```
AIDING AND ABETTING, 1.1.7
ARRESTS, NATURE OF
buy and bust, 1.3.2
following lengthy surveillance or investigation, 1.3.6
home search, 1.3.5
incidental to arrest for another matter, 1.3.7
investigative detention, 1.3.5
K-9 search, arresting resulting from, 1.3.4
street detention, 1.3.1
vehicle stops, detention or arrest resulting from 1.3.3
BAIL
ascertaining Crown's position, 1.2.3, 2.3
hearing
  approaching Crown, 2.4
  client conduct following, 2.5
   meeting with client concerning, 2.3
     information to obtain, 2.3.1
     retainer, 2.3.2
     sureties, 2.3.3
  reverse onus, 2.1, 2.2
monies, exempted from proceeds of crime provision, 16.8
CHARTER ISSUES
Canada Evidence Act and section 13, 13.4
cross-examination
affiant, 10.10.9
officer who swore ITO, 10.10.10
sub-affiant, 10.10.13
detention and imprisonment
  brief detention based on belief that detainee is related to offence, 10.8
  reasonable and probable grounds for arrest, 10.9
section 9, 10.6
sufficient grounds, determination of, 10.10
whether person is "detained", 10.7
electronic surveillance, 11.6
excising material from unreasonable searches, 10.10.14
exclusion of evidence, 10.10.16, 11.6
informers, information from, 10.10.11, 10.10.12
notice of, pre-trial proceedings, 7.7, 10.1
search and seizure
```

```
CHARTER ISSUES — Continued
search and seizure — Continued
  incident to lawful arrest, 10.4, 10.5
  notice, 10.1
  officer safety during investigative detention, 10.3
   voir dire, 10.1
   warrantless searches and seizures, 10.2
self-incriminating evidence and defence witnesses, 12.8
standing, 10.10.8
sufficient grounds for arrest
  components of section 10(b), 10.10.2
   conduct after exercise of s. 10(b) rights, 10.10.5
   due diligence and waiver, 10.10.3
  notice of breach, 10.10.7
  right to be informed, 10.10.1
  right to counsel, 10.10.1
  search warrants, challenging, 10.10.6
warning, supplementary, 10.10.4
voir dire, 7.8, 10.1, 10.10.8
warrant
  challenging, 10.10.6
  setting aside, 10.10.15
   warrantless searches and seizures, 10.2
CONFLICT OF INTEREST
representing more than one accused, 17.2
representing more than one defendant, 17.1
retainer
  non-payment of fees, withdrawing from record, 17.6
paid by legal fees exemption under s. 462.34(c)(ii), 17.5
third party payor of, 17.4
sureties, dealing with, 17.3
withdrawing from record for non-payment of fees, 17.6
CONSPIRACY OFFENCES, 1.1.8
CONTACT WITH CLIENT, see also INTERVIEW WITH CLIENT, FIRST
ascertaining Crown's position re bail, 1.2.3
by telephone, pitfalls of, 1.2.1
caution to client, 1.2.2
first interview, 4
information to obtain, 1.2.2
CONTROLLED DRUGS AND SUBSTANCES ACT
definitions
```

```
CONTROLLED DRUGS AND SUBSTANCES ACT — Continued
definitions — Continued
   controlled substance, 1.1.1
  evidence to contrary, 8.5.1(b)
  offence-related property, 1.1.1
   trafficking, 1.1.3, 8.4.1(b)
detention and restoration of seized property, 4.6
forfeiture under, 15.4
  suspension of, pending application for relief, 15.5.3(d)
importing and exporting offences, 1.1.6
offences, generally, 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.1.5, 1.1.6, 6.1.1, 8.2.1, 8.3.1, 16.6
police powers, 9.3-9.6
possession offences, 1.1.2, 1.1.4
proceeds of crime
  laundering, 16.6
  possession of property obtained by commission of predicate offences, 16.4
  statutory provisions, 16.1
production offences, 1.1.5
proof of substance by certificate, 8.5.1
Schedules, 14.4, Appendix A
search and seizure provisions
   exigent circumstances, 9.5
   person, search of, 9.3
  place, search of, 9.2
   warrant requirement, 9.1
