## Index

Accessorial liability see also Joint criminal	Quebec statute, 36
enterprise	evidence, 43
intention, 243	expert evidence, 143–149
recklessness, 56	"Mr Big" police operations, 43–47
Admissibility of evidence	mandatory minimum sentences, 33, 35
criminal organisations, 130-131	constitutional challenge, 34
expert evidence, 134, 136–137	general deterrence, 34–35
occupational experiential evidence, 131, 132,	proportionality, 35
134–136, 137–138, 139–140, 153	mens rea, 38
R v Cluse, 130, 131, 132, 134–136, 137–138,	intention of parliament, 38, 39
140, 151	presumption of subjective mens rea, 38–39
expert evidence, 134, 136–137	pre-trial statements, 43
Canada, 143–149	"Mr Big" police operations, 43–47
hearsay, and, 141–151	presumption of innocence, 270
United States, 149–150	inconsistent provisions, 270–271, 272, 277
occupational experiential evidence, 131,	prostitution offences, 36
132–136, 137–138, 153	constitutional challenge, 36-37
fitness to give evidence, 133, 139	new provisions, 37
hearsay, and, 137–139, 140–153	taking benefits offence, 37
types of experience, 133–134	provocation defence, 41
scientific experiential evidence, 137	amendments, 41–42
Animal welfare	right to silence, 43, 46
greyhound racing industry, 303	sexsomnia defence, 42–43
overview, 303	spousal incompetency, 47–48
shark nets, 304	abolition of rule, 48
Appeals	criticisms of rule, 47
overview, 13–14	rationales for rule, 47
proviso, 13, 14	terrorist risk assessment, 172, 173
sentencing appeals, 125	Carriage service offence
Crown appeals, 14–15	Crowther v Sala, 18–19, 31–32
reasonable grounds for appeal, 126	elements of offence, 17, 31–32
refusal of legal aid, 125, 126, 127  Arson offences	fault element, 17–18, 19–20, 31
Canada, 39–40	physical elements, 17, 18, 19, 20–21
intoxication as a defence, 39, 40–41	explanatory memorandum, 24-25
Assisted suicide	fault element, 17–18, 19–20
Canada, 35, 36	recklessness, 18, 31
criminal offence provisions, 35–36	menacing, harassing or offensive, 20-21, 31, 32
Australian Capital Territory	application of <i>Monis</i> , 27–31
sentencing council, 338–339	"harassing", meaning, 24, 26–27, 28–29, 30
Bail	"menacing", meaning, 24, 28
"show cause" amendments, 327	Monis v R, 22–23
Canada	"offensive", meaning, 22, 23–24, 27, 29,
arson offences, 39–40	30–31
intoxication as a defence, 39, 40–41	R v Ogawa, 25–27, 29–30
assisted suicide, 35, 36	"method of use", 20, 21
criminal offence provisions, 35–36	overview, 16, 31–32
communication provisions, 33 30	physical elements, 17, 18, 19, 20, 32

(2016) 40 Crim LJ 373 373

Carriage service offence – continued	rehabilitation, 174
menacing, harassing or offensive, 20-21	requirements for issue, 165–166
R v McDonald, 20–21	risk assessment, 166-167
recklessness, 18	approaches, 167–169
definition, 18	criticisms, 167
structure of provision, 16–17	errors, 167
Child sexual abuse	terrorism offenders, 164, 165, 173-174,
royal commission, 325-326, 341, 344	178–179
criminal responsibility of organisations, 342–	Counter-terrorism laws see Terrorism laws
343	Criminal Code
restorative justice, 344	criminal responsibility, 17, 31
sentencing, 342, 343	elements of offences, 17
Child sexual assault	telecommunication offences see Carriage
sentencing, 326–327	service offence
Compulsory examinations	Criminal organisations
Charter of Human Rights and Responsibilities,	admissibility of evidence, 130-131
217–219, 222	expert evidence, 134, 136–137
court's inherent power, 219–221	occupational experiential evidence, 131, 132
stay of proceedings, 219, 222	134–136, 137–138, 139–140, 153
fair trial, and, 213, 217, 219, 221, 227	R v Cluse, 130, 131, 132, 134–136, 137–138
absence of protections, 222–223	140, 151
Constitution, 221	drug offences, 154
court's inherent power, 219-221	role of offender, 159–160, 161–162
derivative use immunity, 223-224, 225	expert evidence, 134, 136–137
derivative use of information, 223	Canada, 143–149
prejudice, 224–226, 227	hearsay, and, 141–151
options for change, 228–229	United States, 149–150
