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1. Charge to Jury on Reasonable Doubt and Credibility: SCC

In [R. v. J.H.S.](#), 2008 SCC 30, the court considered charges of sexual assault in which the evidence provided by the complainant was that the assaults occurred and the evidence of the accused was that the assaults did not occur. The issue before the court was whether the instructions to the jury properly addressed the issues of both reasonable doubt and credibility. A unanimous court found that the trial judge correctly addressed the issues in her charge to the jury, stating that:

Here the trial judge explained that any reasonable doubt must be resolved in favour of the accused. She also explained that even if they did not accept all of the accused's testimony, they could still accept some of it. She also explained to the jury that they should not see their task as that of deciding between two versions of events. She told them that they could not decide the case simply by choosing between the evidence of the complainant and that of the accused. She reminded them, in that context, that they must consider all of the evidence when determining reasonable doubt.

2. Principles of Appellate Review of Sentencing: SCC

[R. v. L.M.](#), 2008 SCC 31 is an appeal from the sentence imposed by the lower court on charges of sexual assault and making, distributing and possessing child pornography. The global sentence of 15 years was reduced to 9 years by Quebec's Court of Appeal. The majority of the court was of the view that the sentence should be reinstated as it did not merit appellate intervention. In coming to this decision, the court provided a helpful review of the relevant principles of appellate review of sentencing, application of maximum sentences and the relationship between sentencing and a finding that an offender is a long term offender.

3. Striking Down Presumptive Adult Sentences for Youth: SCC

A narrow majority (5-4) of the court found, in [R. v. D.B.](#), 2008 SCC 25 that the "presumptive offence" provisions of the *Youth Criminal Justice Act* do not accord with principles of fundamental justice, and specifically, "...the principle of a presumption of diminished moral culpability in young persons...." and therefore upheld the lower court rulings which imposed the maximum youth sentence upon D.B., who had pled guilty to manslaughter. Commentary on this decision (and many others from the Supreme Court) can be found on the blog, [The Court](#):

- [Protecting Youth Rights or Tinkering with Compromise?](#)

- [*R. v. D.B. - A Sign of Things To Come*](#)
 - [*Supreme Court Rules that Presumptive Adult Sentences for Youth Offenders are Unconstitutional*](#)
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4. Dog Sniff Searches: SCC

The majority found, in [*R. v. A.M.*](#), 2008 SCC 19 that the dog-sniff of a backpack in a school amounted to a search pursuant to s. 8 of the Charter, violated the provisions of s. 8 of the Charter and accordingly, the evidence was excluded pursuant to s. 24 of the Charter. In [*R. v. Kang-Brown*](#), 2008 SCC 18, a decision issued the same date, the court dealt with a dog-sniff "search" that took place in a bus station and made similar findings. The reasons in both cases are complex, nuanced and reflect a range of opinions held by the court on the issue of dog-sniff searches. The decisions have been discussed and reviewed in some detail in the following publications:

- [*Case Report - Companion Sniffer Dog Cases Establish Reasonable Suspicion Search Standard*](#) by Dan Michaluk on [*All About Information*](#)
 - [*Sniffing Out the Larger Implications of the Dog-Sniff Cases*](#) by James Stribopolous on [*The Court*](#)
 - [*R. v. A. M. - Clarifying or Complicating Section 8 Jurisprudence?*](#) by Rebecca Ross on [*The Court*](#)
 - [*SCC muzzles random police dog-sniff searches*](#) by Tim Naumetz, published in the May 5, 2008 issue of [*Law Times*](#)
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5. Criminal Code Amendments in Effect

Certain of the provisions of [*Bill C-13*](#), an *Act to Amend the Criminal Code (Criminal Procedure, Language of the Accused, Sentencing and Other Amendments)* came into effect upon receiving Royal Assent on May 29, 2008. The balance of the provisions (ss. 7, 8, 18 to 21, 29, 35, 37 to 40, 42 and 44) come into force on a day or days to be fixed by order of the Governor in Council. And the following provisions of the [*Tackling Violent Crime Act*](#), S.C. 2008, c. 6 (Bill C-2) come into force on July 2, 2008: ss.18-27, 39-53, 55-56, 59-60. The remaining provisions of this Act have been in force since May 1, 2008.

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