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**The Honourable Justice Miriam Bloomenfeld  
and The Honourable Justice Peter Harris**

**Release No. 64, March 2019**

**What's New in this Update:**

- *R. v. Sellars*, 2018 BCCA 195 — The Court of Appeal allowed the Crown's sentence appeal, quashed the offender's suspended sentence for s. 95(1) possession of a prohibited firearm and substituted a conditional sentence of two years' less a day. The court held that, contrary to the sentencing judge's finding, the offender's possession of the firearm for self-defence purposes did not distinguish the offence from "illicit behaviour" or remove the conduct from the "true crime" end of the spectrum: **27[70]:1020, 27[130]:1000**
- *R. v. Ottie*, 2019 BCSC 2019 — The s. 96(2) one-year mandatory minimum sentence for possession of a firearm obtained by crime does not violate s. 12 of the Charter: **15[96]:2000, 27[70]:3000, 27[70]:3100**

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- *R. v. Superales*, 2018 ONSC 6367 — The court struck down the s. 85 mandatory minimum one-year consecutive sentence for robbery with an imitation firearm as cruel and unusual punishment and sentenced the offender to the equivalent of five months' custody plus probation: **4[85]:9000, 27[15]:1000**
- *R. v. Irkotee*, 2018 NUCJ 32 — The court declared the mandatory minimum penalty in s. 99(2) to be cruel and unusual punishment contrary to s. 12 of the Charter and therefore of no force and effect. The aboriginal offender got drunk, broke into a cabin, stole a rifle and then sold it to a hunter when he realized that keeping it in his house would endanger his children's safety. The appropriate sentence in these circumstances was six months' imprisonment. Taking *Gladue* principles into account, the court concluded that the mandatory minimum penalty of three years' imprisonment would be so grossly disproportionate that it would outrage the standards of decency of the people of Nunavut: **18[99]:0500, 27[80]:2000, 27[130]:1000**