Index

Acquittal	Child sex offenders
pre-trial publicity, 7-8	good character, 16, 22-23
Admissibility of evidence see Evidence	commission of offence, 17
Adversarial system	ousting of consideration, 16-17, 23
ascertainment of truth, 154-155	legal representation, 155
child witnesses, 153-155, 306-307, 321-322,	right to a fair trial, 13-14
347	sentencing, 16
cross-examination, 153-154	good character, 16-17, 22-23
legal aid funding, and, 52-53, 62-63	Child sexual abuse
overview, 48, 154	false allegations, 15
Affidavits	historical context, 348-349
restraining orders, 251	media attention, 11, 13-14
grounds for suspicion, 253-256	nature of offence, 150-151, 315, 322
reasons for suspicion, 252-253	overview, 189
strict approach, 252, 256	psychological harm, 11-12, 14-15
supporting evidence, 253-255	rate of abuse, 13-15, 150
Aggravating factors see Hate crimes	rate of prosecution, 306
Appeals	reporting, 150
double jeopardy sentencing, 16, 24-26, 29-30	delay in reporting, 307, 315, 316-318
discount on resentencing, 25-26	specialist jurisdiction, 314-315
merits of change, 30-31	willing participation, 11-12
residual discretion, 25, 29	grooming process, 13
statutory modification, 26-29	young offenders, 189
Bail	Child witnesses
costs of remand, 346	adversarial system, and, 153-155, 306-307,
draft amendments, 346	321-322, 347
indigenous offenders, 346	appeals, 321
judicial discretion, 345	Convention on the Rights of the Child, 347
overview, 345	court environment, 310
purpose of bail, 123	CCTV facilities, 310-311
terrorism offences, 105, 121	court procedures, 151
amendments, 122-123	cross-examination, 149, 151, 164-166,
effect of amendments, 123	306-307, 311, 347, 351, 356, 358
exceptional circumstances, 103, 121-124	ascertainment of truth, 154, 156, 353-354
young offenders, 345-346	complexity of questions, 352
Canada	defence lawyer's role, 155-157, 354-355
identity theft, 44	education, and, 165, 313, 354
Case management	form of words, 152, 153, 154, 312
child witnesses, 308	impact of amendments, 160-164
Care providers see also Declaratory relief	improper questions, 149-150, 15 158-160, 162-164, 311-312
criminal liabilities, 132-133	130-100, 102-104, 311-312

judicial intervention, 157-163, 352-355	legal framework, 361-362
leading questions, 153, 351-352	specialist jurisdiction, 314-315
misleading and confusing questions, 163,	uncorroborated evidence, 319
311	joint concoctions, 320-321
perspective, and, 150, 162-164, 165	tendency or coincidence evidence, 320
pre-recorded evidence, 309-310, 350	Children
reform recommendations, 160, 313	wardship proceedings, 356
specialist examiner proposals, 358-362	Civil proceedings see Declaratory relief
trauma of challenge, 151-152, 163-164,	Common law
166, 312	cross-examination, 158
delay before trial, 151, 307-308, 350	extended common purpose, 147
case management, 308	Commonwealth offences
child protection issues, 308	attempt, 244
methods to reduce, 308-310, 350-351	conspiracy, 240, 248-249
pre-recorded evidence, 308-310, 350-351	burden of proof, 248
delay in reporting, 307, 315-316	common law, importation, 242-244, 248
Longmanwarnings, 317-318	conspires, meaning, 240, 243
measures to address, 316-317	criticisms of decisions, 248
evidence, 151, 306-307, 321-322, 347	fault elements, 241-242, 244-246
appeals, and, 321	intention, 241-242, 244-246
court environment, 310-311	meaning, 240, 243
delay in reporting, 315-319	physical elements, 240-242, 249
hearsay evidence, 318	recklessness, 240-242, 245
nature of offence, and, 315-321	special liability provisions, 246-248
pre-recorded evidence, 13-14, 151, 165, 308-310, 349, 350-351	joint commission, 146
uncorroborated evidence, 319-321	agreement to commit offence, 146-147
unreliability of evidence, 315-316	background to enactment, 148
historical context, 348-349	scope of liability, 147-148
intermediaries, 151, 313, 356	type of offence, 146-147
England and Wales, 357-358	jury trials, 115-116
Norway, 358	Compulsion defence
South Africa, 356-357	adequacy of police protection, 199-200
law reform, 13, 306, 347, 349	approaches, 200-202
