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**1. Update on Conditional Sentencing Amendments**

[Bill C-9](#), *An Act to amend the Criminal Code (conditional sentence of imprisonment)* was introduced in the House of Commons in May 2006. The Bill received Royal Assent on May 31, 2007 and will come into force 6 months from that date. According to the [legislative summary](#) "The bill amends section 742.1 of the Criminal Code ([1](#)) to provide that a person convicted of a serious personal injury offence as defined in section 752, a terrorism offence or a criminal organization offence prosecuted by way of indictment for which the maximum term of imprisonment is 10 years or more is not eligible for a conditional sentence."

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**2. More Criminal Code Amendments**

[Bill C-10](#), *An Act to amend the Criminal Code (minimum penalties for offences involving firearms) and to make a consequential amendment to another Act* has now received 1st Reading in the Senate. These amendments increase the sentences for serious gun offences for both "use" offences such as attempted murder, robbery and extortion, and "non-use" offences, such as firearms trafficking and smuggling. The version passed by the House of Commons on 3rd reading provides for a minimum penalty of 5 years on a first offence and 7 years on a second or subsequent offence.

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**3. C.A. Affirms Shoker**

The Court of Appeal in [R. v. Leschyshyn](#), 2007 MBCA 41 (CanLII) affirms that probation conditions need to be connected to the offence, as set out by the Supreme Court in [R. v. Shoker](#), 2006 SCC 44 (CanLII). Here the court finds that the link between the condition imposed and the offence is "tenuous at best" and is not required in order "to protect society or facilitate the accused's successful reintegration into the community."

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**4. 2:1 Credit Not Guaranteed: ON C.A.**

In [R. v. Thornton](#), 2007 ONCA 366 (CanLII) the Ontario Court of Appeal addresses the 2:1 pre-sentence custody issue. In dealing with an accused with a lengthy criminal record, the court states that:

If it was his expectation (as would appear to be the case from our review of the record) that he would rack up more "dead time" on a 2:1 basis so that he could eventually ask the trial judge to give him time served for the charge of "over .80" (thirty-six months) and a conditional sentence for the remaining crimes, his plan was

ill-conceived. To give effect to it would be to turn the sentencing process on its head. It would allow accused persons to tie the hands of the trial judge and fashion their own sentences, as it were, rather than leaving it to the trial judge to craft the appropriate sentence in accordance with the principles of sentencing set forth in the Criminal Code.

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## **5. Upcoming Criminal Law CLEs**

This year's National Criminal Law Program, [\*Substantial Criminal Law, Advocacy, and the Administration of Justice\*](#), is presented by the Federation of Law Societies of Canada and takes place in Edmonton from July 9-13. Here in Manitoba, the 5th annual Crown Defence Conference will be held on September 17 and 18, 2007 at York The Hotel in Winnipeg. Contact Heather Reay of Gindin Wolson Simmonds at (204) 985-8189 to obtain a registration form and conference agenda.

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