   what can be seized, 9.4
trafficking offences, 1.1.3, 1.1.4
COUNSELLING, 1.1.9
CRIMINAL CODE OFFENCES
aiding and abetting, 1.1.7
conspiracy, 1.1.8
counselling, 1.1.9
criminal organization, 1.1.10
laundering proceeds, 1.1.1
possession of property obtained by commission of offence, 1.1.1
CRIMINAL ORGANIZATION OFFENCES, 1.1.10
DEFENCES
de minimus non curat lex, 13.5
entrapment, 13.9
  jury trial, at, 13.9.2
  Mack and other cases, 13.9.1
```

```
DEFENCES — Continued
entrapment — Continued
  non-jury trial, at, 13.9.3
reverse stings, 13.9.4
fact patterns, common, and
   agent for purchaser, 13.7
   Canada Evidence Act and Section 13 of the Charter, 13.4
   entrapment, 13.9
  joint possession, 13.2
  lack of consent, 13.1.3, 13.1.4
  lack of control, 13.1.2
   lack of knowledge, 13.1.1, 13.1.4
  lack of knowledge and consent, 13.1.4
  minute traces of drug, 13.5
  mistake of fact, 13.8
   motor vehicle, drugs found in, 13.3
possession for purpose of trafficking cases, 13.6, 13.9.1
joint possession, 13.2
mistake of fact, 13.8
possession cases, 13.1
entrapment, 13.9
joint possession, 13.2
lack of consent, 13.1.3, 13.1.4
lack of control, 13.1.2
lack of knowledge, 13.1.1, 13.1.4
lack of knowledge and consent, 13.1.4
possession for purpose of trafficking cases, 8.3, 13.6, 13.9.1
purpose of possession in question, 8.3, 13.6
reverse stings, 13.9.4
trafficking cases, 13.9.1
  mistake of fact, 13.8
DETENTION AND IMPRISONMENT
arrest on reasonable and probable grounds, 10.9
brief detention on reasonable grounds, 10.8
Charter rights under Section 9, 10.6
determining whether "detained", 10.7
determining whether investigating officer had sufficient grounds, 10.10
reasonable grounds
  arrest, 10.9
  brief detention on, 10.8
Reports to Crown Counsel (RTCC), 10.10
```

```
DISCHARGE
charges where available, 14.6.1
conviction, or, 14.5
principles for granting, 14.6
DISCLOSURE
cataloguing, 5.1.6
contents, 5.2
   complicated cases, 5.2.3
     amount, weight, purity and value of drug, 5.2.3(1)
     copies of seized documents, 5.2.3(j)
     criminal record of all witnesses, 5.2.3(h)
     disciplinary record of police witnesses, 5.2.3(i)
     forensic reports and notes of experts, 5.2.3(c)
     information to obtain, 5.2.3(d)
     interception of private communications, 5.2.3(g)
     investigation files, 5.2.3(k)
     police reports, 5.2.3(b)
     search warrant, 5.2.3(d)
     surveillance evidence, 5.2.3(f), 5.2.3(g)
     unsealing informations to obtain, 5.2.3(e)
     wiretap affidavits, 5.2.3(e)
     witness lists, statements and will-says, 5.2.3(a)
   simple cases, 5.2.2
Crown counsel's duty respecting, 5.1.3
defence counsel's duty to obtain, 5.1.2
follow-up demands, 5.1.7
full disclosure, right to, 5.1.1
generally, 5.1
objectives of, 5.2.1
preliminary hearing, further disclosure and, 6.1.2(b)
request in writing, 5.1.5, 5.1.7, Appendix B
timeliness, 5.1.4
ELECTION
judge or jury, 6.2
preliminary hearing or trial, 6.1
   strategic considerations, 6.1.2
     choice of jurist, 6.1.2(d)
     judicial control of scope of inquiry, 6.1.2(c)
     test of sufficiency, as, 6.1.2(a)
     vehicle for further disclosure, as, 6.1.2(b)
   when question will arise, 6.1.1
```

```
ELECTRONIC SURVEILLANCE
authorization
challenging validity, 11.3
legal requirements for, 11.2
standing to challenge, 11.4
Charter issues, 11.6
cross-examination of wiretap affiant, 11.5
disclosure, 5.2.3(e)-(g)
generally, 11.1
ENTRAPMENT, see DEFENCES
ESSENTIAL ELEMENTS TO BE PROVED BY CROWN
possession for purpose of trafficking, 8.3
  possession, 8.3.1(a)
  proof of substance alleged, 8.3.1(c), 8.5