nature of offence, 150-151, 315, 322	modified subjective approach, 201-202
overview, 347, 362	overview, 198
pre-recorded evidence, 13-14, 151, 165, 349	reasonable belief, 198-199, 201
cross-examination, 309-310	Confiscation legislation
reducing delay, 308-310, 350-351	affidavits, 251
right to a fair trial, 362	grounds for suspicion, 253-256
specialist examiner proposals, 358-359, 362	reasons for suspicion, 252
comparison of systems, 361	strict approach, 252, 256
elements of system, 359-360	supporting evidence, 253-255
examiners, 360-361	constitutional argument, 260

invalidity of provisions, 260-261	ascertainment of truth, 154, 156
ex parte proceedings, 250	child witnesses, 149, 151, 164-166, 306-307, 311, 347, 351, 356, 358
application of Evidence Act, 250-251	
giving of reasons, 251	ascertainment of truth, 154, 156, 353-354
invalidity of provisions, 260-261	complexity of questions, 352
examination orders, 257-258	defence lawyer's role, 155-157, 354-355
exclusion orders, 257-258	education, and, 165, 313, 354
forfeiture orders, 256-257	form of words, 152-154, 312
court's power to stay, 258-259	impact of amendments, 160-164
overview, 250, 262	improper questions, 149-150, 154, 158-160, 162-164, 311-312
privilege against self-incrimination, 257-258	
purpose or intent of legislation, 256	judicial intervention, 157-163, 352-353, 355
stay of orders, 257-258	leading questions, 153, 351-352
superannuation orders, 259-260	misleading and confusing questions, 163,
restraining orders, 250-251, 259	311
affidavits, 251-256	perspective, and, 150, 162-165
revocation orders, 257	pre-recorded evidence, 309-310, 350
stay of orders, 256-257	reform recommendations, 160, 313
court's power, 257-259	specialist examiner proposals, 358-362
superannuation orders, 259-260	trauma of challenge, 151-152, 163-164,
Conspiracy	166, 312
burden of proof, 248	complainants, by accused, 78, 80
common law, importation, 242-244, 248	availability to give evidence, 78-79
conspires, meaning, 240, 243	committal hearings, 79-80
criticisms of decisions, 248	judicial intervention, 157
fault elements, 241-243	common law rules, 158
intention, 241-242, 244-246	impact of amendments, 160-163
recklessness, 241, 245	improper questions, 159, 160
meaning, 240, 243	statutory provisions, 158-162
overview, 240, 248-249	overview, 78
physical elements, 240, 249	Declaratory relief
recklessness, 240-242, 245	background to case, 128-129
special liability provisions, 246-248	criminal context, 128, 133
terrorism offences, 113	Australian position, 130
Constitution	exceptional circumstances, 129-132
jury trials, 115-116, 168	jurisdiction, 130-131
preventative detention, 283-284	past conduct, 133
Council of Australian Governments	possible criminal conduct, 130-131
double jeopardy, 16, 24	proper contradictor, 132
Criminal justice system	public interests, 132-133
Victoria, 48-49, 62	nature of remedy, 129
Cross-examination	scope of power, 129
adversarial system, 153-154	510pe 01 po noi, 125
auversariai system, 155-154	

Defences	delay in reporting, 315-319
compulsion, 198	hearsay evidence, 318
adequacy of police protection, 199-202	nature of offence, 315, 322
facts of case, 198	pre-recorded evidence, 13-14, 151, 165,
reasonable belief, 198-199, 201	308-310, 349-351
reasonable mistake of fact, 189, 194	uncorroborated evidence, 319-321
availability of defence, 194-196	unreliability of evidence, 315-316
evidential burden, 195-196	coincidence evidence, 297, 320
objective reasonableness, 196	joint concoctions, 297, 320-321
positive mistake requirement, 195	probative value, 292
Definitions	broad construction, 293
grievous bodily harm, 82-83	Christie discretion, 297-300, 302
identification information, 41-42	coincidence evidence, 297
identity fraud, 35-36	contrasting positions, 293-294
identity theft, 35	credibility, 296, 298-302, 305
member, 108	definition, 293-295, 298, 305
personal data, 42-43	joint concoction, 297
probative value, 293-295, 298, 305	narrow construction, 293, 300-305
terrorist act, 92-93, 95-98, 113-114	recent developments, 305
victim, 39	reliability, 295-296, 298, 300-302
Double jeopardy	tendency evidence, 297