principle of legality, 213, 215, 225	occupational experiential evidence, 131,
application of principle, 215–216	132–136, 137–138, 153
constraints, 216–217	fitness to give evidence, 133, 139
intention of parliament, 215, 217	hearsay, and, 137–139, 140–153
privilege against self-incrimination, 213,	types of experience, 133–134
214–215, 227	overview, 129
fair trial, 221, 222–227	participation offences, 129
mitigation of impact, 215-221, 229	proof of existence, 129–130
options for change, 228–229	admissibility of evidence, 130-131
prejudice, 224–226, 227	Criminal procedure
rules of evidence, 225	stay of civil proceedings, 9–10, 15
timing of charge, 226–227	Criminal trial see Trial
Constitution	Cross-examination
fair trial, 221	calls for reform, 283, 286
separation of powers, 7	control of questioning, 283, 284, 285
trial on indictment, 287, 290	disallowable questions, 284–285
institutional approach, 287–288	overview, 283–284, 286
New South Wales, 287–291	United Kingdom, 283, 285–286
functional approach, 290-291	<b>Defences</b> see also <b>Intoxication</b> ; <b>Provocation</b>
textual factors, 288–289	defence
Continuing detention orders	sexsomnia, 42–43
international human rights, 166, 178	Definitions
justifications, 166	consent, 246, 247–248
overview 164 165	principal, 155

Definitions – continued	legislative intervention, 220–221
problem gambling, 76	stay of proceedings, 219, 222
recklessness, 18	requirements, 221–222
terrorist act, 163	Family violence
traffick, 264	family violence intervention orders, 330
Derivative criminal liability see Joint criminal enterprise	family violence orders, 337
Domestic violence see Family violence	royal commission, 339–340 recommendations, 340–341
Driving offences	
breath analysis evidence, 10	sentencing, 327–328
sentencing, 338	Federal offences see also Carriage service offence
<del>-</del>	
Drug offences	sentencing, 3, 12
presumption of innocence, 263	state courts, 3–5, 12–13
Canada, 270–271	trial on indictment, 287, 290
Commonwealth offences, 263–264	institutional approach, 287–288
role of offender, 154–155, 160, 162	New South Wales, 287–291
accuracy of findings, 159–160	functional approach, 290–291
average head sentences, 156	textual factors, 288–289
couriers, 155, 158	Freedom of speech
culpability, and, 158–159, 161–162	advocating terrorism offence, 207–208
displacement of relevant factors, 160–161	Gambling disorders see Problem gambling
impact of role, 155–156	Greyhound racing industry
legislative scheme, and, 157	New South Wales, 303
position in hierarchy, 160	Hearsay
principals, 155	occupational experiential evidence, and, 137-
remorse, and, 161	139, 140–153
seriousness of offence, 158	High Court
standard non-parole periods, 157–158	development of jurisprudence, 15
sentencing, 3–5, 154, 162	overview, 15
New South Wales, 154–162	presumption of innocence, 262, 266, 267
role of offender, 154–162	accusatorial and adversarial trial, 269,
Victoria, 3, 4, 5	276–277
Evidence	Chapter III, 274–277
admissibility see Admissibility of evidence	judicial process, 275–276
exclusion of evidence, 10	parliament's power, 268, 269, 274
breath analysis evidence, 10	reverse onus provisions, 266–267, 268
residual discretion, 11, 15	separation of powers, 274–275
pre-trial statements, 43	due process, 275
Canada, 43–47	High Court decisions, 2015
"Mr Big" police operations, 43–47	appeals, 13–14
Fair trial see also Presumption of innocence;	Crown appeals, 14–15
Procedural fairness	proviso, 13, 14
compulsory examinations, 213, 217, 219-221,	constitutional validity, 6
222, 227	police powers, 6–7
absence of protections, 222–223	criminal procedure, 9
derivative use immunity, 223-225	stay of civil proceedings, 9–10, 15
derivative use of information, 223	evidence, 10
prejudice, 224–227	exclusion of evidence, 10–11, 15
Constitution, 221	overview, 6, 15
court's inherent power, 219–221	perverting the course of justice, 7

High Court decisions, 2015 – continued	reconsideration by High Court, 57–58,
elements of offence, 7–8	110–111, 113, 115, 244, 245
procedural fairness, 10	intention, 243, 244
