INDEX

(All references are to page number)

IMMIGRATION OFFENCES, DETENTION AND RELEASE

```
case law 3-33, 3-38
  IRPA, other contraventions of 3-35
  people smuggling 3-33
detention of foreign nationals
  factors determining if detention is warranted 3-15
    danger to public 3-16
    flight risk 3-15
    identity 3-19
    minors 3-20
  irregular arrival 3-13
  powers to arrest and detain 3-13
detention reviews 3-21
  alternatives to detention 3-25
  bondsperson/guarantor 3-25
  conditions of release from detention 3-25
  factors to consider 3-26
  human rights violations 3-27
  international rights violations 3-27
  security risk 3-27
emerging trends 3-28
executive summary 3-1
IRPA contraventions 3-2
  document offences 3-10
  false passports 3-10
  general offences 3-11
  human smuggling 3-5
  human trafficking 3-5
  misrepresentation 3-11
  unauthorized representatives 3-2
security certificates 3-28
submissions to support release of detainee 3-29
```

INADMISSIBILITY — HISTORY AND EVOLUTION

```
case law, leading
  section 34, under 1-46
    34(1)(b) 1-46
    34(1)(f) 1-47
    application for relief under 34(2) 1-52
    definition of terrorism 1-47
  section 35, under 1-54
    application for relief under 35(2) 1-56
    findings under 35(1)(a) 1-54
    findings under 35(1)(b) 1-55
    procedural fairness 1-57
  section 36, under 1-58
    36(2) — criminality 1-62
    application of 1-63
    findings under 36(1)(a) 1-58
    findings under 36(1)(b) 1-61
  section 37, under 1-64
    findings under 37(1)(a) 1-64
    findings under 37(1)(b) 1-66
emerging trends 1-37
  recent amendments to IRPA 1-37
executive summary 1-1
framework of Canadian immigration law 1-2
  Canada Border Services Agency (CBSA) 1-5
  history of legislation 1-2
  objectives of IRPA 1-4
standard of proof 1-7
section 34 and 35, under 1-8
  CBSA modern war crimes program 1-21
  considerations for counsel 1-22
  history of reforms concerning security 1-8
  human or international rights violations 1-16
  security 1-13
section 36, under 1-23
  committing an act provisions 1-27
  criminality 1-24
```

section 37, under 1-31 organized crime, history and inception into *IRPA* 1-31 organized criminality 1-32

RECORD SUSPENSIONS, PARDONS

case law 4-51 effect of 4-51 equivalency 4-53 overcoming criminal inadmissibility 4-12 conclusion 4-24 discretion in new regime 4-17 effect of changes to Criminal Records Act 4-15 eligibility 4-21 immigration consequences 4-16, 4-21 marginalized groups 4-23 overburdening the judicial system 4-22 possible constitutional challenges 4-21 principles of pardons 4-17 reason for legislative amendment 4-18 sentencing, roles and principles of 4-22 stigmatization 4-19 practical tips 4-25 application process for record suspension 4-28 building the case 4-25 sample submission 4-43

REHABILITATION

overcoming criminal inadmissibility 4-1
acceptance or rejection of application 4-11
applicants ineligible 4-12
application process for 4-8
eligibility 4-2
factors supporting 4-9
rehabilitation, defined 4-2
practical tips 4-25
building the case 4-25
sample submissions 4-29
deemed rehabilitation 4-39

rehabilitation — spousal sponsorship, overseas conviction 4-29

REMOVAL ORDERS

executive summary 2-1
types 2-2
departure orders 2-2
deportation orders 2-5
exclusion orders 2-4
foreign nationals not subject to a report 2-12
temproary vs. permanent residents 2-6
chart foreign nationals — CBSA 2-8
issued by Immigration and Refugee Board 2-8

STRATEGIES FOR CRIMINAL LAWYERS REPRESENTING PERMANENT RESIDENTS AND FOREIGN NATIONALS

citizenship 5-37 effect of criminality 5-37 convention refugees 5-31 executive summary 5-31 human rights violations 5-30 hybrid offences 5-9 acquittals 5-13 appeals 5-21 constitutional considerations 5-25 Contraventions Act 5-16 effect of acquittal 5-12 effect of discharge 5-17 effect of record suspension 5-12 effect of rehabilitation 5-15 imprisonment 5-18 calculation of terms 5-18 conditional sentences 5-20 peace bonds 5-15 plea bargains 5-13 record suspensions 5-14 reducing term of imprisonment 5-21 swearing a new information 5-10 withdrawal of charges 5-14

```
Youth Criminal Justice Act 5-16
  Young Offenders' Act 5-16
inadmissibility — statutory framework 5-2
    grounds for inadmissibility 5-2
    standard of proof 5-5
organized criminality 5-29
persons in need of protection 5-31
post conviction issues 5-48
    criminal lawyer's file 5-48
    knowledge of appeal grounds & building file accordingly 5-50
sample guilty plea direction 5-69
sample information for indictable offence 5-67
sample information for summary conviction offence 5-68
sample letters and materials to Crown 5-70
security 5-30
serious criminality and criminality 5-7
  foreign nationals 5-7
    criminality 5-8
    serious criminality 5-7
  overview 5-7
  permanent residents 5-7
    serious criminality 5-7
sponsorship by Canadian citizens 5-42
  key preparatory steps 5-46
```