overview, 16	unfair prejudice, meaning, 292
sentencing, 16, 24-26, 29-30	relevance rule, 296
discount on resentencing, 25-26	tendency evidence, 297, 320
merits of change, 30-31	terrorism offences, 101, 104
residual discretion, 25, 29	circumstantial evidence, 109
statutory modification, 26-29	wardship proceedings, 356
Drug trafficking	Ex parte proceedings
compulsion defence, 198	confiscation proceedings, 250
adequacy of police protection, 199-202	application of Evidence Act, 250-251
facts of case, 198	giving of reasons, 251
reasonable belief, 198-199, 201	invalidity of provisions, 260-261
Duress see Compulsion defence	Expert evidence
European Union	terrorist organisations, 111-112
identity theft, 42	Fair trial see Right to a fair trial
other developments, 44	Financial institutions
personal data, definition, 42-43	identity theft, 45
personal data processing, 43	disclosure obligations, 45
prisoners' rights, 219	Foetal alcohol spectrum disorder
Evidence see also Cross-examination	effects of disorder, 222, 227
child witnesses, 151, 306-307, 321-322, 347	primary effects, 222-223
appeals, and, 321	secondary effects, 223-224
court environment, 310-311	identification and diagnosis, 225, 228, 235

difficulties in diagnosis, 226-227	motive test, 324-326, 387-391
early diagnosis, 221, 228	partial motivation, 388
indigenous children, 225-226	principle of proportionality, 391-392
specialised services, and, 230-231	specification of increments, 392-393
under-reporting, 226	Human rights see United Nations Human
imprisonment, 236	Rights Committee
flexibility in approach, 237	Good character
vocational programs, 237	absence of prior convictions, 17-19, 23-24
overview, 221-222, 239	child sex offenders, 16, 22-23
prevention, 239	ousting of consideration, 16-17, 23
probation orders, 234	commission of offence, 17, 21
explaining court orders, 234	community contributions, 17, 19-20
substance abuse, 235	inconsistencies in approach, 21
sentencing considerations, 222, 228, 239	less weight situations, 21
community protection, 232-233, 235-236	breach of trust, 22
culpability, 231-232	commission of offence, 21
deterrence, 232	general deterrence, 22
imprisonment, 236-237	overview, 17, 23
informing the court, 228-230	prior convictions, 17-18
mitigating factors, 231	absence of prior convictions, 17-19, 23-24
probation orders, 234-235	progressive loss mitigation, 19
proper assessment, 230	rationale for mitigation, 18-21
rehabilitation, 232-233	reputation, 20
sexual offences, 237-238	loss of reputation, 20-21
supervision, 233-235, 238	sex offenders, 16
therapeutic justice, 238-239	Identity crime
sexual offences, 237	definition, 36
treatment programs, 237-238	proposed specific offence, 40
specialised services, 230-231	Identity fraud
Forfeiture see Confiscation legislation	definition, 35-36
Hate crimes	identity theft, distinction, 35
sentencing, 323, 327, 385, 392, 394-395	overview, 35
background to introduction, 323-324	Identity theft
culpability, 391	cost to the economy, 34
current law, 385	definition, 35
demonstration of hostility, 388-391	European Union, 42
denunciation and deterrence, 391-392	other developments, 44
equality principles, 391	personal data, definition, 42-43
group selection test, 324, 326-327,	personal data processing, 43
389-391	forms of theft, 36
harm, 389-391	household waste, 36-37
minority or majority groups, 393-394	phishing, 36
motivation, meaning, 325	unauthorised hardware or software, 36

identity fraud, distinction, 35	rights of jurors, 184
overview, 33-34, 47	Jurisdiction
present laws, 38	declaratory relief, 130-131
state laws, 38	Jury directions
proposed other measures, 44	pre-trial publicity, 5-6, 8
compulsory identity cards, 46	Jury selection
disclosure obligations, 45	current selection process, 170
public education, 46	empanelment by name and occupation, 171
proposed specific offence, 34, 39-40, 43, 47	empanelment by number, 171, 185
central requirement, 40	peremptory challenges, 173-174
effectiveness of proposals, 40-41	historical background, 168, 185
identification information, 40-42	Australian position, 169-170
