

County Court Criminal Division

Her Honour Judge Lisa Hannan – Head of Criminal Division

Judge Gwynn welcomed as a County Court Judge

A ceremony to welcome Her Honour Judge Gwynn as a Judge of the County Court was held on Thursday 18 May 2017. The ceremony was well attended by members of the profession, family and friends.

Judge Gwynn was admitted to practice in 1994 and spent seven years as a solicitor advocate before joining the bar for 13 years. Her Honour spent two years as a Magistrate before her appointment to this Court.



Her Honour Judge Gwynn

Her Honour practiced in criminal law and was briefed equally by the defence and various prosecution agencies. Soon after coming to the Bar Judge Gwynn was regularly sought after as junior counsel by silks. President of the Victorian Bar, Jennifer Batrouney QC commented that Judge Gwynn was known for her thorough preparation, personal loyalty and utter reliability.



Chief Judge Kidd welcomes Judge Gwynn

Having been a member of the Criminal Bar Association for more than seven years and a member of the Victorian Bar Council, Judge Gwynn gave back to the profession.

Criminal Division Contacts

Criminal Division

Ryan Mallia

Senior Administrator – 8636 6288

Nancy Molloy

Support Coordinator – 8636 6430

General List Associates

Naomi McLinden – 8636 6422

Hannan Christensen – 8636 6418

Sexual Offences List Associates

Leone Garro – 8636 6459

Tegan McWilliam – 8636 6603

Circuit

Larna Edney

Circuit Co-ordinator – 8636 6504

Amelia Webster

Circuit Administrator – 8636 6404

Criminal Registry

Lucille Thomas, Manager Criminal Listings & Registry – 8636 6540

General Enquiries – 8636 6570
crim.reg@countycourt.vic.gov.au

Her Honour taught twice a year in the Bar Readers' Course, and also taught advocacy in Papua New Guinea and Vanuatu. Judge Gwynn took on two readers and was involved as lead counsel in Victoria Legal Aid's Trial Counsel Development Program.



In her speech Judge Gwynn recognised the obligation on barristers and others working in the profession to give something back. Judge Gwynn also spoke about the importance of work/life balance.

The Criminal Division welcomes Judge Gwynn and looks forward to what will no doubt be a successful career at the County Court. Video of Her Honour's welcome ceremony can be viewed [here](#).

Appointment of Judge Douglas Trapnell QC

On 14 June 2017, His Honour Judge Douglas Trapnell QC was appointed as a Judge of the County Court.

Judge Trapnell was admitted in 1983 and practiced as a solicitor before taking up the position of Associate to the Honourable Justice George Hampel in the Supreme Court. His Honour signed the Bar Roll in 1986 and practiced primarily in taxation and criminal law.



His Honour Judge Trapnell QC

In 1994 Judge Trapnell was appointed Director of Research and Executive Officer of the Victorian Parliamentary Law Reform Committee, inquiring into and reporting on references such as the review of the jury system in Victoria, the law relating to directors and managers of insolvent corporations, technology and the law, and criminal liability for acts performed while in a state of self-induced intoxication.

In 1999 Judge Trapnell returned to the Bar, specialising in Supreme Court and County Court trials, and complex motor vehicle and traffic legislation. His Honour was appointed a Crown Prosecutor in 2003, Senior Counsel in 2008, a Senior Crown Prosecutor in 2010 and Queen's Counsel in 2014. From 2007 His Honour practiced almost exclusively in the High Court and Victorian Court of Appeal.

Judge Trapnell's welcome ceremony will be held on 27 June 2017 at 9:15am. The Division welcomes Judge Trapnell to the County Court and wishes him well in his new role.

Courts Open Day



The Court's annual Open Day, as part of the Victoria Law Foundation's Law Week, was held on Saturday 20 May 2017, and proved yet again to be a huge success. More than 900 people attended a range of events held over the course of the day and the feedback was, as with previous years, overwhelmingly positive.



One of the more popular events was the 'Day in the Life of an Accused' tour. This tour allowed members of the public to visit the custody cells, meet staff from Corrections Victoria and hear about and see where accused people on remand are held prior to their court hearing. The tour then continued to a mock plea hearing where a member of the public was arraigned and pleaded guilty to either culpable driving or intentionally causing serious injury.



Above: The tour of the custody cells *Picture courtesy of Victoria Law Foundation and Janusz Molinski*



A mock plea hearing

After the plea hearing the Judge spoke about the work of the Court and answered questions from the audience. The mock plea hearings provided an appropriate opportunity for the Court to engage with the community and highlight the seriousness of these offences which are prevalent in the community.

This year for the first time the Court also offered a mock Koori Court plea hearing. The hearing was co-ordinated by Koori Court co-ordinator, Terrie Stewart and heard by Judge in charge of the Koori Court, Judge Grant and was very well attended. Those who attended learned about the Koori Court process and observed a sentencing conversation with real Aboriginal Elders.