provocation defence, 8	Judicial review
subjective limb, 8–9	refusal of legal aid, 125, 126–127
sentencing, 11	New Zealand, 128
application of principles, 3-4, 12-13	unreasonableness, 125, 126-127
Crown appeals, 14–15	Jury trials see Trial on indictment
federal offences, 3-4, 12-13	Juvenile offenders
unknown facts, 11–12	indigenous offenders, 305–306
Human rights see also International human	royal commission, 305–306, 326, 344–346
rights	sentencing, 345–346
legal aid, 127, 128	people smuggling offences, 96, 105–106
Imprisonment see also Parole	sentencing, 329
costs of imprisonment, 194, 195, 303, 311	people smuggling offences, 105-106
indigenous offenders, 305, 325	Large commercial drug offences see Drug
overview, 303	offences
public policy, 303–304	Legal aid
"tough on crime" policy, 305	human rights, 127, 128
Imprisonment rates	refusal of applications, 125
Australia, 195, 303, 311, 312	judicial review, 125, 126–127
Victoria, 333–334	New Zealand, 128
United States, 193, 194, 305	reasonable grounds for appeal, 126
Indigenous offenders	unreasonableness, 125, 126-127
imprisonment, 305, 325	Mandatory minimum sentences
juvenile offenders, 305–306	Canada, 33, 35
royal commission, 305–306, 326, 344–346	constitutional challenge, 34
sentencing, 345–346	general deterrence, 34–35
parole restrictions, 311–312	proportionality, 35
Innocence see Presumption of innocence	people smuggling offences, 92, 96, 109
International human rights	aggravating factors, 100-104
continuing detention orders, 166, 178	attempts to repeal, 108–109
people smuggling offences, 107–108	background to introduction, 93, 96
presumption of innocence, 265	Bahar v R, 97, 98
Intoxication	constitutional challenges, 109
defence to arson, as, 39, 40-41	criticisms and concerns, 96, 106–109
Joint criminal enterprise see also Accessorial	Dui Kol v R, 98–99
liability	excessive sentences, 106–107
extended joint criminal enterprise, 55, 58,	general deterrence, 99-100, 109
110–112, 113, 115, 243, 245	international human rights concerns, 107-108
assent to criminal enterprise, 55-56, 111	juvenile offenders, 96, 105
Chan Wing-Sui doctrine, 55, 56, 57, 110, 112,	mitigating factors, 104
115, 243	R v Pot, 96–97
conceptions of justice, 245	repeat offences, 98, 102–103
difficulties in law, 113, 244	two-step approach, 96–97, 98
foresight of possibility, 55, 57, 110, 111, 113,	Mens rea
114, 243–244, 245	Canada, 38
Johns v R, 55–56, 111, 112, 245	intention of parliament, 38, 39
lower threshold for guilt, 114	presumption of subjective mens rea, 38–39
McAuliffe v R, 55, 56, 57–58, 110–111, 244	
moral culpability, 244	

Murder	public attitudes, 307–308, 312, 321–322
sentencing, 11, 125	research, 308-309, 313, 322-324
unknown facts, 11–12	public attitudes study, 313, 316, 322, 323, 324
New South Wales	attitudes towards offenders, 316–317
drug offences, 154, 157, 162	correctional goals, 316, 322
average head sentences, 156	data and procedure, 314
culpability, 158–159, 161–162	demographic characteristics, 315
legislative scheme, 157	eligibility for parole, 317–318
role of offender, 154–162	non-parole periods, 318–319
seriousness of offence, 158	parole boards, 319–321, 323
standard non-parole periods, 157-158	parole release decisions, 321, 323
greyhound racing industry, 303	results, 316–321
sentencing councils, 326, 328	public involvement, 323-324
bail, 327	People smuggling offences
child sexual assault, 326-327	aggravating factors, 100–101
family violence, 327–328	captains of vessels, 101–103
sexual assault, 246, 261	crewmembers, 101, 102
consent, definition, 246, 247–248	danger to passengers, 103-104
honest belief in consent, 248, 249, 253, 254	number of passengers, 104
intention of reforms, 252–253, 261	organisers, 101
mental element, 246-247, 248, 249-261	prior convictions, 102–103
negation of consent, 246, 248	juvenile offenders, 96, 105–106
recklessness, 252, 254–257	mandatory minimum sentences, 92, 96, 109
reforms, 246–249, 251, 252–253, 261	aggravating factors, 100–104
