

INDEX

- ABORIGINAL GANGS**, 23, 69, 153, 279, 311, 313–314
- ALBERTA**
- gang activity in, 313
- AUGER, MICHEL**, 73–74
- BAIL**, *see* **REVERSE ONUS BAIL PROVISIONS**
- BIKER CLOTHING/SYMBOLS**
- bans on, 298
 - Hells Angels, of, 333–336
 - wearing of, 182–183
- BIKER GANGS**
- generally, *see* **ORGANIZED CRIME; OUTLAW MOTORCYCLE GANGS**
 - listing legislation, effects on, 291
 - Quebec biker violence, 27–50
- BIKER WARS**, 27–50, 163–166, 173, 349–351
- BILL C-14**
- British Columbia gang violence context, 163–166, 173
 - Criminal Code amendments in, 167–171
 - criticisms of, 171–173
 - discharging firearm recklessly offence, 169–170
 - gang peace bonds, amendments to, 171
 - murder, treatment of, 168–169
 - passage through Parliament, 166–167
 - peace officers, new offences against, 170
 - purpose of, 167
 - Vancouver gang war context, 163–166, 173
- BILL C-24**
- Auger, shooting of Michel, 73–74
 - Charter challenges to, *see* **CANADIAN CHARTER OF RIGHTS AND FREEDOMS**
 - commission of offence for criminal organization (CC s. 467.12(1))
 - described, 115
 - mental element, 118–123
 - physical elements, 116–117
 - proof of, elements, 116, 123
 - content of, generally, 83, 87
 - context of, 73–82

Index

- BILL C-24 (*cont'd*)
- criminal organization
 - definition (CC s. 467.1(1)), 84–100
 - elements of, generally, 84–86, 88
 - facilitating/committing one or more serious offences, 93–97
 - generally, 99–100
 - group of three/more persons, 91–92
 - group, meaning of, 97
 - material benefit element, 97–99
 - offences targeted, 95–96
 - proof of, 85, 87–90, 96
 - “serious offence”, definition of, 93–95
 - UN Convention and, 86
 - criminal organization offences, 101–137
 - commission of offence, *see* commission of offence for criminal organization (CC s. 467.12(1))
 - “criminal organization offence” definition, 104
 - described, generally, 101–105, 134–137
 - “enhancer/facilitator” offence, 106
 - instructing, *see* instructing commission of offence for criminal organization (CC s. 467.13(1))
 - membership offence, 102
 - participation, *see* participation in activities of criminal organization (CC s. 467.11(1))
 - criticisms of, 150–161
 - broad brush effects, 153
 - defence lawyers, effect on, 154
 - generally, 150–151, 156, 159–160
 - guilt by association issue, 155
 - Hells Angels, by, 158
 - limited effect on Outlaw Motorcycle Gangs, 152, 160
 - police immunity issue, 157
 - police powers, as extension of, 151
 - enforcement statistics, 185–187
 - factors influencing enactment of, 82
 - House of Commons sub-committee report, 75–78
 - Bloc Quebecois dissenting opinion, 77–78
 - recommendations, 75–77
 - immunity for peace officers, 146–150
 - accountability, 148
 - discussed, 146–148
 - exemption from criminal liability, 148, 157
 - reverse sting operations, 149

Index

- BILL C-24** (*cont'd*)
- instructing commission of offence for criminal organization (CCs. 467.13(1))
 - • described, 124
 - • mental element, 127–133
 - • physical elements, 125–126
 - • proof of, elements, 125, 134
 - investigative tools to combat organized crime, 137–142
 - • consecutive sentence, 138
 - • explosives offence, 140
 - • murder, first-degree, 139
 - • parole, 140
 - • proceeds of crime and forfeiture, 141
 - • reverse onus bail, 140
 - • sentences, 140
 - • special peace bonds, 141
 - • wiretap provisions, 138–139
 - Minister of Justice addresses re, 78–80
 - Outlaw Motorcycle Gang war background, 73–74
 - passage of, 80–82
 - participation in activities of criminal organization (CC s. 467.11(1)), 105–114
 - • elements of, table, 114
 - • knowledge requirement, 111
 - • mental elements, 111
 - • physical elements, 107–111
 - • proof of, elements, 107
 - • purpose, 112–113
 - protective measures re justice system participants, 142–145
 - • intimidation offence re participants/journalists, 144–146
 - • jurors, threats to, 144
 - • “justice system participant”, definition, 145
 - • witness intimidation, 143
 - tabling of, 78
 - undercover police, *see* immunity for peace officers
- BILL C-95**
- context of, 27–50
 - “criminal organization”, definition, 52–54
 - criticisms of, 60–72
 - • avoidance strategies, development of, 66–67
 - • civil liberty issues, 63
 - • generally, 60–62
 - • guilt by association issue, 64–65
 - • ineffectiveness, 71–72
 - • peace bonds, 64
 - • political grandstanding issue, 68
 - prosecutions under, 68–71
 - elements of offence, 56
 - factors influencing enactment of, 50
 - generally, 51
 - investigation provisions, 58