standard of proof, 40-41	juror requirements, 168-169
United States, comparison, 41-42	juror information, 170-172, 178
risks to victims, 37	value of information, 181-182
consumer confidence, 38	voir dire questions, 178-180
time and effort, 38	overview, 168
techniques, 34	peremptory challenges, 167, 170, 173, 185-186
theft or larceny, and, 34-35	arguments favouring, 174-175
United States provisions, 34, 41, 47	arguments favouring removal, 175-176
proposed offence, comparison, 41-42	community perceptions of justice,
value of identity, 35	182-184
Indigenous children	cost of process, 184-185
foetal alcohol spectrum disorder, 225-226	guidelines, 178, 180
Indigenous offenders	historical background, 168
bail, 346	juror information, 171-172, 178, 181-182
Innocence see Presumption of innocence	manipulation of system, 178
International covenants	multiculturalism, 181-182
preventative detention, 286-288	negative impacts of rejection, 182-183
right to a fair trial, 5	New South Wales, 171, 173-174
trafficking in people, 400, 405	number of available challenges, 172
Joint commission of offences	parading of jurors, 183-184
Commonwealth offences, 146	racism, 180
agreement to commit offence, 146-147	reform recommendations, 173-174, 178
background to enactment, 148	representative nature, and, 175-177, 185
scope of liability, 147-148	sexism, 180
type of offence, 146-147	Victoria, 171
Juries see also Jury selection	reform recommendations, 173-174
community perceptions of justice, 182-184	representative nature, 173, 175-176, 185
representative nature, 172-173	bias, 177-178
bias, 177-178	educative function, 176-177
educative function, 176-177	Jury trials
peremptory challenges, and, 175-178	appropriateness, 115-116

complexity of trials, 118	Mitigating factors see also Good character
terrorism offences, 116	foetal alcohol spectrum disorder, 231
constitutional guarantee, 115-116, 168	reform, and, 281
historical background, 169	Model Criminal Law Officers Committee
characteristics of jurors, 170	conspiracy, 242
overview, 115	common law, importation, 242-243
public confidence, 117	constructive murder, 88, 90
terrorism offences, 116	double jeopardy, 24
complexity of trials, 118-119	identity theft, 34, 39-40, 43, 47
length of trial, 116-118	central requirement, 40
national security information, 119-121	effectiveness of proposals, 40-41
peremptory challenge system, 167	identification information, 40- 42
proposed reforms, 119	standard of proof, 40-41
substantive concerns, 119-121	United States, comparison, 41-42
Jury warnings	joint commission of offences, 148
child witnesses, 315-316	Murder
delay in reporting, 317-318	accidental killing, 84-85, 90
Legal aid funding	causation, 81, 85
negative impacts, 56-57	deeming provisions, 85
Victoria, 48-49, 53, 62-63	substantially contributes test, 81, 85-86,
adversarial approach, 52-53, 62-63	91
benefits of reform, 59-62	constructive murder, 81, 87-88, 90-91
negative impacts, 57	negligent manslaughter, and, 88-89
plea bargaining, 57-58	proposed redraft, 90-91
pre-trial preparation, 53-54, 58-62	reasons for abolition, 88-89
priority of trial, 58-59	recommendations for abolition, 88, 90
quality and quantity of counsel, 55-56	fault element, 81, 83
salary comparison, 54-56	constructive murder, 88
Legal representation	recklessness, 83-84
right to a fair trial, 155	grievous bodily harm, 81
Media see also Pre-trial publicity	definition, 82-83
child sexual abuse, 11, 13-14	mandatory life sentence, 89
Medical negligence	proposed model code provision, 81-91
novus actus interveniens, 87	recklessness, 83-84, 88-89
substantially contributes test, 86-87	intention, and, 84
Mens rea see Presumption of mens rea	substantially contributes test, 81, 85-86
Mistake of fact	application of test, 86-87
defences, 189, 194	substantial, meaning, 86
availability of defence, 194-196	Negligent manslaughter
evidential burden, 195-196	constructive murder, and, 88-89
objective reasonableness, 196	New South Wales
positive mistake requirement, 195	child witnesses, 149, 306
positive informer requirement, 170	cross-examination, 149, 158-164, 312-313