Other popular events were the Victorian Government Reporting Service's live stenographer display and court sketch artist Fay Plamka exhibiting some of her work and demonstrating her portrait sketching abilities. The Court's charity BBQ was again popular and raised more than \$700 for the Berry Street Foundation helping children in need.



Above: L-R: Judge Wilmoth, Chief Judge Kidd, Judge Quin and Lady Justice

Left: President of the Victorian Bar, Jennifer Batrouney QC and Judge Hannan
Picture courtesy of Victoria Law Foundation and Janusz Molinski



Lady Justice also roamed the corridors stopping for photos with visitors. The Division is grateful for the assistance provided by everyone in the lead up to and on Open Day including volunteers from the Office of Public Prosecutions, the Criminal Bar Association, Corrections Victoria, Juries Victoria, VGRS, Court Network, Aboriginal Elders and County Court Judges and staff.

Practice and Procedure

Plea Hearing Estimates

Practitioners would be aware that the Magistrates' Court books in a plea hearing in the County Court with a half-day or full-day estimate. If practitioners can better define duration it assists the Court to allocate plea hearings and reduces the need to place matters in the reserve list.

Practitioners are requested to identify which category the plea hearing best fits into; the options being 1 hour, 2 hours, half a day or a full day. The next revision of the Practice Note will include the requirement for defence to update the plea estimate in the written submissions which are filed prior to the plea hearing.

Accused in the Custody of Youth Justice

The Court has recently seen a small but noticeable increase in the number of children appearing in this Court who are on remand or serving sentence in a Youth Justice Centre or Youth Training Centre. If a practitioner's client falls into this category practitioners are asked to bring this to the Judge's attention at the time of making a remand order to ensure that the accused is remanded to the appropriate location and in the proper terms.



Practice Note

Practitioners can expect a republished Criminal Division Practice Note on **1 July 2017**. The revisions will not be extensive, however given recent legislative and procedural amendments, they are necessary to ensure that the Practice Note remains up-to-date and relevant. Further communication will occur in due course.

Legislation Update

Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017

The *Justice Legislation Amendment (Court Security, Juries and Other Matters) Bill 2017* was introduced into Parliament on 24 May 2017 and makes amendments to the *Court Security Act 1980* to support the increased use of private security. Court security officers will have new powers under the proposed Bill. These changes support the recommendations of the Royal Commission into Family Violence to ensure that everyone is safe while attending Court both in Melbourne and in the regional courts.

The Bill also amends the *Juries Act 2000* to reduce the number of peremptory challenges and stand-asides available to the accused and the Crown. The number of peremptory challenges and stand-asides is reduced from six to three where there is a single accused.

The Bill will also create a presumption in favour of empanelling a jury by number instead of by name. The Court will retain the discretion to empanel by name when it is in the interests of justice to do so.

Sentencing Amendments (Sentencing Standards) Bill 2017

The *Sentencing Amendments (Sentencing Standards) Bill 2017* was introduced into Parliament on 24 May 2017. The Bill will repeal the *Baseline Sentencing Scheme* and will significantly reform the sentencing regime for 12 of the most serious offences. The *Standard Sentencing Scheme* will introduce an additional consideration for Judges when sentencing.

Children and Justice Legislation Amendment (Youth Justice Reform Bill) 2017

The *Children and Justice Legislation Amendment (Youth Justice Reform Bill) 2017* was introduced into Parliament on 24 May 2017. The proposed amendments include:

- an increase to the maximum period of detention that can be imposed in the Children's Court;
- the introduction of a Youth Control Order; a new sentencing option for children who would otherwise be sentenced to detention but have the potential to be rehabilitated with the supervision of the Court;
- the presumption that certain serious youth offences will not be heard by the Children's Court but instead by the higher courts; and
- the requirement that 18 – 21 year olds who commit certain serious youth offences are sent to adult prison, not youth detention.

Family Violence Protection Amendment Act 2017

The *Family Violence Protection Amendment Act 2017* received Royal Assent on 16 May 2017. The Act responds to a number of recommendations of the Royal Commission into Family Violence and will amend the *Family Violence Protection Act 2008*, inter alia, to:

- require courts to make a family violence intervention order (FVIO) for a child who has been subjected to family violence if the court makes a FVIO for an affected family member;
- amend existing requirements for explaining FVIOs to respondents and protected persons; and
- enable the County Court to strike out an appeal against the making of a FVIO upon the non-attendance of the appellant at either a mention or the appeal hearing.

The Act will commence on 1 September 2018 if not proclaimed earlier.



Next Edition

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

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

ryan.mallia@countycourt.vic.gov.au

nancy.molloy@countycourt.vic.gov.au