

# Index

## ABANDONED PROPERTY

**Search and Seizure** (this index)

## ABANDONMENT OF CRIME

Generally, §§ 5:24, 6:1 to 6:3

Affirmative defense, § 6:2

Burden of proof, § 6:3

Criminal episode, § 5:24

Undertaking criminal act, abandonment before, § 6:1

## ABANDONMENT OF ISSUES

Appeal and error, §§ 1:58, 1:59

## ABDUCTION

**Kidnapping** (this index)

## ABETTING

**Aiding and Abetting** (this index)

## ABORTION

Generally, § 5:655

Constitutionality, § 5:655

Rape Shield Law and right of confrontation, § 5:226

## ABSCONDING ON BOND

Generally, §§ 5:653, 5:654

## ABSENCE AND PRESENCE

Breaking and entering, § 5:368

Character evidence, absence of criminal record, § 9:58

**Identification** (this index)

Inability of witness to attend lineup, § 11:17

Police attendance at trial, § 22:48

Preliminary examination, public's right to attend, § 17:4

## ABSENCE OF MALICE

Generally, § 5:327

## ABUSE OF CHILD

**Child Abuse** (this index)

## ABUSE OF DISCRETION

Continuance of trial, §§ 22:26, 22:27

## ABUSE OF PERSONS

**Adult Abuse** (this index)

**Child Abuse** (this index)

## ACCEPTANCE OF PLEA

Guilty pleas, § 10:13

## ACCESSORY AFTER FACT

Generally, §§ 5:16 to 5:20

**Accomplices** (this index)

**Aiding and Abetting** (this index)

Conviction of perpetrator, § 5:17

Corpus delicti of offense, § 5:19

Definition, § 5:16

Exclusive of aiding and abetting, § 5:18

Felony-firearm, § 5:20

Instructions, § 13:14

## ACCIDENTS

Criminal defense, accident as, §§ 6:4 to 6:6

Evidence, absence of accident, § 9:323

Exculpation of accused, § 6:4

Mitigation of offenses, § 6:6

Voluntary manslaughter, defense, § 6:5

## ACCOMPLICES

**Accessory After Fact** (this index)

**Aiding and Abetting** (this index)

Appeal and error, accomplice testimony, § 1:53

Cautionary instructions, §§ 13:32 to 13:34

Conspiracy, §§ 5:74, 5:75

## ACCOUNTANTS

Privileged information, § 9:252

## ACKNOWLEDGMENTS

Evidence, acknowledged documents, § 9:23

## ACTUAL PREJUDICE

Appeal and error, denial of relief, §§ 1:125 to 1:129

## ACTUS REUS

Evidence, § 9:313

**ADC CHECK**

Forgery, § 5:407

**ADDICTS**

**Drug Addicts** (this index)

**ADDRESS OF WITNESS**

Cross-examination, § 9:84

**ADEQUATE PROVOCATION**

Homicide, §§ 5:328 to 5:333

**ADJUDICATIVE FACTS**

Perjury, §§ 5:677, 5:678

**ADMISSIBILITY**

**Character Evidence** (this index)

Credibility of other-act witnesses inappropriate consideration in admissibility determination, § 9:311

Discovery, admissibility of material sought, § 7:6

Insanity, admissibility of statements by defendant, § 6:72

Photographs, §§ 9:247 to 9:251

**ADMISSIONS**

**Confessions** (this index)

Entrapment, admitting offense, § 6:44

**Hearsay** (this index)

**ADULT ABUSE**

Generally, §§ 5:706, 5:707

Application, § 5:707

Definitions, § 5:707

Homicide, § 5:308

Vulnerable adults, § 5:706

**ADULT SENTENCE OFFENSES**

Juveniles, § 16:13

**ADULTERY**

Homicide provocation, § 5:330

**AERIAL OBSERVATION**

**Search and Seizure** (this index)

**AFFINITY**

Criminal sexual conduct, blood or affinity as aggravating factor, § 5:168

**AFFIRMATIVE DEFENSES**

Abandonment of crime, § 6:2

Entrapment, §§ 6:42, 17:8

Insanity, § 6:59

Preliminary examination, § 17:8

**AGE**

**Adult Abuse** (this index)

Criminal sexual conduct, ages of defendants and victims, § 5:206

Innocent agent distinguished, § 5:2

Juveniles, waiver of jurisdiction, § 16:2

Sentencing, age and appropriateness of sentencing, § 20:107

**AGED PERSONS**

Abuse, vulnerable adults, § 5:706

**AGGRAVATED ASSAULT**

Generally, §§ 5:36 to 5:38

**AGGRAVATED INDECENT EXPOSURE**

Double jeopardy, § 8:65

**AGGRAVATING FACTORS**

Criminal sexual conduct, § 5:192

**AGREEMENTS AS TO SENTENCE**

**Guilty Pleas** (this index)

**AIDING AND ABETTING**

Generally, §§ 5:1 to 5:15

**Accessory After Fact** (this index)

**Accomplices** (this index)

Alibi, § 6:10

Assisted suicide, § 5:15

Charging, § 5:10

Controlled substances offenses, § 5:110

Criminal sexual conduct, §§ 5:175, 5:176, 5:193

Definitions and distinctions, §§ 5:1, 5:9

Double jeopardy, § 8:53

Evidence, § 5:12

Felony-firearm, § 5:622

General intent crimes, § 5:8

Guilt of principal, § 5:11

Homicide, § 5:288

Instructions, §§ 5:13 to 5:15

Intent, §§ 5:3 to 5:8

Mutual reassurance, § 5:7

Natural and probable consequences, § 5:5

Prerequisites regarding principal, §§ 5:9 to 5:12

Presence alone, § 5:6

Robbery, § 5:492

Scope of criminal enterprise, § 5:4

Specific intent crimes, § 5:3

Suicide, §§ 5:15, 5:264

## INDEX

### **AIDING AND ABETTING—Cont'd**

Unanimity among jury, lack of, § 5:14

### **AIDS**

HIV notice statute, § 5:703

### **ALCOHOL**

Firearm, possession while under influence of, § 5:610

**Intoxication** (this index)

**Operating under Influence (OUIL) and Driving while Impaired (DWI)**  
(this index)

### **ALIAS**

Impeachment, § 9:226

Search and seizure, alias, use to receive package, § 19:83

### **ALIBI**

Generally, §§ 6:8 to 6:31

Aiding and abetting, § 6:10

Anticipating alibi defense, § 6:28

Bad citizen, disparaging alibi witness as, § 6:24

Constitutionality, § 6:18

Corroboration, lack of, § 6:29

Counsel error, preclusion for failure to file notice, § 6:20

Defendant's testimony, preclusion for failure to file notice, § 6:19

Definition, §§ 6:8 to 6:10

Denigrating alibi defense, § 6:27

Disparaging alibi witness, § 6:24

Impeachment

Failure to come forward, §§ 6:22 to 6:24

Notice, impeachment with prior statements, § 9:222

Rebuttal, impeachment distinguished, § 6:17

Withdrawn notice, § 6:31

Instructions, §§ 6:25 to 6:27

Location, claim that defendant was elsewhere but with victim, § 6:9

Neglect of defendant, preclusion for failure to file notice, § 6:21

Notice

Generally, §§ 6:11, 6:12, 9:222

Counsel error, preclusion for failure to file notice, § 6:20

Defendant's testimony, preclusion for failure to file notice, § 6:19

### **ALIBI—Cont'd**

Notice—Cont'd

Impeaching alibi witness, withdrawn notice, § 6:31

Preclusion for failure to file notice, §§ 6:18 to 6:21

Rebuttal notice, §§ 6:13 to 6:17

Withdrawn notice of alibi, § 6:30

Perfect defense, alibi as, § 6:26

Preclusion for failure to file notice, §§ 6:18 to 6:21

Prosecution questions and comments, §§ 6:28 to 6:31

Rebuttal notice, §§ 6:13 to 6:17

Request, lack of, § 6:25

Statutory requirements, §§ 6:11 to 6:21

At such other time as court may direct, § 6:15

Timing, §§ 6:12, 6:14

Unknown witness, § 6:16

Withdrawn notice of alibi, § 6:30

### **ALIENS**

Guilty pleas, deportation consequences, § 10:33

### **ALTERED SERIAL NUMBERS**

Receiving and concealing stolen property, § 5:471

### **AMBIGUITY**

Appeal and error, ambiguous orders, § 1:88

### **AMENDMENT, MODIFICATION OR CHANGE**

**Appeal and Error** (this index)

**Information** (this index)

Res gestae witnesses, statute, § 23:29

Venue. **Change of Venue** (this index)

### **AMERICAN BAR ASSOCIATION**

Deadlocked juries, instructions, § 13:62

### **AMMUNITION**

Felon in possession, § 5:648

### **ANATOMICALLY CORRECT DOLLS**

Demonstrative evidence, § 9:95

### **ANCIENT DOCUMENTS**

Evidence, § 9:11

### **ANIMAL CRUELTY**

Generally, § 5:711

**ANIMAL CRUELTY—Cont'd**

Torturing or killing animal, § 5:711

**ANIMALS**

Witnesses, § 23:11

**ANIMATIONS**

Demonstrative evidence, § 9:92

**ANTICIPATING DEFENSE**

Alibi, § 6:28

Insanity, § 6:86

**APARTMENTS**

Breaking and entering, § 5:371

**APPAREL**

Clothing (this index)

**APPEAL AND ERROR**

Generally, §§ 1:1 to 1:179

Abandonment of issues, §§ 1:58, 1:59

Accomplice testimony, § 1:53

Alternative basis for state holding,  
§ 1:166

Ambiguous order, § 1:88

Appeal of right

Final orders, § 1:23

Jurisdiction on remand of, § 1:25

Application for leave, §§ 1:42, 1:43, 1:75,  
1:84, 1:101

Appointment of counsel for plea appeals,  
§ 1:30

Assaultive offenses, bond, § 1:6

Assumed points, § 1:83

Attorneys

Appointment for plea appeals, § 1:30

Following guilty plea, right to counsel  
for, § 4:12

Bench trials, § 1:73

Benefit to defendant, § 1:72

Biometric data, return barred after acquittal  
or dismissal in certain cases,  
§ 1:141

Bonds

Generally, §§ 1:1 to 1:9

Motion required in trial court, § 1:9

Pending defense appeal, §§ 1:5, 1:8

Pending prosecution leave, § 1:8

Briefing, confession of judgment, § 1:78

Bypass, independent and adequate state  
grounds, § 1:171

Change in law, § 1:87

**APPEAL AND ERROR—Cont'd**

Circumstantial evidence, §§ 1:54, 1:55

Collateral attack

Harmless error, §§ 1:176, 1:177

Retroactivity, § 1:106

Test on, §§ 1:67, 1:176

Confession of error, §§ 1:76 to 1:78

Correction of record on appeal, § 1:92

Counsel error as cause, § 1:170

Credibility of witnesses, § 1:52

Cross-appeals, § 1:36

Death of defendant, dismissal of appeal,  
§ 1:33

Definition of new rule and retroactivity,  
§ 1:107

Delay

Generally, § 1:45

Relief from judgment, § 1:45

Denial of petition, § 1:179

Detainer act claims, § 1:156

Direct review, retroactivity, § 1:105

Directed verdict and sufficiency of evidence

Generally, §§ 1:47 to 1:57

Accomplice testimony, § 1:53

Bench trial, test of motion, § 1:49

Circumstantial evidence, §§ 1:54, 1:55

Credibility of witnesses, § 1:52

Evidence reviewed, § 1:50

Hearing, § 1:164

Independent and state grounds, § 1:175

Inference on inference rule, § 1:55

Light most favorable to people, § 1:51

Negating all innocent theories,  
circumstantial evidence, § 1:54

Opening statement of prosecutor, dismissal  
following, § 1:56

Preservation of issue, § 1:47

Prior inconsistent statements under oath  
as sufficient, § 1:57

Reservation of decision, § 1:50

Test of motion, §§ 1:48, 1:49

Time for decision on motion, § 1:50

Discretionary appeals, jurisdiction on  
remand from, § 1:31

Dismissal

Biometric data, return barred after  
acquittal or dismissal in certain  
cases, § 1:141

Escape of defendant, § 1:32

## INDEX

### APPEAL AND ERROR—Cont'd

- DNA testing, § 1:133
- Double Jeopardy** (this index)
- Error, generally, §§ 1:60 to 1:78
- Escape of defendant, dismissal of appeal, § 1:32
- Evidence
  - Great weight of evidence, §§ 1:15, 1:16
  - Hearsay evidence, § 1:19
  - Impeaching evidence, § 1:18
  - Miranda claims, § 1:157
  - New trial, great weight of evidence, § 1:16
  - Newly discovered evidence, §§ 1:17 to 1:22
  - Polygraph evidence, § 1:21
  - Search and seizure, § 1:155
  - Sufficiency, § 1:175
  - Trial judge as 13th juror, great weight of evidence, § 1:16
- “Excess jurisdiction,” effect of application for leave to appeal from judgment order/opinion, § 1:42
- Exhaustion of federal habeas corpus, §§ 1:158 to 1:162
- Expungements, §§ 1:134 to 1:141
- Extra-record material, § 1:91
- Failure of prosecution to raise nonexhaustion issue, § 1:162
- Fair trial vs perfect trial, § 1:68
- Federal law, unreasonable application of, § 1:151
- First out controls, precedent, § 1:85
- Fundamental miscarriage of justice exception, § 1:172
- Grant of conditional writ, § 1:178
- Guilty Pleas** (this index)
- Habeas corpus
  - Generally, §§ 1:142 to 1:179
  - Contrary to Supreme Court precedent, § 1:150
  - Court of appeals makes determination, § 1:147
  - Presentation to highest state court, §§ 1:159, 1:160
  - Second or successive petitions, § 1:146
  - Standard for relief, § 1:148
  - State law, § 1:154
  - State-court reasons, standard for relief, § 1:149

### APPEAL AND ERROR—Cont'd

- Habeas corpus—Cont'd
  - Supreme Court decisions after state court decision, § 1:152
  - Timing, § 1:152
  - Unreasonable determination of facts, § 1:153
- Harmless Error** (this index)
- Hearsay evidence, § 1:19
- Impeaching evidence, § 1:18
- Inconsistent statements under oath, § 1:57
- Ineffective assistance of counsel, § 4:47
- Inference on inference rule, § 1:55
- Information, amendment, § 1:39
- Innocence exception, § 1:172
- Interlocutory appeals
  - Law of the case, § 1:86
  - Prosecution, appeal by, § 1:35
  - Trial, duty to respond to appeals filed by prosecution, § 4:9
- Interlocutory applications, presumption in favor of stay, § 1:28
- Intervening change in law, § 1:87
- Invited error, § 1:74
- Issues
  - Generally, § 1:58
  - Appellate consideration of issues not raised, § 1:79
  - Application for leave raising new issues, § 1:75
- Judges at equal level, § 1:90
- Judgments and orders
  - Ambiguity, § 1:88
  - Finality, § 1:23
  - Nonfinal, § 1:27
- Jurisdiction
  - Generally, §§ 1:23 to 1:46
  - Expungement, § 1:140
  - New trial, jurisdiction during appeal, § 1:12
  - Remand, scope after, § 1:26
  - Restoring appeal rights, § 1:24
- Jury
  - Mixed questions of law and fact, § 1:174
  - Trial judge as 13th juror, § 1:16
- Lack of state enforcement, § 1:165
- Law of the case, §§ 1:86 to 1:90
- Leave, appeals by
  - Generally, § 1:27

**APPEAL AND ERROR—Cont'd**

Leave, appeals by—Cont'd  
 Application for, §§ **1:42, 1:43, 1:75, 1:84**  
 Appointment of counsel, § **1:30**  
 Delay, §§ **1:45, 1:46**  
 Discretionary appeal, remand from, § **1:31**  
 Guilty plea, appeal following, § **1:29**  
 Interlocutory applications, § **1:28**  
 Jurisdiction, §§ **1:27 to 1:31**  
 Presumption in favor of stay, § **1:28**  
 Mechanics, relief from judgment, §§ **1:113 to 1:119**  
 Miranda claims, § **1:157**  
 Mixed petition, federal habeas corpus, § **1:161**  
 Mixed questions of law and fact, § **1:174**  
 Modification  
   Appeal, §§ **1:3, 1:4**  
   Bond questions, §§ **1:1 to 1:4**  
   Conflicting orders, § **1:2**  
   Pretrial release decisions, §§ **1:1 to 1:4**  
 Multiple petitions, federal habeas corpus, § **1:146**  
 New issues, application for leave raising, § **1:75**  
 New rules, retroactivity, § **1:107**  
 New trial  
   Consideration of ruling following second trial, § **1:40**  
   Great weight of evidence, § **1:16**  
   Grounds, §§ **1:14 to 1:22**  
   Motions for, §§ **1:10 to 1:22**  
   Procedure, §§ **1:10 to 1:13**  
   Proceedings on motion, § **1:13**  
   Requirement of motion, § **1:10**  
   13th juror, trial judge as, § **1:16**  
   “Newly available” evidence, § **1:22**  
 Newly discovered evidence, §§ **1:17 to 1:22**  
 Nonassaultive offenses, bond, § **1:5**  
 Nonexhaustion issue, failure of prosecution to raise, § **1:162**  
 Nonresponsive answers, harmless error, §§ **1:69, 1:71**  
 Oath, inconsistent statements under, § **1:57**  
 Objection, preservation by, specificity, § **1:61**  
 Pardon and expungement, § **1:140**

**APPEAL AND ERROR—Cont'd**

Peremptory orders, § **1:82**  
 Perfect trial vs fair trial, § **1:68**  
 Plain error, §§ **1:64, 1:65**  
 Plain statement rule, §§ **1:167, 1:168**  
 Plea appeals, appointment of counsel for, § **1:30**  
 Plea of guilty, jurisdiction, § **1:29**  
 Polygraph evidence, § **1:21**  
 Precedent  
   Generally, §§ **1:80 to 1:85**  
   Conflicts in Court of Appeals, § **1:85**  
 Prejudice  
   Independent and adequate state grounds, § **1:169**  
   Relief from judgments, §§ **1:125 to 1:129**  
 Prejudice from unavailability of transcript, § **1:94**  
 Preservation of issues  
   Constitutional error, § **1:62**  
   Defendant’s testimony, § **1:60**  
   Nonconstitutional error, § **1:63**  
   Presumption of prejudice, § **1:65**  
 Presumptions  
   Inference on inference rule, § **1:55**  
   Of regularity, § **1:95**  
   Stay in interlocutory applications, § **1:28**  
 Prior convictions, pendency of appeal, § **9:205**  
 Prior inconsistent statements under oath, § **1:57**  
 Prior proceedings, transcript of, § **1:93**  
 Procedural default, § **1:163**  
 Prosecution, appeals by  
   Generally, §§ **1:34 to 1:41**  
   Bindover by way of motion to amend information, § **1:39**  
   Cross-appeals, § **1:36**  
   Interlocutory appeals, § **1:35**  
   Presumption in favor of stay, § **1:35**  
   Relief from judgment, appeal from motion for, § **1:41**  
   Ruling granting new trial on appeal from dismissal following second trial, § **1:40**  
 Sentence appeals, § **1:102**  
 Sentences following plea of guilty or nolo contendere, § **1:38**  
 Sentences following trial, § **1:37**

## INDEX

### APPEAL AND ERROR—Cont'd

Reasons, expungement, § 1:136

Recanting witness, § 1:20

Reconsideration, effect of motion for,  
§ 1:44

Record

Generally, §§ 1:91 to 1:95

Expungement, §§ 1:134 to 1:141

Extra-record material, § 1:91

Failure to supply record, § 1:59

Prior proceedings, right to transcript of,  
§ 1:93

Unavailability of transcript, § 1:93

Rehearing, effect of motion for, § 1:44

Relief from judgments

Generally, §§ 1:110 to 1:132

Actual prejudice and denial of relief,  
§§ 1:125 to 1:129

Any case, § 1:128

Assignment, preliminary consideration  
by court, § 1:116

Availability, §§ 1:111, 1:112

Categorical denial for certain offenses,  
§ 1:137

Conviction, actual prejudice, § 1:126

Defendant, appeal by, § 1:130

Delay, §§ 1:45, 1:46

Entitlement to relief, §§ 1:120 to 1:132

Expansion of record, § 1:119

Filing mechanics, § 1:114

Form, § 1:113

Good cause, §§ 1:123, 1:124

Grant of relief, appeal from proceed-  
ings, § 1:132

Grounds reviewed on prior occasion,  
§ 1:121

Issues which could have been raised,  
§§ 1:122 to 1:124

Jurisdictional claims and good cause,  
§ 1:124

Jurisdictional defects, § 5:114

Legal assistance, § 1:117

Motions for, §§ 1:110 to 1:112

Plea convictions, § 1:127

Prosecution, appeal by, § 1:131

Response by prosecutor, § 1:118

Return of insufficient motion, § 1:115

Sentence, challenge to, § 1:129

Successive motions, §§ 1:112, 5:114

Trial conviction, actual prejudice,  
§ 1:126

### APPEAL AND ERROR—Cont'd

Remand

Generally, §§ 1:96 to 1:101

Appeal of right, jurisdiction, § 1:25

Denial of motion, § 1:100

Denial of motion, effect of, § 1:89

Discretionary appeal, jurisdiction,  
§ 1:31

Grounds for granting, § 1:97

Jurisdiction, scope after remand, § 1:26

Law of the case, § 1:86

Original judge if reasonably available,  
§ 1:99

Scope of hearing, § 1:98

Response, confession of judgment, § 1:76

Restoring appeal rights, § 1:24

Retroactivity, §§ 1:105 to 1:107

Reversals, prior waiver of jury nullified,  
§ 15:7

Right result for wrong reason, harmless  
error, § 1:69

Same transaction, expungement, § 1:138

Search and seizure, § 1:155

Second or successive petitions, federal  
habeas corpus, § 1:146

Self-representation on, § 4:18

Sentences

Generally, §§ 1:102 to 1:104

Challenge to, § 1:129

Clerical mistakes, correction by court,  
§ 1:104

Defense appeals, § 1:103

Prosecution, appeal by, § 1:102

Settled federal law, unreasonable applica-  
tion of, § 1:151

Sexual offenses, bond, § 1:7

Specificity of objections, § 1:61

Standard for relief, §§ 1:148, 1:149

State fact finding, § 1:173

Statement of reasons, expungement,  
§ 1:136

Statute of limitations, §§ 1:143 to 1:144

Sufficiency of the evidence, § 1:175

Superintending control, §§ 1:108, 1:109

Supreme Court precedent, contrary to,  
§ 1:150

Test of motion, §§ 1:48, 1:49

13th juror, trial judge as, § 1:16

Timing and time issues, §§ 1:11, 1:96,  
1:143 to 1:145

Tolling of limitations period, § 1:144

**APPEAL AND ERROR—Cont'd**

- Traffic offenses, expunging record, § 1:139
- Transcript unavailability, § 1:93
- Trial judge as 13th juror, § 1:16
- Unreasonable determination of facts by state court, § 1:153
- Waiver
  - Claim of error, § 1:66
  - Right to counsel at guilty plea, § 4:21
  - Untimeliness, waiver by state, § 1:145
- Witnesses
  - Accomplice testimony, § 1:53
  - Credibility, §§ 1:16, 1:52
  - Impeaching evidence, § 1:18
  - Miranda claims, § 1:157
  - New trial, credibility, § 1:16
  - Polygraph evidence, § 1:21
  - Prior inconsistent statements under oath, § 1:57
  - Recanting witnesses, § 1:20
  - Writ, grant of; timing of retrial, § 1:178

**APPEARANCE**

- Hearsay, subsequent appearance of witness, § 9:172
- Police attendance at trial, § 22:48
- Trial** (this index)

**APPOINTMENT OF COUNSEL**

- Plea appeals, § 1:30

**APPROVAL**

- Consent** (this index)

**ARMED ROBBERY**

- Generally, §§ 5:487 to 5:493
- Conspiracy, § 5:92

**ARRAIGNMENT**

- Delay, identification, § 11:34

**ARREST**

- Generally, §§ 2:1 to 2:113
- Alcohol, odor of, § 2:35
- Anonymous citizen, information from, § 2:31
- Appointment of deputies at religious college, § 2:59
- Approaching and asking questions, § 2:18
- Asking questions, § 2:18

**ARREST—Cont'd**

- Automobiles
  - Felonies, automobiles involved in, § 2:66
  - Frisks, § 2:57
  - License and registration checks, § 2:49
  - Multiple occupants of, § 2:67
  - Odor of alcohol, § 2:35
  - Ordering occupants from stopped auto, § 2:46
  - Sobriety checklanes and sobriety tests, §§ 2:35, 2:47, 2:50
  - Stops, § 2:34
- Background of defendant, probable cause, §§ 2:63, 2:64
- Bodily function, detention while awaiting, § 2:45
- Border stops, §§ 2:42 to 2:45
- Brower case, § 2:23
- Buy and bust, § 2:92
- Checkpoints at distance from border, § 2:44
- Chesternut case, § 2:22
- Citizens
  - Citizens' arrest, §§ 2:8, 2:101 to 2:104
  - Force, use by private citizens, § 2:103
  - Information from, § 2:31
  - Joint government and citizen activity, § 2:10
- Civil infractions, arrests on, § 2:77
- Coin envelopes, observation of, § 2:62
- Collective police knowledge, §§ 2:74, 2:75
- College, appointment of deputies at, § 2:59
- Common sense of officer, § 2:28
- Consent
  - Generally, § 2:83
  - Consent once removed, § 2:92
- Constitutionality of statutes, § 2:68
- Constructive entry, § 2:84
- Corroboration, § 2:71
- County of Riverside v. McLaughlin, § 2:105
- Criterion for investigative stops, § 2:27
- Declarations by informants against penal interest, § 2:72
- Deputies, appointment at religious college, § 2:59
- Detention test, §§ 2:14, 2:15
- Distance from border, §§ 2:43, 2:44

## INDEX

### ARREST—Cont'd

- Domestic violence misdemeanor arrests, § 2:106
- Double jeopardy, resisting arrest, § 8:90
- Driving under influence, §§ 2:35, 2:47, 2:50
- Drug courier profile, § 2:40
- Drug interdiction checklanes, § 2:51
- Duration of traffic stop, §§ 2:16, 2:17
- Employing drug-sniffing dog, § 2:16
- Entry without pursuit into dwelling to make arrest, §§ 2:80 to 2:88
- Execution of arrest, §§ 2:95 to 2:100
- Execution of search warrant, §§ 2:54, 2:88
- Exigent circumstances, §§ 2:89 to 2:94, 2:96
- Experience of police officers, probable cause, § 2:62
- Fleeing and Eluding** (this index)
- Flight of defendant, § 2:64
- Force, §§ 2:30, 2:98, 2:103
- Fraud, retail, § 2:102
- Frisks, §§ 2:56 to 2:58
- Fruit of poisonous tree, §§ 2:108 to 2:113, 11:32 to 11:34
- Full-scale arrests, § 2:6
- Furtive behavior, § 2:65
- Governmental activity, §§ 2:8 to 2:10
- Guards, § 2:8
- Hearsay, §§ 2:71, 2:73
- Hodari D case, § 2:25
- Homicide, resisting arrest, § 5:337
- Hospital room, entry to make arrest, § 2:86
- Hot pursuit, § 2:89
- Identifications, fruit of poisonous tree, § 2:110
- Identity, determination of, § 2:29
- Illegal Arrests** (this index)
- Impeachment
  - Illegally seized physical evidence, use of, § 2:113
  - Post-arrest silence, §§ 9:230 to 9:233
- Inevitable discovery, § 2:108
- Informants, information from, §§ 2:31, 2:71 to 2:73
- Informational police-citizen encounters, §§ 2:4, 2:13 to 2:26
- Insufficient pursuit, exigent circumstances, § 2:90

### ARREST—Cont'd

- Interrogation, detention for, § 2:52
- Intoxication, odor of, § 2:35
- Investigative police-citizen encounters, §§ 2:5, 2:27 to 2:58
- Issuance of warrant, § 2:100
- Joint government and citizen activity, § 2:10
- Jurisdiction
  - Execution of arrest, § 2:99
  - Suppression of evidence, jurisdiction of court, § 2:107
- Knock and announce, §§ 2:95 to 2:97
- Knowledge by police, collective, §§ 2:74, 2:75
- Legitimate presence on premises, §§ 2:11, 2:81
- Levels of police-citizen encounter, §§ 2:3 to 2:7
- License and registration checks, § 2:49
- Luggage, detention of, § 2:55
- Mamon case, § 2:24
- Minor offenses, exigent circumstances, §§ 2:93, 2:94
- Misdemeanors
  - Domestic violence misdemeanor arrests, § 2:106
  - Knock and announce, § 2:97
  - Reasonable suspicion of misdemeanor or civil infraction, § 2:37
- Motel room, entry to make arrest, § 2:85
- Multiple occupants of automobile, § 2:67
- Objective facts, probable cause, § 2:69
- Objective test, probable cause, §§ 2:7, 2:60 to 2:70
- Occupants in stopped automobile, detention test, § 2:15
- Official information, § 2:32
- Ordering occupants from stopped auto, § 2:46
- Payton case, § 2:111
- People v. Couch, § 2:104
- Person in need of aid, exigent circumstances, § 2:94
- Physical characteristic evidence, detention for identifying, § 2:53
- Police officer, identification as, § 2:19
- Police station, taking suspect to, § 2:26
- Police teams, §§ 2:33, 2:74, 2:75
- Possessory offenses, § 2:12

## ARREST—Cont'd

- Preservation of evidence, exigent circumstances, § 2:93
- Pretext arrests or stops, § 2:7
- Probable cause
  - Generally, §§ 2:60 to 2:75
  - Misdemeanor arrest, § 2:36
  - Reasonable mistake of law may justify stop, § 2:38
  - Review standard, § 2:61
- Public places, arrest in, § 2:78
- Purged taint exception, § 2:108
- Pursuit
  - Generally, §§ 2:21 to 2:25
  - Home, pursuit into to make arrest, § 2:79
  - Hot pursuit, § 2:89
- Pursuit and entry for misdemeanor, exigent circumstances, § 2:91
- Questions, asking, § 2:18
- Radio information, § 2:75
- Reasonableness
  - Mistake of fact, § 2:37
  - Mistake of law may justify stop, § 2:38
  - Suspicion of misdemeanor or civil infraction, § 2:37
- Registration checks, § 2:49
- Religious college, appointment of deputies at, § 2:59
- Reputation of area, investigative encounters, § 2:39
- Requests for identification, § 2:20
- Retail fraud, § 2:102
- Review standard, probable cause, § 2:61
- Running lien check, § 2:48
- Schools, §§ 2:9, 2:59
- Scope of detention, § 2:41
- Scope of frisk, § 2:58
- Seizures distinguished, §§ 2:13, 2:14
- Sobriety checklanes and sobriety tests, §§ 2:35, 2:47, 2:50
- Specifying offense, probable cause, § 2:70
- Standing, §§ 2:11, 2:12, 2:82
- Statutory requirements, §§ 2:76, 2:101
- Statutory violations, § 2:112
- Steagald case, § 2:111
- Stops, §§ 2:27 to 2:41, 2:46 to 2:55
- Text of Fourth Amendment, § 2:1
- Third party's dwelling, entry to make arrest, § 2:87

## ARREST—Cont'd

- Three levels of police-citizen encounter, §§ 2:3 to 2:7
- Time for judicial determination of probable cause, §§ 2:105, 2:106
- Warrant requirement, generally, §§ 2:76 to 2:94
- Warrantless arrests, generally, §§ 2:80 to 2:94
- Weapons, § 2:30
- Weapons, inquiring about, § 2:17
- Wholly unknown individual, information from, § 2:31
- Words employed by officer, probable cause, § 2:69

## ARSON

- Generally, §§ 5:26 to 5:28
- Degrees of arson, § 5:26
- Double jeopardy, § 8:89
- Homicide, § 5:302
- Incendiary devices, § 5:28
- Offenses, §§ 5:26, 5:27
- Search and seizure, arson warrants, §§ 19:141 to 19:145
- Statute, § 5:26

## ASKING QUESTIONS

- Hearsay, § 9:150

## ASPORTATION

- Larceny, § 5:443
- Robbery, § 5:486

## ASSAULT AND BATTERY

- Generally, §§ 5:29 to 5:63
- Aggravated assault, §§ 5:36 to 5:38
- Attempt, §§ 5:30, 5:44
- Bond, assaultive offenses, § 1:6
- Complaining witness, § 5:51
- Conditional assault, § 5:32
- Criminal sexual commit, assault with intent to commit, § 8:62
- Dangerous weapons, §§ 5:41, 5:42
- Definitions, §§ 5:29, 5:36, 5:39, 5:53
- Domestic Violence** (this index)
- Double Jeopardy** (this index)
- Duress as defense to assault with intent to murder, § 6:37
- Elements of offense, §§ 5:29, 5:43, 5:46 to 5:50, 5:53, 5:215
- Evidence
  - Aggravated assault, § 5:37