hearsay evidence, 318	Presumption of mens rea
specialist jurisdiction, 314-315	fundamental presumption, as, 191, 193
uncorroborated evidence, 319-320	historical background, 192
unreliability of evidence, 315-316	regulatory crimes, 192
double jeopardy sentencing, 29	High Court challenge, 187-188, 196-197
hate crimes, 385-387	decision of case, 189
identity theft, 39	facts of case, 188
jury selection, 168, 171, 185	failure to address presumption, 190-191,
peremptory challenges, 173-174	nature of offence, 187-188, 194
probative value, 292	presumptive fault threshold, 190, 193-194
contrasting positions, 293-294	reasonable mistake of fact, 189, 194
development of approach, 300-304	reasoning of court, 190-191
New Zealand	overview, 187
adversarial system, 347	presumptive fault threshold, 187, 190, 193
child witnesses, 347, 362	alternative formulations, 193-194
cross examination, 351-356, 358	appropriateness, 194
delay before trial, 350-351	choice theory of culpability, 194
historical context, 348-349	reasonable mistake of fact, 189, 194
law reform, 349	availability of defence, 194-196
pre-recorded evidence, 349-351	evidential burden, 195-196
research study, 348	objective reasonableness, 196
specialist examiner proposals, 358-362	positive mistake requirement, 195
unacceptable questions, 349	Pre-trial process
Northern Territory	Victoria, 48-50, 63
counter-terrorism laws, 92	case conferences, 50-51
murder, 81, 91	court efficiency, 50-51
accidental killing, 84-85, 90	effectiveness of process, 51-52
amendments, 81-82	identification of issues, 50, 51
causation, 81, 85	legal aid funding, 53-54, 58-62
constructive murder, 81, 87-90	underlying ideals, 50-51
fault element, 81, 83-84, 88	Pre-trial publicity
grievous bodily harm, definition, 82-83	right to a fair trial, 5, 9-10
mandatory life sentence, 89	acquittal, 7-8
recklessness, 83-84, 88-89	court's reasoning, 6-8
substantially contributes test, 81, 85-87	jury directions, 5-6, 8
negligent manslaughter, 88-89	permanent stay, 6
Organised crime	wrongful conviction, 9-10
joint commission of offences, 148	Preventative detention
People trafficking see Trafficking in people	
Plea bargaining	sex offenders, 283, 291
legal aid funding, 57-58	arbitrary detention, 285-287
Presumption of innocence	constitutional validity, 283-284
terrorism offences, 94, 121	double punishment, 285

due process guarantee, 288	Queensland
rehabilitation objective, 286-287	identity theft, 39
retroactive further punishment, 285-287	sentencing advisory council, 398-399
United Nations decision, 285-291	Racism see Hate crimes
Prisoners' rights	Remedies see Declaratory relief
charter of rights (Vic), 217	Right to a fair trial
family unit, 218-219	child sex offenders, 13-14
human dignity, 219-220	child witnesses, 362
privacy right, 218-219	cross-examination of complainant, 80
European Convention, 219	impartial decision maker, 5-6
guidelines for corrections, 219	international covenants, 5
overview, 217	legal representation, 155
statutory provisions, 217	overview, 5
impact of provisions, 218	pre-trial publicity, 5, 9-10
medical care and treatment, 218-220	acquittal, 7-8
Privacy	court's reasoning, 6-8
prisoners' rights, 218-219	jury directions, 5-6, 8
Privilege against self-incrimination	permanent stay, 6
confiscation proceedings, 257-258	wrongful conviction, 9-10
Probative value	wrongful conviction, 9-10, 155
broad construction, 293	Sentencing
Christie discretion, 297-298, 302	child sex offenders, 16
application of discretion, 298-300	good character, 16-17, 22-23
credibility of witnesses, 299-300	community protection, 281-282
photo identification evidence, 299-300	foetal alcohol spectrum disorder, 232-233,
coincidence evidence, 297	235-236
contrasting positions, 293-294	double jeopardy, 16, 24-25, 29-30
credibility, 296, 298-302, 305	discount on resentencing, 25-26
definition, 293, 298, 305	merits of change, 30-31
plain meaning of words, 294-295	residual discretion, 25, 29
statutory context, 295	statutory modification, 26-29
joint concoction, 297	foetal alcohol spectrum disorder, 222, 228, 239
