....	3-60
	(v) <i>Charter of Rights</i> .....	3-61
	(vi) Review of Order.....	3-66
	(vii) Set-Up Procedure.....	3-67

BALANCING CHARTER INTERESTS

4.	Admission of Video-Recorded Evidence .....	3-69
	(a) Statutory Provisions .....	3-69
	(b) Commentary .....	3-70
	(c) Case Law .....	3-73
	(i) General Principles .....	3-73
	(ii) Editing of Videotaped Statement .....	3-80
	(iii) Admission of Multiple Statements .....	3-82
	(iv) <i>Voir Dire</i> to Determine Admissibility .....	3-83
	(v) Grounds for Admission .....	3-84
	(A) Admission of Recorded Evidence to Augment Testimony .....	3-84.2
	(B) “Reasonable Time” .....	3-84.3
	(C) Description of the “Acts Complained of” .....	3-91
	(D) “Adopts” the Contents of the Videotape.....	3-93
	(vi) Admission of Tape where Statutory Requirements are Not Met.....	3-96
	(vii) Weight of Statement.....	3-102
	(viii) Jury Instructions .....	3-105
	(ix) Use of Statement during Jury Deliberations .....	3-108
	(x) <i>Charter of Rights</i> .....	3-111
	(xi) Appellate Review.....	3-112
5.	Cross-Examination of a Witness by the Accused.....	3-114
	(a) Statutory Provisions .....	3-114
	(b) Related Statutory Provisions.....	3-115
	(c) Commentary .....	3-115
	(d) Case Law .....	3-118
	(i) Grounds .....	3-118
	(ii) Application Procedure .....	3-123
	(iii) Scope of Order .....	3-127
	(iv) Appellate Review.....	3-133
6.	Third Party Standing in Criminal Proceedings.....	3-134
	(a) Statutory Provisions .....	3-134
	(b) Related Statutory Provisions.....	3-134
	(c) Commentary .....	3-135
	(d) Case Law .....	3-136
	(i) Traditional Approach: <i>Pre-R. v. O’Connor</i> .....	3-136
	(ii) Movement Towards Recognition of Victims’ Rights.....	3-138
	(iii) Intervention in Trial Proceedings Following <i>R. v. O’Connor</i> .....	3-139
	(iv) Standing on Third Party Record Applications .....	3-145
	(v) Standing on Applications to Exclude the Public.....	3-146
	(vi) Standing on Appeals and Extraordinary Remedies.....	3-148

CONTENTS

(vii) Standing on Search Warrant Applications.....3-148

(viii) Effect of Victims’ Bill of Rights ..... 3-150

(ix) Participation in Plea Agreements ..... 3-150.1

7. Third Party Records ..... 3-150.1

(a) Statutory Provisions ..... 3-150.1

(b) Related Statutory Provisions..... 3-150.6

(c) Commentary ..... 3-150.8

(d) Case Law ..... 3-151

(i) The Scope of the Statutory Provisions.....3-151

(ii) Definition of “Record” ..... 3-155

(iii) Determining the Privacy Interest in Records ..... 3-159

(A) The *McNeil* Decision.....3-162

(B) Defining “Serious Misconduct” ..... 3-167

(iv) Examples of Private Records.....3-169

(iv.1) Records of Solicitor-Client Communications..... 3-172

(A) Threshold Test.....3-173

(B) First Stage of the Innocence at Stake Test ..... 3-174

(C) Second Stage of the Innocence at Stake Test ..... 3-174

(D) Timing of *McClure* Application ..... 3-176

(v) Records Not Within Ambit of s. 278.1 of the *Code*..... 3-176

(vi) Records Involving the Accused or in the Accused’s Possession ..... 3-177

(vii) Records in the Possession of the Crown ..... 3-180

(A) Defining the Term “Crown” ..... 3-183

(B) Police Disciplinary Records and Criminal Investigation Files Relating to Third Parties..... 3-188