## INDEX

### ASSAULT AND BATTERY—Cont'd

#### Evidence—Cont'd

Felonious assault, §§ 5:41, 5:42

Great bodily harm, intent, § 5:51

Murder, intent to commit, §§ 5:56 to 5:58

Simple assault, §§ 5:30 to 5:34

Fear, putting in, § 5:31

Felonious assault, §§ 5:39 to 5:45

**Felonious Assault** (this index)

Great bodily harm, intent

Generally, §§ 5:46 to 5:52

Criminal sexual conduct, § 5:203

Double jeopardy, § 8:115

Husbands and wives, § 5:61

Included offense, § 5:60

Injuries, showing, § 5:56

Instructions

Bodily harm, intent, § 5:52

Elements of crime, § 5:43

Lesser offenses, § 5:38

Murder, intent to commit, § 5:59

Intent

Great bodily harm, §§ 5:46 to 5:52, 5:110

Intoxication, § 5:40

Maiming, § 5:45

Motive through prior statements or acts, § 5:57

Murder, §§ 5:53 to 5:60

Sexual conduct, §§ 5:203, 5:215 to 5:217

Transferred intent, great bodily harm, § 5:49

Knowledge, victim's lack of, § 5:34

Maiming, intent, § 5:45

Minor victim's alleged consent, § 5:33

Mitigation by provocation, § 5:55

Motive, prior statements or acts, § 5:57

Murder, intent to commit, §§ 5:53 to 5:60

Opportunity, § 5:58

Prison guards, assault by inmates, § 5:63

Provocation

Great bodily harm, § 5:50

Mitigation, § 5:55

**Robbery** (this index)

Simple assault, §§ 5:29 to 5:35

Single assault under multiple statutes, § 8:51

Strangulation, §§ 5:62, 8:115

### ASSISTED SUICIDE

Generally, §§ 5:15, 5:264

### ATTACHMENT OF DOUBLE JEOPARDY

Generally, §§ 8:1 to 8:4

### ATTEMPTS

Generally, §§ 5:21 to 5:25

Abandonment of criminal episode, § 5:24

Assault and battery, §§ 5:30, 5:44

Breaking and entering, attempted larceny in building, § 5:385

Charging, § 5:22

Controlled substances offenses, § 5:109

General attempt statute, § 5:23

Instructions, § 13:13

Manslaughter, § 5:346

Nonexistent offenses, § 5:25

Robbery, § 5:497

### ATTORNEY-CLIENT PRIVILEGE

Generally, §§ 9:253 to 9:255

### ATTORNEYS

**Counsel** (this index)

### AUTHENTICATION OF EVIDENCE

**Evidence** (this index)

### AUTHORITY

Breaking and entering, authorization to enter, § 5:365

Criminal sexual conduct, positions of authority, § 5:185

### AUTOMATIC WAIVER

Juveniles, life offenses, §§ 16:6 to 16:17

### AUTOMOBILES

**Arrest** (this index)

**Breaking and Entering** (this index)

**Carjacking and Car Theft** (this index)

Children in, crimes, § 5:150

**CPMV (Carrying Pistol in Motor Vehicle)** (this index)

Death or injury, moving violation causing, § 5:520

**Double Jeopardy** (this index)

**Driver's Licenses** (this index)

Hidden VIN, § 7:14

Injury or death, moving violation causing, § 5:520

Jury, automobile traffic cases, § 15:2

## **AUTOMOBILES—Cont'd**

- Larceny from motor vehicle, §§ 5:463, 5:464
- Leaving scene of accident, § 5:521
- Loaded firearm other than pistol in vehicle, § 5:601
- Motorized vehicle offenses, §§ 5:518 to 5:579
- Moving violation causing injury or death, § 5:520
- Operating under Influence (OUIL) and Driving while Impaired (DWI)** (this index)
- Passengers, unlawfully driving away in automobile (UDAA), § 5:514
- Reckless Driving** (this index)
- Robbery, § 5:498
- Search and Seizure** (this index)
- Self-defense, § 6:107
- UDAA (Unlawfully Driving Away an Automobile)** (this index)
- Use causing death
  - Causation and superseding cause, § 5:352
  - Elements, § 5:350
  - Licensing violations causing death, § 5:351
  - OWI/high BA causing death or serious injury, § 5:353
  - Superseding causes, § 5:352
- Vehicle identification number, hidden, § 5:515
- Venue, moving vehicles, § 22:2
- Violation causing death
  - Generally, §§ 5:347 to 5:349
  - Contributory negligence, § 5:349
  - Proximate cause, § 5:348

## **AUTOPSY REPORTS**

- Hearsay, § 9:124

## **BABIES**

- When life begins and ends as a matter of law, §§ 5:254, 5:255

## **BAD ACTS**

- Character evidence, § 9:77

## **BAD CITIZENS**

- Disparaging alibi witnesses as, § 6:24

## **BAD FAITH**

- Discovery, § 7:27

## **BAIL QUESTIONS**

- Appeal and Error** (this index)

## **BALANCING EVIDENCE**

- Generally, § 9:326

## **BANKS**

- Bank robberies, double jeopardy, §§ 8:87, 8:88
- Larceny, bank instruments, § 5:445

## **BATTERED SPOUSE SYNDROME**

- Expert testimony, § 23:19

## **BATTERY**

- Assault and Battery** (this index)

## **BEATINGS**

- Assault and Battery** (this index)
- Homicide, § 5:270

## **BEEPERS**

- Search and seizure, §§ 19:7, 19:71

## **BEHAVIORAL SCIENCES**

- Scientific evidence, § 9:100

## **BELIEF**

- Hearsay, belief of impending death, § 9:141
- Robbery** (this index)

## **BELITTling COUNSEL**

- Judges, § 14:6

## **BENCH TRIALS**

- Appeal and Error** (this index)
- Attachment of double jeopardy, § 8:2
- Comments and questions, § 14:3
- Prior request, disqualification, §§ 14:20, 14:21

## **BEST EVIDENCE**

- Generally, §§ 9:27 to 9:32
- Definitions, § 9:29
- Duplicates, §§ 9:30 to 9:32
- Originals, § 9:27
- Other exceptions, § 9:32
- Public documents, § 9:31
- Rule and theory, § 9:28

## **BESTIALITY**

- Generally, § 5:237

## **BIAS**

- Prejudice** (this index)

## INDEX

### **BILL OF PARTICULARS**

Discovery, § 7:32

### **BILLY CLUBS**

Generally, § 5:612

### **BINDOVER**

Information, amendment as substitute for appeal, § 12:10

### **BINOCULARS**

Search and seizure, § 19:74

### **BIOMETRIC DATA**

Appeal and error, return barred after acquittal or dismissal in certain cases, § 1:141

### **BLACKMAIL**

**Extortion** (this index)

### **BLAMESHIFTING**

Joinder, § 22:59

### **BLOOD**

Revocation of consent, blood testing, § 19:36

Search and seizure, use of force to carry out warrant, § 19:131

Test results, presumption, § 5:529

### **BLUDGEONS**

Generally, § 5:613

### **BODY LACKING**

Homicide, corpus delicti, § 5:281

### **BODY SEARCHES**

Generally, §§ 19:110, 19:181

### **BONDS**

Generally, §§ 5:653, 5:654

Absconding on bond, §§ 5:653, 5:654

After trial, § 5:654

**Appeal and Error** (this index)

### **BOOT CAMPS**

Probation, § 20:185

Sentencing, § 20:96

### **BORDER STOPS**

Arrest, §§ 2:42 to 2:45

### **BREAKING AND ENTERING**

Generally, §§ 5:360 to 5:392

Absence from abode, § 5:368

Apartments, interior, § 5:371

### **BREAKING AND ENTERING—Cont'd**

Attempted larceny in building, § 5:385

Authorization to enter, § 5:365

Automobiles. Vehicles, *infra*

Character of building, §§ 5:368, 5:374

Concealing stolen goods and larceny, § 5:386

Consent issues, § 5:363

Constitutionality, § 5:362

Corpus delicti, § 5:378

Death of sole occupant, § 5:370

Disrepair of building, § 5:369

Double jeopardy, §§ 8:75, 8:107

Elements of crime, §§ 5:361, 5:388

Entering

Generally, § 5:367

Without breaking and without permission, § 5:387

Evidence

Generally, §§ 5:363 to 5:381

Character of building, § 5:368

Force, § 5:364

Home invasion, § 5:366

Interior breaking, § 5:366

Explanation of possession, §§ 5:379, 5:380

Felony-firearm, § 5:635

Force, § 5:364

Home invasion

Generally, § 5:366

Dwelling, §§ 5:360 to 5:387

Multiple convictions, § 5:383

Multiple theories, § 8:108

Homicide, § 5:299

Included offenses, §§ 5:384 to 5:387

Intent

At time of breaking and entering, § 5:375

Value of stolen items, § 5:391

Interior apartment, § 5:371

Interior breaking, § 5:366

Key, use to enter, § 5:365

Knowledge of character of building, § 5:374

Larceny

Generally, § 5:385

Proximity of stolen property, § 5:381

Receiving and concealing stolen goods, § 5:386

Mobile homes, § 5:373

**BREAKING AND ENTERING—Cont'd**

- Multiple convictions, § 5:382
- Occupied dwellings, § 5:384
- Porches, § 5:372
- Possession unexplained, §§ 5:379, 5:380
- Proximity of stolen property, § 5:381
- Repair of building, § 5:369
- Robbery, § 5:500
- Specificity in charging, § 5:376
- Status as building, § 5:389
- Statutory provision, § 5:360
- Sufficiency of, § 5:379
- Temporary absence from abode, § 5:368
- Unexplained possession, §§ 5:379, 5:380
- Unoccupied dwelling, § 5:384
- Use of building as place of abode, § 5:368
- Value of stolen items, §§ 5:391, 5:392
- Vehicles
  - As buildings, § 5:390
  - Mobile homes, § 5:373
  - Value of stolen items, §§ 5:391, 5:392
- Weapons, restoration of rights, § 5:647

**BREATHALYZER**

- Operating under Influence (OUIL) and Driving while Impaired (DWI)**  
(this index)

**BRIEFS**

- Confession of judgment, appeal and error, § 1:78

**BROWER CASE**

- Arrest, § 2:23

**BRUTON V. UNITED STATES**

- Joinder, §§ 22:66 to 22:73

**BUILDINGS**

- Breaking and Entering** (this index)
- Larceny in building
  - Generally, §§ 5:457 to 5:460
  - Asportation, § 5:458
  - Shoplifting and retail fraud, § 5:461

**BURDEN OF PERSUASION**

- Controlled substances offenses, § 5:112

**BURDEN OF PROOF**

- Abandonment of crime, § 6:3
- Change of venue, § 22:14
- Entrapment, § 6:43
- Homicide, when burden to prove malice arises, § 5:279

**BURDEN OF PROOF—Cont'd**

- Identification, suggestiveness, § 11:22
- Insanity, § 6:74
- Persuasion, § 9:2
- Prior convictions, §§ 9:194, 9:196

**BURGLAR'S TOOLS**

- Generally, § 5:719

**BUSINESS COMMUNITY**

- Character evidence, § 9:54

**BUSINESS RECORDS**

- Hearsay, §§ 9:122 to 9:128

**BUTTONS**

- Trial spectators, buttons worn by, § 22:49

**BYSTANDERS**

- Third Persons** (this index)

**CADAVER DOGS**

- Demonstrative evidence, § 9:89

**CARJACKING AND CAR THEFT**

- Generally, §§ 5:507 to 5:509
- Double jeopardy, § 8:85
- Elements, § 5:508
- Multiple occupants, unit of prosecution, § 5:509
- UDAA, § 8:84

**CARRYING WEAPONS**

- Weapons** (this index)

**CARS**

- Automobiles** (this index)

**CASTRATION**

- Probation, terms of, § 20:181

**CAUSATION**

- Felonious driving, § 5:519
- Homicide** (this index)
- Resisting and obstructing police officer causing injury, § 5:686

**CCW (CARRYING CONCEALED WEAPONS)**

- Double jeopardy, §§ 8:67, 8:94 to 8:96
- Felony-firearm, § 5:633
- Self-defense, § 6:116

**CELL PHONES**

- Acquisition of cell-site location information, § 19:9

## INDEX

### **CELL PHONES—Cont'd**

- Expectation of privacy in cell messages once sent, § 19:10
- Messages, expectation of privacy once sent, § 19:10
- Search and seizure, cell-site information locations, § 19:73

### **CENTER FOR FORENSIC PSYCHIATRY**

- Insanity, expert examination, § 6:68

### **CERTAINTY**

- Verdicts, § 15:81

### **CERTIFIED COPIES**

- Evidence, certified copies of public records, § 9:19

### **CHAIN OF CUSTODY**

- Evidence, §§ 9:33, 9:34

### **CHANCES**

- Doctrine of chances, evidence, § 9:313

### **CHANGE**

- Amendment, Modification or Change** (this index)

### **CHANGE OF VENUE**

- Generally, §§ 22:10 to 22:18
- Attempt to select jury, § 22:15
- Burden, § 22:14
- Change of venue, §§ 22:10 to 22:18
- Discretion of court, § 22:17
- District court without authority, § 22:10
- Exhaustion of peremptories, § 22:16
- Factors, § 22:18
- Knowledge of jurors, § 22:12
- Preconceived opinions of jurors, § 22:12
- Preliminary proceedings, § 22:10
- Procedure, §§ 22:14 to 22:18
- Publicity, § 22:13
- Standard, §§ 22:11 to 22:13

### **CHANGING VERDICT**

- Judges, § 14:32

### **CHARACTER EVIDENCE**

- Generally, §§ 9:35 to 9:78
- Absence of criminal record, § 9:58
- Accused, character of, §§ 9:38 to 9:40
- Admissibility, credibility of witness, §§ 9:65 to 9:68

### **CHARACTER EVIDENCE—Cont'd**

- Aggressor, rebutting about homicide victim, § 9:50
- Attack on credibility of witnesses, reputation, § 9:65
- Bad acts, specific instances, § 9:77
- Business community's opinion, § 9:54
- Child molestation, evidence used to show propensity, § 9:43
- Circumstantial of material fact, character as, §§ 9:38 to 9:50
- Community's opinion, §§ 9:52 to 9:55
- Constitutional issues, evidence used to show propensity, § 9:44
- Criminal record, absence of, § 9:58
- Criminal sexual conduct of victim, § 9:48
- Definitions, §§ 9:35 to 9:37
- Degree of specificity of knowledge, § 9:59
- Domestic violence, evidence used to show propensity, § 9:43
- Extrinsic proof, § 9:67
- Failure of accused to call character witnesses, § 9:40
- Foundation, §§ 9:60, 9:78
- Geographical breadth of community, § 9:52
- Geographical continuity of community, § 9:53
- Habit, §§ 9:37, 9:64
- Homicide victim, rebutting about, § 9:50
- Impeachment, §§ 9:69 to 9:78, 9:238, 9:239
- Inquiry on cross-examination, § 9:68
- Jail community, reputation in, § 9:55
- Larceny, § 9:72
- Material fact, character as circumstantial, §§ 9:38 to 9:50
- MRE 405(a), §§ 9:51 to 9:59
- MRE 405(b), §§ 9:60 to 9:64
- Notice requirement, § 9:42
- Notice requirements, § 9:45
- Personal knowledge of reputation, § 9:56
- Place of offense, §§ 9:73 to 9:76
- Prison community, reputation in, § 9:55
- Propensity of accused, evidence used to show, §§ 9:41 to 9:45
- Rebuttal, prosecution in, §§ 9:49, 9:50, 9:63
- Record, absence of, § 9:58
- Relevancy, §§ 9:71 to 9:76

## **CHARACTER EVIDENCE—Cont'd**

- Reports of conduct
  - Generally, §§ 9:70 to 9:76
  - Relevant misconduct, § 9:69
- Reputation
  - Generally, §§ 9:36, 9:65, 9:66
  - Basis for knowledge of reputation, §§ 9:56 to 9:59
  - Definition, § 9:36
  - MRE 405(a), §§ 9:51 to 9:59
  - Rule 405(a), §§ 9:51 to 9:59
  - Rule 405(b), §§ 9:60 to 9:64
  - Self-defense, §§ 9:47, 9:62
  - Sexual assault, evidence used to show propensity, § 9:43
  - Sexual conduct of victim, § 9:48
  - Sexual offenses against a minor, evidence used to show propensity, § 9:41
  - Specificity of knowledge, § 9:59
  - Subsequent time, acts subsequent to crime charged, § 9:75
  - Theft offenses, § 9:72
  - Time and place, §§ 9:73 to 9:76
  - Uncharged misconduct, § 9:305
  - Veracity, theft offenses, § 9:72
  - Victim, character of, §§ 9:46 to 9:50

## **CHARACTER OF BUILDING**

- Breaking and entering, §§ 5:368, 5:374

## **CHARGING**

- Generally, §§ 18:29 to 18:36
- Aiding and abetting, § 5:10
- Attempts, § 5:22
- Common scheme count, § 18:34
- Conspiracy, specificity of time, § 5:72
- Controlled substances offenses, § 5:139
- Discriminatory prosecution, § 18:36
- Dismissals, § 18:30
- Double jeopardy, charging under wrong statute, § 8:44
- Felony or misdemeanor, § 18:33
- Forgery, §§ 5:404, 5:405
- General or specific statute, charging under, § 18:32
- Information** (this index)
- Larceny, § 5:447
- Misdemeanor or felony, § 18:33
- Preliminary examination, adding counts at, § 18:31
- Prosecutor, §§ 18:29 to 18:36

## **CHARGING—Cont'd**

- Receiving and concealing stolen property, § 5:477
- Vindictiveness, § 18:35

## **CHASE**

- Generally, §§ 2:21 to 2:25
- Home, pursuit into to make arrest, § 2:79
- Hot pursuit, § 2:89

## **CHECKPOINTS**

- Sobriety, § 5:568

## **CHECKS AND DRAFTS**

- Negotiable Instruments** (this index)

## **CHEMICAL CASTRATION**

- Probation, terms of, § 20:181

## **CHEMICAL DEVICES**

- Robbery, § 5:493

## **CHESTERNUT CASE**

- Arrest, § 2:22

## **CHILD ABUSE**

- Clergy, duty to report, § 9:258
- Constitutionality of prohibitions on sexually abusive activity or material, § 5:153
- Crimes against children, §§ 5:142 to 5:162
- Double jeopardy and criminal sexual conduct, § 8:64
- Evidence, § 5:149
- Expert testimony, child abuse syndrome, § 23:18
- Failure to report child abuse, § 5:161
- False report of, § 5:668
- First degree child abuse, §§ 5:143, 5:144
- Fourth degree child abuse, §§ 5:147, 5:148
- Homicide, § 5:304
- Reporting abuse, failure, § 5:161
- Second degree child abuse, §§ 5:144, 5:145
- Sexually abusive activity or material, §§ 5:151 to 5:157, 5:155
- Statutes, § 5:142
- Statutory provision, included activity, § 5:153
- Third degree child abuse, § 5:146
- Vehicles, leaving children unattended in, § 5:162

## INDEX

### CHILDREN

Generally, §§ 5:142 to 5:162  
Abuse. **Child Abuse** (this index)  
Accosting minor, solicitation, § 5:94  
ADC check, forgery, § 5:407  
Age inappropriate knowledge, § 5:225  
**Age** (this index)  
Assault and battery, minor victim's alleged consent, § 5:33  
**Child Abuse** (this index)  
**Crimes Against Children** (this index)  
**Double Jeopardy** (this index)  
**Hearsay** (this index)  
**Homicide** (this index)  
**Juveniles** (this index)  
Kidnapping by parents, termination of parental rights, § 5:359  
Life begins and ends as a matter of law, §§ 5:254, 5:255  
**Nonsupport** (this index)  
Privileged information, § 9:280  
Questioning and confessions, thresholds for Miranda, § 3:33  
Rape shield law and right of confrontation, § 5:225  
**Search and Seizure** (this index)  
**Sentencing** (this index)  
Solicitation to commit felony, § 5:94  
**Witnesses** (this index)

### CHOP SHOPS

Double jeopardy, §§ 8:79, 8:114

### CIRCUMSTANTIAL EVIDENCE

Generally, §§ 9:79, 9:80  
Appeal and error, §§ 1:54, 1:55  
Cautionary instructions, § 13:39  
Conspiracy, §§ 5:76 to 5:78  
Inferences on inferences, § 9:80  
Negating all innocent theories, § 9:79  
Other acts as, §§ 9:302 to 9:304

### CITIZEN COMPLAINTS

Discovery, § 7:12

### CJI INSTRUCTIONS

Generally, § 13:1

### CLARIFICATION

Homicide, clarification regarding manslaughter, § 5:324  
Judges, clarifying testimony, § 14:1  
Verdicts, § 15:81

### CLERGY

Child abuse, duty to report, § 9:258  
Privileged information, §§ 9:256 to 9:258

### CLOSED CIRCUIT TV

Preliminary examination, § 17:5  
Rape shield law and right of confrontation, §§ 5:233, 5:234

### CLOTHING

Appearance of defendant in courtroom, § 22:47  
Identification, § 11:24

### COCAINE

Controlled substances offenses, § 5:128

### COCONSPIRATOR LIABILITY

Generally, §§ 5:79 to 5:83

### CO-FELON

Homicide, death of co-felon, § 5:312

### COLLATERAL ATTACK

**Appeal and Error** (this index)  
Jury selection, § 15:46  
Padilla and retroactivity, §§ 4:46, 10:34

### COLLATERAL CONSEQUENCES

Guilty pleas, §§ 10:22 to 10:34

### COLLATERAL ESTOPPEL

Double jeopardy, §§ 8:8 to 8:15

### COLLATERAL REVIEW

Ineffective assistance, § 4:48

### COMMERCIAL PAPER

Evidence, § 9:24  
**False Pretenses** (this index)

### COMMON LAW CONSPIRACY

Generally, §§ 5:65, 5:66

### COMMON SCHEME COUNT

Generally, § 18:34

### COMMUNITY'S OPINION

Character evidence, §§ 9:52 to 9:55

### COMPARISONS

Evidence, comparison by trier or expert witness, § 9:6

### COMPETENCY

Generally, §§ 22:30 to 22:40  
Commitment proceedings, competence to stand trial, § 22:39

**COMPETENCY—Cont'd**

- Diminished Capacity** (this index)
- Examination in front of jury, § 23:4
- Guilty pleas, § 10:12
- Hearsay, § 9:165
- Insanity** (this index)
- Medication, competence to stand trial, § 22:31
- Preliminary examination, incompetent defendants, § 17:25
- Psychologists and Psychiatrists** (this index)
- Reports on competency, § 6:73
- Witnesses, competency to testify, §§ 23:1 to 23:6

**COMPLAINT AND WARRANT**

- Information, §§ 12:13, 12:14

**COMPLETENESS**

- Hearsay rule, § 9:115

**COMPLETION OF ENTERPRISE**

- Conspiracy, § 5:66

**COMPUTER IMAGES**

- Crimes against children, §§ 5:158 to 5:160

**CONCEALMENT**

- Embezzlement, § 5:416
- Receiving and Concealing Stolen Property** (this index)

**CONDITIONAL ASSAULT**

- Generally, § 5:32

**CONDITIONAL PLEAS**

- Guilty pleas, § 10:42

**CONDUCT**

- Scientific evidence, behavioral sciences, § 9:100

**CONFESSION OF ERROR**

- Generally, §§ 1:76 to 1:78

**CONFESSIONS**

- Generally, §§ 3:1 to 3:90
- Active use of informants, § 3:19
- Admissions, §§ 3:1 to 3:7
- Adoptive admissions, § 3:6
- Age of individual questioned as a factor, § 3:33
- Agent, admissions by, § 3:7
- Arraignment, delay in, §§ 3:58 to 3:62

**CONFESSIONS—Cont'd**

- Arrest
  - Generally, §§ 2:109, 3:85, 3:86
  - Probable cause issues, §§ 3:85, 3:86
- Assertion of right to counsel, § 3:14
- Attachment of right to counsel, §§ 3:11 to 3:13
- Beliefs of police, relevancy, § 3:32
- Booking question, Miranda exception, § 3:36
- Break in custody after request for counsel at, § 3:51
- Burden of proof, §§ 3:48, 3:73
- Cessation of questioning, request for, § 3:49
- Children, age of individual questioned as a factor, § 3:33
- Complainant as party, § 3:5
- Completeness, rule of, § 3:89
- Contemporaneous record required, circumstances, § 3:72
- Corroboration of declarations against penal interest, § 3:10
- Custody
  - Another offense, custody on, § 3:34
  - Federal courts, § 3:28
  - Michigan courts, § 3:29
- Declarations against penal interest, §§ 3:8 to 3:10
- Delay in arraignment, §§ 3:58 to 3:62
- Equivocal assertion of Miranda rights, § 3:40
- Ethical considerations, interference with right to counsel, § 3:18
- Existence of confession, dispute regarding, § 3:68
- Expert testimony, §§ 3:70, 3:90
- Explicit waiver of Miranda rights, § 3:43
- Federal case regarding state prisoner, § 3:61
- Fifth Amendment issues, generally, §§ 3:22 to 3:65
- Guilty plea, statements as part of plea bargaining, § 3:88
- Harmless error, § 3:87
- Hearsay exceptions, §§ 3:1, 3:8
- Illegal arrest, §§ 3:85, 3:86
- Impeachment, confessions illegally obtained, § 9:245
- Impeachment of Miranda-defective confession, § 3:79

## INDEX

### CONFESSIONS—Cont'd

- Ineffective counsel, statement as result of, § 3:83
- Informants, use of, §§ 3:19 to 3:21
- Informing arrestee of counsel attempt to contact, § 3:45
- Intention to retain counsel, § 3:15
- Jackson case, § 3:82
- Jail or prison officials, questioning by, § 3:27
- Jury consideration of circumstances of confession, § 3:69
- Juveniles, §§ 16:18 to 16:20
- Lie detector tests, § 3:55
- Limited assertion of Miranda rights, § 3:41
- Mental state of accused, § 3:42
- Miranda rights
  - Generally, §§ 3:22 to 3:65
  - Degree of precision, §§ 3:38, 3:39
  - Inapplicability, §§ 3:23 to 3:27
  - Interrogation requirement, § 3:35
  - Mental state of accused, § 3:42
  - Reassertion, § 3:46
  - Waiver of rights, §§ 3:14 to 3:17, 3:42 to 3:48
- Misconduct of police, § 3:42
- Misdemeanors, § 3:31
- Motions requirement at Walker hearings, § 3:67
- Non-law enforcement personnel, questioning by, § 3:26
- Nontestimonial responses, § 3:37
- On-scene inquiries, § 3:23
- Opposing party, offering by, § 3:4
- Original rule, delay in arraignment, §§ 3:58, 3:60
- Party, complainant as, § 3:5
- Passive use of informants, § 3:20
- Payton violation, illegal arrests, § 3:86
- Penal interest, declarations against, §§ 3:8 to 3:10
- Personal characteristics and voluntariness, § 3:53
- Physical evidence improperly gained, § 3:80
- Plea bargaining, statements as part of, § 3:88
- Police reports, § 3:57
- Polygraphs, § 3:55

### CONFESSIONS—Cont'd

- Precision of Miranda warnings, §§ 3:38, 3:39
- Prior invalid statements, § 3:84
- Prior warnings as sufficient to support waiver of rights, § 3:47
- Prisoners, federal case regarding state prisoners, § 3:61
- Probable cause for arrest, §§ 3:85, 3:86
- Promises
  - Leniency, §§ 3:63 to 3:65
  - Release of persons, §§ 3:64, 3:65
- Public safety exceptions, § 3:25
- Recording interrogation, statutory test, § 3:30
- Recording of police interrogations
  - Generally, §§ 3:75 to 3:77
  - Definitions, § 3:77
  - Failure to record, § 3:76
- Refusal to sign Miranda waiver form, § 3:44
- Relevance, §§ 3:3, 3:32
- Requests
  - Cessation of questioning, request for, § 3:49
  - Counsel, request for, §§ 3:50, 3:51
- Right to counsel
  - Generally, §§ 3:11 to 3:21
  - Assertion of right, § 3:14
  - Attachment of right, §§ 3:11 to 3:13
  - Break in custody, after request for counsel at confession, § 3:51
  - Different matter, counsel on, § 3:13
  - Expression of intent, § 3:15
  - Institution of proceedings, § 3:11
  - Interference with, §§ 3:18 to 3:21
  - Interrogation after attachment but before assertion of right, § 3:16
  - Waiver of rights, §§ 3:14 to 3:17, 3:42 to 3:48
- Riverside case, § 3:62
- Rules of Evidence, §§ 3:88, 3:89
- Safety exceptions, § 3:25
- Sixth Amendment, § 3:82
- Standard of review, § 3:74
- State prisoner, federal case regarding, § 3:61
- Statement as result of ineffective counsel, § 3:83
- Subject matter of interrogation and Miranda warnings, § 3:39

## CONFESSIONS—Cont'd

- Subjective beliefs of police, relevancy, § 3:32
- Subsequent rule, delay in arraignment, § 3:59
- Summers detentions, § 3:31
- Suppression of illegal evidence
  - Physical evidence, § 3:80
  - Rules of Evidence, §§ 3:88, 3:89
- Terry stops, § 3:31
- Third party testimony, §§ 3:81, 3:83
- Traffic stops, § 3:31
- Trickery by police, § 3:54
- Undercover operations, § 3:34
- Verbal vs. nontestimonial responses, § 3:37
- Vienna convention violations, § 3:78
- Voluntariness
  - Generally, §§ 3:17, 3:52 to 3:66
  - Coercive police activity, § 3:52
  - Exculpatory nature of statement, § 3:56
  - Involuntary statements, harmless error, § 3:87
  - Volunteered statements, § 3:24
- Waiver of rights, §§ 3:14 to 3:17, 3:42 to 3:48
- Walker hearings
  - Generally, §§ 3:66 to 3:74
  - Contemporaneous record required, circumstances, § 3:72
  - Method of proof, § 3:71
  - Motions requirement, § 3:67
  - Proof, §§ 3:71 to 3:74

## CONFIDENTIAL INFORMATION

- Discovery, §§ 7:5, 7:16, 7:19, 7:20
- Privileged Information** (this index)

## CONFLICTING DEFENSES

- Joinder, §§ 22:58 to 22:65

## CONFRONTATION CLAUSE

- Forfeiture by wrongdoing, § 9:108
- Laboratory reports, § 9:174
- Public records, § 9:174

## CONFRONTATION OF WITNESSES

- Entrapment, § 6:46
- Hearsay, catch-all provisions, § 9:185
- Rape Shield Law and Right of Confrontation** (this index)

## CONSCIOUSNESS OF GUILT

- Evidence, § 9:315

## CONSECUTIVE SENTENCES

- Guilty pleas, consequences, § 10:29

## CONSENT

- Arrest** (this index)
- Breaking and entering, § 5:363
- Criminal sexual conduct, § 5:186
- Double Jeopardy** (this index)
- Rape shield law and right of confrontation, §§ 5:224, 5:227
- Search and Seizure** (this index)

## CONSPIRACY

- Generally, §§ 5:64 to 5:95
- Accomplices, §§ 5:74, 5:75
- Acts after conspiracy, § 5:83
- Acts in furtherance of conspiracy, § 5:82
- Armed robbery, § 5:92
- Charging, specificity of time, § 5:72
- Circumstantial evidence, §§ 5:76 to 5:78
- Coconspirator liability, §§ 5:79 to 5:83
- Common law, §§ 5:65, 5:66
- Completion of enterprise, § 5:66
- Continuing after substantive offense, § 5:71
- Corpus delicti, § 5:75
- Direct, § 5:75
- Dismissal, § 5:88
- Double jeopardy, §§ 8:52 to 8:56
- Drugs and narcotics
  - Generally, § 5:89
  - Knowledge, drug conspiracies, § 5:81
  - Knowledge of amount, § 5:81
- Elements of offense, § 5:64
- Evidence
  - Circumstantial, §§ 5:76 to 5:78
  - Direct evidence, §§ 5:74, 5:75
  - Hearsay, coconspirator statements, §§ 9:129 to 9:132
  - Inferences, § 5:78
  - Proof of agreement, § 5:76
  - Proof of identity of coconspirator, § 5:77
- Fair inference, § 5:78
- First-degree murder, § 5:91
- Hearsay, coconspirator statements, §§ 9:129 to 9:132
- Immunity grant, § 5:87
- Inferences, § 5:78

## INDEX

### CONSPIRACY—Cont'd

- Knowledge, §§ 5:80, 5:81
- Legal act in illegal manner, § 5:90
- Liability of coconspirator, §§ 5:79 to 5:83
- Multiple conspiracies, § 5:73
- Multiple convictions, § 5:68
- Murder, conspiracy to commit, §§ 5:69, 5:91
- One man conspiracy rule, § 5:86
- Overt acts, § 5:66
- Presumptions, § 5:78
- Robbery, § 5:92
- Second-degree murder, conspiracy to commit, § 5:69
- Sentencing considerations, §§ 5:91, 5:92
- Single or multiple conspiracies, § 5:73
- Solicitation and incitement, § 5:93
- Substantive offenses, continuing after, § 5:71
- Timing, §§ 5:70 to 5:73, 5:79
- Wharton's Rule, §§ 5:84 to 5:90
- Withdrawal, § 5:67

### CONSTITUTIONAL ISSUES

- Abortion, § 5:655
- Alibi, § 6:18
- Arrest, probable cause, § 2:68
- Breaking and entering, § 5:362
- Confrontation Clause** (this index)
- Double Jeopardy** (this index)
- Ethnic intimidation, § 5:695
- Felony-firearm, § 5:621
- Fifth Amendment** (this index)
- Forgery, § 5:402
- Guilty but mentally ill, § 6:94
- Hearsay, § 9:170
- Impeachment, § 9:217
- Insanity, § 6:66
- Miranda** (this index)
- Perjury, §§ 5:680, 5:681
- Plea bargaining, constitutional basis, § 10:44
- Rape shield law and right of confrontation, §§ 5:219 to 5:233
- Search and Seizure** (this index)
- Sexual offenses, § 5:252
- Speedy Trial** (this index)
- Stalking, § 5:699
- Terrorist threats, § 5:716

### CONSTITUTIONAL LAW

- Lifetime electronic monitoring, Fourth Amendment, § 5:244

### CONSTRUCTIVE POSSESSION

- Controlled substances offenses, § 5:101
- Felony-firearm, §§ 5:629, 5:630

### CONTAINER SEARCHES

- Search and Seizure** (this index)

### CONTEMPORANEOUS ACTS

- Evidence, § 9:312

### CONTEMPT

- Citations by judge, § 14:5
- Double jeopardy, § 8:109

### CONTINUANCE OF TRIAL

- Generally, §§ 22:25 to 22:29
- Abuse of discretion, §§ 22:26, 22:27
- General test, § 22:25
- Lack of diligence, § 22:28
- Prosecution request, § 22:27

### CONTINUED POSSESSION

- Receiving and concealing stolen property, § 5:474

### CONTINUING

- Conspiracy, continuing after substantive offense, § 5:71
- Instructions, continuation by deadlocked juries, § 13:61