trial on indictment of federal offences, 287, 290	attempts to repeal, 108–109
institutional approach, 287–288	background to introduction, 93, 96
functional approach, 290–291	Bahar v R, 97, 98
textual factors, 288–289	constitutional challenges, 109
Northern Territory	criticisms and concerns, 96, 106–109
indigenous juvenile offenders, 305–306	Dui Kol v R, 98–99
royal commission, 305–306, 326, 344–346	excessive sentences, 106–107
sentencing, 345–346	general deterrence, 99-100, 109
police powers, 6	international human rights concerns, 107–108
constitutional validity, 6–7	juvenile offenders, 96, 105
sentencing council, 338	mitigating factors, 104
separation of powers, 7	R v Pot, 96–97
Nuisance see Public nuisance	repeat offences, 98, 102–103
Parole	two-step approach, 96–97, 98
breach of conditions, 310	offender profiles, 94
calls for reform, 308	captains of vessels, 101–103
discretionary parole, 309	crewmembers, 94, 101, 102
indigenous offenders, 311–312	organisers, 94, 95, 101
legislative changes, 310–311, 325	overview, 92, 93, 109
implications of restrictions, 311–312	pleas and costs, 107
examples of failure, 308, 321, 325	sentencing, 95
mandatory parole, 309–310	juvenile offenders, 105–106
"no body, no parole" laws, 310–311	previous regime, 106–107
non-parole periods, 309, 318–319, 332	relevant factors, 95, 96
standard non-parole periods, 157–158	Perverting the course of justice
overview, 307, 308, 324	elements of offence. 7–8

Police powers	fair trial, 221, 222–227
constitutional validity, 6-7	mitigation of impact, 215-221, 229
Presumption of innocence	options for change, 228–229
abrogation of presumption, 262, 279, 282	prejudice, 224–227
Commonwealth offences, 263–265	court's inherent power, 219–221, 222
criminality, definition, 279-282	origins of privilege, 213–214
elements of offence, 262–263, 264, 277, 279,	overview, 213–214
280, 281	principle of legality, 213, 215, 225
international dimension, 270-274	application of principle, 215–216
parliament's power, 268, 269, 270	constraints, 216–217
principle of legality, 269	intention of parliament, 215, 217
reverse onus provisions, 263, 265, 266–267,	Problem gambling
268, 272, 277, 279	choice to offend, 82, 83–84, 86, 88–90
state offences, 263	cogency of justifications, 82–86
substance and form, 279-282	choice to offend, 82, 83–84, 86, 88–90
constitutional protection, 262, 274-277, 279,	contrast of offenders, 84–85
281	extended period of offending, 84
High Court, 262, 266, 267	connection with crime, 78, 88
accusatorial and adversarial trial, 269, 276-	frequency as cause, 79–80
277	research, 78–80
Chapter III, 274–277	courts' approach, 74, 87
judicial process, 275–276	justifications for approach, 81–86, 88–89
parliament's power, 268, 269, 274	definition, 76
reverse onus provisions, 266–267, 268	excluded causal relationships, 76
separation of powers, 274–275	measurement tools, 74–75
history, 265–266	overview, 74, 76, 91
international dimension, 270	proposals for reform, 89–91
Canada, 270–271, 272, 277	sentencing, 74, 77
United Kingdom, 271–274, 277	frequency as cause, 79–80
overview, 262, 265, 282	mitigating factors, 74, 75–76, 77, 78, 80, 89,
rationales for presumption, 265–266	90–91
reasonable doubt, 277–278	proposals for reform, 89-91
balance of probabilities, 278–279	psychologist or psychiatric reports, 76
right to silence, and, 267	sentencing objectives, 77, 81
Preventative detention orders see also	general deterrence, 81, 82, 86, 87, 88, 89
Continuing detention orders	moral culpability, 81, 82, 84–85, 86, 89
terrorism offenders, 164, 165	proportionality, 81, 88
Principle of legality	rehabilitation, 88
application of principle, 215–216	retribution, 81–86
compulsory examinations, 213, 215–216, 225	Procedural fairness
constraints, 216–217	disclosures to counsel, 10
intention of parliament, 215, 217	Prostitution offences
overview, 215	Canada, 36
presumption of innocence, 269	constitutional challenge, 36–37
world wide principle of legality, 215	new provisions, 37
Privilege against self-incrimination	taking benefits offence, 37