(viii) Waiver.....3-193

(ix) Timing and Forum of Application ..... 3-195

(x) Application Procedure ..... 3-196

(xi) Multiple Applications ..... 3-198

(xii) Issuance of Subpoena ..... 3-198

(xiii) Preparation of List of Records..... 3-200

(xiv) *In Camera* Hearing ..... 3-200

(xv) Submissions by Third Parties ..... 3-201

(xvi) Costs ..... 3-202

(xvii) First Stage — Production to the Trial Judge ..... 3-204

(xviii) Second Stage — Production to the Accused ..... 3-207

(xix) “Likely Relevant” ..... 3-211

(A) Threshold Test.....3-211

(B) Establishing the Relevancy of Records..... 3-219

(C) Questioning a Complainant to Establish Relevancy ..... 3-220

BALANCING CHARTER INTERESTS

(D)	Examples of Insufficient Grounds to Establish “Likely Relevant”	3-226
(E)	Examples of Grounds Meeting the “Likely Relevant” Threshold	3-231
(F)	Assessing the Relevancy of Therapy Records	3-233
(xx)	“Necessary in the Interests of Justice”	3-237
(xxi)	Conditions on a Production Order	3-238
(xxii)	Reasons for Decision	3-239
(xxiii)	Constitutionality of Provisions	3-239
(xxiv)	Appellate Review	3-240
(A)	Question of Law	3-240
(B)	Procedure on Appeal	3-240
(C)	Standard of Appellate Review	3-241
(D)	Review of Records by Appellate Court	3-242
(E)	Seeking the Production of Third Party Records at the Appellate Stage	3-242
8.	Evidence of Prior Sexual Conduct	3-246
(a)	Statutory Provisions	3-246
(b)	Related Statutory Provisions	3-247
(c)	Commentary	3-249
(d)	Case Law	3-251
(i)	Application Procedure	3-251
(ii)	Sufficient Notice and Particulars	3-257
(iii)	Forum and Timing of Application	3-257
(iv)	Retroactive Application of s. 276	3-258
(v)	Threshold Test for Hearing	3-259
(vi)	Hearing of Application	3-261
(vi.1)	<i>In Camera</i> Hearing	3-262
(vii)	Complainant is Not a Compellable Witness	3-263
(viii)	Evidence from the Accused in Support of an Application	3-263
(ix)	“Relevant to an Issue at Trial”	3-266
(x)	Examples of Admissible Evidence of Prior Sexual Activity	3-268
(xi)	Evidence to Support Mistaken Belief in Consent	3-272
(xii)	“Significant Probative Value”	3-280
(xiii)	Evidence of Sexual Activity Subsequent to the Alleged Offence	3-282
(xiv)	Evidence of Prior Acts of Prostitution	3-286
(xv)	Evidence of Prior Virginity	3-287
(xvi)	Evidence of Non-Consensual Sexual Activity	3-289
(xvii)	Evidence of Prior <i>Complaints</i> of Sexual Assault	3-290



CONTENTS

(xviii) Balancing of Interests ..... 3-295  
(xix) *Charter of Rights* ..... 3-296  
(xx) Jury Instructions ..... 3-299  
(xxi) Appellate Review..... 3-301  
    (A) Question of Law ..... 3-302  
    (B) Absence of Reasons ..... 3-302  
    (C) Admission as Fresh Evidence..... 3-302

**Chapter 4**  
**Sentencing Issues** **4-1**

1. The Sentencing Hearing..... 4-1  
2. Victim Impact Statements ..... 4-3  
    (a) Statutory Provisions ..... 4-3  
    (b) Related Statutory Provisions..... 4-5  
    (c) Commentary .....4-15  
    (d) Case Law .....4-19  
        (i) Purposes of Victim Impact Statements .....4-19  
        (ii) “Victim” .....4-23  
        (iii) Indirect Victims and Community Impact Statements.....4-29  
        (iv) Contents of Victim Impact Statements .....4-30  
        (v) Form and Presentation of Statement..... 4-36.1  
            (A) Statements Admitted Pursuant to s. 722 of the  
                *Criminal Code* ..... 4-36.1  
            (B) Community Impact Statements .....4-40  
        (vi) Dispute as to Contents of Statement .....4-41  
        (vii) Disclosure of Statement .....4-49  
        (viii) Criteria for Admission .....4-53  
        (ix) Adjournment to Obtain Statement.....4-54  
        (ix.1) Duty of Inquiry.....4-54  
        (x) Admissibility and Weight .....4-56  
            (A) Sentencing Hearings.....4-56  
                (i) Provincial Offence Act Sentencing  
                    Hearings .....4-61  
                (B) Youth Proceedings .....4-61  
                (C) Parole Eligibility Hearings .....4-63  
                (D) Parole Board Hearings.....4-64  
                (E) Review Board Proceedings .....4-65  
                (F) Dangerous Offender/Long-Term Offender Hearings...4-68  
                (G) Appellate Proceedings .....4-69  
3. Sentencing Circles.....4-71  
    (a) Statutory Provisions .....4-71