### CONTRADICTION

- Impeachment by, § 9:242

### CONTRIBUTING TO DELINQUENCY OF MINOR

- Criminal sexual conduct, § 5:204

### CONTRIBUTORY NEGLIGENCE

- Homicide, §§ 5:262, 5:349

### CONTROLLED SUBSTANCES

- Generally, §§ 5:96 to 5:140
- Addict's testimony, §§ 5:104, 5:105
- Aggregating amounts in possession, § 5:100
- Aiding and abetting, § 5:110
- Alcohol** (this index)
- Attempts, § 5:109
- Burden of persuasion, § 5:112
- Charging, § 5:139
- Cocaine, § 5:128

**CONTROLLED SUBSTANCES—Cont’d**

**Conspiracy** (this index)  
 Constitutional questions, §§ 5:127 to 5:132  
 Constructive possession, § 5:101  
 Defenses, procuring agent, § 5:111  
 Delegation of authority, § 5:129  
 Delivery, §§ 5:108 to 5:114, 5:355  
 Double jeopardy, §§ 8:18, 8:101 to 8:106  
**Drug Addicts** (this index)  
 Drug houses, § 5:125  
 Elements of offenses, §§ 5:96 to 5:103  
 Entrapment, drug delivery cases, § 6:53  
 Good Samaritan exception to culpability, § 5:97  
 Homicide, § 5:305  
 Instructional limitation, § 5:130  
 Instructions on lesser offenses, § 5:113  
 Intent to deliver, §§ 5:103, 5:106, 5:107  
 Lesser offenses, §§ 5:113, 5:114  
 Lifetime probation, abolition, § 5:134  
**Marijuana** (this index)  
 Opinion testimony by addict, § 5:104  
 Physicians, §§ 5:115, 5:116  
 Possession  
   Generally, §§ 5:96 to 5:105  
   Constructive possession, § 5:101  
   Delivery, § 5:97  
   Intent to deliver on or near school grounds required, § 5:103  
 Prescriptions, § 5:140  
 Prisoner in possession, § 5:126  
 Privacy, no right to, § 5:124  
 Probation for lifetime, abolition, § 5:134  
 Quantity in possession, §§ 5:98 to 5:100  
 School grounds, possession on or near, §§ 5:102, 5:103  
 Sentencing  
   Generally, §§ 5:133 to 5:138, 20:87  
   Amounts over 225 grams, § 5:137  
   Habitual offenders, § 20:46  
   Mandatory minimum sentences, departure from, § 5:138  
   Retroactivity and meaning of parole consideration amendment, § 5:135  
   Section 7411, § 5:136  
 Statutory instructional limitation, § 5:130  
 Sufficiency of testimony, § 5:105  
 Title-object clause, § 5:131  
 Visible to eye, quantity, § 5:99

**CONTROLLED SUBSTANCES—Cont’d**

Weight of controlled substances, §§ 5:132, 5:137

**CONVERSION, LARCENY BY**

Generally, §§ 5:453 to 5:456  
 Delivery, § 5:454  
 Elements of offense, § 5:453  
 Embezzlement distinguished, § 5:455  
 Failure to return rental property distinguished, § 5:456

**COOLING-OFF TIME**

Homicide, § 5:326

**CORNELL**

“Degreed” offenses, instructions, § 13:9  
 Included offense instruction, § 13:11  
 Predicate-based offenses, instructions, § 13:10

**CORPORATIONS**

Gross negligence by, § 5:341  
 Malicious destruction of corporate property, § 5:657

**CORPOREAL IDENTIFICATION**

Preference, §§ 11:12 to 11:18

**CORPUS DELICTI**

Generally, § 5:141  
 Accessory after fact, § 5:19  
 Breaking and entering, § 5:378  
 Conspiracy, § 5:75  
 Homicide, §§ 5:280, 5:281, 5:285 to 5:289, 5:314  
 Larceny, § 5:450  
 Preliminary examination, § 17:17

**CORRECTION OF RECORD ON APPEAL**

Generally, § 1:92

**CORRECTIONAL FACILITIES**

**Prisons and Prisoners** (this index)

**CORROBORATION**

Alibi, § 6:29  
 Hearsay, § 9:161

**COUNSEL**

Generally, §§ 4:1 to 4:54  
 Alibi, preclusion for failure to file notice, counsel error, § 6:20  
**Appeal and Error** (this index)

## INDEX

### **COUNSEL—Cont'd**

- Appeals, waiver of right to counsel at guilty plea, § 4:21
- Arraignment, § 4:1
- Attachment of right, §§ 4:1 to 4:15
- Attorney-client privilege, §§ 9:253 to 9:255
- Change of counsel, §§ 4:13, 4:14
- Change or clarification of law, subsequent, § 4:37
- Collateral attack, Padilla not retroactive, § 4:46
- Collateral estoppel, no effect of malpractice suit, § 4:29
- Competency, § 4:22
- Conflict of interest, representation of by attorney with, § 4:32
- Court rule as to joint representation, § 4:52
- Critical stages of proceedings, §§ 4:2 to 4:12
- Defense, advice of counsel as, § 6:7
- Defense, failure to present, § 4:35
- Effective assistance, §§ 4:27 to 4:54
- Error as cause for appeal, § 1:170
- Evidence, effective assistance, § 4:49
- Evidence, failure to produce, § 4:36
- Evidentiary estoppel, § 4:51
- Expert testimony, § 4:50
- Extra-record claims, § 4:49
- Federal standard of effective assistance, § 4:27
- Guilty pleas
  - Generally, §§ 4:43 to 4:44, 4:46, 10:10
  - Collateral attack, Padilla not retroactive, § 4:46
  - Evidentiary estoppel, § 4:51
  - Ineffective assistance, § 4:45
  - Ineffective assistance claims after plea, § 10:60
  - Mandatory life offense, § 4:44
  - Right to counsel for appeal following, § 4:12
  - Self-representation, §§ 4:17, 10:11
  - Waiver of counsel at, § 4:20
- Identification** (this index)
- Improper waiver, § 4:17
- Inappropriate evidence, production, § 4:36
- Ineffective assistance
  - Appeal, § 4:47

### **COUNSEL—Cont'd**

- Ineffective assistance—Cont'd
  - Collateral review, § 4:48
  - Guilty pleas, § 4:45
- Insanity, counsels' error, § 6:67
- Instructions, defendant controls, not counsel, § 13:18
- Interference with counsel right, § 4:15
- Interpreter, waiving, § 4:40
- Interrogation, § 4:2
- Joint representation, §§ 4:52 to 4:54
- Judges** (this index)
- Legal material, access to, § 4:25
- Lesser offenses
  - Arguing for conviction on lesser offense, § 4:33
  - Failure to request instruction, § 4:38
- Malpractice suit, no collateral estoppel effect, § 4:29
- Mandatory life offense, guilty pleas to, § 4:44
- Mental capacity for self-representation, § 4:23
- Objections, failure to make, § 4:34
- Offer, failure to convey, § 4:42
- Operating under Influence (OUIL) and Driving while Impaired (DWI)** (this index)
- Perjury by client, § 4:41
- Plea negotiations, §§ 4:5, 4:42
- Prejudice and representation by suspended lawyer, § 4:31
- Preliminary examination, § 4:4
- Presentence interviews and conferences, § 4:11
- Pretrial matters, §§ 4:2 to 4:5
- Prison sentences, § 4:7
- Pro se, §§ 4:16 to 4:26
- Prosecutor** (this index)
- Refusal by court, joint representation, § 4:54
- Self-representation, §§ 4:16 to 4:26
- Sentencing, §§ 4:10 to 4:12
- Standard for joint representation, § 4:53
- Standby counsel, § 4:24
- Strategic decisions, § 4:30
- Strickland case, § 4:28
- Supporting witnesses, failure to call, § 4:39
- Suspended lawyers, § 4:31
- Time of arraignment, § 4:1

## **COUNSEL—Cont'd**

### **Trial**

- Generally, §§ 4:6 to 4:9
- Constitutional right at, § 4:16
- Consultation during, § 4:8
- Interlocutory appeals filed by prosecution, duty to respond to, § 4:9
- Misconduct, waiver of right to counsel and right to self representation by, § 4:6
- Right to counsel, waiver by misconduct, § 4:6
- Self-representation right, waiver by misconduct, § 4:6
- Waiver of counsel at guilty plea, §§ 4:20, 4:21
- Warnings as to self-representation, § 4:19
- Witnesses, failure to call, § 4:39

## **COURT RULES**

- Generally, §§ App A, App B, App C

## **COURT-APPOINTED EXPERTS**

- Test for appointment of expert, § 23:24

## **COY V. IOWA**

- Rape shield law and right of confrontation, § 5:231

## **CPMV (CARRYING PISTOL IN MOTOR VEHICLE)**

- Generally, §§ 5:596 to 5:598, 8:95
- Double jeopardy, § 8:95

## **CRAWFORD FACTORS**

- Hearsay, § 9:146
- Prior convictions, § 9:190

## **CREDIBILITY OF WITNESSES**

- Admissibility, credibility of other-act witnesses inappropriate consideration, § 9:311
- Appeal and error, § 1:52
- Expert and lay opinion witnesses, § 23:17
- Preliminary examination, §§ 17:7, 17:29
- Prior convictions, credibility contest cases, § 9:193

## **CREDIT CARD FRAUD**

- Generally, § 5:412

## **CREDIT SALES SLIPS**

- Forgery, § 5:410

## **CRIMES**

- Generally, §§ 5:1 to 5:723
- As to particular crimes, see particular headings in this index
- Innocent agent distinguished, § 5:2

## **CRIMES AGAINST CHILDREN**

- Generally, §§ 5:142 to 5:162
- Affirmative defenses, § 5:148
- Child Abuse** (this index)
- Computer images, §§ 5:158 to 5:160
- Criminal Sexual Conduct** (this index)
- Distribution of sexual material, § 5:156
- Evidence, § 5:149
- Pediatric abuse, possible, § 5:149
- Sale of children, § 5:157
- Vehicles, children in, § 5:150

## **CRIMINAL DEFENSES**

- Generally, §§ 6:1 to 6:126

## **CRIMINAL ENTERPRISE**

- Burglar's tools, § 5:719
- Election fraud, forgery of signatures, § 5:721
- Identity theft, § 5:722
- Pirating electronic media, § 5:720
- Racketeering, § 5:715

## **CRIMINAL JURY INSTRUCTIONS (CJI)**

- Generally, § 13:1

## **CRIMINAL NEGLIGENCE**

- Generally, §§ 5:339 to 5:343

## **CRIMINAL RECORD**

- Character evidence, absence of record, § 9:58
- Discovery of criminal histories, § 7:15

## **CRIMINAL SEXUAL CONDUCT**

- Generally, §§ 5:163 to 5:253
- Abetting another, § 5:193
- Access to weapons, § 5:178
- Affinity as aggravating factor, blood or, § 5:168
- Age of complainant, § 5:167
- Ages of defendants and victims, § 5:206
- Aiding and abetting, §§ 5:175, 5:176, 5:193
- Assault with intent, CSC 1 or 2, § 5:196
- Assault with intent to do great bodily harm, § 5:203

## CRIMINAL SEXUAL CONDUCT

### —Cont'd

Authority, positions of, § 5:185  
 Blood or affinity as aggravating factor, § 5:168  
 Child sexually abusive activity, § 5:172  
 Coercion, §§ 5:176, 5:180 to 5:185  
 Consent, § 5:186  
 Contributing to delinquency of minor, § 5:204  
 CSC 2, §§ 5:196, 5:198, 5:207 to 5:210  
 CSC 3, §§ 5:211, 5:212  
 CSC 4, §§ 5:201, 5:209, 5:210, 5:213, 5:214  
 CSC 1, generally, §§ 5:163 to 5:206  
 Disarming, possession after, § 5:179  
 Double jeopardy, §§ 8:57 to 8:65  
 Elements  
     Alternative aggravating factors, generally, §§ 5:163 to 5:186  
     Degrees of CSC, §§ 5:207, 5:211, 5:213  
 Exchange of drugs for sex, § 5:174  
 Expert testimony, §§ 5:190, 5:191  
 Felonious assault, § 5:202  
 First degree (CSC 1), generally, §§ 5:163 to 5:206  
 Force, §§ 5:176, 5:180 to 5:185, 5:199  
 Gross indecency, § 5:205  
 Helpless victims, § 5:175  
 Incapacitated victims, § 5:175  
 Indecency, gross, § 5:205  
 Intent, CSC 1, § 5:164  
 Lesser included offenses, §§ 5:198 to 5:205, 5:209, 5:210  
 Limitation of prosecutions, § 22:21  
 Medical treatment, §§ 5:183, 5:200  
 Medical treatment, pretext of, § 5:218  
 Mental anguish, § 5:182  
 Mentally incapable or incapacitated  
     Spouse, § 5:217  
     Victim, § 5:175  
 Multiple acts  
     Charged within one count, § 5:197  
     With other member of same household, § 5:188  
     With same victim, §§ 5:187, 5:189  
 Multiple convictions, §§ 5:170, 5:192 to 5:197  
 Multiple felonies, §§ 5:169 to 5:174  
 Multiple penetrations, §§ 5:194, 5:195

## CRIMINAL SEXUAL CONDUCT

### —Cont'd

Multiple victims, § 5:171  
 Penetration, § 5:165  
 Physical injury, § 5:181  
 Physically helpless victims, § 5:175  
 Possession of weapons, § 5:178  
 Pretext of medical treatment, § 5:218  
**Rape** (this index)  
 Same household with complainant, § 5:166  
 Sentence, age of defendant victim, § 5:206  
 Sequence, § 5:173  
 Sexual purpose, § 5:208  
 Sleeping victim, § 5:184  
 Spouse, § 5:217  
 Statutory provision, § 5:163  
 Surprise, sleeping victim, § 5:184  
 Weapons, use of, §§ 5:177 to 5:179, 5:195

## CROSS-APPEALS

Generally, § 1:36

## CROSS-EXAMINATION

Generally, §§ 9:81 to 9:87  
 Abusive cross-examination, § 9:87  
 Address of witness, § 9:84  
 Collateral matter, § 9:82  
 Discretion, § 9:81  
 Financial status of witness, § 9:86  
 Refusing to answer, § 9:83  
 Refusing to answer on cross-examination, remedy, § 23:41  
 Religion, § 9:85

## CRUEL OR UNUSUAL PUNISHMENT

Generally, § 20:168

## CRUELTY

**Animal Cruelty** (this index)

## CSC

**Criminal Sexual Conduct** (this index)

## DANCING

Rape shield law, provocative dancing, § 5:228

## DATAMASTER

Logs, hearsay, § 9:127

**DAUBERT JURISDICTION**

Scientific evidence, § 9:97

**DEADLOCKED JURIES**

**Hung Jury** (this index)

**Instructions** (this index)

**DEADLY WEAPON DOCTRINE**

Homicide, § 5:269

**DEATH**

Appeal and error, dismissal, death of defendant, § 1:33

Breaking and entering, death of sole occupant, § 5:370

Hearsay, declarations at death, §§ 9:138 to 9:144

**Homicide** (this index)

Motorized vehicle offenses causing, § 5:520

Restitution, death of defendant during appeal, § 20:176

**DECLARATIONS AGAINST INTEREST**

Hearsay, §§ 9:133 to 9:136

Playing video of prior testimony rather than reading transcript, § 9:136

**DEFENSES**

**Affirmative Defenses** (this index)

**Alibi** (this index)

**Anticipating Defense** (this index)

Crimes against children, fourth degree child abuse, § 5:148

Criminal defenses, §§ 6:1 to 6:126

**Duress** (this index)

**Entrapment** (this index)

Excessive force, defense of habitation, § 6:121

Force

Citizen's arrest, §§ 6:124 to 6:126

Post-Garner, Couch decision, § 6:126

Pre-Garner decision, § 6:124

Tennessee v. Garner, § 6:125

Habitation, defense of, §§ 6:120 to 6:126

Insanity. **Insanity** (this index)

**Necessity** (this index)

Others, defense of, § 6:118

Property, defense of, §§ 6:120 to 6:126

**Provocation** (this index)

Quelling a riot, resisting and obstructing police officer, § 5:693

**DEFENSES—Cont'd**

Right to arrest, § 6:123

**Self-Defense** (this index)

**DEFERRED RULINGS**

Prior convictions, § 9:207

**DEFINITIONS**

Accessory after fact, § 5:16

Aiding and abetting, §§ 5:1, 5:9

Alibi, §§ 6:8 to 6:10

Arrest and seizure distinguished, detention requirement, § 2:13

Assault and battery, §§ 5:29, 5:36, 5:39, 5:53

Best evidence, § 9:29

Character evidence, §§ 9:35 to 9:37

Conversion, §§ 5:455, 5:456

Diminished capacity, §§ 6:88, 6:90

Embezzlement and conversion distinguished, § 5:455

Fair trial and perfect trial distinguished, § 1:68

Firearm, § 5:582

Hearsay, § 9:102

Insanity, §§ 6:58 to 6:63

Instructions, §§ 13:8 to 13:11, 13:52 to 13:56

Intellectual disability, § 6:61

Intoxication, § 6:90

Larceny, § 5:442

Necessity and duress distinguished, § 6:38

Plain view and open view distinguished, § 19:59

Rebuttal and impeachment distinguished, § 6:17

Weapons, § 5:608

**DEGREE OF FORCE**

Robbery, § 5:482

**DEGREE OF SPECIFICITY OF KNOWLEDGE**

Character evidence, § 9:59

**DELAY**

**Appeal and Error** (this index)

Identification, delay before arraignment, § 11:34

OUIL and OWI, delay in meeting statutory deadlines, § 5:570

**Speedy Trial** (this index)

## INDEX

### DELEGATION OF AUTHORITY

Controlled substances offenses, § 5:129

### DELIBERATIONS OF JURY

Generally, §§ 15:68 to 15:78

ABA instruction for deadlocked jury,  
§ 15:76

Absence of defendant and counsel during  
reinstruction, § 15:73

Deadlock, §§ 15:74 to 15:77

Ex parte communications, § 15:69

Instructions as to order of deliberations,  
§ 13:50

Intrusion into jury room, § 15:68

Material allowed in jury room, § 15:70

Ordering jury to continue, § 15:75

Poll of deadlocked jury, § 15:77

Reinstruction, §§ 13:59, 15:73

Replacement of juror during delibera-  
tions, § 15:78

Rereading testimony, § 15:71

### DELIBERATIVE-PROCESS ADVANTAGE

Prosecutor, § 18:40

### DELIVERY

Controlled substances offenses, §§ 5:108  
to 5:114

Conversion, larceny by, § 5:454

### DEMONSTRATIVE EVIDENCE

Generally, §§ 9:88 to 9:101

Anatomically correct dolls, § 9:95

Animations and simulations, § 9:92

Cadaver dogs, § 9:89

Fingerprints, § 9:94

Footprints, § 9:93

Illegally obtained, § 9:243

Photographs, § 9:91

Recordings, § 9:90

Relevance, § 9:298

Simulations, § 9:92

Tracking dogs, § 9:88

Weapons, § 9:96

### DEPORTATION

Guilty pleas, deportation consequences,  
§ 10:33

### DEPOSITIONS

Discovery (this index)

### DEPRAVED HEART

Homicide, § 5:268

### DESENSITIZATION

Children, expert and lay opinion wit-  
nesses, § 23:20

### DESTRUCTION OF PROPERTY

Malicious Destruction of Property (this  
index)

### DETAINDER ACT CLAIMS

Appeal and error, § 1:156

### DEVELOPMENTALLY DISABLED PERSONS

As witnesses, §§ 23:7 to 23:11

### DIAGNOSES

Hearsay, §§ 9:123, 9:179, 9:180

### DIMINISHED CAPACITY

Generally, §§ 6:32, 6:88 to 6:90

Definition, § 6:88

Intoxication distinguished, § 6:90

### DIRECTED VERDICT

Appeal and Error (this index)

Double jeopardy, § 8:35

### DISABLED PERSONS

Competency (this index)

Witnesses, §§ 23:7 to 23:11

### DISCHARGE OF FIREARMS

Weapons offenses, §§ 5:606, 5:607,  
5:650, 5:651

### DISCLOSURE

False pretenses, failure to disclose,  
§ 5:430

Pretrial notice, disclosure of nature of  
defense, § 9:308

Prosecutor's duty, §§ 18:37 to 18:40

### DISCOVERY

Generally, §§ 7:1 to 7:34

Additional discovery from prosecuting  
attorney, § 7:3

Admissibility of material sought, § 7:6

Bad faith, § 7:27

Bill of particulars, § 7:32

Citizen complaints, § 7:12

Confidential information, §§ 7:5, 7:16,  
7:19, 7:20

Court rules, generally, § 7:1

## **DISCOVERY—Cont'd**

Criminal histories of prosecution witnesses, § 7:15  
 Destruction or loss of, § 7:26  
 Duty to disclose, §§ 7:21 to 7:28  
 Exculpatory information in absence of request, § 7:21  
 Failure to preserve evidence, § 7:26  
 Grand jury testimony, § 7:13  
 Guilty plea, disclosure before, § 7:22  
 Hidden VIN, § 7:14  
 Immunity, § 7:28  
 Independent tests, § 7:34  
 Informants, § 7:17  
 Loss of evidence, § 7:26  
 Mandatory disclosure by both sides, § 7:2  
 Misleading testimony, correction, § 7:25  
 Notice and demand rule, § 7:9  
 Perjured depositions, § 5:684  
 Perjured testimony, § 7:24  
 Police and prosecution, information from, §§ 7:3, 7:10 to 7:18  
 Preliminary examination, discovery before, § 7:7  
 Preservation of evidence, § 7:26  
 Psychiatric exams of victims, § 7:20  
 Remedies for violation, §§ 7:30, 7:31  
 Scientific testing, § 7:18  
 Scope of discovery, §§ 7:10 to 7:18  
 Subpoena power of prosecutors, § 7:8  
 Suppression, § 7:23  
 Tip sheets, § 7:11  
 Transcripts, § 7:33  
 Victims' psychiatric exams, § 7:20  
 Violation of discovery orders, §§ 7:29 to 7:31

## **DISCRETION**

Appeals, jurisdiction on remand, § 1:31  
 Change of venue, § 22:17  
 Cross-examination, § 9:81  
 Expert and lay opinion witnesses, §§ 23:13, 23:26  
 Joinder, §§ 22:74, 22:75  
 Parole board, revocation of parole, § 20:197  
 Photographs, § 9:250  
 Relevance of evidence, § 9:296  
 Witnesses, § 23:2

## **DISHONESTY**

**Fraud** (this index)

## **DISMISSAL**

Generally, §§ 18:30, 22:40  
**Appeal and Error** (this index)  
 Conspiracy, § 5:88  
 Double jeopardy, dismissals midtrial, § 8:33

## **DISQUALIFICATION**

**Judges** (this index)  
 Prosecutor, § 18:41

## **DISSEMINATION**

Sexually explicit material of another, dissemination with intent to coerce or intimidate, § 5:701

## **DISTRICT COURTS**

Change of venue, court without authority, § 22:10

## **DNA**

Appeal and error, DNA testing as ground for possible relief, § 1:133  
 Search and seizure, § 19:182

## **DOCTRINE OF CHANCES**

Evidence, § 9:313

## **DOGS**

Dangerous animal causing serious injury, § 5:709  
 Injuries by dogs trained to fight, §§ 5:708, 5:709  
 Search and seizure, use of dog to establish probable cause, § 19:98

## **DOLLS**

Demonstrative evidence, anatomically correct dolls, § 9:95  
 Use with child witnesses, § 23:10

## **DOMESTIC VIOLENCE**

Generally, § 5:61  
 Arrest, domestic violence misdemeanor arrests, § 2:106  
 Assault and battery, § 5:61  
 Battered spouse syndrome, expert testimony, § 23:19  
 Counselors' privileged information, § 9:282  
 Hearsay, victims' statements, §§ 9:137, 9:186

## INDEX

### DOUBLE JEOPARDY

- Generally, §§ 8:1 to 8:116
- Aggravated indecent exposure, § 8:65
- Aiding and abetting, § 8:53
- Appellate considerations
  - Generally, §§ 8:36 to 8:44
  - Continuing offenses, § 8:42
  - Great weight of, § 8:37
  - Implied acquittals, § 8:40
  - Insufficient, § 8:36
  - Retrials, §§ 8:41, 8:44
  - Reversal on appeal, § 8:43
  - Wrong statute, charging under, § 8:44
- Arrest, resisting, § 8:90
- Arson, § 8:89
- Assault
  - Great bodily harm, assault with intent to do, § 8:115
  - And jail escape, § 8:92
  - And resisting arrest, § 8:90
  - And robbery, § 8:81
  - Strangulation, assault by, § 8:115
  - And transferred intent, § 8:91
- Attachment, §§ 8:1 to 8:4
- Automobiles
  - Chop shops, §§ 8:79, 8:114
  - Felonious driving and multiple injuries, § 8:97
- Bank robberies, §§ 8:87, 8:88
- Bench trial, attachment of double jeopardy, § 8:2
- Breaking and entering, § 8:75
- Carjacking, §§ 8:84, 8:85
- CCW (carrying concealed weapon), §§ 8:67, 8:94 to 8:96
- Charging under wrong statute, § 8:44
- Children
  - Abuse and criminal sexual conduct, § 8:64
  - Schools, narcotics offenses, § 8:106
  - Torture, § 8:93
- Chop shops, §§ 8:79, 8:114
- Civil proceedings for same conduct, § 8:6
- Collateral estoppel
  - Generally, §§ 8:8 to 8:15
  - Applicability against defendant, § 8:15
  - Compound offense, reprosecution after acquittal on predicate offense by inconsistent jury verdict, § 8:9
  - Evidentiary estoppel, § 8:10

### DOUBLE JEOPARDY—Cont'd

- Collateral estoppel—Cont'd
  - General rule—criminal prosecution, § 8:8
  - Noncriminal collateral proceedings
    - Generally, §§ 8:11 to 8:14
    - Factual issue to be resolved by verdict, necessity of, § 8:13
    - Fair opportunity, lack of, § 8:12
    - Fundamental difference in proceedings, § 8:13
    - Greater standard of proof, § 8:14
    - Lesser standard of proof, § 8:11
- Concealing stolen property, §§ 8:69, 8:78, 8:79, 8:114
- Consent
  - Generally, §§ 8:27 to 8:30
  - Consent of accused personally, § 8:28
  - Motion of codefendant, § 8:29
  - Prosecution error, § 8:30
- Conspiracy and solicitation, §§ 8:52 to 8:56
- Contempt and criminal prosecution, § 8:109
- Continuing criminal enterprise and conspiracy, § 8:55
- Continuing offenses, appellate considerations, § 8:42
- Controlled substances, §§ 8:18, 8:101 to 8:106
- CPMV (carrying pistol in motor vehicle), § 8:95
- Criminal proceedings for same conduct, § 8:6
- Criminal sexual conduct, §§ 8:57 to 8:65
- CSC 1 (or CSC 2) and assault with intent to commit CSC, § 8:62
- CSC 1 and CSC 2, § 8:61
- Directed verdicts, § 8:35
- Dismissals midtrial, § 8:33
- Disqualification of judge after jeopardy has attached, § 8:25
- Dual sovereignty
  - Generally, §§ 8:16 to 8:19
  - Federal rule, § 8:16
  - Michigan rule, § 8:17
- Factual guilt or innocence, §§ 8:33 to 8:35
- Factual issue, verdict on, § 8:13
- Fair opportunity, lack of, § 8:12
- False pretenses and forgery, § 8:76

**DOUBLE JEOPARDY—Cont'd**

Federal rule, dual sovereignty, § 8:16  
 Federal test, § 8:46  
 Felonious driving and multiple injuries, § 8:97  
 Felony murder, § 8:72  
 Felony-firearm, §§ 8:66 to 8:71, 8:71  
 Forfeiture actions and separate criminal proceedings, § 8:32  
 Forgery and false pretenses, § 8:76  
 Great bodily harm, assault with intent to do, § 8:115  
 Great weight of evidence, § 8:37  
 Greater standard of proof, § 8:14  
 Guilt or innocence, factual, §§ 8:33 to 8:35  
 Guilty plea, attachment, § 8:3  
 Home invasion in first degree and predicate offense, § 8:107  
 Homicide, § 8:82  
   Generally, § 8:72  
   Felony murder, § 8:72  
   Manslaughter and driving offenses causing death, § 8:74  
   Murder and “statutory” manslaughter, § 8:73  
   Premeditated murder, § 8:72  
 Illness of witness, § 8:23  
 Implied acquittals, § 8:40  
 Improper venue, retrial after reversal, § 8:6  
 Inconsistent jury verdict, compound offense, § 8:9  
 Indecent exposure, § 8:65  
 Innocence or guilt, §§ 8:33 to 8:35  
 Insufficient evidence, appellate considerations, § 8:36  
 Intent  
   Assault and transferred intent, § 8:91  
   Criminal sexual conduct, assault with, § 8:62  
   Legislative intent, § 8:47  
   Weapons offenses, §§ 8:68, 8:98 to 8:100  
 Intoxication, use of firearm with unlawful intent, § 8:98  
 Jail escape, § 8:92  
 Judge, disqualification after jeopardy has attached, § 8:25  
 Jury  
   Attachment, jury trial, § 8:1

**DOUBLE JEOPARDY—Cont'd**

Jury—Cont'd  
   Failure of jury to agree, §§ 8:21, 8:24, 8:38  
   Hung jury, claim of insufficient evidence, § 8:38  
   Report of resolution during deliberation inquiry not a verdict, § 8:39  
 Lab operation, and operation within 500 feet of school, § 8:106  
 Larcenies  
   In building, § 8:77  
   And receiving or concealing, § 8:78  
   And robberies, §§ 8:75 to 8:88  
 Legislative intent, § 8:47  
 Lesser included offenses, § 8:116  
 Malicious destruction, § 8:105  
 Manifest necessity  
   Generally, §§ 8:20 to 8:26  
   Failure of jury to agree, § 8:21  
   Harm to prosecution’s case, § 8:26  
   Illness of witness, § 8:23  
   Oath, failure to give, § 8:22  
 Manslaughter, § 8:82  
 Manslaughter and driving offenses causing death, § 8:74  
 Michigan rule, dual sovereignty, § 8:17  
 Michigan test, § 8:48  
 Midtrial terminations, §§ 8:33 to 8:35  
 Mistrials, §§ 8:20 to 8:30  
 Multiple conspiracies, § 8:54  
 Multiple convictions, §§ 8:46 to 8:116  
 Multiple felonies, § 8:71  
 Multiple narcotics deliveries in one transaction, § 8:102  
 Multiple narcotics substances in one amount, § 8:103  
 Multiple penetrations, §§ 8:59, 8:60  
 Multiple prosecutions, §§ 8:5 to 8:45  
 Multiple robbery victims, § 8:80  
 Multiple solicitations in one act, § 8:56  
 Multiple theories for home invasion, § 8:108  
 Murder, § 8:73  
 Mutually exclusive offenses, § 8:49  
 Narcotics, §§ 8:18, 8:101 to 8:106  
 No evidentiary estoppel, § 8:10  
 Noncriminal collateral proceedings, §§ 8:11 to 8:14  
   Generally, §§ 8:11 to 8:14

## INDEX

### **DOUBLE JEOPARDY—Cont'd**

- Noncriminal collateral proceedings,
  - §§ 8:11 to 8:14—Cont'd
  - Factual issue to be resolved by verdict, necessity of, § 8:13
  - Fair opportunity, lack of, § 8:12
  - Fundamental difference in proceedings, § 8:13
  - Greater standard of proof, § 8:14
  - Lesser standard of proof, § 8:11
- Oath, failure to give, § 8:22
- Possession
  - Delivery, § 8:104
  - Firearms by felons, § 8:70
- Preliminary examination, attachment, § 8:4
- Premeditated murder, § 8:72
- Prison escape, § 8:92
- Proceedings for same conduct
  - Civil, § 8:6
  - Criminal, § 8:6
- Receiving or concealing stolen property, §§ 8:69, 8:78, 8:79, 8:112, 8:114
- Remedy, § 8:50
- Resisting arrest, § 8:90
- Retrial after reversal, improper venue, § 8:6
- Retrials, appellate considerations, §§ 8:41, 8:44
- Robbery
  - Generally, §§ 8:75 to 8:88
  - And assault, § 8:81
  - And carjacking, § 8:85
  - And manslaughter, § 8:82
  - Multiple victims, § 8:80
  - And safecracking, § 8:86
  - And UDAA, § 8:83
- Safecracking, § 8:86
- Same transaction test
  - Generally, § 8:31
  - Same-elements test, § 8:31
- Same-elements test, § 8:31
- Schools, narcotics offenses, § 8:106
- Sentencing, consideration of charged conduct at prior, § 8:45
- Single assault under multiple statutes, § 8:51
- Single penetration, §§ 8:57, 8:58
- Solicitation, §§ 8:52 to 8:56

### **DOUBLE JEOPARDY—Cont'd**

- Stolen property
  - Chop shops, §§ 8:79, 8:114
  - Firearms, § 8:69
  - Receiving or concealing, §§ 8:79, 8:114
- Strangulation, assault by, § 8:115
- Sua sponte, § 8:34
- Test, multiple convictions, §§ 8:46 to 8:50
- Torture of children, § 8:93
- Transferred intent, assault, § 8:91
- UDAA, §§ 8:83, 8:84
- Underlying felony and criminal sexual conduct, § 8:63
- Waiver of jeopardy protection, § 8:5
- Weapons offenses
  - Generally, §§ 8:67, 8:94 to 8:96, 8:99
  - Criminal sexual conduct armed with weapon, § 8:60
  - Felony-firearm, §§ 8:66 to 8:71
  - Intent, §§ 8:68, 8:98 to 8:100
  - Stolen firearms, § 8:69
- Weight of evidence, appellate considerations, § 8:37
- Witnesses
  - Illness, § 8:23
  - Oath, failure to give, § 8:22
- Wrong statute, charging under, § 8:44

### **DRIVER'S LICENSES**

- Perjury, §§ 5:673, 5:682
- Probation, surrender, § 20:182
- Search and seizure, implied consent, § 19:58

