



County Court Criminal Division

Her Honour Judge Lisa Hannan – Head of the Criminal Division

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Criminal Division

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Message from the Head of the Criminal Division

2017 will see the Criminal Division realise the benefits of the significant work we have done over the last few years to improve our case management and listing processes. Our Trial Table, built within the Division, has allowed us to get a clearer picture of our work and of the areas where process improvement could have real benefits.



Her Honour Judge Hannan

We have completed the first stage of a 'blue sky' look at our listings and allocations and we hope to trial a new process in the second half of the year.

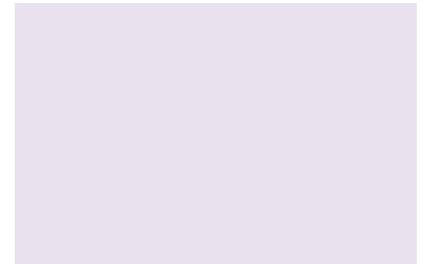
In addition we are exploring increased functionality in iManage relevant to what practitioners can view. We have also updated the Practice Note to ensure that it remains a relevant and useful tool for practitioners.

I look forward to working with you all as we progress these projects and I thank you for your willingness to assist the Division with your ideas and feedback.

Practice and Procedure

Criminal Division Practice Note

As part of the continuing work to ensure the Criminal Division Practice Note is up to date and reflects current practice and legislative and procedural requirements, the Practice Note was republished on 9 February 2017. Practitioners should familiarise themselves with the amendments which are outlined below. The new Practice note is available [here](#).



Topic	Amendment	Relevant Section
Final Directions Hearing Questions	Inclusion of additional question in relation to whether any witnesses require independent legal advice.	6.5
Extensions of Time for Non-Sexual Offence Trials	New chapter in relation to extensions of time for the commencement of non-sexual offence trials.	13
Subpoenas Relating to Confidential Communications	Removal of the requirement to send a draft subpoena to the medical practitioner and/or counsellor when the Application for Leave to Issue a Subpoena is sent to them.	23
Severed Indictments, Related Cases and County Court Case Numbers	New chapter in relation to the procedure for requesting new 'CR' case numbers and their inclusion on both severed Indictments and Indictments for consolidated cases.	30
Serious Sex Offender Supervision Orders	Requirement to file documents ahead of an application for a Non-Publication Order and an Application to Revoke a Non-Publication Order. Requirements for the listing of an urgent application for a Review of Conditions of a Supervision Order when the Emergency Power of Direction in s.120 of the SSODSA is exercised. Applicant filing requirements for Breach of Supervision Orders have been separated such that some documents are required prior to the Mention and some are required prior to the Hearing.	43.2 46.2 – 46.5, 46.8 & 46.12 48.3 & 48.4
Standard Directions for CMIA Hearings	Updated contact details on Standard Directions form.	Attachment 6

Extensions of Time for the Commencement of Trials

Non-Sexual Offence Trials

Pursuant to s.211 of the *Criminal Procedure Act 2009* trials for offences other than sexual offences must commence within 12 months after the day on which the person is committed for trial, within 12 months of a direct Indictment being filed, or within 6 months after the day on which the Court of Appeal orders a new trial.

The vast majority of cases listed for trial at Initial Directions Hearing are listed within 12 months, however to ensure the legislation is complied with, Prosecution solicitors must be aware of the following obligations:

- I. If the trial is initially listed **outside** of the statutory time period, an application must be made by the Prosecution for an extension of time; and
- II. Where a trial is listed **within** the relevant statutory time period, and the trial is then adjourned by application of either party or by the Court's own motion, to a date outside the statutory period, an application must be made by the Prosecution for an extension of time.

It is necessary to seek an extension of time to a date past the listed trial date due to the provisions in s.210 of the *Criminal Procedure Act 2009* which states that a trial commences when the accused is arraigned in front of the jury panel and pleads not guilty. If an extension is granted to the listed trial date only, and the accused is not arraigned on the first day, then the order extending time has no effect on the next or subsequent days.

A new chapter of the Criminal Division Practice Note has been drafted in relation to these requirements.

Sexual Offence Trials

Pursuant to s.212 of the *Criminal Procedure Act 2009* trials for sexual offences must commence within three months after the day on which the person is committed for trial, a direct Indictment is filed or an order is made by the Court of Appeal for a new trial.

Extensions of time for the commencement of sexual offence trials are currently managed in the 9:00am Sexual Offence List and will continue to be managed this way.



Key Dates

March

13: Labour Day public holiday

April

13: Criminal Division non-sitting day

14: Good Friday public holiday

17: Easter Monday public holiday

18: Criminal Division non-sitting day

19 - 21: Judges' Conference. No Criminal Listings

25: ANZAC Day public holiday

May

19: Criminal Division non-sitting day

20: Courts Open Day

June

12: Queen's Birthday public holiday

A Day in the Life of a Judge



Former ABC journalist and podcaster Alison Caldwell spent a day with Judge Hannan to produce the 'Day in the Life of a Judge' podcast. As the head of the Criminal Division Judge Hannan's day begins early and is full of meetings, administrative duties and hearing cases in court. To get an insight into a typical day of a County Court Judge, click [here](#) to listen to the podcast.



New Tipstaves' Uniform

Court users will notice the new uniform being worn by Tipstaves from the beginning of 2017. The new uniform features a charcoal suit embellished with the Lady of Justice logo. Feedback has been overwhelmingly positive from both Court staff and users.



The new Tipstaves' uniform

Legislation Update

Crimes Amendment (Carjacking and Home Invasion) Act 2016

The *Crimes Amendment (Carjacking and Home Invasion) Act 2016* commenced on **7 December 2016**. The Act inserts new offences into the *Crimes Act 1958*, namely:

- **s.77A** Home Invasion;
- **s.77B** Aggravated Home Invasion;
- **s.79** Carjacking; and
- **s.79A** Aggravated Carjacking.

Both the offences of Home Invasion and Aggravated Home Invasion carry with them a maximum penalty of 25 years imprisonment. Aggravated Home Invasion requires a minimum non-parole period of 3 years imprisonment be fixed unless a special reason exists.

The offence of Carjacking carries with it a maximum penalty of 15 years imprisonment. The offence of Aggravated Carjacking carries with it a maximum penalty of 25 years imprisonment and requires a minimum non-parole period of 3 years imprisonment be fixed unless a special reason exists.

Next Edition

The next edition of the County Court Criminal Division Update will be published in March 2017.

Any suggestions can be sent to Ryan Mallia or Nancy Molloy:

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