abrogation of privilege, 214–215	Provocation defence
Charter of Human Rights and Responsibilities,	Canada, 41–42
217–219, 222	limbs of defence, 8
compulsory examinations, 213, 214–215, 227	subjective limb, 8–9

Public nuisance	sentencing, 342, 343
alternative approach, 72–73	family violence, 339-340
brief history, 61–62	recommendations, 340–341
conduct directed at police, 67, 70–71	indigenous juvenile offenders, 305–306, 326,
court of appeal, 63, 66	344–346
conduct directed at police, 67, 70–71	public hearings, 346
examples of behaviour, 66–67	sentencing, 345–346
district court, 63, 66	terms of reference, 345
conduct directed at police, 67	overview, 325
examples of behaviour, 66-67	Self-incrimination see Privilege against self-
infringement notices, 60, 62, 67–68	incrimination
"party or street" people, 68–69	Sentencing
magistrates court, 63, 64-65	appeals see Appeals
common fact scenarios, 65	application of principles, 3, 4
penalties and outcomes, 65–66	consistency, 3, 5, 12–13
overview, 59–60, 67, 73	child sexual abuse, 342, 343
police accountability, 60, 67-68	child sexual assault, 326–327
standard of offensiveness, 61, 69, 70-72	drug offences, 3–5, 154, 162
Coleman v Power, 69–70	average head sentences, 156
statistical information, 2005 to 2014, 62-64, 67	culpability, 158-159, 161-162
vulnerable people, and, 60, 62, 67	displacement of relevant factors, 160–161
Queensland	legislative scheme, 157
public nuisance, 59-60, 61, 67, 73	New South Wales, 154–162
alternative approach, 72–73	role of offender, 154–162
brief history, 61–62	seriousness of offence, 158
court of appeal, 63, 66–67, 70–71	standard non-parole periods, 157–158
district court, 63, 66–67	Victoria, 3, 4, 5
infringement notices, 60, 62, 67–69	federal offences, 3, 12
magistrates court, 63, 64–66	state courts, 3–5, 12–13
"party or street" people, 68–69	gambling disorders see Problem gambling
police accountability, 60, 67–68	general deterrence, 34–35, 81, 82, 86, 87, 88, 89
standard of offensiveness, 61, 69–72	people smuggling offences, 99–100
statistical information, 2005 to 2014, 62-64,	incarceration rates, 193, 194, 195
67	instinctive synthesis approach, 3–4, 5
vulnerable people, and, 60, 62, 67	juvenile offenders, 329
sentencing council, 334–335	indigenous offenders, 345–346
Rape	people smuggling offences, 105–106
maliciousness, 230–232	mandatory sentencing see Mandatory
sentencing appeals, 125	minimum sentences
reasonable grounds for appeal, 126	murder, 11, 125
refusal of legal aid, 125, 126, 127	unknown facts, 11–12
Right to silence see also Privilege against self-	objectives, 77, 81
incrimination	overview, 325
Canada, 43, 46	people smuggling offences, 95, 96, 99–100
presumption of innocence, and, 267	juvenile offenders, 105–106
Royal Commissions	previous regime, 106–107
child sexual abuse, 325–326, 341, 344	proportionality, 35, 77, 81, 88
criminal responsibility of organisations, 342–	sexual offences, 337–338
343	suspended sentences, 335–337
restorative justice, 344	"tough on crime" policy, 193, 195, 305

Sentencing – continued	policy considerations, 252–253
United States, 193	reasonable grounds for belief, 250–251, 260
reform movement, 193–194	recklessness, 252, 254–257
Sentencing councils	text of provision, 251
Australian Capital Territory, 338–339	negation of consent, 246, 248
effectiveness, 346–347	overview, 246, 261
New South Wales, 326, 328	recklessness, 252, 254, 257
bail, 327	case law, 255
child sexual assault, 326-327	extra-statutory materials, 255-256
family violence, 327–328	policy considerations, 256–257
Northern Territory, 338	text of provision, 254–255
overview, 325, 346–347	reforms, 246–249, 251
Queensland, 334–335	intention of reforms, 252–253, 261
role of councils, 347	sexsomnia defence, 42-43
South Australia, 335	Silence see Right to silence
Tasmania, 335	South Australia
driving offences, 338	drug offences, 263
family violence orders, 337	sentencing, 195
sexual offences, 337–338	sentencing council, 335
suspended sentences, 335-337	Spousal incompetency
Victoria, 328–329, 334, 347	Canada, 47–48