### **DRUG ADDICTS**

- Instructions, § 13:35
- Testimony, §§ 5:104, 5:105

### **DRUG COURIER PROFILE**

- Arrest, § 2:40

### **DRUG HOUSES**

- Generally, § 5:125

### **DRUGS, GENERALLY**

- Controlled Substances (this index)

### **DUAL SOVEREIGNTY**

- Double Jeopardy (this index)

## **DUI**

**Operating under Influence (OUIL) and Driving while Impaired (DWI)**  
(this index)

## **DUPLICATES**

Best evidence, §§ 9:30 to 9:32

## **DURESS**

Generally, §§ 6:33 to 6:37  
Assault with intent to murder defense, § 6:37  
Depraved heart murder, § 6:36  
Firearm, felony possession of, § 6:35  
Murder defense, § 6:36  
Necessity, distinguished, § 6:38  
Prisoners  
    Escape, § 6:34  
    Weapons possession, § 6:35  
Test, § 6:33

## **DWELLINGS**

Breaking and entering  
    Absence from abode, § 5:368  
    Temporary absence from abode, § 5:368  
    Use of building as place of abode, § 5:368  
Self-defense, §§ 6:104 to 6:106  
Weapons, §§ 5:594, 5:607, 5:650, 5:651

## **DWI**

**Operating under Influence (OUIL) and Driving while Impaired (DWI)**  
(this index)

## **DYING DECLARATIONS**

Generally, §§ 9:138 to 9:144  
Belief of impending death, § 9:141  
Capacity, children, § 9:142  
Causation of death, regarding, § 9:143  
Confrontation clause, § 9:139  
Excited utterance, relationship to, §§ 9:144, 9:152  
Homicide prosecution, § 9:140  
MRE generally, § 9:138

## **EAVESDROPPING**

Generally, § 5:710

## **ELDERLY PERSONS**

Abuse, vulnerable adults, § 5:706

## **ELECTIONS**

Forgery, § 5:405  
Fraud, forgery of signatures, § 5:721

## **ELECTRONIC MEANS**

Witnesses at trial, use of, § 23:39

## **ELECTRONIC MONITORING**

**Lifetime Electronic Monitoring** (this index)

## **ELEMENTS OF OFFENSE**

Arson, § 5:26  
Assault and battery, §§ 5:29, 5:43, 5:46 to 5:50, 5:53, 5:215  
Breaking and entering, §§ 5:361, 5:388  
Carjacking, § 5:508  
Conspiracy, § 5:64  
**Controlled Substances Offenses** (this index)  
Conversion, larceny by, § 5:453  
Embezzlement, § 5:413  
Extortion, § 5:419  
Felony-firearm, § 5:618  
Instruction as to elements required, §§ 13:52, 13:53  
Larceny, § 5:438  
Malicious destruction of property, § 5:656  
Perjury, § 5:671  
Robbery, § 5:479  
Unlawfully driving away in automobile (UDAA), § 5:510

## **ELUDING**

**Fleeing and Eluding** (this index)

## **EMBEZZLEMENT**

Generally, §§ 5:413 to 5:418  
Concealment, § 5:416  
Conversion, distinguished, § 5:455  
Cross-examination and argument regarding financial condition, § 5:418  
Elements of offense, § 5:413  
Employees, § 5:414  
Estoppel, § 5:417  
Permission, § 5:415

## **EMERGENCIES**

Operating under influence (OUIL) and driving while impaired (DWI), death of emergency response personnel, § 5:575

**Search and Seizure** (this index)

## INDEX

### EMPLOYEES

Embezzlement, § 5:414

### ENDORSEMENTS

Forgery, § 5:399

### ENTRAPMENT

Generally, §§ 6:40 to 6:55  
Admitting offense, § 6:44  
Affirmative defense, § 6:42  
Burden of proof, § 6:43  
Confrontation, § 6:46  
Controlled substances offenses, § 6:53  
Drug delivery cases, § 6:53  
Estoppel, entrapment by, § 6:41  
Other criminal offenses, § 6:54  
Police officers' violation of law, § 6:50  
Preliminary examination, § 6:45  
Preserving issue, § 6:47  
Procedure, §§ 6:42 to 6:46  
Providing opportunity to commit offense, §§ 6:48, 6:49  
Sentence entrapment, § 6:52  
Sting operations, § 6:51  
Take-back sales, § 6:55  
Test, § 6:40  
Transportation, providing, § 6:49

### ERROR

Appeal and Error (this index)

### ESCAPE

Appeal and error, dismissal of appeal, § 1:32  
Fleeing and Eluding (this index)  
Sentencing (this index)

### ESTIMATES

False pretenses, § 5:429

### ESTOPPEL

Embezzlement, § 5:417  
Entrapment by, § 6:41

### ETHNIC INTIMIDATION

Generally, §§ 5:695, 5:696  
Constitutionality, § 5:695  
Gender, § 5:697  
Intimidation as motive or intent, § 5:696  
Transgender, § 5:697

### EVIDENCE

Generally, §§ 9:1 to 9:328  
Accident, absence of, § 9:323

### EVIDENCE—Cont'd

Acknowledged documents, § 9:23  
Actus reus, § 9:313  
Admissibility (this index)  
Admissions (this index)  
Aiding and abetting, § 5:12  
Ancient documents or data compilation, § 9:11  
Appeal and Error (this index)  
Assault and Battery (this index)  
Authentication  
    Generally, §§ 9:1 to 9:26  
    Acknowledged documents, § 9:23  
    Ancient documents or data compilation, § 9:11  
    Burden of persuasion, § 9:2  
    Certified copies of public records, § 9:19  
    Commercial paper and related documents, § 9:24  
    Comparison by trier or expert witness, § 9:6  
    Distinctive characteristics and the like, § 9:7  
    Evidence rule, §§ 9:1, 9:2  
    Expert witnesses, § 9:6  
    Foreign public documents, § 9:18  
    Handwriting, nonexpert opinion on, § 9:5  
    Hearsay rules, intersection with, § 9:14  
    Illustrations, §§ 9:4 to 9:13  
    Methods of, §§ 9:3 to 9:13  
    Methods provided by statute, § 9:13  
    Newspapers and periodicals, § 9:21  
    Official publications, § 9:20  
    Presumptions created by law, § 9:25  
    Process or system, § 9:12  
    Sealed public documents, § 9:16  
    Self- under MRE 902, §§ 9:15 to 9:26  
    Subscribing witnesses, §§ 9:15, 9:26  
    Telephone conversations, § 9:9  
    Ten categories, §§ 9:16 to 9:26  
    Testimony of subscribing witness, MRE 903, § 9:26  
    Testimony of witness with knowledge, § 9:4  
    Trade inscriptions, § 9:22  
    Voice identification, § 9:8  
Automobiles, search and seizure of, § 19:164

**EVIDENCE—Cont'd**

Balancing and uncharged evidence, § 9:326

**Best Evidence** (this index)

**Breaking and Entering** (this index)

**Burden of Proof** (this index)

Certified copies of public records, § 9:19

Chain of custody, §§ 9:33, 9:34

Chances, doctrine of, § 9:313

**Character Evidence** (this index)

Children, crimes against, § 5:149

**Circumstantial Evidence** (this index)

Commercial paper and related documents, § 9:24

Comparison by trier or expert witness, § 9:6

Competence to stand trial, §§ 22:37, 22:38

**Confessions** (this index)

Consciousness of guilt, § 9:315

**Conspiracy** (this index)

Contemporaneous acts, § 9:312

Crimes against children, § 5:149

Criminal act, proof of, § 9:313

Criminal actor, §§ 9:314 to 9:319

**Demonstrative Evidence** (this index)

Disclosure of nature of defense, § 9:308

Discretion, relevance, § 9:286

Doctrine of chances, § 9:313

Estoppel, no evidentiary, § 8:10

**Expert and Lay Opinion Witnesses** (this index)

Expert witnesses, § 9:6

**Extrinsic Evidence** (this index)

Foreign public documents, § 9:18

**Foundation** (this index)

**Fruit of Poisonous Tree** (this index)

Fruits and instrumentalities of crime, possession of, § 9:317

Handwriting, nonexpert opinion on, § 9:5

**Hearsay** (this index)

Identity of perpetrator, §§ 9:314 to 9:319

Illustrations, §§ 9:4 to 9:13

**Impeachment** (this index)

Inference on inference rule, § 1:55

Inferences on inferences, § 9:80

**Insanity** (this index)

Intent, proof of criminal intent, §§ 9:320 to 9:323

Juveniles, waiver of jurisdiction, § 16:4

**EVIDENCE—Cont'd**

Knowledge, § 9:322

Legal relevance, § 9:295

Limited admissibility, § 9:297

Logical relevance, § 9:294

Mens rea, §§ 9:320 to 9:323

Methods of authentication, §§ 9:3 to 9:13

Mistake or accident, absence of, § 9:323

Motive, §§ 9:299, 9:316, 9:320

Need for evidence, § 9:327

Negating all innocent theories, § 9:79

“Newly available” evidence distinguished, § 1:22

Newly discovered evidence, §§ 1:17 to 1:22

Newspapers and periodicals, § 9:21

No evidentiary estoppel, § 8:10

Noncharacter uses of uncharged misconduct evidence, §§ 9:310 to 9:328

Notice by prosecution, § 9:307

Official publications, § 9:20

Opinion evidence. **Expert and Lay Opinion Witnesses** (this index)

Opportunity, § 9:317

**Originals** (this index)

Penalty, pretrial notice requirement, § 9:309

Physical evidence

Illegally obtained, § 9:243

Relevance, § 9:298

Possibility of error, chain of custody, § 9:34

**Preliminary Examination** (this index)

Preparation for criminal act, § 9:318

**Preservation of Evidence** (this index)

**Presumptions** (this index)

Pretrial notice requirement, §§ 9:307 to 9:309

Prior acquittals, § 9:325

Prior acts, § 9:312

**Privileged Information** (this index)

Process or system, § 9:12

Public records

Certified copies, § 9:19

Documents not under seal, § 9:17

Documents under seal, § 9:16

Foreign public documents, § 9:18

Methods of, § 9:10

Official publications, § 9:20

## INDEX

### EVIDENCE—Cont'd

**Rape Shield Law and Right of Confrontation** (this index)

**Rebuttal** (this index)

Record, § 9:310

**Refreshing Recollection** (this index)

Rehabilitation by prior consistent statement, § 9:293

Relevancy

Generally, §§ 9:294 to 9:300

Character evidence, §§ 9:71 to 9:76

Hearsay, § 9:114

**Res Gestae Witnesses** (this index)

Scheme, plan, or system, §§ 9:319, 9:321

**Scientific Evidence** (this index)

Sealed public documents, § 9:16

Self-authentication under MRE 902, §§ 9:15 to 9:26

Sexual offenses within household and credibility of victim, § 9:324

Similar acts of uncharged misconduct

Generally, §§ 9:301 to 9:328

Accident, absence of, § 9:323

Actus reus, § 9:313

Chances, doctrine of, § 9:313

Character evidence, § 9:305

Consciousness of guilt, § 9:315

Contemporaneous acts, § 9:312

Criminal act, proof of, § 9:313

Criminal actor, §§ 9:314 to 9:319

Doctrine of chances, § 9:313

Knowledge, § 9:322

Mens rea, §§ 9:320 to 9:323

Motive, §§ 9:316, 9:320

Notice by prosecution, § 9:307

Opportunity, § 9:317

Prior acquittals, § 9:325

Prior acts, § 9:312

Rebuttal, § 9:328

Record, § 9:310

Subsequent acts, § 9:312

Subscribing witnesses, §§ 9:15, 9:26

Subsequent acts, § 9:312

**Sufficiency of Evidence** (this index)

Tampering with, § 5:666

Telephone conversations, § 9:9

Trade inscriptions, § 9:22

Unlawfully driving away in automobile (UDAA), §§ 5:513, 5:514

Voice identification, §§ 9:8, 11:31, 11:37

### EVIDENCE—Cont'd

Weight, chain of custody, § 9:33

**Witnesses** (this index)

### EX PARTE COMMUNICATIONS

Deliberations of jury, § 15:69

Disqualification of trial judge, § 14:15

### EXAMINATION IN CHAMBERS

Child witnesses, § 23:5

### EXCESSIVE FORCE

Homicide, § 5:335

### EXCHANGE OF DRUGS FOR SEX

Criminal conduct, § 5:174

### EXCITED UTTERANCES

Hearsay, §§ 9:145 to 9:152, 9:160

### EXCULPATORY INFORMATION

Discovery, in absence of request, § 7:21

Hearsay, § 9:117

### EXIGENT CIRCUMSTANCES

Right to counsel, § 11:7

**Search and Seizure** (this index)

### EXPERT AND LAY OPINION WITNESSES

Generally, §§ 9:6, 23:12 to 23:28

Abusive head trauma, terminology issues, § 23:22

Addicts, opinion testimony by addict, § 5:104

Bases of expert opinion, § 23:15

Battered spouse syndrome, § 23:19

Children

Child abuse syndrome, § 23:18

Desensitizing children, § 23:20

Credibility questions, § 23:17

Criminal sexual conduct, §§ 5:190, 5:191

Disclosure of facts or data underlying opinion, § 23:23

Discretion of court, §§ 23:13, 23:26

Experience of lay experts, § 23:27

False confessions, expert testimony on, § 3:90

Hearsay, opinions, §§ 9:123, 9:175

Impeachment, § 23:28

**Insanity** (this index)

Learned treatises, § 23:28

Qualifying expert, §§ 23:25 to 23:28

Rule of evidence, §§ 23:12, 23:16

**EXPERT AND LAY OPINION**

**WITNESSES—Cont’d**

**Scientific Evidence** (this index)

Searching inquiry required, § 23:14

Sexual conduct, §§ 5:190, 5:191

Terminology issues, §§ 23:21, 23:22

Test for appointment of expert, § 23:24

Ultimate issue, opinion on, §§ 23:16 to 23:22

**EXPUNGEMENTS**

Appeal and error, §§ 1:134 to 1:141

Circumvention of statute, § 1:135

**EXTORTION**

Generally, §§ 5:419 to 5:424

Claim of right, § 5:424

Elements, § 5:419

Future harm, § 5:422

Official demand, § 5:420

Overt act, § 5:423

Threats, §§ 5:421, 5:422

**EXTRINSIC EVIDENCE**

Generally, § 9:306

Character evidence, § 9:67

**FACT-FINDING**

Judges, §§ 14:29 to 14:31

**Jury** (this index)

Verdicts, §§ 14:29 to 14:31

**FACTUAL BASES OF PLEAS**

**Guilty Pleas** (this index)

**FACTUAL GUILT OR INNOCENCE**

Double jeopardy, §§ 8:33 to 8:35

**FACTUAL IMPOSSIBILITY DEFENSE**

Generally, § 6:57

**FAILURE TO TESTIFY OR CALL WITNESSES**

Adverse inference instruction, § 23:32

Cautionary instructions, §§ 13:27 to 13:29

Character witnesses, § 9:40

Res gestae witness, § 23:32

**FAIR INFERENCES**

Conspiracy, § 5:78

Receiving and concealing stolen property, §§ 5:469 to 5:472

**FAIR TRIAL**

Perfect trial distinguished, § 1:68

**FALSE EXCULPATORY STATEMENTS**

Hearsay, § 9:117

**FALSE POLICE REPORTS**

Child abuse, § 5:668

Emergency, false report of, § 5:669

Lying to police, § 5:670

Medical emergency, false report of, § 5:669

**FALSE PRETENSES**

Generally, §§ 5:425 to 5:437

Disclosure, failure, § 5:430

Double jeopardy, § 8:76

Estimates, false, § 5:429

Future act or event, § 5:426

Gross overcharges, §§ 5:427, 5:428

Homicide, § 5:303

NSF checks, § 5:436

Passing title, §§ 5:432 to 5:434

Postdated checks, § 5:437

Present or existing fact, § 5:426

Reliance, § 5:431

Ringed change, §§ 5:433, 5:434

Title, passing, §§ 5:432 to 5:434

Traveler’s checks, § 5:435

**FALSE STATEMENTS**

Perjury, signed under penalty of, § 5:683

**FEAR**

Assault and battery, putting in fear, § 5:31

Robbery, § 5:483

**FELONIOUS ASSAULT**

Generally, §§ 5:39 to 5:45

Criminal sexual conduct, § 5:202

**FELONY MURDER**

**Homicide** (this index)

**FELONY NONSUPPORT**

Generally, §§ 5:712 to 5:714

**FELONY-FIREARM**

Generally, §§ 5:618 to 5:637, 5:640, 5:641

Accessory after fact, §§ 5:20, 5:623

Aiding and abetting, § 5:622

Breaking and entering, § 5:635

Carrying concealed weapon (CCW), § 5:633

## INDEX

### **FELONY-FIREARM—Cont'd**

- Concealing stolen firearms, § 5:634
- Constitutionality, § 5:621
- Constructive possession, §§ 5:629, 5:630
- Different jurisdictions, § 5:637
- Double jeopardy, §§ 8:66 to 8:71, 8:71
- Elements, § 5:618
- Home invasion, § 5:635
- Instructions, § 13:26
- Lawful possession of firearm, § 5:627
- Multiple convictions, §§ 5:633 to 5:636
- Multiple felonies, § 5:636
- Nexus, § 5:624
- Nonowner, § 5:628
- Offense designated as felony outside the penal code, § 5:619
- Operability of firearm, § 5:625
- Penal code, designated as felony outside the, § 5:619
- Persons liable, §§ 5:626 to 5:632
- Pneumatic weapons, § 5:620
- Police officers, § 5:626
- Receiving or concealing stolen firearms, § 5:634
- Recovery of gun, § 5:632
- Sentence, repeat offenders, § 5:638
- Stolen firearms, § 5:634
- Struggle over gun, § 5:631
- Time of possession, § 5:629

### **FICTITIOUS NAMES**

- Forgery, § 5:403

### **FIELD TESTS**

- Preliminary examination, § 17:13

### **FIFTH AMENDMENT**

- Calling witness who will exercise Fifth Amendment, § 23:40
- Confessions** (this index)
- Forgery, § 5:402
- Hearsay, § 9:170
- Identification, §§ 11:35 to 11:38
- Impeachment, § 9:217
- Perjury, §§ 5:680, 5:681

### **FIGHTING**

- Assault and Battery** (this index)
- Dangerous animal causing serious injury, § 5:709
- Dogs trained to fight, §§ 5:708, 5:709
- Homicide, § 5:329

### **FINANCIAL STATUS**

- Witness cross-examination, § 9:86

### **FINANCIAL TRANSACTION**

- Stealing or retaining financial transaction device, § 5:465

### **FINGERPRINTS**

- Demonstrative evidence, § 9:94
- Forgery, fingerprint card, § 5:402

### **FIREARMS**

- Weapons** (this index)

### **FIREFIGHTERS**

- Operating under influence (OUIL) and driving while impaired (DWI), death caused, § 5:575

### **FIRES**

- Arson** (this index)

### **FIRST DEGREE MURDER**

- Homicide** (this index)

### **FIRST IDENTIFICATION**

- Occurring in court, due process limitations, § 11:21

### **FIRST OUT**

- Precedent, § 1:85

### **FLEEING AND ELUDING**

- Generally, § 5:694
- Homicide in the course of, § 5:354
- Pursuit
  - Generally, §§ 2:21 to 2:25
  - Home, pursuit into to make arrest, § 2:79
  - Hot pursuit, § 2:89

### **FLIGHT**

- Fleeing and Eluding** (this index)

### **FOOTPRINTS**

- Demonstrative evidence, § 9:93

### **FORCE**

- Breaking and entering, § 5:364
- Criminal sexual conduct, §§ 5:176, 5:180 to 5:185, 5:199
- Homicide, force excessive, § 5:335
- Resisting and obstructing police officer, § 5:689
- Robbery, § 5:482

**FOREIGN CONVICTIONS**

Prior foreign convictions, §§ 9:200, 9:201

**FOREIGN COUNTRIES**

Border stops, arrest, §§ 2:42 to 2:45

**FOREIGN DOCUMENTS**

Evidence, § 9:18

**FORFEITURE**

Double jeopardy, § 8:32

Exclusionary rule, § 19:219

Search and seizure, § 19:219

**FORGERY**

Generally, §§ 5:393 to 5:412

ADC check, § 5:407

Charging, §§ 5:404, 5:405

Credit card fraud, § 5:412

Credit sales slips, § 5:410

**Double Jeopardy** (this index)

Elections, § 5:405

Endorsements, § 5:399

Fictitious names, § 5:403

Fifth Amendment, § 5:402

Fingerprint card, § 5:402

Handwriting specimens, § 5:401

Intent, §§ 5:397 to 5:400

Knowledge and intent, § 5:398

Licenses, § 5:409

Multiple convictions, § 5:395

Municipal payroll checks, § 5:408

Payroll checks, § 5:408

Publishing and uttering, §§ 5:396 to 5:412

Savings withdrawal slips, § 5:411

State treasurer's warrant, § 5:406

Time of charging, § 5:404

Treasurer's warrant, § 5:406

Uttering, §§ 5:393 to 5:395

Withdrawal slips, § 5:411

**FORMER JEOPARDY**

**Double Jeopardy** (this index)

**FOUNDATION**

Character evidence, §§ 9:60, 9:78

Impeachment with prior statements, §§ 9:215, 9:216

Photographs, § 9:247

Refreshing recollection, §§ 9:291, 9:292

**FOURTH AMENDMENT**

**Arrest** (this index)

**Search and Seizure** (this index)

**FRAUD**

**Forgery** (this index)

Prior convictions, dishonesty, § 9:187

**FRISKS**

Generally, §§ 2:56 to 2:58, 19:168

**FRUIT OF POISONOUS TREE**

Generally, §§ 2:108 to 2:113

Identification, §§ 11:32 to 11:34

**FRUITS OF CRIME**

Possession of, § 9:317

**FUTURE**

Extortion, future harm, § 5:422

False pretenses, future act or event, § 5:426

Robbery, future threats, § 5:481

**GANG AFFILIATION**

Scientific evidence, § 9:101

**GARAGES**

Search and seizure, § 19:108

**GARBAGE**

Search and seizure, §§ 19:30, 19:31

**GAS EJECTING DEVICES**

Weapons, § 5:614

**GENDER AND GENDER ISSUES**

Ethnic intimidation

Gender, § 5:697

Transgender, § 5:697

Juror challenge, § 15:38

**GOING FORWARD**

Prior convictions, § 9:194

**GOOD FAITH**

Discovery, § 7:27

**GOOD SAMARITANS**

Controlled substances, exception to culpability, § 5:97

**GOVERNMENT AGENCIES**

Restitution, § 20:175

**GOVERNMENT PROPERTY**

Malicious destruction, § 5:657

## INDEX

### **GPS TRACKING DEVICE**

Search and seizure, installation on automobiles, §§ 19:8, 19:72

### **GRAND JURY TESTIMONY**

Discovery, § 7:13

### **GREATER OFFENSE, SHOWING OF**

Guilty pleas, § 10:15

### **GROSS INDECENCY**

Generally, § 5:205

### **GROSS NEGLIGENCE**

Generally, §§ 5:339, 5:341

### **GROSS OVERCHARGES**

False pretenses, §§ 5:427, 5:428

### **GUILT OR INNOCENCE**

Actual innocence exception, § 1:172

Aiding and abetting, guilt of principal, § 5:11

**Appeal and Error** (this index)

Double jeopardy, §§ 8:33 to 8:35

Fundamental miscarriage of justice exception, § 1:172

Instructions on presumption of innocence, § 13:40

### **GUILTY BUT MENTALLY ILL**

Generally, §§ 6:91 to 6:94, 10:43

Constitutionality, § 6:94

Guilty plea, § 6:92

Nolo contendere, § 10:41

Sentencing, § 6:93

Verdict, § 6:91

### **GUILTY PLEAS**

Generally, §§ 10:1 to 10:68

Acceptance, § 10:13

Addressing defendant, requirement, § 10:2

Agreements as to sentence

Generally, § 10:64

Withdrawal of plea involving sentence agreement, § 10:46

Aliens, deportation consequences, § 10:33

Appeal

Remand hearing, factual basis of plea, § 10:18

Requirements for appeal, § 10:36

Applicable rules, § 10:1

### **GUILTY PLEAS—Cont'd**

Collateral attack, Padilla not retroactive, §§ 4:46, 10:34

Collateral consequences, §§ 10:22 to 10:34

Competency, § 10:12

Conditional pleas, § 10:42

Consecutive sentence consequences, § 10:29

Contradiction of statements at plea, § 10:63

**Counsel** (this index)

Court rules

Generally, §§ 10:1 to 10:9

Motions to withdraw, § 10:62

Nolo contendere, § 10:38

Defenses, §§ 10:20, 10:21

Deportation consequences, § 10:33

Disclosure before, § 7:22

Evidentiary estoppel, § 10:63

Factual bases of plea

Generally, §§ 10:14 to 10:21

Nolo contendere, § 10:39

Failure to preserve, waiver distinguished, § 10:61

Forms

Informing defendant of charges, method, § 10:8

Misdemeanors, use for, §§ 10:4, 10:5

Oral statement from defendant, § 10:5

Greater offense, showing of, § 10:15

**Guilty but Mentally Ill** (this index)

Harmless error, § 10:25

Hearsay, statements at guilty plea, § 9:120

Indeterminate sentences, inapplicability, § 10:27

Informing defendant of charges, method, § 10:8

Instructions, § 12:14

Intoxication, factual basis of plea, § 10:21

Jurisdiction, appeal and error, § 1:29

Lifetime electronic monitoring, § 10:32

Mandatory fines, § 10:31

Maximum sentence, collateral consequences, § 10:22

Mental illness. Guilty but mentally ill, *supra*

Minimum sentence, collateral consequences, §§ 10:23, 10:24

Motions to withdraw, §§ 10:62 to 10:68

Multiple defendants, § 10:9

## **GUILTY PLEAS—Cont'd**

- Murder, § 10:19
- Nature of charges, §§ 10:6 to 10:8
- Nolo contendere, §§ 10:37 to 10:41
- Nonprobationable sentences, collateral consequences, § 10:26
- Oath of defendant, § 10:3
- Open murder, § 10:19
- Padilla not retroactive on collateral attack, §§ 4:46, 10:34
- Pending charges, effect on, § 10:30
- Personally addressing defendant, requirement, § 10:2
- Procedure generally, §§ 10:1 to 10:43
- Proposal B consequences, § 10:28
- Prosecution's request to set aside plea, § 10:66
- Reversal of plea
  - Effect of, § 10:68
  - Withdrawal of plea, *infra*
- Self-representation, § 10:11
- Sentence agreements, § 10:64
- Sentence and collateral consequences, §§ 10:22 to 10:34
- Setting aside plea on request of prosecution, § 10:66
- Special circumstances, § 10:7
- Standard, factual basis of plea, § 10:14
- Statements at, § 9:120
- Stolen property, value of, § 10:16
- Substantial compliance, § 10:35
- Supplementation of factual bases, §§ 10:17 to 10:19
- Value of stolen property, § 10:16
- Waivers by pleading guilty, §§ 10:57 to 10:61
- When evidentiary hearing required, § 10:63
- Withdrawal of plea
  - Generally, §§ 10:62 to 10:68
  - Consent of defendant, withdrawal without, § 10:67
  - Effect of, § 10:68
  - Motions to withdraw, §§ 10:62 to 10:68
  - Recantation of victim, § 10:65

## **HABEAS CORPUS**

- Appeal and Error** (this index)

## **HABIT**

- Character evidence, §§ 9:37, 9:64

## **HABITUAL OFFENDERS**

- Generally, §§ 20:27 to 20:47
- Adult conviction with sentence as juvenile, § 20:39
- Assignment as youthful trainee, § 20:50
- Bargaining tool, § 20:41
- Double enhancements, § 20:32
- Drug offenses, §§ 20:29 to 20:31
- Enhancement other than by habitual offender, § 20:62
- Escape, § 20:45
- Felonies, § 20:33
- Felony-firearm, § 5:638
- Guidelines, §§ 20:40, 20:42
- Indeterminate sentences, § 20:155
- Juvenile sentence on adult conviction, § 20:39
- Multiple Convictions** (this index)
- Pardon, § 20:37
- Pending appeal of habitual offender, § 20:36
- Plea bargaining procedure, §§ 20:41 to 20:47
- Probation, § 20:44
- Procedure at sentencing, § 20:28
- Repealed statute, § 20:35

## **HAIR SAMPLES**

- Identification, § 11:38

## **HANDICAPPED PERSONS**

- Disabled Persons** (this index)

## **HANDWRITING**

- Forgery, handwriting specimens, § 5:401
- Identification of handwriting exemplars, § 11:36
- Nonexpert opinion on, § 9:5

## **HARMLESS ERROR**

- Generally, §§ 1:62 to 1:74, 1:176, 1:177
- Guilty pleas, §§ 10:25, 10:35
- Hearsay, § 9:107
- Instructions, §§ 13:21 to 13:23, 13:56
- Joinder, § 22:64
- Nonresponsive answers, §§ 1:70, 1:71
- Preliminary examination, § 17:36
- Trial, § 22:9

## **HEALTH CARE PROVIDERS**

- Criminal sexual conduct, medical treatment, § 5:183
- Prescription drugs, § 5:140

## INDEX

### HEALTH CARE PROVIDERS—Cont'd

Privileged information, §§ 9:262 to 9:266

### HEARSAY

Generally, §§ 9:14, 9:102 to 9:186

#### Admissions

Generally, §§ 9:110 to 9:121

Adoptive admissions, § 9:118

By agent, § 9:119

By conduct, § 9:116

Appeal and error, § 1:19

Appearance of witness, subsequent,  
§ 9:172

Asking questions, § 9:150

Assertion, requirement of, § 9:104

Autopsy reports, § 9:124

Belief of impending death, § 9:141

Business records, §§ 9:122 to 9:128

Catch-all provisions, confrontation,  
§ 9:185

#### Children

Confrontation clause, § 9:181

Dying declarations, capacity for,  
§ 9:142

Excited utterances, § 9:149

Name of perpetrator, § 9:180

Sexual acts, statements about, § 9:153

Statements to non-law-enforcement  
persons, § 9:181

Coconspirator statements, §§ 9:129 to  
9:132

Competency, § 9:165

Completeness, rule of, § 9:115

Confrontation, § 9:105

Confrontation by wrongdoing, forfeiture  
of, § 9:108

Confrontation clause and public records,  
§ 9:174

Corroboration requirement, § 9:161

Crawford, application of, § 9:146

Datamaster logs, § 9:127

Death, declarations at, §§ 9:138 to 9:144

Declarations against interest, §§ 9:133 to  
9:136

Definitions, § 9:102

Diagnoses, §§ 9:123, 9:179, 9:180

Domestic violence victims' statements,  
§§ 9:137, 9:186

**Dying Declarations** (this index)

Evaluations, § 9:175

### HEARSAY—Cont'd

Excited utterances, §§ 9:145 to 9:152,  
9:160

Exculpatory statements, false, § 9:117

Failure to object, § 9:106

False exculpatory statements, § 9:117

Fifth Amendment privilege, § 9:170

Forfeiture of confrontation by wrongdo-  
ing, § 9:108

Former testimony of defendants, § 9:121

Guilty plea, statements at, § 9:120

Harmless error, § 9:107

Homicide prosecutions, § 9:140

Illness, § 9:166

"Implicit" assertions, § 9:105

Incompetency, § 9:165

Independent proof standard, § 9:130

Infirmary, § 9:166

Joinder, hearsay exception, §§ 22:68,  
22:69

Laboratory reports, police, § 9:126

Laboratory reports and confrontation  
clause, § 9:174

Language conduit rule, § 9:103

Legislative exception for domestic  
violence victims, § 9:137

Locate witness, inability to, § 9:169

Machine-generated results, § 9:156

Medical treatment or diagnosis, §§ 9:123,  
9:179, 9:180

Memory, lack of, § 9:168

Motive to examine witness, § 9:171

Name of perpetrator, § 9:180

New York "door-opening" rule rejected,  
§ 9:109

Notes, original, § 9:158

Oath, prior inconsistent statement under,  
§ 9:162

Opinions, §§ 9:123, 9:175

Opportunity to examine witnesses,  
§ 9:171

Original notes, § 9:158

Passage of time, §§ 9:148, 9:149

Past recollection recorded, §§ 9:154 to  
9:158

Plea negotiations, statements at, § 9:120

#### Police

Complaint reports, § 9:125

Datamaster logs, § 9:127

Excited utterances made to, § 9:146

Laboratory reports, § 9:126

## **HEARSAY—Cont'd**

- Present sense impression, §§ 9:159 to 9:161
- Prior recorded testimony, §§ 9:163 to 9:172
- Public records, §§ 9:173 to 9:175
- Questions, asking, § 9:150
- Recorded past recollections, §§ 9:154 to 9:158
- Recorded testimony, §§ 9:163 to 9:172
- Records required by law, § 9:128
- Refreshed recollections, § 9:157
- Refusal to testify, § 9:167
- Relevancy requirement, § 9:114
- Rule of completeness, § 9:115
- Search and Seizure** (this index)
- Sexual acts made by minors, statements about, § 9:153
- Startling events, proof of, § 9:151
- State of mind, §§ 9:182, 9:183
- Statements of identification, §§ 9:176 to 9:178
- Statements purporting to affect property, § 9:184
- Subsequent appearance of witness, § 9:172
- Third persons' testimony, § 9:178
- Time
  - Passage of, §§ 9:148, 9:149
  - Present sense impression, §§ 9:159 to 9:161
- Unavailability, §§ 9:164 to 9:169
- Victim's statements, § 9:112
- Wrongdoing, forfeiture of confrontation by, § 9:108

## **HEAT OF PASSION**

- Homicide, §§ 5:324 to 5:337

## **HEIGHT DIFFERENCES**

- Identification, suggestiveness, § 11:23

## **HELPLESS VICTIMS**

- Criminal sexual conduct, § 5:175

## **HIDDEN VIN**

- Discovery, § 7:14

## **HIGH SPEED PURSUIT**

- Homicide, § 5:272

## **HIRED GUN**

- Insanity, § 6:85

## **HIV NOTICE STATUTE**

- Generally, § 5:703

## **HODARI D CASE**

- Arrest, § 2:25

## **HOME INVASIONS**

- Generally, § 5:366
- Breaking and entering, § 5:383
- Breaking and Entering** (this index)