  purpose, 8.3.1(b)
possession offences, 8.2
  consent, 8.2.2(b)
   control, 8.2.2(c)
  knowledge, 8.2.2(a)
  proof of substance alleged, 8.2.2(d)
   when offences arise, 8.2.1
when possession offences arise
proof of substance alleged, 8.5
  admissions, 8.5.3
  certificate, by, 8.5.1
   viva voce evidence of analyst, 8.5.2
trafficking offences, 8.4
   knowledge, 8.4.1(a)
   proof of substance alleged, 8.3.1(c), 8.5
   trafficking, mode of, 8.4.1(b)
triable issues, determination of, 8.1
ETHICAL ISSUES AND CONFLICT OF INTEREST
pleading guilty, 17.7
representing more than one accused, 17.2
representing more than one defendant, 17.1
retainer
   non-payment of fees, withdrawing from record, 17.6
paid by legal fees exemption under s. 462.34(c)(ii), 17.5
third party payor of, 17.4
sureties, dealing with, 17.3
withdrawing from record for non-payment of fees, 17.6
```

```
EVIDENCE, see also DISCLOSURE, ELECTRONIC SURVEILLANCE,
PROOF OF SUBSTANCE ALLEGED, SEARCH AND SEIZURE
accused as witness, 12.7
admissibility, voir dire challenging, 7.8
Charter exclusion of, 10.10.16, 11.6
continuity issues, 12.5
credibility, 12.3
cross-examination
   accomplice witness, 12.3
   affiant, 10.10.9
  Crown experts, 12.4
   informer, 10.10.11
   police witnesses, 10.10.10, 12.1, 12.2
  sub-affiants, 10.10.13
wiretap affiant, 11.5
defence witnesses
   accused as, 12.7
   self-incrimination and, 12.8
electronic surveillance evidence
challenging admissibility, 11.1
   challenging validity of authorization, 11.3
  cross-examination of wiretap affiant, 11.5
  exclusion under Charter, 11.6
voir dire, procedure on, 7.8
insufficient evidence, motion to dismiss, 12.6
proof of substance alleged, 8.3.1(c)
search and seizure
   CDSA, under
     exigent circumstances, 9.5
     person, search of, 9.3
     place, search of, 9.2
     warrant requirement, 9.1
     what can be seized, 9.4
   Criminal Code, under, 9.7
  exclusion under Charter, 11.6
self-incriminating evidence of defence witnesses, 12.8
voir dire, procedure on, 7.8
FORFEITURE OF OFFENCE-RELATED PROPERTY, see also PROCEEDS
OF CRIME
appeal of order, 15.5.4
conveyance set aside, 15.4.4
conviction, following, 15.4.2
definition of offence-related property, 15.1
```

```
FORFEITURE OF OFFENCE-RELATED PROPERTY — Continued
relief from forfeiture
   appeal of order, 15.5.4
application and notice, 15.5.3(b)
  burden of proof, 15.5.3(c)
   suspension pending application, 15.5.3(d)
   who may apply, 15.5.3(a)
statutory provisions, 15.4.1
third parties, rights of
   notice requirements, 15.5.1
   relief from forfeiture, 15.5.3
   restoration, application for, 15.5.2
where client dies or absconds, 15.4.3
INTERVIEW WITH CLIENT, FIRST
advising client
  analyzing position, 4.5.1
   cautioning client, 1.2.2, 4.5.2
detention and restoration of seized property, 4.6, see also SEARCH AND SEIZURE
disclosure, 4.2, 4.7
early disposition, 4.8
general, 4.1
information to obtain from client
  biographical information, 4.4.3
  circumstances of arrest, 4.4.2
  circumstances of offence, 4.4.1
  circumstances of search, 4.4.2
receiving instructions, 4.3
JUDICIAL INTERIM RELEASE
ascertaining Crown's position, 1.2.3, 2.3
hearing
  approaching Crown, 2.4
  client conduct following, 2.5
   meeting with client concerning, 2.3
     information to obtain, 2.3.1
     retainer, 2.3.2
     sureties, 2.3.3
  reverse onus, 2.1, 2.2
monies, exempted from proceeds of crime provision, 16.8
LEGAL FEES AND RETAINERS
judicial interim release, 2.3.2
non-payment of fees, withdrawing from record, 17.6
paid by legal fees exemption under s. 462.34(c)(ii), 17.5
```

