

# CRIMINAL LAW JOURNAL

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## EDITORIAL

<b>Prisoners and the Victorian Charter .....</b>	<b>217</b>
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## ARTICLES

### **The sentencing response to defendants with foetal alcohol spectrum disorder – Heather Douglas**

This article explores the sentencing response to defendants who have Foetal Alcohol Spectrum Disorder (FASD). FASD is the umbrella term for a range of effects that result from exposure to maternal alcohol consumption during gestation. Many who have this disorder have difficulty linking their actions to consequences, controlling impulses and remembering things and thus a diagnosis of FASD raises particular issues in sentencing. This article overviews the effects of FASD and the difficulties associated with its diagnosis. It then goes on to examine the appropriate aims of sentencing in FASD cases and addresses the question of whether, and if so in what circumstances, FASD should be perceived as a mitigating factor. The article concludes with a discussion of appropriate penalties for defendants who are diagnosed with FASD and makes some recommendations for increased education about the condition and increased access to resources for diagnosis and response to defendants diagnosed with FASD within the criminal justice system. ....

221

### **Conspiracy to commit a Commonwealth offence – Stephen Odgers**

The High Court has recently handed down two judgments dealing with the offence of conspiracy created in s 11.5 of the Commonwealth Criminal Code. This article critically discusses the judgments and their implications for the Commonwealth Criminal Code generally. The article suggests reform proposals regarding the offence of conspiracy. It concludes that there needs to be a comprehensive review of Ch 2 of the Commonwealth Criminal Code. ....

240

### **Recent cases involving confiscation legislation – Caroline Dobraszczyk**

This article analyses some recent Australian cases in the area of confiscation legislation which, it is submitted, show an increasing strictness in approach and which emphasise how important it is to understand and argue the purpose and intent of the particular legislation when making submissions either on behalf of the plaintiff or defendant. ....

250

## PHILLIPS' BRIEF

<b>Indecent situations vacant .....</b>	<b>263</b>
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<b>DIGEST OF CRIMINAL LAW CASES .....</b>	<b>265</b>
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    - <sup>2</sup> Hayton, n 1, p 286.
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