Index

- BILL C-95 (*cont'd*)**
- participation/contribution offence, 54–56
 - peace bond provision, 58, 64
 - penalties under, 56, 57
 - police surveillance powers, 59
 - purposes of, 51
 - Quebec biker violence background, 27–50
 - reverse onus bail provisions, 60
 - seizure provisions, 58
- BRITISH COLUMBIA**
- gang activity in, 163–166, 312
 - Hell Angels' activities in, 164
- CANADIAN CHARTER OF RIGHTS AND FREEDOMS**
- generally, 221–224
 - listing criminal organizations, Charter issues, 296, 299, 302
 - murder, sentencing re, 168
 - overbreadth doctrine, 221–224, 228–231, 244
 - *R. v. Lindsay*, 224–240
 - • appeal court decisions, 236–240
 - • constitutional issue, 236–240
 - • criminal organization definition, 225
 - • cruel and unusual punishment issue, 234–236
 - • mens rea issue, 233
 - • issues in, generally (CC ss. 467.1, 467.12, 467.14), 224–228
 - • overbreadth issue, 228–231
 - • vagueness issue, 231–233
 - • vagueness doctrine, 221–224, 231–233, 243
 - *R. v. Terezakis*, 240–246
 - • criminal organisation, definition, 245
 - • effect of, 254–260
 - • issues in, generally (CC ss. 467.1, 467.13), 240–246
 - • “group”, meaning of, 248–254
 - • knowledge of all elements of offence issue, 247
 - • knowledge of membership issue, 246
 - • overbreadth issue, 244
 - • reasoning in, 254
 - • vagueness issue, 243
- CRIMINAL CODE**
- amendments, *see* BILL C-14; BILL C-24; BILL C-95
 - organized crime, approaches to, 367–369
- CRIMINAL ORGANIZATION, *see also* ORGANIZED CRIME**
- definitions, *see* BILL C-24; BILL C-95
 - judicial notice of criminal organization, 307

Index

- CRIMINAL ORGANIZATION**, *see also ORGANIZED CRIME (cont'd)*
- listing, Charter issues, 296, 299, 302
 - offences re, *see* **CRIMINAL ORGANIZATION OFFENCES**
 - proof problems, 283–285
- CRIMINAL ORGANIZATION OFFENCES**
- Charter issues, *see* **CANADIAN CHARTER OF RIGHTS AND FREEDOMS**
 - commission of offence for criminal organization, *see* **BILL C-24**
 - defence considerations, *see* **DEFENCE CONSIDERATIONS**
 - discharging firearm recklessly offence, 169–170
 - explosives offence, 140
 - instructing commission of offence for criminal organization, *see* **BILL C-24**
 - intimidation offence re participants/journalists, 144–146
 - jurors, threats to, 144
 - murder, treatment of, 139, 168–169
 - participation in activities of criminal organization, *see* **BILL C-24**
 - participation/contribution offence, *see* **BILL C-95**
 - peace officers, offences against, 170
 - political cycle of, 174
 - prosecution considerations, *see* **PROSECUTION CONSIDERATIONS**
 - sentencing, *see* **SENTENCING**
 - witness intimidation, 143
- CRIMINAL ORGANIZATIONS**, *see* **LISTING CRIMINAL ORGANIZATIONS; ORGANIZED CRIME**
- DEFENCE CONSIDERATIONS**
- crimes of unindicted gang members, evidence of, 199–201
 - generally, 189
 - gang activity in, 312
 - lawyer payment issue, 204
 - police witnesses, expert opinions of, 190–199
 - • admissibility criteria, 191
 - • drug code words, 190
 - • existence/structure of criminal organizations, 194–199
 - • prior criminal history evidence, 193
 - • reliability factor, 192