narrow construction, 293, 300	community protection, 232-233, 235-236
consequences, 304	culpability, 231-232
development of approach, 300-304	general deterrence, 232
rejection of approach, 304-305	imprisonment, 236-237
overview, 292	informing the court, 228-230
recent developments, 305	mitigating factors, 231
reliability, 295-296, 298, 300-302	probation orders, 234-235
tendency evidence, 297	proper assessment, 230
unfair prejudice, meaning, 292	rehabilitation, 232-233
Proceeds of crime see Confiscation	sexual offences, 237-238
legislation	supervision, 233-235, 238

therapeutic justice, 238-239	specific deterrence, 281
general deterrence, 232, 281	victim's role, 16, 31-32
good character, 16-17, 23	videolink sentencing see Videolink
absence of prior convictions, 17-19, 23-24	sentencing
commission of offence, 17, 21	violent offenders, 282
community contributions, 17, 19-20	Sentencing advisory councils
inconsistencies in approach, 21	overview, 385, 397
less weight situations, 21-22	Queensland, 398-399
ousting of consideration, 16-17	Tasmania, 398
progressive loss mitigation, 19	Sex offenders see also Child sex offenders
rationale for mitigation, 18-21	accommodation solutions, 290-291
reputation, 20-21	preventative detention, 283, 291
hate crimes, 323, 327, 385, 392, 394-395	arbitrary detention, 285-287
background to introduction, 323-324	constitutional validity, 283-284
culpability, 391	double punishment, 285
current law, 385	due process guarantee, 288
demonstration of hostility, 388-390	rehabilitation objective, 286-287
denunciation and deterrence, 391-392	retroactive further punishment, 285-287
equality principles, 391	United Nations decision, 285-291
group selection test, 324, 326-327,	sentencing, 16, 282
389-390	foetal alcohol spectrum disorder, 237-238
harm, 389-391	good character, 16
minority or majority groups, 393-394	treatment programs, 237-238, 289-290
motivation, meaning, 325	Sexual offences see also Child sexual abuse;
motive test, 324-326, 387-390	Unlawful sexual intercourse
partial motivation, 388	foetal alcohol spectrum disorder, 237
principle of proportionality, 391-392	treatment programs, 237-238
specification of increments, 392-393	probative value of evidence, 295
mitigating factors, 281	South Australia
foetal alcohol spectrum disorder, 231	double jeopardy sentencing, 28-29
good character, 16-24	identity theft, 38-39
murder, 89	Standard of proof
overview, 363	identity crime proposal, 40-41
public opinion, and, 281, 385, 395, 397	Summary offences
harsher penalties, 282, 397	videolink sentencing, 373 Tasmania
relevance, 395-397	
reform, 281	double jeopardy sentencing, 27-28
harsher penalties, and, 282	sentencing advisory council, 398
public comment, 281	Theft or larceny see also Identity theft
rehabilitation, 232-233, 281	common law, 34-35
sex offenders, 16, 282	Terrorism offences
foetal alcohol spectrum disorder, 237-238	admissibility of evidence, 101, 104
good character, 16	ancillary offences, 93

assets, 94	Rajeevan, Vinayagamoorthy and
background to introduction, 92-93	Yathavan, 110-112
bail, 105, 121	Sydney trials, 109-110
amendments, 122-123	Zeky Mallah, 95-96
effect of amendments, 123	public confidence, 117
exceptional circumstances, 103, 121-124	review of laws, 126-127
categories of charges, 125-126	terrorist act, definition, 92-93, 113
circumstantial evidence, 109	intentional elements, 95-96, 97-98
commencement, 94	interpretation problems, 113
conditions of detention, 124-125	political, religious or ideological cause,
conspiracy, 113	114
criticisms of laws, 113	terrorist organisations, 93, 99, 101-102, 113, 126
appropriate charges, 115	expert evidence, 111-112
drafting, 114-115	functions of proscription, 100
indeterminacy of offences, 114	indeterminacy of offences, 114
terrorist act, definition, 113-114	listing of organisations, 93
terrorist organisations, 114	member, definition, 108
indeterminacy of offences, 94, 114	proof, 100, 107-108, 111-112
discretion, and, 115	purpose of funds, 114
interim control orders, 102	trial conditions, 125
jury trials, 115-116	Trafficking in people
appropriateness, 116	cease, meaning, 404, 405