BALANCING CHARTER INTERESTS

(b)	Related Statutory Provisions.....	4-72
(c)	Commentary.....	4-72
(d)	Case Law.....	4-73
(i)	Sentencing Principles Applicable to Aboriginal Offenders.....	4-73
(ii)	Duty to Consider Circumstances of Aboriginal Offenders.....	4-79
(iii)	Sentencing Circles — General Principles.....	4-82
(iv)	Criteria for Sentencing Circle.....	4-84
(A)	Accused’s Consent.....	4-84
(B)	Community Participation.....	4-85
(C)	Victim Participation.....	4-85
(D)	Approval of Court.....	4-86
4.	Victim Fine Surcharge.....	4-87
(a)	Statutory Provisions.....	4-87
(b)	Related Statutory Provisions.....	4-89
(c)	Commentary.....	4-92
(d)	Case Law.....	4-95
(i)	Mandatory Imposition.....	4-95
(ii)	Notice of Surcharge.....	4-100
(iii)	Effect of Surcharge on Sentence.....	4-100
(iv)	Constitutionality of Surcharge.....	4-101
(v)	Appellate Review.....	4-103
(vi)	Youth Proceedings.....	4-105
5.	Compensation and Restitution.....	4-105
(a)	Statutory Provisions.....	4-105
(b)	Related Statutory Provisions.....	4-110
(c)	Commentary.....	4-110
(d)	Case Law.....	4-113
(i)	General Principles.....	4-113
(ii)	Criteria.....	4-115
(iii)	Discretionary Order.....	4-118
(iv)	Entitlement.....	4-123
(A)	Direct Victims.....	4-123
(B)	Persons Acting in Good Faith.....	4-126
(v)	What can be Claimed?.....	4-126
(vi)	Readily Ascertainable Amount.....	4-130
(vii)	Ability to Pay.....	4-134
(viii)	Multiple Accused.....	4-141
(ix)	Form of Order.....	4-143
(x)	Source of Restitution Funds.....	4-144
(xi)	Effect on Sentence.....	4-145

CONTENTS

(xii)	Timing of Order .....	4-147
(xiii)	Priority of Order .....	4-147
(xiv)	Restitution as a Term of Probation .....	4-149
(xv)	Restitution as a Term of a Conditional Sentence Order .....	4-151
(xvi)	Civil Proceedings Do Not Bar Restitution Orders .....	4-152
(xvii)	Enforcement of Restitution Orders through Civil Courts .....	4-153
(xviii)	Other Means of Enforcement .....	4-156
(xix)	Injunctions to Prevent Disposal of Assets .....	4-158
(xx)	Appellate Review .....	4-159
(xxi)	Suspension of Restitution Orders Pending an Appeal .....	4-162
(xxii)	<i>Charter of Rights</i> and Constitutional Issues .....	4-163
(xxiii)	Restitution by Young Persons .....	4-163
6.	Forfeiture Orders .....	4-164
(a)	Statutory Provisions .....	4-164
(b)	Related Statutory Provisions .....	4-176
(c)	Commentary .....	4-178
(d)	Forfeiture of Things Used for Child Pornography .....	4-180
(i)	Criteria .....	4-180
(ii)	Third Party Remedies .....	4-181
(iii)	Appellate Review .....	4-181
(iv)	Suspension of Order Pending Appeal .....	4-182
(e)	Forfeiture of Property Obtained by Crime .....	4-182
(i)	Criteria .....	4-182
(ii)	Priority of Victims' Claims .....	4-183
(iii)	Appellate Review .....	4-183
(iv)	Suspension of Order Pending Appeal .....	4-183
(f)	Forfeiture of Proceeds of Crime .....	4-184
(i)	General Principles .....	4-184
(ii)	Criteria .....	4-185
(iii)	Where Forfeiture is Not Possible .....	4-187
(iv)	Forfeiture Where Conditions Precedent are Not Met .....	4-191
(v)	Third Party Remedies .....	4-191
(vi)	Pre-Forfeiture Remedies .....	4-191
(A)	Voidable Transfers .....	4-191
(B)	Restoration Orders .....	4-192
(vii)	Post-Forfeiture Remedies .....	4-193
(A)	Relief Orders .....	4-193
(B)	Residual Disposition of Property .....	4-195
(viii)	Youth Proceedings .....	4-195
(ix)	Appellate Review .....	4-195