baseline sentencing, 332–333	Suicide see Assisted suicide
community corrections orders, 329-330	Tasmania
family violence intervention orders, 330	drug offences, 263
guilty pleas, 330–331	sentencing council, 335
imprisonment rates, 333–334	driving offences, 338
juvenile offenders, 329	family violence orders, 337
non-parole periods, 332	sexual offences, 337-338
reoffending patterns, 330	suspended sentences, 335-337
Separation of powers	Telecommunications offences see Carriage
Northern Territory, 7	service offence
Sex offenders	Terrorism laws
continuing detention orders, 164, 165, 178	Abbott government laws, 197–198, 200–204,
rehabilitation, 174	211–212
requirements for issue, 165–166	effectiveness, 208–211
risk assessment, 166–169	funding, 210
Sexsomnia defence	impact on rights, 207–208
Canada, 42–43	need for laws, 204-205, 211
overview, 43	parliamentary process, 205–207
Sexual assault see also Child sexual abuse	advocating terrorism, 203, 207–208
consent, definition, 246, 247-248	citizenship, 197, 204, 208
honest belief in consent, 248, 249, 253, 254	parliamentary process, 207
mental element, 246-247, 248, 249, 251	community-based policy strategies, 210–212
concerns, 257–258	detention of suspects, 165
culpability, 258	existing framework, 198-199, 200, 204
interpretations of test, 250, 251, 252-257	foreign fighters, 197, 198, 199-200, 204
legal test, 249, 258, 260	effectiveness of laws, 208–211
negligence standard, 258, 259–261	legal responses, 200–204
objective standard, 249, 250, 252-253,	need for laws, 204-205
258–259	Foreign Fighters Act, 202–203, 210
	advocating terrorism, 203, 207–208

Terrorism laws – continued	terrorist risk assessment, 172-173
control orders, 203	United States
parliamentary process, 206	expert evidence, 149–150
intelligence gathering, 197, 201	incarceration rates, 193, 194, 305
computer access, 201	sentencing, 193
special intelligence operations, 201–202	reform movement, 193-194
mandatory data retention, 197, 203	Victoria
journalists' confidential sources, 203-204	family violence royal commission, 339-340
parliamentary process, 207	recommendations, 340-341
overview, 163, 196, 197, 211-212	imprisonment rates, 311
terrorist act, definition, 163	parole, 310
threat of terrorism, 196-197, 209	breach of conditions, 310
scale of threat, 199-200, 204	privilege against self-incrimination, 217–219,
United Kingdom, 271–272, 274	222
Terrorism offenders	sentencing, 3
continuing detention orders, 164, 165, 173–174,	drug offences, 3, 4, 5
178–179	sentencing council, 328–329, 334, 347
control orders, 164-165, 197-198, 200, 203	baseline sentencing, 332–333
de-radicalisation programs, 174, 178–179	community corrections orders, 329–330
counseling, 175–176	family violence intervention orders, 330
developing a program, 175–178	guilty pleas, 330–331
identity change, 176–177	imprisonment rates, 333–334
international programs, 174–175	juvenile offenders, 329
mentoring, 177	non-parole periods, 332
post-release support, 178	reoffending patterns, 330
reintegration, 176	Violent offenders
religious re-education, 177–178	continuing detention orders, 164, 178
overview, 163–164	rehabilitation, 174
preventative detention orders, 164, 165	requirements for issue, 165–166
risk assessment, 169, 178, 179	risk assessment, 166–169
comparison of tools, 173–174	terrorism offenders, distinction, 169
current tools, 172–173	Western Australia
developing a tool, 169–171	drug offences, 263
risk factors, 170–171	Wrongful conviction
violent offenders, distinction, 169	overview, 292
Trial see also Cross-examination; Fair trial	R v Holt, 292–294
accusatorial and adversarial, 269, 276-277, 283	
Trial on indictment	
federal offences, 287, 290	
institutional approach, 287–288	
New South Wales, 287–291	
functional approach, 290–291	
textual factors, 288–289	
United Kingdom	
cross-examination, 283, 285–286	
calls for reform, 283, 286	
presumption of innocence, 270	
inconsistent provisions, 272–274, 277	
terrorism offences, 271–272, 274	
terrorism prevention strategies, 210–211, 212	