LEGAL FEES AND RETAINERS — *Continued* proceeds of crime, legal fees applications for, 16.7(c) exemption for, 16.8 third party payor of, 17.4

MARIJUANA, LEGALIZING, 14.13

OFFENCE-RELATED PROPERTY, see FORFEITURE OF OFFENCE-RELATED PROPERTY

PARDONS (RECORD SUSPENSION), 14.12

PLEA BARGAINS, 3.1, 3.2

PLEADING GUILTY, *see also* SENTENCING decision to plead, 14.1 sentence accommodation reached with Crown, 14.2

PRE-TRIAL PROCEEDINGS

Charter issues, notice of, 7.7 disclosure, motion for, 7.2 generally, 7.1 particulars, application for, 7.4 quash, motion to, 7.3 severance of accused, motion for, 7.5 severance of counts, motion for, 7.6 voir dires, 7.8

PROCEEDS OF CRIME

definition, 16.3 exemptions, 16.8 forfeiture, 16.9 laundering, 16.6 legal fees applications for, 16.7(c) exemption for, 16.8 offences related to, 16.4 restraint orders, 16.7(b) procedure to obtain, 16.7(b)(i) review procedures, 16.7(c) special search warrants, 16.7 defined, 16.7(a)(i) procedure to obtain, 16.7(a)(ii) statutory provisions federal, 16.1 provincial, 16.2

```
PROCEEDS OF CRIME — Continued
trafficking of, 16.5
what can be seized, 9.4
PROOF OF SUBSTANCE ALLEGED, 8.5, see also EVIDENCE
admissions, 8.5.3
certificate, by, 8.5.1
possession offences, 8.2.2(c), 8.3.1(c)
viva voce evidence of analyst, 8.5.2
REPORTS TO CROWN COUNSEL (RTCC), 10.10
SEARCH AND SEIZURE
CDSA, search under
exigent circumstances, 9.5
person, search of, 9.3
place, search of, 9.2
warrant requirement, 9.1
what can be seized, 9.4
Charter issues
  incident to lawful arrest, 10.4, 10.5
  notice, 10.1
  officer safety during investigative detention, 10.3
   voir dire, 10.1
   warrantless searches and seizures, 10.2
Criminal Code, under, 9.7
detention and restoration of seized property
   CDSA, under, 4.6
   Criminal Code, under, 4.6.1
     access to detained property, 4.6.1(b)
     detention of things seized, 4.6.1(a)
     restoration of seized property, 4.6.1(c), 4.6.1(d)
  generally, 4.6
offence-related property
  restraint orders, 15.3
   seizure, 15.2
police powers, 9.6
proceeds of crime
   federal statutory provisions, 16.1
   provincial statutory provisions, 16.2
  special search warrants, 16.7
what can be seized, 9.4
voir dire, procedure on, 7.8
warrant requirement, 9.1
warrantless searches and seizures, 10.2
```

SELF-INCRIMINATION, PROTECTION AGAINST

Canada Evidence Act, s. 5, 12.8

SENTENCING

accommodation reached with Crown, 14.2 aggravating factors, 14.10 *CDSA* Schedules, 14.4, Appendix A conditional sentence orders (CSO), 14.7 discharge

charges where available, 14.6.1 conviction, or, 14.5

principles for granting, 14.6

drug treatment court, 14.11

mandatory minimums, 14.8

marijuana, legalizing, 14.13

mitigating factors, 14.9

pardons (record suspension), 14.12

purpose, 14.3

SEVERANCE

accused, of, 7.5

counts, of, 7.6

SHOW CAUSE HEARING

judicial interim release, *see* JUDICIAL INTERIM RELEASE meeting with client before, 1.2.3

STATUTORY DECLARATIONS, 3.2

WITNESSES, see EVIDENCE