BALANCING CHARTER INTERESTS

(x)	Suspension of Order Pending Appeal.....	4-198
(g)	Forfeiture of Offence-Related Property.....	4-198
(i)	Definition of Terms.....	4-198
(ii)	Criteria for Forfeiture.....	4-199
(iii)	Third Party Remedies.....	4-206
(A)	Voidable Transfers.....	4-206
(B)	Restoration Orders.....	4-206
(C)	Relief Orders.....	4-208
(iv)	Youth Proceedings.....	4-210
(v)	Priority of Victims' Claims.....	4-210
(vi)	Appellate Review.....	4-210
(vii)	Suspension of Order Pending Appeal.....	4-211
7.	Electronic Monitoring.....	4-211
(a)	Statutory Provisions.....	4-211
(b)	Commentary.....	4-212
(c)	Case Law.....	4-213
(i)	Inclusion as a Term of Bail.....	4-213
(ii)	Inclusion as a Term of Probation.....	4-214
(iii)	Inclusion as a Term of a Conditional Sentence Order.....	4-215
(iv)	Inclusion as a Term of Parole.....	4-217
(v)	Inclusion as a Term of a Peace Bond.....	4-217
8.	Order of Prohibition.....	4-217
(a)	Statutory Provisions.....	4-217
(b)	Related Statutory Provisions.....	4-219
(c)	Commentary.....	4-220
(d)	Case Law.....	4-222
(i)	Nature of Order.....	4-222
(ii)	Scope of Application of s. 161.....	4-223
(iii)	Application of s. 161 to Young Persons.....	4-232
(iv)	Evidence to Support Order.....	4-232
(v)	Duration of Order.....	4-236
(vi)	Variation of Order.....	4-237
(vii)	Breach of Order.....	4-238
(viii)	<i>Charter of Rights</i> .....	4-240
(ix)	Appellate Review.....	4-241
9.	Sex Offender Registry.....	4-242
(a)	Statutory Provisions.....	4-242
(b)	Commentary.....	4-265
(c)	Case Law.....	4-271
(i)	Application.....	4-271
(A)	Designated Offences.....	4-274

CONTENTS

(i.1)	Grossly Disproportionate .....	4-278
(i.2)	Duration of Order .....	4-278
(ii)	Young Persons .....	4-284
(iii)	Breach of Order.....	4-285
(iv)	Constitutionality of Registry.....	4-285
(v)	Appellate Review.....	4-293

**Chapter 5**

**Other Hearings**

**5-1**

1.	Parole Board Hearings.....	5-1
(a)	Statutory Provisions .....	5-1
(b)	Commentary.....	5-10
(i)	Definition of “Victim” .....	5-13
(ii)	Disclosure of Information .....	5-13
(iii)	Victim Input.....	5-17
(iv)	Non-Confidentiality of Information Provided by Victim .....	5-21
(v)	Attending the Hearing .....	5-22
(vi)	Grounds for Granting Parole .....	5-24
(vii)	Access to Decisions .....	5-24
(viii)	Preventing Communication from Inmate.....	5-25
2.	Parole Ineligibility Review Hearings .....	5-26
(a)	Statutory Provisions .....	5-26
(b)	Commentary.....	5-29
(i)	Definition of “Victim” .....	5-30
(ii)	Purpose of Review Hearing .....	5-31
(iii)	Factors of Consideration .....	5-31
(iv)	Evidence of Victim Impact .....	5-32
(v)	Right of Appeal.....	5-32.1
3.	Review Board Proceedings .....	5-32.1
(a)	Statutory Provisions .....	5-32.1
(b)	Commentary.....	5-32.7
(i)	Evidence of Victim Impact .....	5-34
(ii)	Attending Disposition Hearings .....	5-36
(iii)	Publication Bans of Disposition Hearings .....	5-37
4.	Compensation Board Hearings .....	5-39
(a)	Statutory Provisions .....	5-39
(b)	Commentary.....	5-39
(i)	Qualifying for Compensation .....	5-43
(ii)	Discretionary Nature of Awards .....	5-47
(iii)	Consideration of Victim’s Behaviour .....	5-49