Index

DEFENCE

CONSIDERATIONS (*cont'd*)

- presumption of innocence issue, 203
- wiretap evidence, challenging, 201–203

DISCLOSURE, 183–185

EVIDENTIARY ISSUES

- crimes of unindicted gang members, evidence of, 199–201
- disclosure requirements, problems re, 183–185
- expert evidence, *R. v. Lindsay*, 323
- prior criminal history evidence, 193
- wiretap evidence, challenging, 201–203

EXPERT OPINIONS

- expert evidence, *R. v. Lindsay*, 323
- expert witness issues, 213
- police witnesses, expert opinions of, *see* DEFENCE CONSIDERATIONS

EXPLOSIVES OFFENCE, 140

FORFEITURE, 141

GANG SWEEPS

- criticisms of, 177
- described, 176–177
- expense/resources required, 177–178

- mega-trials, 178

GANGS, *see* **ABORIGINAL GANGS; GANG SWEEPS; ORGANIZED CRIME; OUTLAW MOTORCYCLE GANGS**

HELLS ANGELS

MOTORCYCLE CLUB,

see also **LISTING**

CRIMINAL

ORGANIZATIONS;

OUTLAW MOTORCYCLE GANGS

- background and structure of, 324–329
- biker war, 349–351
- chapters in, 329–332
- clubhouses, 337–341
- criminal activity, methods of, 351–353
- criticisms of Bill-24 by, 158
- expert evidence, *R. v. Lindsay*, 323
- membership, 341–345
- money/banking system, 345
- overview, 323, 351–353
- puppet/support clubs, 345–347
- recruitment, 341–345
- reputation, 347–349
- Rock Machine, war with, 349–351
- rules of, 332
- security systems, 337–341
- symbols of, 333–336

Index

- HELLS ANGELS
MOTORCYCLE CLUB, *see*
also LISTING CRIMINAL
ORGANIZATIONS;
OUTLAW MOTORCYCLE
GANGS (*cont'd*)
- territoriality, 336
- INFORMERS, 182
- INNOCENCE,
PRESUMPTION OF, 203
- INVESTIGATION TOOLS,
see BILL-95; BILL-24;
POLICE
INVESTIGATIONS
- JOURNALISTS, 73–74,
144–146
- JURORS, 144
- JUSTICE SYSTEM
PARTICIPANTS, 142–145
- LAWYERS, *see* DEFENCE
CONSIDERATIONS;
PROSECUTION
CONSIDERATIONS
- LISTING CRIMINAL
ORGANIZATIONS
- alternative judicial techniques,
306–307
 - arguments against, 294–296,
299–305
 - arguments for, 289–293
 - biker gangs, effect on, 291
 - Charter challenges, potential,
296, 299, 302
 - collective vs. individual
prosecution approaches, 295
 - colours/symbols bans, 298
 - criminal advertising, effect on,
291–293
 - Hells Angels Motorcycle Club
prosecutions
 - case law, 285–287
 - court challenges by,
297–299
 - criminal organization proof
problems, 283–285
 - mainstream
activities/acceptance of,
297–298
 - provincial inconsistency,
285, 287–289
 - inter-jurisdictional affidavit
method, 306
 - judicial notice of criminal
organization, 307
 - mega-trials challenges, 289,
305
 - models of, 308
 - prosecution challenges,
281–282
 - public confidence issue, 288
 - support for, sources of, 293
 - studies re, House of
Commons committee, 282,
308–308
- MANITOBA
- gang activity in, 314