## **HOMICIDE**

- Generally, §§ 5:254 to 5:355
- Abrogation of imperfect self-defense, § 5:335
- Absence of malice, § 5:327
- Accidents, voluntary manslaughter, defense, § 6:5
- Adequate provocation, §§ 5:328 to 5:333
- Adult abuse, § 5:308
- Adultery, provocation, § 5:330
- Aiding and abetting, § 5:288
- Alternative counts for one death, conviction of, § 5:323
- Arrest, resisting, § 5:337
- Arson, § 5:302
- Assault
  - Beatings, § 5:270
  - Intent, §§ 5:53 to 5:60, 5:301
  - Mutual fighting, § 5:329
  - Provocation, § 5:328
- Assisting suicide, § 5:264
- Attempted manslaughter, § 5:346
- Automobiles, unlawfully driving away (UDAA), § 5:298
- Beatings, § 5:270
- Body lacking, corpus delicti, § 5:281
- Breaking and entering, § 5:299
- Burden of proof, when burden to prove malice arises, § 5:279
- Bystander's death, § 5:313
- Causation
  - Generally, §§ 5:257 to 5:264
  - Contributory negligence, § 5:262
  - Delivery of a controlled substance causing death, § 5:355
  - Failure to seek treatment, § 5:259
  - Fleeing and eluding resulting in death, § 5:354
  - Medical negligence in treatment of wound, §§ 5:260, 5:261
  - Nonfatal wound, § 5:258

## INDEX

### **HOMICIDE—Cont'd**

#### **Causation—Cont'd**

- Proximate cause, § 5:340
- Suicide, assisting, § 5:264
- Susceptible and vulnerable victims, § 5:263

Character evidence, homicide victim, § 9:50

#### **Children**

- Abuse, § 5:304
- Prenatal protection, §§ 5:255, 5:338
- Clarification regarding manslaughter, § 5:324

Co-felon, death of, § 5:312

Conspiracy to commit, §§ 5:69, 5:91

Contributory negligence, §§ 5:262, 5:349

Controlled substance offenses, § 5:305

Cooling-off time, § 5:326

Corporation, gross negligence by, § 5:341

Corpus delicti, §§ 5:280, 5:281, 5:285 to 5:289, 5:314

Corrections officer, § 5:306

Counts for one death, § 5:323

Criminal negligence, §§ 5:339 to 5:343

Deadly weapon doctrine, § 5:269

Delivery of a controlled substance causing death, § 5:355

Depraved heart, § 5:268

Depraved hurt murder, § 6:36

Double jeopardy, § 8:82

Duress as defense, § 6:36

Duress as defense to assault with intent to murder, § 6:37

Electing between offenses, § 5:319

Enumerated felonies, §§ 5:295 to 5:309

Excessive force, § 5:335

False pretenses, § 5:303

Felony murder, §§ 5:295 to 5:323

Fighting, § 5:329

First degree murder, §§ 5:282 to 5:323

First-degree murder statute, § 5:297

Fleeing and eluding resulting in death, § 5:354

Force excessive, § 5:335

Gross negligence, §§ 5:339, 5:341

Guilty pleas, § 10:19

Hearsay, § 9:140

Heat of passion, §§ 5:324 to 5:337

High speed pursuit, § 5:272

Home invasion, § 5:299

### **HOMICIDE—Cont'd**

Hot blood, § 5:271

Identity of perpetrator, § 5:287

Illegal arrest, resisting, § 5:337

Imperfect self-defense, §§ 5:334, 5:335

Inadequate provocation, § 5:332

Inferences, permissible, §§ 5:269 to 5:273

#### **Instructions**

Generally, §§ 5:276 to 5:278

Attempt, § 5:278

Malice, § 5:294

#### **Intent to kill**

Generally, §§ 5:265 to 5:268, 5:282, 5:325

Alternative element, intent to kill as, § 5:266

Malice, § 5:295

Serious bodily harm, § 5:267

Intoxication, § 5:274

#### **Involuntary manslaughter**

Generally, §§ 5:292, 5:318, 5:339 to 5:346

Failure to act, § 5:345

Lack of body, § 5:289

Larceny, § 5:301

#### **Lesser included offenses**

Generally, §§ 5:307 to 5:319

Murder in second degree, §§ 5:290 to 5:293

Lying in wait, § 5:321

#### **Malice**

Absence of, § 5:327

Aiding and abetting felony, § 5:296

Instructions, § 5:294

Intent, § 5:295

Law implies malice, § 5:276

Presumption, § 5:279

Prohibition on use of word malice, § 5:277

When burden to prove malice arises, § 5:279

#### **Manslaughter (this index)**

Medical negligence in treatment of wound, §§ 5:260, 5:261

Mental capacity, §§ 5:274, 5:275

Misdemeanor manslaughter, § 5:344

Mitigating circumstances, §§ 5:334 to 5:337

Murder two, § 5:315

**HOMICIDE—Cont’d**

- Mutual fight, § 5:329
- Negligence in treatment of wound, §§ 5:260, 5:261
- Negligent Homicide** (this index)
- OSHA issues, § 5:342
- Peace officer, § 5:307
- Permissible inferences, §§ 5:269 to 5:273
- Poison, § 5:320
- Precrime statements, § 5:286
- Preliminary examination, § 17:10
- Premeditation
  - Generally, §§ 5:282 to 5:294
  - Defined, § 5:283
- Prenatal protection, §§ 5:255, 5:338
- Presumption of malice, § 5:279
- Provocation, §§ 5:328 to 5:333
- Proximate cause, §§ 5:312 to 5:314
- Rape, § 5:300
- Reasonable person test, § 5:333
- Resisting illegal arrest, § 5:337
- Robbery, assault with intent to rob, § 5:301
- Second degree murder, §§ 5:69, 5:265 to 5:281, 5:315
- Self-defense, §§ 5:334, 5:335
- Solicitation to, § 5:95
- Statements, precrime, § 5:286
- Statutory manslaughter, § 5:293
- Suicide assistance, § 5:264
- Susceptible and vulnerable victims, §§ 5:263, 5:308
- Timing, felony murder, § 5:310
- Underlying felony, § 5:316
- Unlawful acts and involuntary manslaughter, §§ 5:344 to 5:346
- Unlawfully driving away automobile (UDAA), § 5:298
- Unlawful imprisonment, § 5:309
- Voluntary manslaughter, §§ 5:317, 5:324 to 5:337
- Vulnerable and susceptible victims, §§ 5:263, 5:308
- Wanton and willful disregard, § 5:268
- When life begins and ends as a matter of law, §§ 5:254 to 5:256
- Words as provocation, § 5:331
- Year and a day rule, § 5:257

**HORIZONTAL GAZE NYSTAGMUS TEST**

- Generally, § 5:551

**HOT BLOOD**

- Homicide, § 5:271

**HOT PURSUIT**

- Arrest, § 2:89

**HUMAN TRAFFICKING**

- Generally, § 5:723

**HUNG JURY**

- Aiding and abetting, § 5:14
- Double jeopardy, claim of insufficient evidence, § 8:38
- Inquiring of hung jury as to agreement on any count, § 15:82
- Instructions** (this index)

**HUSBANDS AND WIVES**

- Domestic Violence** (this index)
- Larceny, § 5:440
- Nonsupport** (this index)
- Spousal privilege, §§ 9:270 to 9:279

**HYPNOSIS**

- Refreshing recollection, §§ 9:288, 9:289

**IDENTIFICATION**

- Generally, §§ 11:1 to 11:38
- Arraignment, delay, § 11:34
- Burden of proof, suggestiveness, § 11:22
- Clothing, § 11:24
- Cooperation of defendant, refusal, § 11:18
- Corporeal identification preference, §§ 11:12 to 11:18
- Delay before arraignment, § 11:34
- Due process limitations, §§ 11:19 to 11:31
- Exigent circumstances, right to counsel, § 11:7
- Fingerprints** (this index)
- First identification occurring in court, § 11:21
- Focus of investigation, § 11:14
- Fruit of illegal arrest, §§ 11:32 to 11:34
- Hair samples, § 11:38
- Handwriting exemplars, § 11:36
- Height differences, suggestiveness, § 11:23
- Illegal arrests, §§ 11:32 to 11:34
- In-court, §§ 11:10, 11:28, 11:30, 11:32

## INDEX

### IDENTIFICATION—Cont'd

- Instructions, identification testimony,  
§§ 13:36, 13:37
- Lineups and showups
  - Fairness, §§ 11:16 to 11:18
  - One-man show-up, § 11:29
  - Purged taint, § 11:33
  - Self-incrimination, § 11:37
- Multiple pictures, suggestiveness, § 11:27
- One-man show-up, § 11:29
- Perpetrator, identity of
  - Generally, §§ 9:314 to 9:319
  - Homicide, § 5:287
- Photos and pictures
  - Formal judicial proceedings required  
for counsel, § 11:8
  - Multiple pictures, suggestiveness,  
§ 11:27
- Police comments, suggestiveness, § 11:26
- Receiving and concealing stolen property,  
§ 5:475
- Refusal of defendant to cooperate,  
§ 11:18
- Right to counsel
  - Generally, §§ 11:1 to 11:11
  - Exceptions, §§ 11:2 to 11:11
  - Exigent circumstances, § 11:7
  - Happenstance or inadvertent  
encounters, §§ 11:5, 11:6
  - In-court identification, § 11:10
  - Out-of-court identification, § 11:9
  - Staged encounters, § 11:6
  - Time lapses, calculating, § 11:3
- Search and Seizure** (this index)
- Self-incrimination, §§ 11:35 to 11:38
- Staged encounters, § 11:6
- Suggestiveness, §§ 11:19 to 11:28
- Suggestiveness, governmental conduct  
required, § 11:20
- Time lapses, calculating, § 11:3
- Voice identification, §§ 9:8, 11:31, 11:37

### IDENTITY THEFT

- Criminal enterprise, § 5:722

### ILLEGAL ARRESTS

- Generally, §§ 2:107 to 2:113
- Homicide, resisting arrest, § 5:337
- Identification, §§ 11:32 to 11:34
- Resisting or obstructing, §§ 5:692, 6:97,  
6:98

### ILLNESS

- Hearsay exceptions, § 9:166
- Juror, § 22:29
- Witness, §§ 8:23, 9:166

### ILLUSTRATIONS

- As evidence, §§ 9:4 to 9:13

### IMMINENT VIOLENCE

- Search and seizure in face of threat of,  
§ 19:204

### IMMUNITY

- Conspiracy, § 5:87
- Defense witnesses, § 23:43
- Discovery, § 7:28
- Exchange for testimony, § 18:39
- Prosecutor, duty to disclose, §§ 18:37,  
18:38
- Quelling a riot, resisting and obstructing  
police officer, § 5:693
- Truthful testimony requirement, § 23:44

### IMPEACHMENT

- Generally, §§ 9:187 to 9:246
- Alias, § 9:226
- Alibi** (this index)
- Appeal and error, impeaching evidence,  
§ 1:18
- Arrest** (this index)
- Bias or interest, §§ 9:234 to 9:238
- Character and reputation, §§ 9:69 to 9:78,  
9:237, 9:239
- Claim of statement, or lack of opportunity  
to give one, § 9:233
- Confessions illegally obtained, § 9:245
- Contradiction, impeachment by, § 9:242
- Defendants' silence, §§ 9:227, 9:228
- Expert and lay opinion witnesses, § 23:28
- Extrinsic proof-actual impeachment,  
§§ 9:221 to 9:225
- Failure to come forward, § 9:229
- False accusation, § 9:241
- Fifth Amendment, taking, § 9:217
- Foundation, impeachment with prior  
statements, §§ 9:215, 9:216
- Illegally obtained, §§ 9:243 to 9:245
- Inconsistent statements inculpatory of  
defendant, § 9:225
- Intrinsic impeachment, jury verdict,  
exception, § 15:57
- Memory, failure regarding statement,  
§ 9:220

**IMPEACHMENT—Cont'd**

- MRE 404(b), § 9:242
- MRE 608, §§ 9:239, 9:240
- Notice of alibi, § 9:222
- Omissions from statement, § 9:216
- Oral statements
  - Generally, § 9:224
  - Impeachment with prior statements, § 9:215
- Own witness, § 9:246
- Pending charges, bias or interest, § 9:237
- Physical evidence illegally obtained, § 9:243
- Post-arrest silence, §§ 9:230 to 9:233
- Post-Miranda warning, § 9:231
- Pre-Miranda warning, § 9:230
- Prior statements, impeachment with, §§ 9:215 to 9:225
- Reputation and character, §§ 9:69 to 9:78, 9:239
- Response to foundation, §§ 9:217 to 9:220
- Sentence, length, § 9:235
- Signed statements, § 9:221
- Silence, §§ 9:227, 9:228
- Silence at earlier trial of same matter, § 9:232
- Third-party monitoring, § 9:244
- Unsigned statements, § 9:223
- Verdict, §§ 15:56, 15:57
- Written statements
  - Impeachment with prior statements, § 9:215
  - Signed statements, § 9:221
  - Unsigned statements, § 9:223

**IMPERFECT SELF-DEFENSE**

- Homicide, §§ 5:334, 5:335

**IMPERMISSIBLE BARGAINS**

- Mistake, plea bargaining, § 10:50
- Plea bargaining, mistake, § 10:50

**IMPLIED ACQUITTALS**

- Double jeopardy, § 8:40

**IMPLIED CONSENT**

- Operating under Influence (OUIL) and Driving while Impaired (DWI) (this index)

**IMPOSSIBILITY**

- Generally, §§ 6:56, 6:57

**IMPOSSIBILITY—Cont'd**

- Defense of factual impossibility, § 6:57
- Defense of legal impossibility, § 6:56
- Nonsupport, § 5:713

**IMPROPER VENUE**

- Retrial after reversal, double jeopardy, § 8:7

**INCENDIARY DEVICES**

- Arson, § 5:28

**IN-CHAMBERS HEARINGS**

- Rape shield law and right of confrontation, § 5:222

**INCITEMENT**

- Solicitation and Incitement (this index)

**INCOMPETENCY**

- Competency (this index)

**INCONSISTENT STATEMENTS**

- Appeal and error, § 1:57
- Impeachment, § 9:225

**INCONSISTENT VERDICTS**

- Generally, §§ 14:28, 15:84

**IN-COURT IDENTIFICATION**

- Generally, §§ 11:10, 11:28, 11:30, 11:32

**INDECENCY**

- Criminal sexual conduct, gross indecency, § 5:205
- Double jeopardy, § 8:65

**INDEPENDENT PROOF STANDARD**

- Hearsay, § 9:130

**INDEPENDENT TESTING**

- Discovery, § 7:34

**INDETERMINATE SENTENCES, INAPPLICABILITY**

- Guilty pleas, § 10:27

**INFANTS**

- Children (this index)

**INFERENCE ON INFERENCE RULE**

- Generally, §§ 1:55, 9:80

**INFIRMITY**

- Witness, hearsay exceptions, § 9:166

**INFORMANTS**

- Discovery, § 7:17

## INDEX

### INFORMANTS—Cont'd

Instructions, § 13:35

### INFORMATION

Generally, §§ 12:1 to 12:14

Amendment

Generally, §§ 12:5 to 12:10

Adding counts or changing offense,  
§§ 12:7, 12:8

Appeal from bindover, amendment as  
substitute for, § 12:10

Before, during, or after trial, §§ 12:6,  
12:7

Cure by, §§ 12:11, 12:12

Form or time, § 12:9

Appeal and error, § 1:39

Bindover, amendment as substitute for  
appeal from, § 12:10

**Charging** (this index)

Complaint and warrant, §§ 12:13, 12:14

More specific statement, motion to  
require, § 12:4

Objection and preservation, §§ 12:11 to  
12:14

Specificity of time of offense, §§ 12:3,  
12:4

Statutory short-form, § 12:2

### INNOCENCE

**Guilt or Innocence** (this index)

### INNOCENT AGENT

Distinguished, § 5:2

### INOPERABLE WEAPONS

Generally, § 5:643

### INSANITY

Generally, §§ 6:58 to 6:94

Admissibility of statements by defendant,  
§ 6:72

Affirmative defense, § 6:59

Anticipating defense, § 6:86

Burden of proof, § 6:74

Center for Forensic Psychiatry, § 6:68

Competency reports, § 6:73

Constitutionality, § 6:66

Counsels' error, § 6:67

Definitions, §§ 6:58 to 6:63

**Diminished Capacity** (this index)

Disposition, §§ 6:80, 6:82

Duty to cooperate, § 6:69

### INSANITY—Cont'd

Evidence

Generally, §§ 6:74 to 6:78

Arrests and bad acts, § 6:78

Burden of proof, § 6:74

Lay witnesses, § 6:77

Expert witnesses

Generally, §§ 6:68 to 6:73, 6:76

Failure of defense to call listed expert,  
§ 6:84

Hired gun, § 6:85

Independent examiners, § 6:70

Instructions, §§ 6:79, 6:80

Intellectual disability defined, § 6:61

Intoxication, voluntary, § 6:62

Involuntary intoxication, § 6:63

Lay witnesses, § 6:77

Legal insanity, § 6:58

Miranda warnings, silence after, § 6:81

No defense surrebuttal argument, § 6:83

Notice, failure to file, §§ 6:66, 6:67

Notice requirement, §§ 6:64, 6:65

Policeman at elbow test, § 6:87

Prosecution questions and comments,  
§§ 6:81 to 6:87

Rebuttal, § 6:65

Reports, § 6:71

Silence of defendant after Miranda warn-  
ings, § 6:81

Ultimate issue, § 6:75

Voluntary intoxication, § 6:62

### INSTRUCTIONS

Generally, §§ 13:1 to 13:62

Accessory after fact, § 13:14

Accomplice, cautionary instructions,  
§§ 13:32 to 13:34

Addict-informant, § 13:35

Adverse inference instruction, § 23:32

Aiding and abetting, §§ 5:13 to 5:15

Alibi, §§ 6:25 to 6:27, 13:31

Alternative methods of committing  
offense, § 13:44

American Bar Association instruction,  
deadlocked juries, § 13:62

**Assault And Battery** (this index)

Attempts, § 13:13

Attorneys, defendant controls, not  
counsel, § 13:18

Case law, § 13:5

**INSTRUCTIONS—Cont'd**

Cautionary instructions, §§ **13:27 to 13:29**  
 Circumstantial evidence, cautionary instructions, § **13:39**  
 CJI instructions, § **13:1**  
 Continuation by deadlocked juries, § **13:61**  
 Controlled substances offenses, § **5:130**  
 Cornell test, §§ **13:9, 13:10**  
 Deadlocked juries  
     Generally, §§ **13:60 to 13:63**  
     American Bar Association instruction, § **13:62**  
 Definitions, §§ **13:8 to 13:11, 13:52 to 13:56**  
 “Degreed” offenses, § **13:9**  
 Deliberations, order of, § **13:50**  
 Discussion of case, § **13:45**  
 Elements of offense, required instruction, §§ **13:52, 13:53**  
 Failure to testify, cautionary instructions, §§ **13:27 to 13:29**  
 Felony-firearm, § **13:26**  
 Greater offense, conviction of greater offense, § **13:21**  
 Guilty plea, § **12:14**  
 Harmless error, §§ **13:21 to 13:23, 13:56**  
**Homicide** (this index)  
 Identification testimony, §§ **13:36, 13:37**  
 Informants, § **13:35**  
 Innocence, presumption of, § **13:40**  
 Insanity, §§ **6:79, 6:80**  
 Interest in outcome by defendant, § **13:30**  
 Jury nullification, § **13:57**  
 Legal theory, § **13:44**  
 Lesser included offenses  
     Generally, §§ **13:8 to 13:26**  
     Controlled substances offenses, § **5:113**  
 Manifest injustice, § **13:6**  
 Model CJI instructions, § **13:1**  
 Multiple counts, § **13:25**  
 Nullification by jury, § **13:57**  
 Numerical division of deadlocked juries, § **13:60**  
 Objections  
     Absence of instruction, § **13:17**  
     Cautionary instructions, §§ **13:28, 13:29**  
     Lesser included offense instructions, § **13:19**

**INSTRUCTIONS—Cont'd**

Objections—Cont'd  
     Review, §§ **13:4, 13:5**  
 Oral delivery of instructions to jury required, § **13:3**  
 Order of deliberations, § **13:50**  
 Police officer, cautionary instructions, § **13:38**  
 Polling deadlocked jury, § **13:63**  
 Predicate-based offenses, § **13:10**  
 Prejudice, statutory requirement, § **13:2**  
 Preliminary instructions, § **15:61**  
 Presumed to intend instruction, § **13:55**  
 Presumption of innocence, § **13:40**  
 Procedural instructions, §§ **13:40 to 13:51**  
 Reading statute and information, § **13:53**  
 Reasonable doubt, §§ **13:41, 13:42**  
 Receiving and concealing stolen property, § **5:478**  
 Reinstruction, § **13:59**  
 Requests  
     Cautionary instructions, §§ **13:32, 13:36**  
     Lesser included offense instructions, §§ **13:12 to 13:20**  
     Nature, § **13:15**  
     Review of evidence, included offense instructions, § **13:12**  
     Source of request, § **13:47**  
     Statute of limitations, § **13:20**  
     Theory of case, §§ **13:48, 13:49**  
     Timing, § **13:16**  
     Waiver, bar of lesser, § **13:20**  
 Rereading testimony, § **13:58**  
 Retrial or resentencing, § **13:24**  
 Review, §§ **13:1 to 13:6**  
 Robbery, §§ **5:496 to 5:501**  
 Specific intent, § **13:54**  
 Standard criminal jury instructions (CJI), § **13:1**  
 Statute of limitations, § **13:20**  
 Sua sponte  
     Generally, § **13:49**  
     Cautionary instructions, § **13:37**  
     Theory of case, §§ **13:48, 13:49**  
 UDAA (unlawfully driving away an automobile), § **5:516**  
 Unanimity, §§ **13:43, 13:44**  
 Unlawfully driving away in automobile (UDAA), § **5:515**  
 Verdict form, § **13:51**

## INDEX

### INSTRUCTIONS—Cont'd

- As whole, review, § 13:7
- Written copy of instructions provided to jury, §§ 15:66, 15:72
- Written instructions, § 13:46

### INSUFFICIENT FUNDS

- False pretenses, § 5:436

### INSURANCE COMPANY

- Restitution, § 20:174

### INTELLECTUAL DISABILITY

- Defined, § 6:61

### INTENT

- Aiding and abetting, §§ 5:3 to 5:8
- Assault And Battery** (this index)
- Breaking and Entering** (this index)
- Controlled substances, intent to deliver, §§ 5:106, 5:107
- Criminal intent, proof of, §§ 9:320 to 9:323
- Dissemination of sexually explicit material of another with intent to coerce or intimidate, § 5:701
- Double Jeopardy** (this index)
- Evidence, §§ 9:299, 9:313, 9:316, 9:320
- Forgery, §§ 5:397 to 5:400, 5:398
- Hearsay, motive to examine witness, § 9:171
- Homicide** (this index)
- Instructions, presumed to intend instruction, § 13:55
- Larceny, intent to permanently deprive, §§ 5:441, 5:442
- Malicious destruction of property, § 5:658
- Perjury, § 5:674
- Presumed to intend instruction, § 13:55
- Receiving and concealing stolen property, § 5:468
- Resisting and obstructing police officer, § 5:688
- Robbery, § 5:484
- Specific intent
  - Aiding and abetting, § 5:3
  - Instructions, § 13:54
- Terrorist threats, § 5:717
- Transferred Intent** (this index)
- Unlawfully driving away in automobile (UDAA), § 5:511
- Weapons, §§ 5:584, 5:602 to 5:605

### INTEREST

- Restitution, § 20:177

### INTERIOR BREAKING AND ENTERING

- Generally, §§ 5:366, 5:371

### INTERLOCKING CONFESSIONS

- Joinder, § 22:67

### INTERLOCUTORY APPEAL

- Appeal and Error** (this index)

### INTERLOCUTORY APPLICATIONS

- Appeal, presumption in favor of stay, § 1:28

### INTERNET

- Burning copies of images, crimes against children, § 5:160
- Crimes against children, online images, §§ 5:158 to 5:160
- Personal use of images, crimes against children, § 5:160
- Temporary internet files, crimes against children, § 5:159

### INTERROGATION

- Confessions** (this index)

### INTIMIDATION

- Dissemination of sexually explicit material of another with intent to coerce or intimidate, § 5:701
- Ethnic Intimidation** (this index)

### INTOXICATION

- Abrogated as defense, § 6:95
- Arrest, alcohol, odor of, § 2:35
- Diminished capacity distinguished, § 6:90
- Double Jeopardy** (this index)
- Guilty pleas, factual bases, § 10:21
- Homicide, § 5:274
- Insanity, §§ 6:62, 6:63
- Operating under Influence (OUIL) and Driving while Impaired (DWI)** (this index)

### INVITED ERROR

- Generally, § 1:74

### INVOLUNTARY INTOXICATION

- Insanity, § 6:63

### INVOLUNTARY MANSLAUGHTER

- Homicide** (this index)

## **JAIL**

**Prisons and Prisoners** (this index)

## **JOINDER**

Generally, §§ 22:52 to 22:76  
 Antagonism, § 22:60  
 Blameshifting, § 22:59  
 Blanks or symbols, use of, § 22:73  
 Bruton problems, §§ 22:66 to 22:73  
 Conflicting defenses, §§ 22:58 to 22:65  
 Defendants  
   Generally, §§ 22:55 to 22:76  
   Single defendant joinder, §§ 22:52 to 22:54  
 Discretion of court, §§ 22:74, 22:75  
 Evidence disparity, § 22:61  
 Harmless error, § 22:64  
 Hearsay exception, §§ 22:68, 22:69  
 Interlocking confessions, § 22:67  
 Joint juries, § 22:70  
 Neutral pronouns, § 22:72  
 Permissive joinder, §§ 22:52, 22:55  
 Preference for, § 22:76  
 Redaction, § 22:71  
 Review, § 22:63  
 Right of severance  
   Related offenses, § 22:57  
   Unrelated offenses, §§ 22:53, 22:56  
 Separate juries, § 22:65  
 Severance  
   Related offenses, §§ 22:57 to 22:76  
   Unrelated offenses, § 22:56  
 Single defendant joinder, §§ 22:52 to 22:54  
 Symbols, use of, § 22:73

## **JOINT JURIES**

Generally, § 22:70

## **JOINT POSSESSION**

Weapons, §§ 5:587, 5:609

## **JOURNALISTS**

Privileged information, §§ 9:259, 9:260

## **JUDGES**

Generally, §§ 14:1 to 14:32  
**Appeal and Error** (this index)  
 Attorneys  
   Belittling, § 14:6  
   Comments to counsel, §§ 14:5, 14:6  
   Belittling counsel, § 14:6

## **JUDGES—Cont'd**

Changing verdict, § 14:32  
 Clarifying testimony, § 14:1  
 Comments and questions, §§ 14:1 to 14:6  
 Contempt citations, § 14:5  
 Disqualification  
   Generally, §§ 14:7 to 14:26  
   Bench trial, prior proceedings, § 14:20  
   Campaign speech, § 14:14  
   Employment, § 14:11  
   Ex parte communications, § 14:15  
   Interest, § 14:9  
   Partnership, § 14:12  
   Personal bias or prejudice, § 14:10  
   Procedure, §§ 14:22 to 14:26  
   Reassignment of case on grant of motion, § 14:25  
   Referral of motion, §§ 14:23, 14:24  
   Relationship, § 14:13  
   Risk of bias or appearance of impropriety, § 14:8  
   Substitution of judge after start of proceedings, § 14:17  
   Timing, § 14:22  
   Waiver of disqualification, § 14:16  
 Double jeopardy, disqualification after jeopardy has attached, § 8:25  
 Ex parte communications, disqualification, § 14:15  
 Fact-finding, §§ 14:29 to 14:31  
 Inconsistent verdicts, § 14:28  
 Partiality, § 14:2  
 Preservation of issue  
   Generally, § 14:26  
   Comments and questions, § 14:4  
 Presumptions regarding following of law, § 14:27  
 Verdicts  
   Changing, § 14:32  
   Fact-finding, §§ 14:29 to 14:31  
   Inconsistent, § 14:28

## **JUDGMENTS AND ORDERS**

**Appeal and Error** (this index)

## **JURISDICTION**

**Appeal and Error** (this index)  
 “Excess jurisdiction,” effect of application for leave to appeal from judgment order/opinion, § 1:42  
 Juveniles, §§ 16:6, 16:7

## INDEX

### JURISDICTION—Cont'd

- Preliminary examination, §§ 17:19 to 17:25
- Sentencing, delay in excess of one year, § 20:60

### JURY

- Generally, §§ 15:1 to 15:78
- Appeal and Error** (this index)
- Automobile traffic cases, § 15:2
- Carrying dangerous weapon with unlawful intent, § 5:605
- Deliberations of Jury** (this index)
- Discussion of case prior to deliberations, § 15:59
- Double Jeopardy** (this index)
- Exception, intrinsic impeachment, § 15:57
- Gender as reason for challenge, § 15:38
- Hung Jury** (this index)
- Illness of juror, § 22:29
- Impeachment of jury verdict, §§ 15:56, 15:57
- Improper contact with jurors, §§ 15:53, 15:54
- Inattention to proceedings, § 15:55
- Instructions** (this index)
- Joinder of separate juries, § 22:65
- Juror questions, § 15:64
- Juveniles, not required for sentence to life without parole for 1st-degree murder, § 20:166
- Limitation of prosecutions, § 22:23
- Misconduct or prejudice, §§ 15:53 to 15:59
- Misdemeanors, waiver of right, § 15:6
- Mistrial, prior waiver nullified, § 15:7
- Newspaper and TV coverage, § 15:54
- Note-taking by jurors, § 15:63
- Nullification, instructions, § 13:57
- Operating under influence (OUIL) and driving while impaired (DWI), § 5:565
- Polling
  - Deadlocked jury, § 13:63
  - Verdicts, § 15:83
- Prosecution right to jury, § 15:3
- Racial bias, § 15:50
- Reference books, use of, § 15:62
- Religion, § 15:51
- Removal of juror, § 15:58

### JURY—Cont'd

- Reversal, prior waiver nullified, § 15:7
- Right to jury, §§ 15:1 to 15:3
- Selection
  - Generally, §§ 15:9 to 15:52
  - Anonymous jury, § 15:12
  - Array, challenges to, §§ 15:13 to 15:16
  - Cause, challenges for, §§ 15:18 to 15:26
  - Collateral attack, § 15:46
  - Denial of challenge for cause or peremptory challenge, effect of, § 15:25
  - Exemptions, § 15:11
  - Expression of satisfaction, § 15:23
  - Geography, challenges to the array, § 15:16
  - Joint defendants, § 15:29
  - Knowledge of juror, § 15:20
  - Lack of qualification, challenges, § 15:19
  - Misdemeanors, number of peremptory challenges for, § 15:28
  - Multiple counts, § 15:30
  - Neutral reasons for peremptory challenge, § 15:42
  - Opinion or bias of juror, § 15:21
  - Peremptory challenge, exercise of, §§ 15:27 to 15:47
  - Preservation of issues, §§ 15:26, 15:44
  - Prima facie case, peremptory challenge, § 15:43
  - Qualifications, § 15:10
  - Race as reason for peremptory challenge, §§ 15:37, 15:40
  - Relationships, § 15:22
  - Retroactivity, §§ 15:45, 15:46
  - Review, § 15:24
  - Sex as reason for challenge, § 15:38
  - Statistical methods, challenges to the array, § 15:14
  - Struck method, § 15:32
  - Timing, §§ 15:18, 15:47
  - Voter records, challenges to the array, § 15:15
- Sex as reason for challenge, § 15:38
- Spousal privilege, § 9:273
- Summing up of evidence by judge, § 15:67
- Swearing of jurors, § 15:60
- Traffic cases, § 15:2

## **JURY—Cont'd**

- TV coverage, § 15:54
- View by jury, § 15:65
- Voir dire, §§ 15:48 to 15:52
- Waiver of right, §§ 15:4 to 15:8
- Withdrawal of waiver of right, § 15:8
- Witnesses, juror questions, § 15:64

## **JUVENILES**

- Generally, §§ 16:1 to 16:20
- Adult conviction but sentenced as juvenile, § 20:39
- Adult sentence offenses, § 16:13
- Age, waiver of jurisdiction, § 16:2
- Automatic waiver, life offenses, §§ 16:6 to 16:17
- Challenge, waiver of jurisdiction, § 16:5
- Confessions by juveniles, §§ 16:18 to 16:20
- Dispositional hearings, expert testimony at, § 16:17
- Evidence, waiver of jurisdiction, § 16:4
- Expert testimony at dispositional hearing, § 16:17
- Homicide offenses, life sentences for, § 20:166
- Jurisdiction, §§ 16:6, 16:7
- Jury trial not required for sentence to life without parole for 1st-degree murder, § 20:166
- Life offenses
  - Generally, §§ 16:6 to 16:17
  - Confessions, § 16:20
  - Disciplinary credits, term-of-years sentencing, § 20:165
  - First degree murder, §§ 20:160, 20:166
  - Homicide, sentence for, § 20:166
  - Mandatory life sentence without parole, 18 and over, § 20:161
  - Non-homicide, sentence for, § 20:159
  - With parole, § 16:15
  - Without parole, cruel and unusual, § 16:14
- Mandatory life sentence without parole, 18 and over, § 20:161
- Nonenumerated offenses in same transaction, § 16:7
- Non-homicide offenses, life sentences for, § 20:159
- Notification, automatic waiver, life offenses, § 16:8
- Place of confinement, § 16:9