BALANCING CHARTER INTERESTS

(iv)	Limitation Periods.....	5-51
(v)	What May be Claimed .....	5-52
(vi)	Interim Compensation .....	5-55
(vii)	Hearings vs. File Reviews.....	5-55
(viii)	Offender Notification.....	5-56
(ix)	Appeals.....	5-57
5.	Coroner Inquests.....	5-57
(a)	Statutory Provisions .....	5-57
(b)	Commentary .....	5-58
(i)	Purpose of Inquests.....	5-59
(ii)	Attending Inquests .....	5-60
(iii)	Standing.....	5-61
(A)	Substantial and Direct Interest.....	5-61
(B)	Public Interest Standing.....	5-62
(iv)	Disclosure to Applicants for Standing .....	5-63
(v)	Rights of Persons with Standing.....	5-63
(vi)	Judicial Review .....	5-63
6.	Appellate Proceedings .....	5-64
(a)	Statutory Provisions .....	5-64
(b)	Commentary.....	5-70
(i)	Appeals of Indictable Offences by Private Prosecutors.....	5-70
(ii)	Appeals of Summary Conviction Offences by Private Prosecutors.....	5-70
(A)	Undertaking or Recognizance of Informant.....	5-71
(B)	Failure to Comply with Undertaking.....	5-71
(C)	Review of Undertaking or Recognizance.....	5-72
(iii)	Third Party Standing on Appeals and Extraordinary Remedies .....	5-72
	<i>Appendix</i> .....	5-81

**Chapter 6**

**Victims' Bills of Rights**

**6-1**

1.	Overview .....	6-1
(a)	Statutory Provisions .....	6-1
(b)	Commentary.....	6-1
2.	Federal Canadian Victims Bill of Rights .....	6-7
(a)	"Victim" .....	6-7
(b)	Rights and Principles.....	6-9
(i)	General Rights.....	6-9

CONTENTS

(ii)	Access to Information.....	6-9
(iii)	Protection Rights .....	6-9
(iv)	Participatory Rights.....	6-10
(v)	Restitution.....	6-11
(vi)	Enforcement of Rights.....	6-12
3.	Alberta.....	6-12.1
(a)	“Victim” .....	6-12.1
(b)	Rights and Principles.....	6-13
(i)	General Rights.....	6-13
(ii)	Access to Information.....	6-14
(c)	Obligations of Victims.....	6-15
(d)	Enforcement of Rights.....	6-15
4.	British Columbia.....	6-15
(a)	“Victim” .....	6-15
(b)	Rights and Principles.....	6-16
(i)	General Rights.....	6-16
(ii)	Access to Information.....	6-17
(iii)	Accessing Correctional Service Information.....	6-18
(iv)	Legal Representation .....	6-18
(v)	Evidence of Victim Impact .....	6-19
(vi)	Goals.....	6-19
(c)	Enforcement of Rights.....	6-20
5.	Manitoba.....	6-21
(a)	“Victim” .....	6-21
(b)	Rights and Principles.....	6-21
(i)	General Rights.....	6-21
(ii)	Access to Information.....	6-22
(iii)	Accessing Correctional Service Information.....	6-26
(iv)	Separate Waiting Area.....	6-27
(v)	Legal Representation .....	6-28
(vi)	Evidence of Victim Impact .....	6-28
(vii)	Restitution and Return of Property.....	6-28
(viii)	Notification of Potential Threat .....	6-29
(ix)	Right to Meet the Offender .....	6-29
(x)	Review Board Proceedings .....	6-30
(c)	Enforcement of Rights.....	6-30
6.	New Brunswick .....	6-32
(a)	“Victim” .....	6-32
(b)	Rights and Principles.....	6-32
(i)	General Rights.....	6-32
(ii)	Access to Information.....	6-33