- MARITIME PROVINCES**
- gang activity in, 315
- MEGA-TRIALS**, 178, 289, 305
- MOTORCYCLE GANGS**, *see* **OUTLAW MOTORCYCLE GANGS**
- MURDER**, 139, 168–169
- NORTHWEST TERRITORIES**
- gang activity in, 313
- OFFENCES**, *see* **CRIMINAL ORGANIZATION OFFENCES**
- ONTARIO**
- gang activity in, 314
- ORGANIZED CRIME**, *see* **also CRIMINAL ORGANIZATION; LISTING CRIMINAL ORGANIZATIONS; OUTLAW MOTORCYCLE GANGS**
- Australia, effect/strategies in, 365–367
 - characteristics of, 15–21
 - • hierarchical, 17
 - • limited/exclusive membership, 18
 - • monopolistic, 20
 - • non-ideological, 16
 - • self-perpetuation, 19
 - • specialization/division of labour, 20
 - violence and bribery, use of, 19
 - concept defined, 9–15
 - conclusions, 377–388
 - cooperation among groups, 3–4
 - crimes engaged in, 5
 - Criminal Code amendments approach, 367–369
 - • delayed parole provisions, 368–371
 - • implementation and enforcement issues, 377–388
 - • • Supreme Court decisions, fault in, 371
 - • • threshold attainment issues, 370–371
 - • wiretap provisions, 372–374
 - profit purpose of, 4
 - described, generally, 1–9
 - global criminals in Canada, 7
 - global phenomenon aspects, 3
 - legislative solutions, suggestions, 374–376
 - listing, *see* **LISTING CRIMINAL ORGANIZATIONS**
 - overview of, 6
 - prominent organizations, 2–4
 - provincial initiatives, *see* **PROVINCIAL INITIATIVES**
 - strategies to fight, 8
 - theory re, 22–26

Index

- ORGANIZED CRIME, *see also* CRIMINAL ORGANIZATION; LISTING CRIMINAL ORGANIZATIONS; OUTLAW MOTORCYCLE GANGS (*cont'd*)**
- • conspiracy theory, 23–25
 - • enterprise theory, 25–26
 - transnationalization of, 265
 - United Nations Convention against, 12–15
 - • definition, 14–15
 - • described, 12–13
 - • terminology, 14
- OUTLAW MOTORCYCLE GANGS, *see also* HELLS ANGELS MOTORCYCLE CLUB**
- described/history of, 316
 - list of gangs, 321–323
 - one–percenter group, 320
- PAROLE PROVISIONS, 140, 262, 368–371**
- PEACE BONDS, 58, 64, 141, 171**
- PEACE OFFICERS**
- immunity for, *see* BILL C-24
 - offences against, 170
- POLICE, *see* PEACE OFFICERS**
- POLICE GANG UNITS**
- creation of, 175
 - gang sweeps, *see* GANG SWEEPS
- POLICE INVESTIGATIONS**
- anti–gang laws, enforcement statistics/success, 185–188
 - challenges, 180–182
 - Community Response Models of Policing, adoption of, 187–188
 - complexities of criminal justice system, issues re, 188
 - evidentiary disclosure requirements, problems re, 183–185
 - gang clothing/colours/symbols, wearing of, 182–183
 - gang sweeps, *see* GANG SWEEPS
 - informants, use of, 182
 - structuring of, 179
 - types of, 176
- POLICE POWERS, 59, 151**
- POLICE SURVEILLANCE POWERS, 59**
- PROCEEDS OF CRIME, 141**
- PROSECUTION CONSIDERATIONS**
- challenges, 211–212, 214
 - delay issue, 212
 - existence of organization, proof of, 208–211
 - expert witness issues, 213
 - generally, 207

Index

PROSECUTION

CONSIDERATIONS (*cont'd*)

- new legislation (Bill-24), effects of, 215–219
- successful prosecutions, elements of, 219–220

PROVINCIAL INITIATIVES

- asset confiscation, 357–361
- body armour and fortified vehicle laws, 361
- gang colours prohibitions, 362
- generally, 355
- membership penalties, 364
- municipal bylaws, 356
- private trespass laws, 363

QUEBEC

- Bill-24 and, 73–82
- gang activity in, 315

REVERSE ONUS BAIL PROVISIONS, 60, 140

SASKATCHEWAN

- gang activity in, 314

SEIZURE, 58

SENTENCING

- CC ss. 467.11, 467.12, 467.13
- case law, 273–280
- conditional sentences, 261
- consecutive sentence, 138

- criminal organization offences, 263–264

- generally, 261

- involvement in criminal organization as aggravating factor, 264–272

- murder, 139, 168

- parole eligibility, 140, 262, 368–371

- types of, 140

UNDERCOVER POLICE, 146–150

UNITED NATIONS

CONVENTION, 12–15, 86

WIRETAP PROVISIONS, 138–139, 201–203, 372–374

WITNESSES

- expert witness issues, 213

- police witnesses, expert opinions of, *see* DEFENCE CONSIDERATIONS

- witness intimidation, 143