## **JUVENILES—Cont'd**

- Prior convictions, §§ 9:203, 9:214
- Probate court transfer after preliminary exam, § 16:11
- Sentencing
  - Generally, §§ 20:123, 20:124
  - Absence of counsel, § 20:113
  - Assignment as youthful trainee, §§ 20:48 to 20:55
  - Closing proceedings, § 20:52
  - Constitutionality, § 20:51
  - Conviction for nonenumerated offense, § 16:16
  - Length term-of-years sentences, parolable life sentence, unconstitutional, § 20:162
  - Life with parole, § 16:15
  - Life without parole, cruel and unusual, § 16:14
  - Youthful trainees, §§ 20:48 to 20:55
- Speedy trial, § 16:10
- Transfer to probate court after preliminary exam, § 16:11
- Waiver of jurisdiction
  - Generally, §§ 16:1 to 16:5
  - Challenge, § 16:5
  - Confessions by juveniles, § 16:18
  - Evidence, § 16:4
  - Life offenses, § 16:13
  - Life with parole, § 16:15
  - Life without parole, § 16:14
  - Standard, § 16:3

## **KARATE STICKS**

- Weapons, § 5:611

## **KEYS**

- Breaking and Entering (this index)

## **KIDNAPPING**

- Generally, §§ 5:356 to 5:359
- Parental kidnapping, §§ 5:358, 5:359
- Restraint, § 5:356
- Unlawful imprisonment, § 5:357

## **KNIVES**

- Weapons, § 5:617

## **KNOCK AND ANNOUNCE**

- Generally, §§ 19:126, 19:215

## **KNOCK AND TALK**

- Search and seizure, entries into premises, § 19:68

## INDEX

### KNOWLEDGE

- Assault, victim's lack of knowledge, § 5:34
- Breaking and entering, knowledge of character of building, § 5:374
- Change of venue, knowledge of jurors, § 22:12
- Conspiracy, §§ 5:80, 5:81
- Evidence, § 9:322
- Forgery, § 5:398
- Robbery, aiding and abetting, § 5:492

### LABORATORY REPORTS

- Confrontation clause, § 9:174
- Preliminary examination, § 17:14

### LANGUAGE CONDUIT RULE

- Hearsay, § 9:103

### LAPSE OF TIME

- OUIL and OWI, admissibility of test results, § 5:543

### LARCENY AND LARCENY-RELATED OFFENSES

- Generally, §§ 5:360 to 5:517
- Asportation, § 5:443
- Automobiles. **Carjacking and Car** (this index)
- Bank instruments, § 5:445
- Breaking and Entering** (this index)
- Carjacking and Car Theft** (this index)
- Character evidence, § 9:72
- Charging, § 5:447
- Conversion, Larceny by** (this index)
- Corpus delicti, § 5:450
- Definitions, § 5:442
- Double Jeopardy** (this index)
- Elements, § 5:438
- Embezzlement** (this index)
- Financial transaction device, stealing or retaining, § 5:465
- Goods, production, § 5:449
- Homicide, § 5:301
- Intent to permanently deprive, §§ 5:441, 5:442
- Market value, § 5:444
- Motor vehicle, larceny from, §§ 5:463, 5:464
- Multiple convictions, § 5:451
- Owner's testimony, § 5:446
- Person, larceny from, §§ 5:461, 5:462

### LARCENY AND LARCENY-RELATED OFFENSES—Cont'd

- Prior convictions, § 9:188
- Receiving and Concealing Stolen Property** (this index)
- Recent possession, §§ 5:448 to 5:450
- Sentimental or special value, § 5:444
- Spouse, § 5:440
- Stolen Property** (this index)
- Third persons' property, §§ 5:439, 5:440
- Trick, larceny by, §§ 5:452, 5:499
- UDAA (Unlawfully Driving Away an Automobile)** (this index)
- Value, §§ 5:444 to 5:446

### LAW ENFORCEMENT OFFICERS

- Police** (this index)

### LAW OF THE CASE

- Appeal and error, §§ 1:86 to 1:90

### LEADING QUESTIONS

- Witnesses, §§ 23:7, 23:8

### LEARNED TREATISES

- Generally, § 23:28

### LEAVE, APPEALS BY

- Appeal and Error** (this index)

### LEAVING SCENE OF ACCIDENT

- Felonious driving, § 5:521

### LEGAL IMPOSSIBILITY

- Defense, § 6:56

### LEGISLATIVE GUIDELINES

- Reviewed for reasonableness, presumption that reasonable, § 20:20

### LEGISLATIVE INTENT

- Double jeopardy, § 8:47

### LESSER OFFENSES

- Controlled substances offenses, §§ 5:113, 5:114
- Counsel** (this index)
- Double jeopardy, § 8:116
- Homicide** (this index)
- Instructions** (this index)
- Preliminary examination, § 17:9
- Robbery, §§ 5:496 to 5:501
- UDAA (unlawfully driving away an automobile), § 5:516

## **LICENSES**

- Driver's Licenses** (this index)
- Forgery, § 5:409
- Weapons license
  - Lack of, § 5:589
  - Out-of-state license, § 5:588

## **LIE DETECTORS**

- Polygraph or Lie Detector** (this index)

## **LIFE**

- When life begins and ends as a matter of law, §§ 5:254 to 5:256

## **LIFE OFFENSES**

- Juveniles** (this index)

## **LIFE PROBATION**

- Generally, §§ 5:134, 20:184 to 20:186

## **LIFETIME ELECTRONIC MONITORING**

- Fourth Amendment, § 5:244
- Guilty pleas, § 10:32
- Sexual offenders, §§ 5:243, 5:244

## **LIMITATION OF PROSECUTIONS**

- Generally, §§ 22:19 to 22:24
- Criminal sexual conduct (CSC), § 22:21
- Jury question, § 22:23
- Predicate offense, running of period, § 22:22
- Tolling running of the limitations period, § 22:20
- Waiver by failure to object, § 22:24

## **LINEUPS**

- Identification** (this index)

## **LIQUOR**

- Intoxication** (this index)
- Operating under Influence (OUIL) and Driving while Impaired (DWI)** (this index)

## **LOCATION**

- Alibi, claim that defendant was elsewhere but with victim, § 6:9
- Character evidence, reports of conduct, §§ 9:73 to 9:76
- Venue** (this index)

## **LOGICAL RELEVANCE OF EVIDENCE**

- Generally, § 9:294

## **LUGGAGE**

- Search and seizure, § 19:20

## **LYING IN WAIT**

- Homicide, § 5:321

## **MAGAZINES**

- Evidence, newspapers and periodicals, § 9:21

## **MAGISTRATES**

- Search and Seizure** (this index)

## **MAIMING**

- Assault and battery, intent, § 5:45

## **MAJORITY**

- Appeal and error, precedent, §§ 1:80, 1:81

## **MALICE**

- Homicide** (this index)

## **MALICIOUS DESTRUCTION OF PROPERTY**

- Generally, §§ 5:656 to 5:661
- Double jeopardy, § 8:105
- Elements, § 5:656
- Government and corporate property, § 5:657
- Intent, § 5:658
- Multiple convictions, § 5:661
- Theft, damage by, § 5:659
- Value, § 5:660

## **MAMON CASE**

- Arrest, § 2:24

## **MANIFEST INJUSTICE**

- Instructions, § 13:6

## **MANIFEST NECESSITY**

- Double Jeopardy** (this index)

## **MANSLAUGHTER**

- Generally, §§ 5:324 to 5:338
- Attempted, § 5:346
- Clarification regarding manslaughter, § 5:324
- Double jeopardy, § 8:82
- Involuntary manslaughter
  - Statute, § 5:343
- Involuntary manslaughter, failure to act, § 5:345
- Lesser included offenses, § 5:291
- Misdemeanor manslaughter, § 5:344

## INDEX

### **MANSLAUGHTER—Cont'd**

Prenatal protection, § 5:338

### **MARIJUANA**

Acts allowed, § 5:119

Controlled substances offenses, §§ 5:117 to 5:124, 5:127

Dispensaries, § 5:120

Legalization initiative, §§ 5:118 to 5:120

Michigan Medical Marijuana Act

Generally, §§ 5:121 to 5:123

Driving offense must be impaired or under influence, § 5:122

Transportation of marijuana and statutory conflict, § 5:123

Probation, terms of, § 20:180

### **MARKET VALUE**

Larceny, § 5:444

### **MATERIAL FACT**

Character as circumstantial, §§ 9:38 to 9:50

### **MATERIALITY**

Perjury, §§ 5:675 to 5:678

### **MEDIA**

Change of venue, § 22:13

Evidence, newspapers and periodicals, § 9:21

Juries, newspaper and TV coverage, § 15:54

TV (this index)

### **MEDICAL CARE**

Criminal sexual conduct, §§ 5:183, 5:218

Hearsay, medical treatment or diagnosis, §§ 9:123, 9:179, 9:180

### **MEDICATION**

Competence to stand trial, § 22:31

### **MEMORY**

Hearsay, memory lack, § 9:168

Impeachment, memory lack, § 9:220

**Refreshing Recollection** (this index)

### **MENS REA**

Evidence, §§ 9:320 to 9:323

### **MENTAL ANGUISH**

Criminal sexual conduct, § 5:182

### **MENTAL CAPACITY**

**Competency** (this index)

### **MENTAL CAPACITY—Cont'd**

Homicide, §§ 5:274, 5:275

**Plea Bargaining** (this index)

**Psychologists and Psychiatrists** (this index)

Spouse, mentally incapacitated, § 5:217

### **MICHIGAN MEDICAL MARIJUANA ACT**

Marijuana, § 5:121

### **MID-TRIAL TERMINATIONS**

Double jeopardy, §§ 8:33 to 8:35

### **MINIMUM SENTENCE**

Guilty pleas, collateral consequences, §§ 10:23, 10:24

### **MINORS**

**Children** (this index)

### **MIRANDA**

Generally, §§ 3:22 to 3:65

Appeal and error, Miranda claims, § 1:157

Burden of proof, § 3:48

**Confessions** (this index)

Degree of precision, §§ 3:38, 3:39

Impeachment

Post-Miranda warning, § 9:231

Pre-Miranda warning, § 9:230

Inapplicability, §§ 3:23 to 3:27

Insanity, silence after warnings, § 6:81

Interrogation requirement, § 3:35

Limited or equivocal assertions of right, §§ 3:40, 3:41

Mental state of accused, § 3:42

Reassertion, § 3:46

Recording interrogation, test compared to, § 3:30

Uses of improperly gained confessions, §§ 3:78 to 3:87

Waiver of rights, §§ 3:14 to 3:17, 3:42 to 3:48

### **MISCONDUCT**

Jury, §§ 15:53 to 15:59

Noncharacter uses of uncharged misconduct evidence, §§ 9:310 to 9:328

### **MISDEMEANORS**

Jury, waiver of right, § 15:6

Manslaughter, § 5:344

**MISDEMEANORS—Cont'd**

Prosecutor, §§ 18:33, 18:34

**MISTAKE**

Arrest, reasonableness

Mistake of fact, § 2:37

Mistake of law may justify stop, § 2:38

Evidence, absence of mistake or accident,  
§ 9:323

Plea bargaining, § 10:50

**MISTRIALS**

Double jeopardy, §§ 8:20 to 8:30

Jury, prior waiver nullified, § 15:7

**MITIGATION**

Accidents, § 6:6

Assault and battery, mitigation by provo-  
cation, § 5:55

**Homicide** (this index)

**MIXED QUESTIONS OF LAW AND  
FACT**

Appeal and error, § 1:174

**MOBILE HOMES**

Breaking and entering, § 5:373

**MODEL CRIMINAL JURY  
INSTRUCTIONS (CJI)**

Generally, § 13:1

**MODIFICATION**

**Amendment, Modification or Change**  
(this index)

**MOTIVE**

**Intent** (this index)

**MOTOR VEHICLES**

**Automobiles** (this index)

**MULTIPLE CONVICTIONS**

Breaking and entering, § 5:382

Conspiracy, § 5:68

Criminal sexual conduct, §§ 5:170, 5:192  
to 5:197

Double jeopardy, §§ 8:46 to 8:116

Felony-firearm, §§ 5:633 to 5:636

Forgery, § 5:395

**Habitual Offenders** (this index)

Larceny, § 5:451

Malicious destruction of property, § 5:661

Receiving and concealing stolen property,  
§ 5:476

**MULTIPLE CONVICTIONS—Cont'd**

Robbery, §§ 5:502, 5:503

**MULTIPLE COUNTS**

Instructions, § 13:25

**MULTIPLE CRIMINAL ACTS**

Conspiracy, § 5:73

**Criminal Sexual Conduct** (this index)

Different jurisdictions, § 5:637

Double jeopardy, § 8:71

Felony-firearm, § 5:636

**MULTIPLE DEFENDANTS**

Guilty pleas, § 10:9

**Joinder** (this index)

**MULTIPLE OCCUPANTS OF  
VEHICLE**

Carjacking, § 5:509

**MULTIPLE PENETRATIONS**

Criminal sexual conduct, §§ 5:194, 5:195

**MULTIPLE PICTURES**

Identification, suggestiveness, § 11:27

**MULTIPLE PROSECUTIONS**

**Double Jeopardy** (this index)

**MULTIPLE VICTIMS**

Criminal sexual conduct, § 5:171

Double jeopardy, § 8:80

Robbery, § 5:502

**MUNICIPALITIES**

Forgery of municipal payroll checks,  
§ 5:408

**MURDER**

**Homicide** (this index)

**MURDER TWO**

Generally, § 5:315

**MUTUAL REASSURANCE**

Aiding and abetting, § 5:7

**NAME OF PERPETRATOR**

Hearsay, § 9:180

**NARCOTICS**

**Controlled Substances Offenses** (this  
index)

**NECESSITY**

Generally, §§ 6:38, 6:39

Duress, distinguished, § 6:38

## INDEX

### **NECESSITY—Cont'd**

Imminence of harm, § 6:39

### **NEGATING ALL INNOCENT THEORIES**

Evidence, § 9:79

### **NEGLECT OF DUTY**

Misconduct in office, § 5:702

### **NEGLIGENT HOMICIDE**

Indirect cause, contributory negligence, § 5:349

### **NEGOTIABLE INSTRUMENTS**

Evidence, § 9:24

**False Pretenses** (this index)

### **NEUTRAL PRONOUNS**

Joinder, § 22:72

### **NEW ISSUES ON APPEAL**

Application for leave raising new issues, § 1:75

### **NEW TRIAL**

**Appeal and Error** (this index)

### **NEWLY DISCOVERED EVIDENCE**

Generally, §§ 1:17 to 1:22

### **NEWSPAPERS**

Evidence, newspapers and periodicals, § 9:21

Juries, newspaper and TV coverage, § 15:54

### **NOLO CONTENDERE**

Guilty pleas, §§ 10:37 to 10:41

### **NONEXISTENT OFFENSES**

Mistake, plea bargaining, § 10:50

Plea bargaining, mistake, § 10:50

### **NONPROBATIONABLE SENTENCES**

Guilty pleas, collateral consequences, § 10:26

### **NONRESPONSIVE ANSWERS**

Harmless error, §§ 1:70, 1:71

### **NONSUPPORT**

Generally, §§ 5:712 to 5:714

Continuing offense for statute of limitations purposes, § 5:714

Elements, felony, § 5:712

Felony nonsupport, §§ 5:712 to 5:714

Impossibility defense, § 5:713

### **NONSUPPORT—Cont'd**

Lack of funds to pay, § 5:713

Notice, felony, § 5:712

### **NOTES**

Hearsay, original notes, § 9:158

Note-taking by jurors, § 15:63

### **NOTICE**

**Alibi** (this index)

Character evidence, § 9:45

Evidence, pretrial notice requirement, §§ 9:307 to 9:309

Insanity, §§ 6:64 to 6:67

Juveniles, § 16:8

Rape shield law and right of confrontation, § 5:221

### **NSF CHECKS**

False pretenses, § 5:436

### **NUMERICAL DIVISION**

Deadlocked juries, § 13:60

### **OATH**

Double jeopardy, § 8:22

Guilty pleas, oath of defendant, § 10:3

Inconsistent statements under, §§ 1:57, 9:162

Perjury, §§ 5:672, 5:673

### **OBJECTIONS**

**Appeal and Error** (this index)

Information, §§ 12:11 to 12:14

**Instructions** (this index)

Judges' comments and questions, § 14:4

### **OBJECTIVE MANIFESTATION**

Robbery, § 5:495

### **OBSERVATION**

OUIL and OWI, observation of defendant by operator, § 5:544

**Plain View** (this index)

### **OBSTRUCTION OF JUSTICE AND RELATED OFFENSES**

Generally, §§ 5:662 to 5:670

Child abuse, false report of, § 5:668

Emergency, false report of, § 5:669

Evidence tampering, § 5:666

False police reports, §§ 5:667 to 5:670

Jury tampering, § 5:664

Lying to police, § 5:670

**OBSTRUCTION OF JUSTICE AND  
RELATED OFFENSES—Cont'd**

Medical emergency, false report of,  
§ 5:669

**Perjury** (this index)

Preventing reporting of a crime, § 5:663

**Resisting and Obstructing Police officer**  
(this index)

Retaliation against a witness, § 5:665

Witness tampering, § 5:665

**OCCUPATIONAL SAFETY AND  
HEALTH ADMINISTRATION**

Homicide, OSHA issues, § 5:342

**OCCUPIED DWELLINGS**

Breaking and entering, § 5:384

**OFFICER**

Breath test administration, § 5:691

**OFFICIAL PUBLICATIONS**

Evidence, § 9:20

**OFF-ROAD OPERATORS**

Operating under influence, generally  
accessible, § 5:524

**ONE-MAN CONSPIRACY RULE**

Generally, § 5:86

**ONE-MAN SHOW-UP**

Identification, § 11:29

**ONLINE IMAGES**

Burning copies, § 5:160

Crimes against children, §§ 5:158 to  
5:160

Personal use, § 5:160

Temporary internet files, § 5:159

**OPERATING UNDER INFLUENCE  
(OUIL) AND DRIVING WHILE  
IMPAIRED (DWI)**

Generally, §§ 5:522 to 5:579

Admissibility of test results, §§ 5:540 to  
5:551

Ampoules, preservation of, § 5:546

Blood drawn for medical treatment,  
§ 5:554

Blood-test results, presumption, § 5:529

Breathalyzer

Administration of test by officer,  
§ 5:691

Admissibility of test results, § 5:541

**OPERATING UNDER INFLUENCE  
(OUIL) AND DRIVING WHILE  
IMPAIRED (DWI)—Cont'd**

Breathalyzer—Cont'd

Preliminary roadside analysis, § 5:547

Resisting and obstructing police officer,  
§ 5:691

Testing of breathalyzer, § 5:550

Causing serious impairment or death,  
§§ 8:110, 8:113

Charging, §§ 5:569, 5:570

Collateral estoppel, § 5:536

Counsel

Generally, §§ 5:537 to 5:539

Indigency, § 5:560

Misdemeanors, § 5:559

Death, OUIL or OWI causing, §§ 5:574,  
5:575

Delay in meeting statutory deadlines,  
§ 5:570

Double jeopardy, §§ 8:110 to 8:113

Elements, § 5:522

Emergency response personnel, death of,  
§ 5:575

Ex post facto claims, § 5:558

Felonious driving, § 8:111

Firefighter, death of, § 5:575

Forfeiture, sentencing provisions, § 5:578

Habitual, § 5:564

Habitual offenders, §§ 5:555 to 5:565

Horizontal gaze nystagmus test, § 5:551

Impaired, § 5:561

Impaired ability to drive, § 5:523

Implied consent, §§ 5:528 to 5:536

Incapacitating injuries, § 5:566

Independent testing, §§ 5:530 to 5:532,  
5:549

Jury trial, § 5:565

License suspension, §§ 5:535, 5:579

Manner of driving not impaired, § 5:523

Marijuana, Michigan Medical Marijuana  
Act, § 5:122

Misdemeanors, counsel, § 5:559

Motionless vehicle, § 5:526

Normal driving, § 5:527

Observation of defendant by operator,  
§ 5:544

Off road operators, generally accessible,  
§ 5:524

Ordinance violations, § 5:556

## INDEX

### **OPERATING UNDER INFLUENCE (OUIL) AND DRIVING WHILE IMPAIRED (DWI)—Cont'd**

Permitting another to operate vehicle under influence, § 5:577

Place of operation, § 5:525

Police

Death of officer, § 5:575

Delayed test, § 5:533

Regurgitation, state police rules, § 5:542

Search warrant, § 5:534

Preliminary roadside analysis, § 5:547

Preservation of ampoules, § 5:546

Presumptions, §§ 5:529, 5:567

Refusal to take test, §§ 5:552, 5:553

Regurgitation, state police rules, § 5:542

Repeat offenders, §§ 5:555 to 5:565

Roadside questioning, § 5:538

Search and seizure, implied consent, § 5:534

Sentencing, §§ 5:572 to 5:579

Serious impairment of body function of another, OUIL or OWI causing, § 5:576

Serious injuries, § 5:566

Sobriety checkpoints, § 5:568

Stopped vehicles, § 5:526

Subsequent tests, § 5:548

Suspended license, causing serious impairment or death, § 8:110

Third offense, § 5:562

Time periods, calculation for prior offenses, § 5:563

Timing of challenge, § 5:557

Videotaping, § 5:539

Zero tolerance, § 5:571

### **OPINION EVIDENCE**

Expert and Lay Opinion Witnesses (this index)

### **ORDER OF DELIBERATIONS**

Instructions, § 13:50

### **ORIGINALS**

Best evidence, § 9:27

Hearsay, original notes, § 9:158

### **OSHA ISSUES**

Homicide, § 5:342

### **OUIL**

Operating under Influence (OUIL) and Driving while Impaired (DWI) (this index)

### **OUT-OF-COURT IDENTIFICATION**

Identification (this index)

### **OUT-OF-STATE CONVICTIONS**

Foreign Convictions (this index)

### **OVERT ACTS**

Conspiracy, § 5:66

Extortion, § 5:423

### **PARDONS**

Appeal and error, § 1:140

Habitual offenders, § 20:37

### **PARENTS**

Children (this index)

Kidnapping by, §§ 5:358, 5:359

Privileged information, § 9:261

### **PAROLE**

Offenses committed by parolees, §§ 20:81, 20:94

Parole violation proceedings, § 19:218

Revocation, discretion of parole board, § 20:197

Search of parolees, §§ 19:195, 19:218

### **PARTIALITY**

Judges, § 14:2

### **PASSAGE OF TIME**

Hearsay, §§ 9:148, 9:149

### **PASSING TITLE**

False pretenses, §§ 5:432 to 5:434

### **PAST RECOLLECTION RECORDED**

Hearsay, §§ 9:154 to 9:158

### **PAST SEXUAL ACTS**

Rape shield law and right of confrontation, §§ 5:224, 5:226

### **PAYROLL CHECKS**

Forgery, § 5:408

### **PEACE OFFICERS**

Police (this index)

### **PEN REGISTERS**

Search and seizure, § 19:6

**PENDENCY OF APPEAL**

Prior convictions, § 9:205

**PENDING CHARGES**

Guilty pleas, effect on pending charges, § 10:30

Impeachment, § 9:237

**PENETRATION**

**Criminal Sexual Conduct** (this index)

**PERFECT TRIAL**

Fair trial distinguished, § 1:68

**PERIODICALS**

Evidence, § 9:21

**PERJURY**

Generally, §§ 5:671 to 5:684

Adjudicative facts, §§ 5:677, 5:678

Deposition, § 5:684

Discovery, perjured testimony, § 7:24

Driver's license, §§ 5:673, 5:682

Elements, § 5:671

False statement in record signed under penalty, § 5:683

Fifth Amendment issues, §§ 5:680, 5:681

Intent, willfulness, § 5:674

Materiality, §§ 5:675 to 5:678

Oath, §§ 5:672, 5:673

Proof of truth of contradiction, § 5:679

Prosecutor's duty to disclose perjured testimony, §§ 18:37, 18:38

Subornation, §§ 5:681, 20:119

Ultimate issue, § 5:676

**PERMISSION**

**Consent** (this index)

**PERMISSIVE JOINDER**

Generally, §§ 22:52, 22:55

**PERSON**

Larceny from, §§ 5:461, 5:462

**PERSONAL KNOWLEDGE OF REPUTATION**

Character evidence, § 9:56

**PERSONALLY ADDRESSING DEFENDANT**

Guilty pleas, requirement, § 10:2

**PERSUASION**

Burden of, defenses, exemptions, § 5:112

Prior convictions, §§ 9:195 to 9:198

**PETITION**

Appeal of denial, § 1:179

**PHOTOGRAPHS**

Generally, §§ 9:247 to 9:251

Admissibility, §§ 9:248 to 9:251

Demonstrative evidence, § 9:91

Discretion, § 9:250

Foundation, § 9:247

**Identification** (this index)

Prejudicial effect, § 9:249

Relevancy, § 9:248

**PHYSICAL EVIDENCE**

**Demonstrative Evidence** (this index)

**PHYSICIANS**

**Health Care Providers** (this index)

**PIRATING ELECTRONIC MEDIA**

Criminal enterprise, § 5:720

Election fraud, forgery of signatures, § 5:721

Identity theft, § 5:722

**PLAIN ERROR**

Appeal and error, §§ 1:64, 1:65

Presumption of prejudice, § 1:65

**PLAIN STATEMENT RULE**

Appeal and error, §§ 1:167, 1:168

**PLAIN VIEW**

Generally, §§ 19:196 to 19:199

Open view distinguished, § 19:59

Test, § 19:197

**PLEA BARGAINING**

Generally, §§ 10:44 to 10:56

Constitutional basis, § 10:44

Counsel, § 4:5

Court's role, § 10:45

Failure by defendant to keep bargain, § 10:55

Habitual offenders, §§ 20:41 to 20:47

Illusory bargain, alleged, § 10:54

Impermissible bargains, §§ 10:51, 10:52

Ineffective assistance of counsel in negotiations, § 4:42

Mistake in bargain, § 10:50

Negotiations, statements during, § 9:120

Nonexistent offenses, § 10:51

Package plea with relative, § 10:53

Police, role of, § 10:47

## INDEX

### **PLEA BARGAINING—Cont'd**

- Resignation from office, § 10:52
- Rules of evidence, § 10:56
- Statements, §§ 9:120, 10:56
- Unkept bargains
  - Failure by defendant to keep bargain, § 10:55
  - Remedy for, § 10:49
- Voluntariness, § 10:44
- Withdrawal of offer, § 10:48
- Withdrawal of plea involving sentence agreement, § 10:46

### **PLEA CONVICTIONS**

- Appeal and error, § 1:127
- Appointment of counsel for, § 1:30
- Guilty Plea** (this index)

### **PNEUMATIC WEAPONS**

- Felony-firearm, § 5:620

### **POISON**

- Homicide, § 5:320

### **POLICE**

- Arrest** (this index)
- Cautionary instructions, § 13:38
- Common sense of officer, search and seizure, § 2:28
- Conduct, pre-Gant Belton complaint, § 19:165
- Discovery of information from, §§ 7:3, 7:10 to 7:18
- Entrapment, police officers' violation of law, § 6:50
- False Police Reports** (this index)
- Felony-firearm, § 5:626
- Hearsay** (this index)
- Homicide, § 5:307
- Hot pursuit, § 2:89
- Identification, police comments, suggestiveness, § 11:26
- Insanity, policeman at elbow test, § 6:87
- Operating under Influence (OUIL) and Driving while Impaired (DWI)** (this index)
- Plea bargaining, role of police, § 10:47
- Prison guards, assault by inmates, § 5:63
- Privileged information, probation officers, § 9:268
- Resisting and Obstructing Police officer** (this index)
- Search and Seizure** (this index)

### **POLICE—Cont'd**

- Self-defense, § 6:110

### **“POLICEMAN AT ELBOW” TEST**

- Generally, § 6:87

### **POLLING JURY**

- Deadlocked jury, § 13:63
- Verdicts, § 15:83

### **POLYGRAPH OR LIE DETECTOR**

- Appeal and error, § 1:21
- Confessions, § 3:55
- Privileged information, operators, § 9:267

### **PORCHES**

- Breaking and entering, § 5:372

### **POSSESSION**

- Breaking and entering, possession unexplained, §§ 5:379, 5:380
- Constructive Possession** (this index)
- Controlled substance, prisoner, § 5:126
- Controlled Substances** (this index)
- Criminal sexual conduct, possession of weapons, § 5:178
- Double jeopardy, possession of firearms by felons, § 8:70
- Felony possession of a firearm, duress defense, § 6:35
- Recent Possession** (this index)
- Struggle over firearm, felony, § 5:631

### **POSTDATED CHECKS**

- False pretenses, § 5:437

### **PRECEDENT**

- Appeal and Error** (this index)

### **PRECONCEIVED OPINIONS**

- Prejudice** (this index)

### **PREJUDICE**

- Appeal and Error** (this index)
- Change of venue, preconceived opinions of jurors, § 22:12
- Impeachment for bias, §§ 9:234 to 9:238
- Instructions, statutory requirement, § 13:2
- Photographs, prejudicial effect, § 9:249

### **PRELIMINARY EXAMINATION**

- Generally, §§ 17:1 to 17:35
- Adjournments for good cause, § 17:23
- Affirmative defenses, entrapment, § 17:8
- Bindover on greater offense, § 17:31

## PRELIMINARY EXAMINATION

### —Cont'd

Bindover on greater or different offense, § 17:32

Charging, adding counts, § 18:31

Closed circuit, § 17:5

Competence to stand trial, § 22:33

Corpus delicti, § 17:17

Court rule and statute, pre-examination probable cause conference, § 17:1

Credibility, §§ 17:7, 17:29

Defense right to examination, § 17:2

Defenses, §§ 17:7, 17:8

Discovery before, § 7:7

Dismissal, reinstitution of charges after, § 17:35

Entrapment, § 6:45

Evidence, generally, §§ 17:11 to 17:18, 17:28

Exclusionary rules, § 17:15

Failure to object, § 17:30

Good cause, § 17:23

Harmless error, § 17:36

Hearsay admissible for specified purposes, § 17:12

Incompetent defendants, § 17:25

Jurisdiction, §§ 17:19 to 17:25

Laboratory reports, § 17:14

Laboratory reports, admissibility, § 17:14

Legally admissible evidence generally required, § 17:11

Lesser offenses, § 17:9

Limited evidence, § 17:16

Murder, § 17:10

Open charge or murder, § 17:10

Pre-examination probable cause conference, § 17:1

Preservation of issues, § 17:21

Preservation of testimony, § 17:20

Probable cause conference, pre-examination, § 17:1

Procedure, §§ 17:19 to 17:25

Prosecution right to examination, § 17:3

Public's right to attend, § 17:4

Reinstitution of charges after dismissal, § 17:35

**Remand** (this index)

Rescheduling, § 17:22

Review of magistrate's rulings, §§ 17:26 to 17:34

Standard for bindover, §§ 17:6 to 17:10

## PRELIMINARY EXAMINATION

### —Cont'd

Telephone testimony, § 17:18

Timing rule, §§ 17:19 to 17:23

Venue, § 17:24

Voice or video conferencing, § 17:18

## PREMEDITATION

**Homicide** (this index)

## PRENATAL PROTECTION

Homicide, §§ 5:255, 5:338

## PRESCRIPTION DRUGS

Controlled substances offenses, § 5:140

## PRESENCE

**Absence and Presence** (this index)

## PRESENT SENSE IMPRESSION

Hearsay, §§ 9:159 to 9:161

## PRESERVATION OF EVIDENCE

Ampoules, § 5:546

Discovery, § 7:26

## PRESERVATION OF ISSUES

**Appeal and Error** (this index)

Entrapment, § 6:47

Guilty pleas, waiver and failure to preserve distinguished, § 10:61

**Judges** (this index)

Preliminary examination, § 17:21

## PRESERVATION OF TESTIMONY

Preliminary examination, § 17:20

## PRESUMPTIONS

**Appeal and Error** (this index)

Blood-test results, § 5:529

Conspiracy, § 5:78

Created by law, § 9:25

Homicide, permissible inferences, §§ 5:269 to 5:273

Inference on inference rule, §§ 1:55, 9:80

Instructions

Presumed to intend instruction, § 13:55

Presumption of innocence, § 13:40

Judges, presumptions regarding following of law, § 14:27

Reasonable, legislative guidelines, § 20:20

## PRETRIAL NOTICE

**Notice** (this index)

## INDEX

### PRIOR CONVICTIONS

- Generally, §§ 9:187 to 9:214
- Appeal, pendency of, § 9:205
- Balancing prejudice and probative value, §§ 9:190 to 9:193
- Burden of proof, §§ 9:194, 9:196
- Cautions and notes, §§ 9:199 to 9:209
- Conditional rulings, § 9:206
- Crawford factors, § 9:190
- Credibility contest cases, § 9:193
- Defensive impeachment, § 9:208
- Deferred rulings, § 9:207
- Dishonesty, § 9:187
- Foreign convictions, §§ 9:200, 9:201
- Going forward, § 9:194
- Impeachment
  - Generally, §§ 9:212 to 9:214
  - Specific testimony, § 9:211
- Juvenile adjudications, §§ 9:203, 9:214
- MRE 609, §§ 9:187 to 9:189, 9:212
- Offers of proof, § 9:196
- Pendency of appeal, § 9:205
- Persuasion, §§ 9:195 to 9:198
- Reasons for admission, statement by court of, § 9:198
- Record, § 9:209
- Remoteness, §§ 9:202, 9:213
- Sentence length, § 9:210
- Similarity, § 9:191
- Theft, § 9:188
- Unspecified convictions, § 9:199
- Vacated convictions, § 9:204

### PRIOR PROCEEDINGS

- Transcripts, § 1:93

### PRIOR RECORDED TESTIMONY

- Hearsay, §§ 9:163 to 9:172

### PRIOR STATEMENTS

- Appeal and error, § 1:57
- Hearsay, §§ 9:121, 9:162
- Impeachment with, §§ 9:215 to 9:225

### PRISONS AND PRISONERS

- Assault by inmates, § 5:63
- Character evidence, reputation in jail community, § 9:55
- Contraband, §§ 5:704, 5:705
- Double jeopardy, prison escape, § 8:92
- Duress** (this index)
- Furnishing contraband, § 5:705

