

## Publisher's Note

2018 — Release 6

Previous release was 2018-5

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Barrett

# Balancing Charter Interests — Victims' Rights and Third Party Remedies

This groundbreaking work examines the rights of victims and other third parties within the criminal justice system, including the rights of media, interest groups and the families of victims. It goes well beyond the *Charter* to provide a review of the statutory provisions and case law at various stages of the criminal process.

This release features updates to the case law and commentary in Chapters 2 (Pre-Trial Issues) and 4 (Sentencing Issues).

## Release Highlights

- **Pre-Trial Issues — Publication Bans — Violation of Ban** — The Supreme Court of Canada articulated the test for an injunction to compel removal of material the publication of which preceded the publication ban on an interlocutory basis. Specifically, the applicant must first demonstrate a strong *prima facie* case showing a strong likelihood of success in proving the allegations of violation. The appellant must also show irreparable harm and a

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favourable balance of conveniences. The CBC posted an article naming victims, two days prior to a publication ban. The Supreme Court found the first branch of the test not to have been met, since it was not obvious that the Crown could establish contempt on the part of the broadcaster at the time of the posting: *R. v. Canadian Broadcasting Corp.*, 2018 SCC 5, 2018 CarswellAlta 206 (S.C.C.).

- **Sentencing Issues — Sex Offender Registry — Appellate Review —** According to the Court of Appeal for Ontario, errors respecting the duration of an order under the *Sex Offender Information Registration Act* can only be corrected by returning the matter to the sentencing judge. The appellate court found that Parliament had eliminated the broad right to appeal from SOIRA orders in s. 490.014 of the *Criminal Code*, and, further, held SOIRA orders not to fall within the s. 673 definition of “sentence”: *R. v. R.P.*, 2018 ONCA 473, 2018 CarswellOnt 8003 (Ont. C.A.).