BALANCING CHARTER INTERESTS

(c) Enforcement of Rights.....	6-35
7. Newfoundland and Labrador .....	6-35
(a) “Victim” .....	6-35
(b) Rights and Principles.....	6-35
(i) General Rights.....	6-35
(ii) Access to Information.....	6-36
(iii) Access to Social Services .....	6-36
(iv) Restitution and Return of Property.....	6-36
(c) Obligations of Victims.....	6-37
(d) Enforcement of Rights.....	6-37
8. Northwest Territories.....	6-37
(a) “Victim” .....	6-37
(b) Rights and Principles.....	6-38
(c) Enforcement of Rights.....	6-39
9. Nunavut.....	6-39
(a) “Victim” .....	6-39
(b) Rights and Principles.....	6-40
(c) Enforcement of Rights.....	6-41
10. Nova Scotia.....	6-41
(a) “Victim” .....	6-41
(b) Rights and Principles.....	6-41
(i) General Rights.....	6-41
(ii) Access to Information.....	6-42
(iii) Right to Separate Waiting Room .....	6-42
(iv) Return of Property .....	6-43
(c) Enforcement of Rights.....	6-43
11. Ontario .....	6-43
(a) “Victim” .....	6-43
(b) Rights and Principles.....	6-44
(i) General Principles.....	6-44
(ii) Access to Information.....	6-44
(iii) Return of Property .....	6-45
(iv) Sexual Assault Victims.....	6-46
(v) Civil Liability of Offender .....	6-46
(c) Enforcement of Rights.....	6-47
12. Prince Edward Island .....	6-48
(a) “Victim” .....	6-48
(b) Rights and Principles.....	6-49
(i) General Principles.....	6-49
(ii) Access to Information.....	6-49



CONTENTS

(iii)	Access to Correctional Service Information .....	6-49
(iv)	Access to Support Services .....	6-49
(v)	Evidence of Victim Impact .....	6-50
(vi)	Restitution and Return of Property.....	6-50
(c)	Enforcement of Rights.....	6-50
13.	Quebec .....	6-51
(a)	“Victim” .....	6-51
(b)	Rights and Principles.....	6-51
(i)	General Rights.....	6-51
(ii)	Access to Information.....	6-51
(iii)	Access to Support Services .....	6-52
(iv)	Restitution and Return of Property.....	6-52
(c)	Enforcement of Rights.....	6-52
14.	Saskatchewan .....	6-53
(a)	“Victim” .....	6-53
(b)	Rights and Principles.....	6-53
(i)	General Principles .....	6-53
(ii)	Access to Information.....	6-54
(c)	Enforcement of Rights.....	6-55
15.	Yukon .....	6-55
(a)	“Victim” .....	6-55
(b)	Rights and Principles.....	6-56
(i)	General Rights.....	6-56
(ii)	Access to Information.....	6-56
(iii)	Accessing Correctional Service Information.....	6-60
(iv)	Accessing Review Board Information .....	6-62
(v)	Consideration of Needs and Views .....	6-62
(vi)	Return of Property .....	6-63
(c)	Scope and Enforcement Rights.....	6-63
	<i>Appendices</i> .....	A1
	<b>United Nations</b>	
	Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power .....	UN-1
	<b>Canada</b>	
	Canadian Statement of Basic Principles of Justice for Victims of Crime, 2003 .....	CAN-1
	Canadian Victims Bill of Rights .....	CAN-3
	<b>Alberta</b>	
	Victims of Crime Act.....	ALTA-1

BALANCING CHARTER INTERESTS

<b>British Columbia</b>	
Victims of Crime Act.....	BC-1
<b>Manitoba</b>	
The Victims' Bill of Rights.....	MAN-1
<b>New Brunswick</b>	
Victims Services Act.....	NB-1
<b>Newfoundland and Labrador</b>	
Victims of Crime Services Act.....	NFLD-1
<b>Northwest Territories and Nunavut</b>	
Victims of Crime Act.....	NWT-1
<b>Nunavut</b>	
Victims of Crime Act.....	NUN-1
<b>Nova Scotia</b>	
Victims' Rights and Services Act.....	NS-1
<b>Ontario</b>	
Victims' Bill of Rights, 1995.....	ONT-1
<b>Prince Edward Island</b>	
The Victims of Crime Act.....	PEI-1
<b>Quebec</b>	
An Act Respecting Assistance for Victims of Crime.....	PQ-1
<b>Saskatchewan</b>	
The Victims of Crime Act, 1995.....	SASK-1
<b>Yukon</b>	
Victims of Crime Act.....	YK-1
Crime Prevention and Victim Services Trusts Act.....	YK-11
Index.....	IND-1