### PRISONS AND PRISONERS—Cont'd

- Homicide, corrections officers, § 5:306
- Kidnapping, unlawful imprisonment, § 5:357
- Possession of controlled substance, § 5:126
- Reputation in prison community, § 9:55
- Search and Seizure** (this index)
- Weapons in correctional facilities, § 5:616

### PRIVACY, RIGHT TO

- Controlled substance, marijuana, § 5:124

### PRIVILEGED INFORMATION

- Generally, §§ 9:252 to 9:283
- Accountants, § 9:252
- Attorney-client, §§ 9:253 to 9:255
- Children, § 9:280
- Clergy, §§ 9:256 to 9:258
- Crimes against spouse, exception to spousal privilege, § 9:275
- Domestic violence counselors, § 9:282
- Exceptions to spousal privilege, §§ 9:275 to 9:277
- Journalists, §§ 9:259, 9:260
- Jury, spousal privilege, § 9:273
- Parents, § 9:261
- Physicians, §§ 9:262 to 9:266
- Polygraph operators, § 9:267
- Probation officers, § 9:268
- Psychologists and psychiatrists, § 9:281
- Sentencing, spousal privilege, § 9:274
- Sexual assault counselors, § 9:282
- Social workers, § 9:269
- Spousal privilege, §§ 9:270 to 9:279
- Therapists and counselors, §§ 9:280 to 9:283
- Third-party victims and spousal privilege, § 9:277
- Waiver of attorney-client privilege, § 9:254

### PRO SE

- Guilty pleas, § 10:11

### PROBATE COURT

- Juveniles, probate court transfer after preliminary exam, § 16:11

### PROBATION

- Generally, §§ 20:178 to 20:197
- Acquittal, charges where acquittal has occurred, § 20:192

**PROBATION—Cont'd**

- Amendment of order of probation, § 20:188
- Associations, § 20:183
- Boot camp, § 20:185
- Castration, § 20:181
- Chemical castration, § 20:181
- Deferring sentence, probationable offenses, § 20:57
- Diligence in proceeding, § 20:195
- Driver's license, surrender, § 20:182
- Illegally seized evidence, § 20:196
- Life probation, §§ 20:184 to 20:186
- Marijuana use, § 20:180
- New charges, § 20:191
- Privileged information, probation officers, § 9:268
- Prosecutor's discretion, § 20:194
- Revocation
  - Generally, §§ 20:189 to 20:197
  - After probation period has ended, § 20:193
  - Sentence credit, §§ 20:92, 20:93
- Robbery, §§ 5:504, 5:505
- Search and seizure
  - Condition, § 20:187
  - Evidence illegally seized, § 20:197
  - Probationers and residences, § 19:195
  - Violation proceedings, § 19:218
- Standard of proof, § 20:190
- Terms and conditions, §§ 20:179 to 20:188
- Tethering, § 20:186
- Urinalysis, § 20:179
- Weapons, felon in possession of firearm, § 5:642

**PROBATION OFFICERS**

- Privileged information, § 9:268

**PROCESSES AND SYSTEMS**

- Evidence, § 9:12

**PROPERTY**

- Theft, damage by, § 5:659

**PROPOSAL B CONSEQUENCES**

- Guilty pleas, § 10:28

**PROSECUTOR**

- Generally, §§ 18:1 to 18:41
- Adding counts at preliminary exam, § 18:31

**PROSECUTOR—Cont'd**

- Alibi, prosecution questions and comments, §§ 6:28 to 6:31
- Appeals by prosecution. **Appeal and Error** (this index)
- Argument
  - Generally, §§ 18:1 to 18:28
  - Challenging defense to answer questions, § 18:26
  - Civic duty, § 18:23
  - Commenting on evidence, §§ 18:5 to 18:8
  - Corroborating witness, failure of defendant to call, §§ 18:12 to 18:16
  - Credibility of witnesses, §§ 18:9 to 18:11
  - Defense counsel, attacking, § 18:27
  - Drawing inferences, § 18:5
  - Duty of prosecutor, § 18:1
  - Exclusion of corroborating witnesses by prosecutor, § 18:14
  - Failure of defendant to take stand, § 18:20
  - Fair response, § 18:28
  - Financial condition of defendant, § 18:22
  - Guilty but mentally ill, § 18:25
  - Infamous figures, comparing defendant to, § 18:11
  - Insanity, not guilty by reason of, § 18:25
  - Insanity cases, § 18:15
  - Not guilty by reason of insanity, § 18:25
  - Noticed defense, § 18:16
  - Opening statement, §§ 18:4, 18:19
  - Penalty, § 18:24
  - Personal knowledge or belief, § 18:6
  - Presence of defendant during testimony, § 18:21
  - Rebuttal, § 18:2
  - Time limits, § 18:3
  - Uncontradicted evidence, §§ 18:17 to 18:21
  - Vouching personally for credibility of witnesses, § 18:10
- Charging, §§ 18:29 to 18:36
- Common scheme count, § 18:34
- Continuance of trial, prosecution request, § 22:27

## INDEX

### **PROSECUTOR—Cont'd**

- Deliberative-process advantage, § 18:40
- Disclosure duty, §§ 18:37 to 18:40
- Discriminatory prosecution, § 18:36
- Dismissals, § 18:30
- Disqualification, § 18:41
- Felony, charging, §§ 18:33, 18:34
- Guilty Pleas** (this index)
- Immunity grants, duty to disclose, §§ 18:37, 18:38
- Immunity in exchange for testimony, § 18:39
- Insanity, prosecution questions and comments, §§ 6:81 to 6:87
- Jury, prosecution right to, § 15:3
- Misdemeanor, charging, §§ 18:33, 18:34
- Perjured testimony, duty to disclose, §§ 18:37, 18:38
- Probation, prosecutor's discretion, § 20:194
- Vindictiveness, § 18:35

### **PROSTITUTION**

- Rape shield law and right of confrontation, § 5:227

### **PROVOCATION**

- Assault And Battery** (this index)
- Homicide, §§ 5:328 to 5:333

### **PROVOCATIVE PUBLIC DANCING**

- Generally, § 5:228

### **PROXIMATE CAUSE**

- Homicide, §§ 5:312 to 5:314, 5:348

### **PROXIMITY**

- Stolen property, § 5:381

### **PSYCHOLOGISTS AND PSYCHIATRISTS**

- Discovery, § 7:20
- Privileged information, § 9:281

### **PUBLIC AGENCIES AND OFFICERS**

- Judges** (this index)
- Neglect of duty, misconduct in office, § 5:702
- Restitution, § 20:175
- Willful neglect of duty, § 5:702

### **PUBLIC PROPERTY**

- Malicious destruction, § 5:657

### **PUBLIC RECORDS**

- Best evidence, § 9:31
- Confrontation clause, § 9:174
- Evidence** (this index)
- Hearsay, §§ 9:173 to 9:175

### **PUBLICITY**

- Change of venue, § 22:13
- Juries, newspaper and TV coverage, § 15:54

### **PUBLISHING FORGED INSTRUMENTS**

- Forgery** (this index)

### **PUNISHMENT**

- Sentencing** (this index)

### **PURSUIT**

- Chase** (this index)

### **PUTTING IN FEAR**

- Assault and battery, § 5:31
- Robbery, § 5:483

### **QUALIFYING EXPERTS**

- Generally, §§ 23:25 to 23:28

### **QUANTITY IN POSSESSION**

- Controlled substances offenses, §§ 5:98 to 5:100

### **QUESTIONS OF LAW AND FACT**

- Appeal and Error** (this index)

### **RACIAL BIAS**

- Jury, § 15:50

### **RACKETEERING**

- Generally, § 5:715

### **RAPE**

- Expert testimony, rape trauma, § 5:190
- Homicide, § 5:300
- Rape Shield Law and Right of Confrontation** (this index)
- Trauma, expert testimony, § 5:190

### **RAPE SHIELD LAW AND RIGHT OF CONFRONTATION**

- Generally, §§ 5:219 to 5:233
- Abortion, evidence of, § 5:226
- Closed circuit TV, §§ 5:233, 5:234
- Confrontation questions, §§ 5:230 to 5:234
- Consent, §§ 5:224, 5:227

**RAPE SHIELD LAW AND RIGHT OF CONFRONTATION—Cont'd**

Constitutionality, § 5:219  
 Coy v. Iowa, § 5:231  
 Dancing, provocative, § 5:228  
 In-chambers hearings, § 5:222  
 Lack of sexual partners, evidence of, § 5:226  
 Notice provisions, § 5:221  
 Origin of physical condition, § 5:223  
 Past sexual acts, § 5:224  
 Prostitution, § 5:227  
 Provocative public dancing, § 5:228  
 Victim's testimony of lack of sexual activity, § 5:229  
 Videotaping, § 5:232  
 Witnesses, § 5:220

**READING**

Instructions, §§ 13:53, 13:58

**REAL EVIDENCE**

**Demonstrative Evidence** (this index)

**REASONABLE DOUBT**

Instructions, §§ 13:41, 13:42

**REASONABLE PERSON TEST**

Homicide, § 5:333

**REBUTTAL**

Generally, §§ 9:284, 9:285, 9:328  
 Alibi, rebuttal notice, §§ 6:13 to 6:17  
 Character evidence, §§ 9:49, 9:50, 9:63  
 Insanity, § 6:65

**RECANTING WITNESSES**

Appeal and error, § 1:20

**RECEIVING AND CONCEALING STOLEN PROPERTY**

Generally, §§ 5:466 to 5:478  
 Altered serial numbers, § 5:471  
 Breaking and entering, § 5:386  
 Charging, § 5:477  
 Continued possession, § 5:474  
 Fair inferences, §§ 5:469 to 5:472  
 Felony-firearm, § 5:634  
 Identity, § 5:475  
 Insufficient knowledge, § 5:472  
 Intent, § 5:468  
 Multiple convictions, § 5:476  
 Recent possession, §§ 5:476, 5:478  
 Value, § 5:467

**RECEIVING AND CONCEALING STOLEN PROPERTY—Cont'd**

Weapons, § 5:634

**RECENT POSSESSION**

Larceny, § 5:448  
 Receiving and concealing stolen property, §§ 5:473, 5:478  
 Unlawfully driving away in automobile (UDAA), § 5:513

**RECIDIVISTS**

**Habitual Offenders** (this index)

**RECKLESS DRIVING**

Generally, § 5:518  
 Causation, § 5:519  
 Double jeopardy, § 8:97

**RECOLLECTION**

**Refreshing Recollection** (this index)

**RECONSIDERATION**

Appeal, effect of motion for rehearing or reconsideration, § 1:44

**RECORD ON APPEAL**

**Appeal and Error** (this index)

**RECORDED PAST RECOLLECTIONS**

Hearsay, §§ 9:154 to 9:158

**RECORDED TESTIMONY**

Hearsay, §§ 9:163 to 9:172

**RECORDINGS**

Demonstrative evidence, § 9:90  
 Interrogation, statutory test, § 3:30

**RECORDS**

Character evidence, § 9:58  
**Confessions** (this index)  
**Criminal Record** (this index)  
 Evidence, § 9:310  
 Hearsay, records required by law, § 9:128  
 Prior convictions, § 9:209  
**Public Records** (this index)

**RECOVERY OF GUN**

Felony-firearm, § 5:632

**REDACTION**

Joinder, § 22:71

**REFERENCE BOOKS**

Jury, use by, § 15:62

## INDEX

### REFRESHING RECOLLECTION

- Generally, §§ 9:157, 9:286 to 9:292
- Conditions of production and use, § 9:287
- Foundation, §§ 9:291, 9:292
- Hearsay, § 9:157
- Hypnosis, §§ 9:288, 9:289
- MRE, §§ 9:286, 9:290
- Requirements, §§ 9:291, 9:292
- Before testifying, §§ 9:286 to 9:289
- While testifying, § 9:290

### REFUSAL TO COOPERATE

- Identification, defendant, § 11:18

### REFUSAL TO TESTIFY

- Generally, § 9:167
- Cross-examination, refusal to answer, § 9:83

### REHABILITATION

- Prior consistent statement, § 9:293

### REHEARING

- Appeal, effect of motion for rehearing or reconsideration, § 1:44

### REINSTITUTION OF CHARGES

- Juveniles, § 17:35

### REINSTRUCTION OF JURY

- Generally, § 13:59

### RELEVANCE

- Evidence (this index)

### RELIANCE

- False pretenses, § 5:431

### RELIEF FROM JUDGMENTS

- Appeal and Error (this index)

### RELIGION

- Cross-examination, § 9:85
- Jury, § 15:51

### REMAND

- Generally, §§ 1:96 to 1:101
- Appeal of right, jurisdiction, § 1:25
- Denial of motion, § 1:100
- Denial of motion, effect of, § 1:89
- Discretionary appeal, jurisdiction, § 1:31
- Grounds for granting, § 1:97
- Jurisdiction, scope after remand, § 1:26
- Law of the case, § 1:86
- Original judge if reasonably available, § 1:99

### REMAND—Cont'd

- Preliminary examination, remand for
  - Further examination, § 17:34
  - Reconsideration, § 17:33
- Scope of hearing, § 1:98

### REMORSE

- Sentencing, § 20:115

### REMOTENESS

- Prior convictions, §§ 9:202, 9:213

### REMOVAL OF JUROR

- Generally, § 15:58

### RENUNCIATION

- Generally, § 6:96

### REPAIR OF BUILDING

- Breaking and entering, § 5:369

### REPEAT OFFENDERS

- Habitual Offenders (this index)

### REPUTATION

- Character Evidence (this index)

### REREADING TESTIMONY

- Instructions, § 13:58

### RES GESTAE WITNESSES

- Generally, §§ 9:300, 23:29
- Adverse inference instruction, § 23:32
- Alternative witness list, prosecution duty, § 23:33
- Duty to discover, § 23:31
- Prosecution duty, alternative witness list, § 23:33
- Prosecutions' duty under statute, §§ 23:30, 23:31
- Statute, § 23:29

### RESCHEDULING

- Preliminary examination, § 17:22

### RESISTING AND OBSTRUCTING POLICE OFFICER

- Generally, §§ 5:685 to 5:692
- Breath test administration, § 5:691
- Causing injury, § 5:686
- Defense, quelling a riot, § 5:693
- Double jeopardy, § 8:90
- Homicide, § 5:337
- Illegal arrest
  - Homicide, § 5:337
  - Resisting, § 6:97

## **RESISTING AND OBSTRUCTING**

### **POLICE OFFICER—Cont'd**

- Immunity, quelling a riot, § 5:693
- Intent, § 5:688
- Lawfulness of arrest, § 5:687
- Performance of duty, §§ 5:690, 5:691
- Permissible resistance, § 5:692
- Physical force, § 5:689
- Quelling a riot
  - Defense, § 5:693
  - Immunity, § 5:693

## **RESISTING FELONY**

- Generally, § 6:119

## **RESTITUTION**

- Generally, §§ 20:169 to 20:177
- Amount, § 20:172
- Death of defendant during appeal, § 20:176
- Government agency, § 20:175
- Insurance company, § 20:174
- Interest, § 20:177
- No ex post facto violation, § 20:170
- Statutory tripling, § 20:173
- Victim, § 20:171

## **RESTORATION OF RIGHTS**

- Appeal rights, jurisdiction, § 1:24
- Felon in possession of firearm or ammunition, §§ 5:645, 5:647

## **RESTRAINT**

- Kidnapping, § 5:356

## **RETRIALS**

- Double jeopardy
  - Appellate considerations, §§ 8:41, 8:44
  - Improper venue, § 8:7
- Grant of writ, timing of, § 1:178
- Instructions, § 13:24

## **RETROACTIVITY**

- Appeal and error, §§ 1:105 to 1:107

## **REVERSAL OF PLEA**

- Guilty Pleas** (this index)

## **REVERSALS**

- Jury, prior waiver nullified, § 15:7

## **REVIEW**

- Appeal and Error** (this index)

## **REVOCATION**

- Probation** (this index)
- Sentencing** (this index)

## **RIGHT OF SEVERANCE**

- Joinder** (this index)

## **RIGHT RESULT FOR WRONG REASON**

- Harmless error, §§ 1:69, 1:70

## **RIGHT TO COUNSEL**

- Counsel** (this index)

## **RIGHT TO JURY**

- Generally, §§ 15:1 to 15:3

## **RIGHT TO PRIVACY**

- Controlled substance, marijuana, § 5:124

## **RIGHT TO PUBLIC TRIAL**

- Generally, § 22:51

## **RINGING CHANGE**

- False pretenses, §§ 5:433, 5:434

## **RIOT**

- Quelling, resisting and obstructing police officer
  - Defense, § 5:693
  - Immunity, § 5:693

## **ROBBERY**

- Generally, §§ 5:479 to 5:505
- Aiding and abetting, § 5:492
- Armed Robbery** (this index)
- Asportation, § 5:486
- Assault
  - Future threats, § 5:481
  - Homicide, intent to rob, § 5:301
  - With intent to rob unarmed, § 5:506
- Attempt, § 5:497
- Automobiles, unlawfully driving away, § 5:498
- Belief
  - Actually armed, reasonableness of belief, §§ 5:487 to 5:493
  - Subjective belief, §§ 5:494, 5:495
- Breaking and entering, § 5:500
- Chemical devices, § 5:493
- Conspiracy, § 5:92
- Degree of force, § 5:482
- Double Jeopardy** (this index)
- Elements, § 5:479
- Fear, § 5:483

## INDEX

### **ROBBERY—Cont'd**

- Force, degree of, § 5:482
- Future threats, § 5:481
- Homicide, assault with intent to rob, § 5:301
- Inoperable firearm, § 5:491
- Instructions on lesser included offenses, §§ 5:496 to 5:501
- Intent, § 5:484
- Knowledge, aiding and abetting, § 5:492
- Larceny by trick, § 5:499
- Larceny in building, § 5:501
- Lesser included offenses, §§ 5:496 to 5:501
- Multiple convictions, §§ 5:502, 5:503
- Multiple victims, § 5:502
- Objective manifestation, § 5:495
- One act violating multiple statutes, § 5:503
- Probation, §§ 5:504, 5:505
- Putting in fear, § 5:483
- Reasonable belief as to actually armed, §§ 5:487 to 5:493
- Sentencing, §§ 5:504, 5:505
- Subjective belief, §§ 5:494, 5:495
- Threats, § 5:481
- Timing of assault, § 5:480
- Unlawfully driving away automobile, § 5:498
- Unloaded gun, § 5:490
- Words regarding status as armed, § 5:488

### **SAFECRACKING**

- Double jeopardy, § 8:86

### **SALES**

- Children, sale of, § 5:157
- Entrapment, take-back sales, § 6:55
- Weapons** (this index)

### **SAME ELEMENTS TEST**

- Double jeopardy, § 8:31

### **SAME TRANSACTION**

- Appeal and error, expungement, § 1:138
- Double Jeopardy** (this index)

### **SAVINGS WITHDRAWAL SLIPS**

- Forgery, § 5:411

### **SCHEME, PLAN, OR SYSTEM**

- Evidence, §§ 9:319, 9:321

### **SCHOOLS**

- Arrest, §§ 2:9, 2:59
- Controlled substances offenses, §§ 5:102, 5:103, 8:106
- Double jeopardy, narcotics offenses, § 8:106
- Search and seizure, § 19:22

### **SCIENTIFIC EVIDENCE**

- Generally, §§ 9:97 to 9:101
- Behavioral sciences, § 9:100
- Daubert jurisdiction, § 9:97
- Gang affiliation evidence, § 9:101
- Historical material, § 9:97
- Particular issues, § 9:98

### **SCIENTIFIC TESTING**

- Discovery, § 7:18

### **SEALED PUBLIC DOCUMENTS**

- Evidence, § 9:16

### **SEARCH AND SEIZURE**

- Generally, §§ 19:1 to 19:219
- Abandoned property
  - Anticipatory abandonment, § 19:29
  - Dwelling, § 19:12
- Actual versus subjective expectation of privacy, § 19:4
- Address erroneous, § 19:101
- Aerial observation
  - Drones, § 19:63
  - Naked eye, § 19:61
  - Photographs, § 19:62
- Affidavits, §§ 19:135 to 19:138
- Before and after visitors, prisons, § 19:188
- Agency, searches by private persons, § 19:25
- Alcohol-contents tests, implied consent, § 19:58
- Alias, use to receive package, § 19:83
- Anticipatory abandonment of property, § 19:29
- Anticipatory probable cause, § 19:95
- Appeal and error, § 1:155
- Arrest, search incident to, §§ 19:170 to 19:183
- Arson warrants, §§ 19:141 to 19:145
- Assaults by spouse or member of household, § 19:185

**SEARCH AND SEIZURE—Cont'd**

Automobiles  
     Generally, §§ **19:146 to 19:169**  
     Arrest occurring after departure from vehicle, § **19:167**  
     Arson warrants, § **19:145**  
     California v. Acevedo, § **19:158**  
     Containers in vehicles, §§ **19:158 to 19:161**  
     Curtillage, entry to gain access to vehicle, § **19:157**  
     Driveways, § **19:67**  
     Evidence relevant to the crime of arrest, § **19:164**  
     Federal test, Michigan following, § **19:156**  
     Frisks, § **19:168**  
     Garages, § **19:108**  
     Inventory searches, §§ **19:146 to 19:153**  
     Passengers, §§ **19:148, 19:163 to 19:167**  
     Patrol car, § **19:17**  
     Premises to be searched, located on, § **19:107**  
     Pretext, § **19:153**  
     Reasonableness test, § **19:155**  
     On road, §§ **19:147, 19:148**  
     Stop to determine identity of owner, § **19:169**  
     Ticketable offenses, § **19:175**  
     U.S. Supreme Court decisions, § **19:154**  
     Backyards, technical trespasses, § **19:67**  
     Bank records and telephone records, § **19:13**  
     Beepers, §§ **19:7, 19:71**  
     Binoculars, § **19:74**  
     Blood, use of force to carry out warrant for, § **19:131**  
     Body searches, §§ **19:110, 19:181**  
     Bondable misdemeanors, § **19:184**  
     Briefcases, § **19:194**  
     Burden of proof, attacks on search warrants, § **19:133**  
     Cell phone contents, § **19:180**  
     Cell-site information locations, §§ **19:9, 19:73**  
     Children  
         Consent, § **19:47**

**SEARCH AND SEIZURE—Cont'd**

Children—Cont'd  
     Schools, searches by private persons, § **19:22**  
     Citizens, searches by, § **19:21**  
     Clothing, prisoners, §§ **19:186, 19:187**  
     Coconspirator standing, § **19:81**  
     Compartments  
         Hidden compartments, § **19:166**  
         Trunk or glove compartment, § **19:151**  
     Conduct constituting a search, §§ **19:1 to 19:85**  
     Consent  
         Generally, §§ **19:32 to 19:58**  
         Alcohol-contents tests, § **19:58**  
         Apparent authority, § **19:52**  
         Arenas, § **19:56**  
         Blood testing, § **19:36**  
         Burden of proof and procedure, § **19:37**  
         Children, § **19:47**  
         Common areas, § **19:46**  
         Confessions, § **19:41**  
         Crime scenes, § **19:53**  
         Deception, §§ **19:42 to 19:44**  
         Decision, difficulty of, § **19:34**  
         Driver's licensing, implied consent through, § **19:58**  
         Freedom to leave, § **19:33**  
         Implied and tacit consent, §§ **19:53 to 19:58**  
         Internet or computer service, owner of, § **19:49**  
         Joint occupants, § **19:48**  
         Joint tenants, conflict on granting consent, § **19:50**  
         Limitation of area of search, § **19:38**  
         Municipal stadiums or arenas, § **19:56**  
         Nonparticipational deception, §§ **19:43, 19:44**  
         Objecting tenant, lawful removal, § **19:51**  
         Other area entry searches, § **19:57**  
         Owners and landlords, §§ **19:45, 19:46**  
         Parents and children, § **19:47**  
         Police authority, claim of, § **19:39**  
         Prison phone calls, § **19:55**  
         Prison visitors, § **19:54**  
         Revocation of consent, §§ **19:35, 19:36**  
         Stadiums or arenas, § **19:56**  
         Tacit consent, §§ **19:53 to 19:58**

## INDEX

### SEARCH AND SEIZURE—Cont'd

#### Consent—Cont'd

- Telephone calls, prison, § 19:55
- Third-party consent, §§ 19:45 to 19:52
- Voluntariness, §§ 19:33, 19:34, 19:37 to 19:44
- Waiver, § 19:32
- Warning of right to refuse search, § 19:33

#### Weapons, drawn gun, § 19:40

#### Constitutional provisions, §§ 19:1, 19:2

#### Containers

- Generally, §§ 19:177 to 19:180
- California v. Acevedo, § 19:158
- Cell phone contents, § 19:180
- Containers within containers, § 19:105
- Current authority, § 19:178
- Delayed search of containers, § 19:161
- Former assumption, § 19:177
- Opening of containers, § 19:152
- Personal effects, §§ 19:177 to 19:180
- Vehicles, containers in, §§ 19:158 to 19:161

#### Controlled buys, § 19:96

#### Controlled substances, tinfoil packets, § 19:192

#### Corroboration, hearsay, § 19:89

#### Court rule limits, obtaining warrants, § 19:121

#### Crime scenes, §§ 19:206, 19:207

#### Crimes in progress, § 19:205

#### Cure of defective description in warrant, § 19:102

#### Curtilage

##### Definition, § 19:66

##### Entry to gain access to vehicle, § 19:157

#### Declarations against penal interest, § 19:90

#### Defective description in warrant, cure, § 19:102

#### Delayed search of containers, § 19:161

#### Detaining persons, execution of warrants, § 19:130

#### Digital devices, particularity and searches of, § 19:106

#### DNA sample, § 19:182

#### Dog, use to establish probable cause, § 19:98

#### Dogs, § 19:76

#### Domestic assaults, § 19:185

### SEARCH AND SEIZURE—Cont'd

#### Driver's licensing, implied consent, § 19:58

#### Driveways, technical trespasses, § 19:67

#### Electronic surveillance, warrants, § 19:140

#### Emergency circumstances

##### Generally, §§ 19:200 to 19:205

##### Homicide scene, § 19:206

##### Imminent violence, threat of, § 19:204

##### Person in need of aid, § 19:203

##### Police created circumstances, § 19:201

##### Threat of injury, § 19:202

#### Entry into structures in the open field, § 19:65

#### Erroneous address, § 19:101

#### Escape, § 19:202

#### Exclusionary rule, §§ 19:129, 19:209 to 19:219

#### Execution of warrants, §§ 19:126 to 19:132

#### Expectation of privacy in cell messages once sent, § 19:10

#### Expectation of privacy test, § 19:3

#### Fax machines, obtaining warrants, § 19:125

#### Federal rule, § 19:146

#### Feel, sense of touch, § 19:199

#### Financial stakes, obtaining warrants, § 19:119

#### Fingerprints, impoundment for, § 19:150

#### Flashlights, § 19:70

#### Forfeiture, § 19:162

#### Frisks, § 19:168

#### Garages, § 19:108

#### Garbage cans, abandoned property, §§ 19:30, 19:31

#### Geography, obtaining warrants, § 19:123

#### Glove compartment or trunk, § 19:151

#### Good-faith exceptions, § 19:209

#### Government participation or instigation of searches by private persons, § 19:24

#### GPS tracking device, installation on automobile, §§ 19:8, 19:72

#### Ground-level observation, § 19:64

#### Guards, searches by, § 19:21

#### Hearsay

##### Corroboration, § 19:89

##### Declaration against penal interest, § 19:90

##### Michigan courts, § 19:93

**SEARCH AND SEIZURE—Cont'd**

Hearsay—Cont'd  
 From other sources, § 19:91  
 Probable cause, establishing, §§ 19:88 to 19:94  
 Statutory provisions, § 19:94  
 U.S. Supreme Court, § 19:92  
 Heavily regulated businesses, § 19:208  
 Hidden compartments, § 19:166  
 Homicide scene, § 19:206  
 Identity  
 Generally, §§ 19:169, 19:176  
 Physical characteristics, § 19:14  
 Immediately apparent, §§ 19:116, 19:198  
 Imminent violence, threat of, § 19:204  
 Independent grounds, attacks on warrants, § 19:139  
 Independent source, § 19:212  
 Inevitable discovery, § 19:210  
 Informants, use to establish probable cause, §§ 19:88 to 19:94  
 Intensity, execution of warrants, §§ 19:128, 19:129  
 Intent and expectation of privacy, §§ 19:27, 19:28  
 Interior of auto incident to arrest, § 19:183  
 Inventories, §§ 19:190 to 19:194  
 Items that may be seized, §§ 19:113 to 19:116  
 Juvenile court neglect hearing coordinator, searches by private persons, § 19:23  
 Knock and announce, §§ 19:126, 19:215  
 Knock and talk entries into premises, § 19:68  
 Live witness, § 19:213  
 Luggage, § 19:20  
 Magistrates  
 Neutrality, §§ 19:117 to 19:122  
 Signatures, attacks on search warrants, § 19:134  
 Statutory authorization, § 19:122  
 Mandating evidentiary hearing, § 19:138  
 Manipulation of luggage, § 19:20  
 Messages, expectation of privacy once sent, § 19:10  
 Ministerial violations, § 19:214  
 Minor offenses, § 19:173  
 Multiple occupancy premises, §§ 19:99, 19:100

**SEARCH AND SEIZURE—Cont'd**

Neutrality of magistrates, §§ 19:117 to 19:122  
 Nonlawyers, obtaining warrants, § 19:120  
 Nonsuspects, obtaining warrants, § 19:124  
 Notice, arson warrants, § 19:143  
 One warrant, multiple places, § 19:103  
 One warrant, second search, § 19:104  
 On-scene searches, § 19:174  
 Open fields and open view, §§ 19:11, 19:60 to 19:66, 19:196  
 Opening of containers, § 19:152  
 Owners and landlords  
 Consent, §§ 19:45, 19:46  
 Determining owners, § 19:169  
 Standing, § 19:82  
 Parked vehicles, § 19:149  
 Parolees and probationers and their residences, § 19:195  
 Patrol cars, § 19:17  
 Pen registers and trap and trace devices, § 19:6  
 Penal interest, declarations against, § 19:90  
 Personal effects, §§ 19:177 to 19:180  
 Places to be searched, search warrants, §§ 19:99 to 19:112  
 Plain feel, sense of touch, § 19:199  
 Plain view  
 Generally, §§ 19:196 to 19:199  
 Open view distinguished, § 19:59  
 Test, § 19:197  
 Police  
 Generally, § 19:21  
 Observation during inventory, § 19:191  
 Patrol cars, § 19:17  
 Pre-Gant Belton complaint, § 19:165  
 Private search, police search after, § 19:26  
 Porches, technical trespasses, § 19:67  
 Possessory offenses, § 19:79  
 Pre-Gant Belton complaint, police conduct, § 19:165  
 Premises searches, §§ 19:99 to 19:109  
 Pretext, auto inventory searches, § 19:153  
 Prisoner inventory, policy, § 19:190  
 Prisoners  
 Generally, §§ 19:184 to 19:189  
 Cell searches, § 19:16

## INDEX

### SEARCH AND SEIZURE—Cont'd

- Prisoners—Cont'd
  - Clothing, §§ 19:186, 19:187
  - Parolees and probationers and their residences, § 19:195
  - Phone calls, § 19:55
- Privacy, expectation of, cell messages once sent, § 19:10
- Private persons, searches by, §§ 19:21 to 19:26
- Private places, § 19:112
- Probable cause, §§ 19:86 to 19:98, 19:116, 19:198
- Probation** (this index)
  - In progress crimes, § 19:205
- Protective search, § 19:207
- Protective sweeps incident to arrest, § 19:171
- Public accommodation places
  - Generally, § 19:111
  - Eavesdropping, § 19:15
- Public employees' work areas, § 19:69
- Public rest room, § 19:18
- Public telephone, § 19:19
- Purged taint, § 19:211
- Reasonable expectations of privacy, §§ 19:3 to 19:20
- Retroactivity of abolition of automatic standing, § 19:80
- Routine shakedowns, § 19:189
- Scenes of crimes, §§ 19:206, 19:207
- Schools, searches by private persons, § 19:22
- Search warrants
  - Generally, §§ 19:86 to 19:145
  - Attacks on, §§ 19:133 to 19:139
  - Exceptions, §§ 19:146 to 19:219
  - Obtaining, §§ 19:117 to 19:125
- Security guards, searches by, § 19:21
- Senses, open view, §§ 19:59 to 19:77
- Serial numbers, open view, § 19:77
- Service of affidavit, § 19:137
- Shakedowns, § 19:189
- Signatures, affidavits, § 19:135
- Smell, sense of, § 19:199
- Specification of items in warrant, §§ 19:113 to 19:116
- Spousal assaults, § 19:185
- Staleness
  - Execution of warrants, § 19:127
  - Probable cause, § 19:97

### SEARCH AND SEIZURE—Cont'd

- Standing, §§ 19:78 to 19:85
- Statutory and rule violations, § 19:216
- Subsequent entries, arson warrants, § 19:142
- Suitcase, § 19:193
- Supplementation of affidavits with oral statements, § 19:136
- Supreme Court precedent, violation of, § 19:217
- Suspicion on defendant and automobile, § 19:161
- Technical trespasses, § 19:67
- Telephones
  - Pen registers and trap and trace devices, § 19:6
  - Prison calls, § 19:55
  - Telephone records, § 19:13
- Thermal imaging, § 19:75
- Third parties, taking into premises, § 19:132
- Ticketable offenses, § 19:175
- Tinfoil packet, inspection of, § 19:192
- Touch, sense of, § 19:199
- Trap and trace devices, § 19:6
- Trash, abandoned property, §§ 19:30, 19:31
- Trunk or glove compartment, § 19:151
- Unattached garage, § 19:108
- Vehicle identification numbers, open view, § 19:77

### SECOND DEGREE MURDER

- Generally, §§ 5:265 to 5:281, 5:315
- Conspiracy to commit, § 5:69

### SECOND OFFENDERS

- Habitual Offenders** (this index)

### SELECTION OF JURY

- Jury** (this index)