complexity of trials, 118-119	legislative framework, 400, 407
length of trial, 116-118	purpose of Division, 404-406
national security information, 119-121	overview, 406-407
peremptory challenge system, 167	penalties, 407
proposed reforms, 119	prosecutions, 400
substantive concerns, 119-121	appeal, 403-404, 406
overview, 94, 125-127	complainants, 401-402
pre-charge detention, 103	facts of case, 400-401
preparatory offences, 97, 113, 125-126	proceedings, 402-403
indeterminacy of offences, 114	sexual servitude, 406-407
presumption of innocence, 94, 121	Trials see Jury trials
prosecutions, 94, 127	United Kingdom
Ahmed, Aweys, Fattal, El Sayed and	identity theft, 44
Khayre, 112-113	virtual court pilot, 364-365
Belal Khazaal, 105-106	applicable cases, 365
Faheem Lodhi, 96-98	criticisms, 365-366
Izhar Ul-Haque, 98-100	United Nations Human Rights Committee
John Amundsen, 104	preventative detention, 285
Joseph Thomas, 101-102	arbitrary detention, 285-287
Melbourne trials, 106-109	compliance with decision, 288-291
Mohamed Haneef, 102-104	decision of committee, 287-288

double punishment, 285	salary comparison, 54-56
due process guarantee, 288	pre-trial process, 48-50, 63
retroactive further punishment, 285-287	case conferences, 50-51
United States	court efficiency, 50-51
identity theft provisions, 34, 41, 47	effectiveness of process, 51-52
proposed offence, comparison, 41-42	identification of issues, 50-51
jury selection, 178	legal aid funding, 53-54, 58-62
racism, 180	underlying ideals, 50-51
voir dire questions, 178-180	prisoners' rights, 217
Unlawful sexual intercourse	charter of rights and responsibilities
nature of offence, 187-188, 194	217-220
presumption of mens rea, 187, 196-197	impact of provisions, 218
decision of case, 189	medical care and treatment, 218-220
facts of case, 188	Videolink sentencing
High Court challenge, 187-188	adapting technology, 380-381
reasoning of court, 190-191	behaviour of defendants, 377-380
Victims	benefits, 374
impact statements, 31-32	public access to proceedings, 374
sentencing role, 16, 31-32	public safety, 375
Victoria	configuration for technology, 380, 382
charter of rights and responsibilities, 80	empirical study, 371, 378, 383
family unit, 218-219	method and approach, 371-372
human dignity, 219-220	results, 372-373, 378
legal aid, 60	general powers, 368
prisoners' rights, 217-219	court's discretion, 368
privacy, 218-219	rules of court, 368-369
right to cross-examine, and, 80	legislative framework, 366
criminal justice system, 48-49	comparative analysis, 369-371
double jeopardy sentencing, 28	variations in legislation, 366-367, 371
hate crimes, 323, 327, 392	opposing considerations, 375
background to introduction, 323-324	adequacy of training, 375
group selection test, 324, 326-327, 389	behaviour of defendants, 377-378
motivation, meaning, 325	involvement of others, 377
motive test, 324-326, 388-389	lawyers' access to clients, 376
jury selection, 168, 171	loss of understanding, 376
legal aid funding, 48-49, 53, 62-63	mistaken identity, 376
adversarial approach, and, 52-53, 62-63	severity of sentence, 377
benefits of reform, 59-62	overview, 363-364, 374, 383-384
negative impacts, 57	physical sentencing environment, 378-380
	382-384
plea bargaining, and, 57-58 pre-trial preparation, 53-54, 58-62	behavioural cues, 379
priority of trial, 58-59	extension of courtroom, as, 379
quality and quantity of counsel 55-56	practical suggestions, 381

```
preliminary protocols, 382
    support for defendant, 382
    training, 383
public access and participation, 374, 381, 383
specific powers, 367
    court's discretion, 367-368
summary offences, 373
training, 375, 383
utility of mechanism, 373-374
virtual court pilot, 364-365
    applicable cases, 365
    criticisms, 365-366
Wardship proceedings
right to a fair trial, 356
Western Australia
double jeopardy sentencing, 26-27
grievous bodily harm, 82
    definition, 82
Witnesses see Child witnesses
Wrongful conviction
pre-trial publicity, 9-10
right to a fair trial, 9-10, 155
Young offenders
bail, 345-346
child sexual assault, 189
```