### SELF-AUTHENTICATION

- MRE 902, §§ 9:15 to 9:26
- MRE 903, § 9:26

### SELF-DEFENSE

- Generally, §§ 6:99 to 6:126
- Accused as aggressor, §§ 6:100, 6:101
- Automobiles, § 6:107
- Carrying concealed weapon, § 6:116
- Carrying weapons, § 5:600

## **SELF-DEFENSE—Cont'd**

- Character evidence, §§ 6:112 to 6:114, 9:47, 9:62
- Curtilage, § 6:105
- Dwelling, §§ 6:104 to 6:106
- Excessive force, § 6:111
- Felon in possession, §§ 5:646, 6:115
- Homicide, §§ 5:334, 5:335
- Imperfect self-defense, § 6:117
- MRE 405, § 6:113
- Ownership interest, § 6:106
- Place of business, § 6:108
- Reasonable belief, § 6:102
- Reputation, § 6:114
- Retreat, §§ 6:103 to 6:110
- Security guards, § 6:109

## **SELF-INCRIMINATION**

- Calling witness who will exercise Fifth Amendment, § 23:40
- Confessions** (this index)
- Forgery, § 5:402
- Hearsay, § 9:170
- Identification, §§ 11:35 to 11:38
- Impeachment, § 9:217
- Perjury, §§ 5:680, 5:681

## **SELF-REPRESENTATION**

- Guilty pleas, § 10:11

## **SENTENCING**

- Generally, §§ 20:1 to 20:200
- Adjudications which are not convictions, § 20:114
- Admission of guilt, refusal, § 20:109
- Age and appropriateness of sentencing, § 20:107
- Allocation, §§ 20:2 to 20:6
- Alteration, §§ 20:63 to 20:69
- Appeal and Error** (this index)
- Appropriate considerations, generally, §§ 20:115 to 20:122
- Attorneys, constitutional though counselless convictions, § 20:100
- Bargaining tool, § 20:41
- Boot camps, § 20:96
- Children. Youthful trainees, *infra*
- Collateral consequences, guilty pleas, §§ 10:22 to 10:34
- Community placement, § 20:104
- Consecutive sentences, §§ 20:70 to 20:88
- Conspiracy, §§ 5:91, 5:92

## **SENTENCING—Cont'd**

- Constitutional though counselless convictions, § 20:100
- Controlled Substances** (this index)
- Correction of invalid sentence, defendant's detriment, timing, § 20:66
- County jail, indeterminate sentences, § 20:154
- Credits, §§ 20:89 to 20:96
- Criminal sexual conduct, §§ 5:206, 20:88
- Crosby remand
  - Before different judge, § 20:16
  - Harsher sentence, § 20:17
- Cruel or unusual punishment, § 20:168
- Defendant's detriment, correction of invalid sentence, timing, § 20:66
- Deferred sentences, §§ 20:56 to 20:61
- Delay of sentence in excess of one year, § 20:60
- Departure due to subsequent sexual offense, § 20:23
- Departures from legislative guidelines, §§ 20:21 to 20:25
- Disciplinary credits, § 20:43
- Disciplinary credits applied to juvenile lifers, term-of-years sentencing, § 20:165
- Discretion of parole board, § 20:197
- Dismissed charges, §§ 20:58, 20:117
- Double enhancements, § 20:32
- Drug sentences, departures from mandatory minimums, reasonableness review, § 20:167
- Early release, § 20:103
- 18 and over, mandatory life sentence without parole, § 20:161
- Electronic tethering, sentence credit, § 20:95
- Entrapment, sentence entrapment, § 6:52
- Escape
  - Escapees, §§ 20:70 to 20:75
  - Federal prisoners, §§ 20:70 to 20:75
  - Habitual offender, § 20:45
  - Judicial determination, § 20:75
  - Penal or reformatory institution, § 20:72
  - Stacking, § 20:73
  - Timing, § 20:74
- Ethnic considerations, inappropriateness of sentence, § 20:101

## INDEX

### SENTENCING—Cont'd

- Expungement of juvenile adjudications, § 20:124
- Failure to individualize, § 20:98
- Felonies
  - Felony-firearm, §§ 5:638, 20:38, 20:47
  - Juvenile sentence on adult conviction, § 20:39
  - Pending felony charges, §§ 20:82 to 20:86
- Foreign convictions, § 20:102
- Good-time credits, § 20:103
- Guidelines considerations, §§ 20:126 to 20:152
- Guilt, refusal to admit, § 20:109
- Guilt on other offenses, offense of acquittal, or uncharged conduct
  - Greater offense, § 20:120
  - Inappropriateness of sentence, § 20:110
- Guilty Pleas** (this index)
- Harsher resentences
  - Generally, §§ 20:198 to 20:200
  - Different judge, § 20:199
  - Same judge, § 20:198
  - Trial after plea, § 20:200
- Hearsay, other material, § 20:116
- Impeachment, sentence, length, § 9:235
- Imposition of sentence, §§ 20:14 to 20:26
- Indeterminate sentences, §§ 20:153 to 20:156
- Infirm prior convictions, making prima facie showing, § 20:99
- Inmates, offenses committed, §§ 20:76 to 20:80
- Intoxication, specific intent crime, § 20:112
- Invalid sentence, resentencing, § 20:65
- Judicial fact finding, enhancement of range guidelines, § 20:22
- Jurisdiction, delay of sentence in excess of one year, § 20:60
- Jury trial, § 20:106
- Juveniles** (this index)
- Leave or furlough, offenses committed by inmates, § 20:78
- Legislative guidelines reviewed for reasonableness, § 20:20
- Life expectancy rule, § 20:158
- Life sentences. **Juveniles** (this index)
- Lifetime Electronic Monitoring** (this index)

### SENTENCING—Cont'd

- Mandatory fines, § 10:31
- Mandatory life sentence without parole, 18 and over, § 20:161
- Mentally ill, § 6:93
- Miller
  - Factors applicable to term-of-years sentencing, § 20:164
  - Resentencing on other convictions, § 20:163
- Minor
  - Length term-of-years sentences, parolable life sentence, unconstitutional, § 20:162
- Misdemeanor offenses committed by inmates, § 20:80
- Multiple felonies, same transaction rule overruled, § 20:34
- No contact provision, § 20:105
- No credit for time not served, § 20:90
- Oath of defendant, allocution, § 20:5
- Objections to presentence report, § 20:9
- Offenses by inmates, stacking, § 20:78
- One year, delay of sentence in excess of, § 20:60
- Operating under influence (OUIL) and driving while impaired (DWI), §§ 5:572 to 5:579
- Parole board, revocation of parole, § 20:197
- Parole** (this index)
- Pending charges, §§ 20:82 to 20:86, 20:118
- Perjury, § 20:119
- Plea and sentence agreements including departure from guidelines, § 20:25
- Plea Bargaining** (this index)
- Polygraph results, inappropriateness of sentence, § 20:111
- Presentence reports, §§ 20:7 to 20:11
- Preservation of error, §§ 20:11, 20:13
- Presumption that reasonable, legislative guidelines, § 20:20
- Prior convictions
  - Generally, §§ 20:33 to 20:39
  - Sentence length, § 9:210
- Prior record variables, guidelines considerations, §§ 20:149 to 20:152
- Prisons and Prisoners** (this index)
- Probation** (this index)

## SENTENCING—Cont'd

- Proposal B, indeterminate sentences, § 20:156
- Reasons for degree of departure from guidelines, § 20:24
- Recommendations in presentence report, § 20:10
- Refusal to admit guilt, § 20:109
- Refusal to cooperate, § 20:108
- Remorse, lack of, § 20:115
- Resentencing proceedings, § 20:68
- Residential treatment programs, § 20:93
- Restitution** (this index)
- Reversed conviction requiring resentencing on other counts, § 20:67
- Review of presentence report, § 20:8
- Revocation
  - Assignment as youthful trainee, §§ 20:53, 20:54
  - Deferring sentence, § 20:61
- Revocation of parole, § 20:197
- Right to counsel, § 20:1
- Robbery, §§ 5:504, 5:505
- Rules of evidence, application of, § 20:6
- Scoring guidelines, §§ 20:12, 20:26
- Sentence agreements, § 20:4
- Sentence information report, §§ 20:12, 20:13
- Sentencing guidelines, generally, §§ 20:97 to 20:152
- Sentencing process, §§ 20:1 to 20:69
- Sexual offense, departure due to subsequent, § 20:23
- Speedy trial delays, inapplicability, § 21:11
- Spousal privilege, § 9:274
- Stacking
  - Offenses by inmates, § 20:78
  - Offenses committed by escapees, § 20:73
- Statements from spouse, § 20:125
- Suborning perjury, § 20:119
- Suspension of sentence, § 20:69
- Term of years, §§ 20:157 to 20:166
- Term-of-years sentencing
  - Disciplinary credits applied to juvenile lifers, § 20:165
  - Miller factors applicable to, § 20:164
- Tethering, sentence credit, § 20:95

## SENTENCING—Cont'd

- Timing
  - Correction of invalid sentence, defendant's detriment, § 20:66
- Resentencing, § 20:64
- Unrelated offense, § 20:91
- Valid sentence, resentencing, § 20:63
- Victim and prosecutor, allocution, § 20:3
- Victim statements, § 20:121
- Videoconferencing, § 20:14
- Youthful trainees
  - Generally, §§ 20:48 to 20:55
  - Assignment as youthful trainee, §§ 20:48 to 20:55
  - Closing proceedings, § 20:52
  - Constitutionality, § 20:51

## SENTIMENTAL VALUE

- Larceny, § 5:444

## SEPARATE JURIES

- Joinder, § 22:65

## SEQUESTRATION OF WITNESSES

- Generally, §§ 23:35 to 23:38

## SERIAL NUMBERS

- Automobile VIN, § 7:14
- Open view, § 19:77

## SETTING ASIDE

- Guilty pleas, setting aside plea on request of prosecution, § 10:66

## SEVERANCE

- Joinder** (this index)

## SEX

- Juror, sex as reason for challenge, § 15:38

## SEXUAL ABUSE

- Crimes against children, §§ 5:151, 5:155

## SEXUAL ACTS

- Character evidence, sexual conduct of victim, § 9:48
- Criminal acts. **Sexual Offenses** (this index)
- Hearsay, statements about sexual acts made by minors, § 9:153
- Propensity of accused, character evidence, § 9:41

## SEXUAL ASSAULT COUNSELORS

- Privileged information, § 9:282

## INDEX

### SEXUAL OFFENSES

- Assault with intent to commit gross indecency, § 5:238
- Bestiality, § 5:237
- Bond, § 1:7
- Constitutionality, certain provisions unconstitutional, § 5:252
- Crimes Against Children** (this index)
- Criminal Sexual Conduct** (this index)
- Ex post facto violation, § 5:253
- Gross indecency, §§ 5:235 to 5:240
- Homeless individual, registration of, § 5:248
- HYTA, § 5:249
- Indecent exposure, § 5:241
- Lewd and lascivious conduct, § 5:242
- Lifetime electronic monitoring, §§ 5:243, 5:244
- Move from school zone, registered offender required to, § 5:251
- Pandering, § 5:240
- Private or consensual behavior, § 5:236
- Rape** (this index)
- Registration as sex offender, determining when required, § 5:247
- Removal from registration requirements for sex offenders, § 5:249
- School zones, restrictions for registered sex offenders, §§ 5:250, 5:251
- Sexual offender registration, § 5:245
- Solicitation and procurement, § 5:239
- Unconstitutionality of certain provisions, § 5:252
- Willfulness requirement, § 5:246

### SHACKLING

- Defendant, §§ 22:44, 22:45
- Witnesses, §§ 22:46, 23:46

### SHAKEDOWNS

- Search and seizure, § 19:189

### SHORT-BARRELED SHOTGUN

- Definition, § 5:608
- Joint possession, § 5:609

### SHOWUPS

- Identification** (this index)

### SIGNATURE

- Impeachment, signed statements, § 9:221
- Search and Seizure** (this index)

### SILENCE OF DEFENDANT

- Fifth Amendment** (this index)
- Impeachment, §§ 9:227, 9:228

### SIMPLE ASSAULT

- Generally, §§ 5:29 to 5:35

### SIMULATIONS

- Demonstrative evidence, § 9:92

### SINGLE CONSPIRACIES

- Generally, § 5:73

### SINGLE DEFENDANT JOINDER

- Generally, §§ 22:52 to 22:54

### SIXTH AMENDMENT

- Jury** (this index)

### SLEEPING VICTIM

- Criminal sexual conduct, § 5:184

### SOBRIETY CHECKPOINTS

- Generally, § 5:568

### SOCIAL WORKERS

- Privileged information, § 9:269

### SOLICITATION AND INCITEMENT

- Generally, § 5:93
- Accosting minor, § 5:94
- Conspiracy, § 5:93
- Double jeopardy, §§ 8:52 to 8:56
- Minor, solicitation to commit felony, § 5:94
- Murder, solicitation to, § 5:95
- Solicitation statute, § 5:93

### SPECIFIC INTENT

- Aiding and abetting, § 5:3
- Instructions, § 13:54

### SPECIFIC STATEMENT

- Motion to require, § 12:4

### SPECTATORS AT TRIAL

- Wearing buttons, § 22:49

### SPEEDY TRIAL

- Generally, §§ 21:1 to 21:51
- Adverse sentence consequences, § 21:6
- Agreement to trial outside time limit, § 21:42
- Anxiety, § 21:22
- Bonds, §§ 21:49 to 21:51
- Burden on defendant, due process test, § 21:5

**SPEEDY TRIAL—Cont'd**

Custody in another jurisdiction, § 21:16  
 Delays  
     Attributable to defendant, § 21:17  
     Due process test, § 21:3  
     Justified delays, § 21:34  
     Length of delay, § 21:13  
 Demand, Sixth Amendment, § 21:19  
 Detainer act, §§ 21:36 to 21:48  
 Docket congestion, §§ 21:15, 21:33  
 Due process test, §§ 21:3 to 21:9  
 Estoppel, § 21:43  
 Extradition, § 21:47  
 Good-faith action requirement, §§ 21:32 to 21:35  
 Incarceration, §§ 21:24 to 21:35, 21:40  
 Justified delays, § 21:34  
 Juveniles, § 16:10  
 Length of delay, § 21:13  
 No right to arrest, §§ 21:1, 21:2  
 180 day rule for incarcerated inmates with pending charges, §§ 21:24 to 21:35  
 Plea negotiation, § 21:35  
 Prejudice, §§ 21:4 to 21:7, 21:20 to 21:22  
 Pretransfer hearing, § 21:39  
 Prisoners, request by, §§ 21:46 to 21:48  
 Probation detainees, § 21:48  
 Reasons for delay, §§ 21:14 to 21:18  
 Sentencing delays, inapplicability, § 21:11  
 Speedy arrest, due process, §§ 21:1 to 21:9  
 Speedy execution of sentence, § 21:51  
 When clock starts, § 21:10  
 Writ, use of, § 21:37

**SPOUSES**

**Husbands and Wives** (this index)

**STABBING KNIFE**

Weapons, § 5:617

**STACKING**

**Sentencing** (this index)

**STAGED ENCOUNTERS**

Identification, § 11:6

**STALENESS**

**Search and Seizure** (this index)

**STALKING**

Generally, § 5:698

**STALKING—Cont'd**

Constitutionality, § 5:699  
 Cyberstalking, § 5:700  
 Methods of commission, § 5:698

**STANDARD CRIMINAL JURY INSTRUCTIONS (CJI)**

Generally, § 13:1

**STATE OF MIND**

Hearsay, §§ 9:182, 9:183

**STATE TREASURER'S WARRANT**

Forgery, § 5:406

**STATUTE OF LIMITATIONS**

**Limitation of Prosecutions** (this index)

**STEAGALD CASE**

Arrest, § 2:111

**STERILIZATION**

Probation, terms of, § 20:181

**STING OPERATIONS**

Entrapment, § 6:51

**STOLEN PROPERTY**

Chop shops, double jeopardy, §§ 8:79, 8:114  
**Double Jeopardy** (this index)  
 Felony-firearm, § 5:634  
 Guilty pleas, value of property, § 10:16

**STRANGULATION**

Assault and battery, § 5:62

**STUN GUNS**

Generally, § 5:615

**SUA SPONTE**

Double jeopardy, § 8:34  
**Instructions** (this index)  
 Trial, sua sponte duty, § 22:34

**SUBJECTIVE BELIEF**

Robbery, §§ 5:494, 5:495

**SUBORNATION OF PERJURY**

Generally, §§ 5:681, 20:119

**SUBPOENA POWER OF PROSECUTORS**

Discovery, § 7:8

**SUBSCRIBING WITNESSES**

Evidence, §§ 9:15, 9:26  
 MRE, § 9:26

## INDEX

### SUBSTANTIAL COMPLIANCE

Guilty pleas, § 10:35

### SUFFICIENCY OF EVIDENCE

**Appeal and Error** (this index)

Controlled substances offenses, § 5:105

### SUGGESTIVENESS

Governmental conduct required, § 11:20

Identification, §§ 11:19 to 11:28

### SUICIDE

Aiding and abetting, §§ 5:15, 5:264

### SUPERINTENDING CONTROL

Appeal and error, §§ 1:108, 1:109

### SUPPORT OF PERSONS

**Nonsupport** (this index)

### SUPREME COURT

Search and seizure, violation of precedent, § 19:217

### SYMBOLS

Joinder, use of symbols, § 22:73

### SYSTEMS AND PROCESSES

Evidence, § 9:12

### TAKE-BACK SALES

Entrapment, § 6:55

### TECHNICIAN

OUIL and OWI, admissibility of test results, § 5:545

### TELEPHONES

Cell phone site information locations, search and seizure, §§ 19:9, 19:73

Evidence, telephone conversations, § 9:9

Pen registers and trap and trace devices, § 19:6

Preliminary examination, telephone testimony, § 17:18

**Search and Seizure** (this index)

### TELEVISION

**TV** (this index)

### TEN CATEGORIES

Evidence, §§ 9:16 to 9:26

### TERMINATION OF PARENTAL RIGHTS

Kidnapping by parents, § 5:359

### TERMINOLOGY ISSUES

Abusive head trauma, § 23:22

**Definitions** (this index)

Expert evidence, § 23:21

### TERRORIST THREATS

Generally, § 5:716

Intent, § 5:717

True threats, § 5:717

### TETHERING

Condition of probation, § 20:186

Sentence credit, § 20:95

### THEFT OFFENSES

**Larceny and Larceny-Related Offenses**  
(this index)

### THEORY OF CASE

Instructions, §§ 13:48, 13:49

Verdicts, unanimity as to theory, § 15:80

### THERAPISTS

Privileged information, §§ 9:280 to 9:283

### THIRD PERSONS

Hearsay, third persons' testimony, § 9:178

Homicide, bystander's death, § 5:313

Larceny, third persons' property,  
§§ 5:439, 5:440

### THIRD-PARTY VICTIMS

Spousal privilege, § 9:277

### 13TH JUROR

Trial judge as, § 1:16

### THREATS

Extortion, §§ 5:421, 5:422

**Putting in Fear** (this index)

Robbery, § 5:481

Witnesses, § 23:42

### TIME

Alibi, timing, §§ 6:12, 6:14

Character evidence, reports of conduct,  
§§ 9:73 to 9:76

Conspiracy, timing, §§ 5:70 to 5:73, 5:79

Felony-firearm, time of possession,  
§ 5:629

Forgery, time of charging, § 5:404

**Hearsay** (this index)

Identification, calculating time lapses,  
§ 11:3

Robbery, timing of assault, § 5:480

**TIMING RULE**

Preliminary examination, §§ 17:19 to 17:23

**TIP SHEETS**

Discovery, § 7:11

**TITLE TO PROPERTY**

False pretenses, §§ 5:432 to 5:434

**TITLE-OBJECT CLAUSE**

Controlled substances offenses, § 5:131

**TORTURE**

Generally, § 5:718  
Animal cruelty, § 5:711  
Crimes against children, § 8:93  
Double jeopardy, § 8:93

**TOYS**

Dolls (this index)

**TRACKING DOGS**

Demonstrative evidence, § 9:88

**TRADE INSCRIPTIONS**

Evidence, § 9:22

**TRAFFIC OFFENSES**

Expungement of record, § 1:139  
Jury, § 15:2

**TRANSCRIPTS**

Discovery, § 7:33  
Unavailability, § 1:93

**TRANSFER TO PROBATE COURT**

Juveniles, § 16:11

**TRANSFERRED INTENT**

Assault and battery, §§ 5:49, 8:91  
Double jeopardy, § 8:91

**TRANSGENDER PERSONS**

Gender and Gender Issues (this index)

**TRANSPORTATION**

Entrapment, § 6:49  
Michigan Medical Marijuana Act, § 5:123

**TRAP AND TRACE DEVICES**

Search and seizure, § 19:6

**TRASH**

Search and seizure, §§ 19:30, 19:31

**TRAVELER'S CHECKS**

False pretenses, § 5:435

**TREASURER'S WARRANT**

Forgery, § 5:406

**TRIAL**

Generally, §§ 22:1 to 22:77  
Appearance and attendance of police, § 22:48  
Automobiles, venue, moving vehicles, § 22:2  
Behavior of defendant, § 22:41  
**Bench Trials** (this index)  
Buttons worn by spectators, § 22:49  
Clothing, appearance of defendant in courtroom, § 22:47  
Commitment proceedings, competence to stand trial, § 22:39  
Competence to stand trial, §§ 22:30 to 22:40  
Defendants at trial, generally, §§ 22:30 to 22:51  
Dismissal of charges, § 22:40  
Extraterritorial jurisdiction, § 22:1  
Harmless error, § 22:9  
Illness of juror, § 22:29  
Jail clothes, appearance of defendant in courtroom, § 22:47  
Presence of defendant, §§ 22:41 to 22:51  
Prison clothing, appearance of defendant in courtroom, § 22:47  
Public trial, right to, § 22:51  
Retrials  
    Double jeopardy, appellate considerations, §§ 8:41, 8:44  
    Instructions, § 13:24  
Shackling of defendant, §§ 22:44, 22:45  
Shackling of witnesses, § 22:46  
Spectators wearing buttons, § 22:49  
**Venue** (this index)  
Videoconferencing, § 22:77  
Voir dire answers revealing incarceration, § 22:50  
Voluntary absence of defendant, § 22:42  
Waiver of right to be present, §§ 22:41 to 22:43

**TRICK**

Larceny by trick, § 5:452

**TRUTH**

**Character Evidence** (this index)  
Contradiction, proof of perjury, § 5:679

## INDEX

### TV

Juries, newspaper and TV coverage,  
§ 15:54

**Video Conferencing and Videotaping**  
(this index)

### UDAA (UNLAWFULLY DRIVING AWAY AN AUTOMOBILE)

Generally, §§ 5:510 to 5:517

Double jeopardy, § 8:83

Elements, § 5:510

Felony, § 5:298

Homicide, § 5:298

Initial taking, § 5:512

Instructions, § 5:516

Intent, § 5:511

Lesser included offenses, § 5:516

Passenger, § 5:514

Recent possession, § 5:513

Robbery, § 5:498

Unlawfully taking and using, § 5:517

Vehicle identification number, hidden,  
§ 5:515

### ULTIMATE ISSUE

Insanity, § 6:75

Opinion on, §§ 23:16 to 23:21

Perjury, § 5:676

### UNANIMOUS JURY

Alternative methods of committing  
offense, § 13:44

Instructions, §§ 13:43, 13:44

Legal theory, § 13:44

### UNDERLYING OFFENSES

Crimes against children, § 5:154

Homicide, § 5:316

### UNIFORM ACT FOR SECURING DEFENSE WITNESSES

Generally, § 23:45

### UNKEPT BARGAINS

**Plea Bargaining** (this index)

### UNLAWFUL IMPRISONMENT

Kidnapping, § 5:357

### UNLAWFULLY DRIVING AWAY AN AUTOMOBILE

UDAA (this index)

### UNLOADED WEAPONS

Generally, §§ 5:583, 5:643

### UNLOADED WEAPONS—Cont'd

Robbery, § 5:490

### UNOCCUPIED DWELLING

Breaking and entering, § 5:384

### UNSIGNED STATEMENTS

Impeachment, § 9:223

### URINALYSIS

Probation, § 20:179

### UTTERING

Forgery, §§ 5:393 to 5:395

Publishing, §§ 5:396 to 5:412

### UTTERING AND PUBLISHING FORGED INSTRUMENTS

**Forgery** (this index)

### VACATED CONVICTIONS

Prior convictions, § 9:204

### VALUE

Breaking and entering, value of stolen  
items, §§ 5:391, 5:392

Guilty pleas, value of stolen property,  
§ 10:16

Larceny, §§ 5:444 to 5:446

Malicious destruction of property, § 5:660

Receiving and concealing stolen property,  
§ 5:467

### VEHICLES

**Automobiles** (this index)

### VENUE

Generally, §§ 22:2 to 22:18

Boundary, within mile of, § 22:4

**Change of Venue** (this index)

Extraterritorial, § 22:1

Fatal force, § 22:5

Improper venue, retrial after reversal,  
§ 8:7

Moving vehicle, § 22:2

Multiple acts, § 22:3

Preliminary examination, § 17:24

Preservation, § 22:8

Trial in wrong venue not fatal to conviction, § 22:7

### VERACITY

**Character Evidence** (this index)

Contradiction, proof of perjury, § 5:679

## VERDICTS

- Generally, §§ 15:79 to 15:84
- Certainty and clarification, § 15:81
- Changing, § 14:32
- Court rules, § 15:79
- Deliberations** (this index)
- Directed Verdict** (this index)
- Double jeopardy, directed verdicts, § 8:35
- Exception, intrinsic impeachment, § 15:57
- Fact-finding, §§ 14:29 to 14:31
- Guilty but mentally ill, § 6:91
- Impeachment of jury verdict, §§ 15:56, 15:57
- Inconsistent verdicts, §§ 14:28, 15:84
- Inquiring of hung jury as to agreement on any count, § 15:82
- Instructions regarding form, § 13:51
- Judges changing verdicts, § 14:32
- Judges** (this index)
- Polling jury, § 15:83
- Theory, unanimity as to, § 15:80

## VICTIMS

- Character evidence, §§ 9:46 to 9:50
- Discovery, victims' psychiatric exams, § 7:20
- Hearsay, victim's statements, § 9:112
- Restitution, § 20:171
- Vulnerable Victims** (this index)

## VIDEOCONFERENCING AND VIDEOTAPING

- Preliminary examination, § 17:18
- Sentencing, § 20:14
- Trial, § 22:77

## VIEW

- Plain View** (this index)

## VIEW BY JURY

- Generally, § 15:65

## VINDICTIVENESS

- Prosecutor, § 18:35

## VISIBILITY

- Plain View** (this index)

## VOICE CONFERENCING

- Preliminary examination, § 17:18

## VOICE IDENTIFICATION

- Generally, §§ 9:8, 11:31, 11:37

## VOIR DIRE

- Generally, §§ 15:48 to 15:52
- Anticipating defenses, § 15:52

## VOLUNTARY MANSLAUGHTER

- Homicide** (this index)

## VOLUNTARY PLEA BARGAINS

- Generally, § 10:44

## VULNERABLE VICTIMS

- Abuse, vulnerable adults, § 5:706
- Homicide, §§ 5:263, 5:308

## WAIVER

- Appeal and Error** (this index)
- Attorney-client privilege, § 9:254
- Claim of error, § 1:66
- Double jeopardy protection, waiver of, § 8:5
- Guilty pleas, waivers by pleading guilty, §§ 10:57 to 10:61
- Improper, self-representation, § 4:17
- Jury, waiver of right, §§ 15:4 to 15:8
- Juveniles** (this index)
- Limitation of prosecutions, waiver by failure to object, § 22:24

## WANTON AND WILLFUL DISREGARD

- Homicide, § 5:268

## WARRANTS

- Arrest** (this index)
- Search and Seizure** (this index)

## WEAPONS

- Generally, §§ 5:581 to 5:595
- Alcoholic beverage, possession of firearm while under influence of alcoholic beverage, § 5:610
- Ammunition, felon in possession, § 5:648
- Assault and battery, weapon not found, § 5:42
- Automobiles, loaded firearm other than pistol in vehicle, § 5:601
- Billy club, § 5:612
- Bludgeon, § 5:613
- Breaking and entering, restoration of rights, § 5:647
- Burden of going forward with restoration of rights, § 5:645
- Carrying pistol in motor vehicle, §§ 5:596 to 5:598

## INDEX

### WEAPONS—Cont'd

- Carrying weapons
  - Generally, § 5:601
  - Burden, § 5:591
- CCW (Carrying Concealed Weapons)** (this index)
- Concealment, § 5:585
- CPMV (Carrying Pistol in Motor Vehicle)** (this index)
- Dwelling, § 5:594
- Exemption, §§ 5:591 to 5:594
- Felony-firearm, § 5:633
- Instructions, lesser included offenses, § 5:595
- Intent and motive, §§ 5:584, 5:602 to 5:605
- Joint possession, § 5:587
- License, lack of, § 5:589
- Pistol, concealed, §§ 5:581 to 5:595
- Place of business, §§ 5:592, 5:593
- Self-defense, § 5:600
- Stabbing weapons, § 5:599
- Unloaded or inoperable, § 5:583
- CCW (Carrying Concealed Weapons)** (this index)
- Correctional facilities, weapon in, § 5:616
- CPMV (Carrying Pistol in Motor Vehicle)** (this index)
- Criminal sexual conduct, §§ 5:177 to 5:179, 5:195
- Definitions, §§ 5:582, 5:583, 5:608
- Demonstrative evidence, § 9:96
- Discharge of firearm, §§ 5:650, 5:651
- Domestic violence misdemeanants, § 5:649
- Double Jeopardy** (this index)
- Drive-by shootings, § 5:606
- Duty to show license to police, § 5:590
- Dwelling, §§ 5:594, 5:607, 5:650, 5:651
- Felon's firearms held lawfully before conviction, disposition of, § 5:644
- Felons in possession of firearm, §§ 5:639 to 5:648
- Felony-Firearm** (this index)
- Gas ejecting device, § 5:614
- Inquiries regarding during traffic stop, § 2:17
- Intent and motive, §§ 5:584, 5:602 to 5:605
- Joint possession, §§ 5:587, 5:609

### WEAPONS—Cont'd

- Jury question, carrying dangerous weapon with unlawful intent, § 5:605
- Karate sticks, § 5:611
- Knives, § 5:617
- License, lack of, § 5:589
- Multiple defendants with one gun
  - Generally, § 5:598
  - Joint possession, § 5:587
- Pistol, concealed, §§ 5:581 to 5:595
- Pneumatic weapons, felony-firearm, § 5:620
- Probation completion, felon in possession of firearm, § 5:642
- Restoration of rights, §§ 5:645, 5:647
- Sale of firearms
  - Illegal, § 5:652
  - Unauthorized person, sale to, § 5:652
- Second Amendment, § 5:580
- Self-defense, § 5:646
- Self-defense, carrying weapons, § 5:600
- Short-barreled shotgun, §§ 5:608, 5:609
- Stabbing knife, § 5:617
- Stun guns, § 5:615
- Traffic stops, inquiries regarding weapons during, § 2:17
- Unlawful discharges, §§ 5:606, 5:607
- Unloaded Weapons** (this index)

### WEB SITES

- Burning copies of images, crimes against children, § 5:160
- Crimes against children, online images, §§ 5:158 to 5:160
- Personal use, crimes against children, § 5:160
- Temporary internet files, crimes against children, § 5:159

### WEIGHT OF CONTROLLED SUBSTANCES

- Generally, §§ 5:132, 5:137

### WEIGHT OF EVIDENCE

- Chain of custody, § 9:33
- Double jeopardy, appellate considerations, § 8:37

### WHARTON'S RULE

- Conspiracy, §§ 5:84 to 5:90

### WILLFUL NEGLIGENCE OF DUTY

- Public officers, § 5:702

## WITHDRAWAL

- Alibi, withdrawal of notice, § 6:30
- From conspiracy, § 5:67
- Jury, withdrawal of waiver of right, § 15:8
- Plea. **Guilty Pleas** (this index)

## WITHDRAWAL SLIPS

- Forgery, § 5:411

## WITNESSES

- Generally, §§ 23:1 to 23:46
- Animals, § 23:11
- Appeal and Error** (this index)
- Assistance to defense in securing witnesses, § 23:34
- Children
  - Generally, §§ 23:7 to 23:11
  - Rape shield law and right of confrontation, § 5:225
  - Sequestration, youthful victim and support person, § 23:36
- Competency to testify, §§ 23:1 to 23:6
- Credibility of Witnesses** (this index)
- Cross-Examination** (this index)
- Defense witness, child as, § 23:6
- Developmentally disabled persons, §§ 23:7 to 23:11
- Discretion of court, § 23:2
- Dolls, use with children, § 23:10
- Double Jeopardy** (this index)
- Examination in chambers, children, § 23:5
- Facilitator, use of, § 23:9
- Failure to Testify or Call Witnesses** (this index)
- Impeachment** (this index)
- Leading questions, §§ 23:7, 23:8

## WITNESSES—Cont'd

- Rape shield law and right of confrontation, § 5:220
- Rape Shield Law and Right of Confrontation** (this index)
- Res Gestae Witnesses** (this index)
- Sequestration of victim, § 23:37
- Sequestration of witnesses, §§ 23:35 to 23:38
- Shackling, § 22:46
- Shackling of defense witnesses, § 23:46
- Tampering with, § 5:665
- Threatening, § 23:42
- Uniform Act for Securing Defense Witnesses, § 23:45
- Use of electronic means, § 23:39
- Violation of sequestration order, remedy for, § 23:38

## WIVES AND HUSBANDS

- Husbands and Wives** (this index)

## WORDS

- Definitions** (this index)
- Homicide provocation, § 5:331
- Robbery, words regarding status as armed, § 5:488

## WRITS

- Timing of retrial after grant of conditional, § 1:178

## WRITTEN INSTRUCTIONS

- Generally, § 13:46

## WRITTEN STATEMENTS

- Impeachment** (this index)

## YEAR AND A DAY RULE

- Homicide, § 5:257