

County Court Criminal Division



Her Honour Judge Lisa Hannan – Head of Criminal Division

Message from the Chief Judge

The Judicial College of Victoria / County Court of Victoria Sentencing Tables

In a significant new development, summaries of County Court sentencing decisions now form part of the Judicial College of Victoria's (JCV) *Victorian Sentencing Manual*. To date the Manual has only included summaries of Court of Appeal decisions.

Summaries of more than 410 first instance County Court sentencing decisions from 1 January 2016 to 30 June 2016 have been prepared by the JCV. Tables have been prepared for more than 50 offences. They appear in the Sentencing Manual in the form of summary tables arranged according to offence.



Chief Judge Peter Kidd

The summary tables are available as web-pages, downloadable Word documents and, for select offences, also as Excel spreadsheets, the latter giving users the ability to search, sort and filter material more easily. Additional Excel documents and further sentencing decisions will be added in the future.

The tables represent an important new 'tool of trade' for judges, and lawyers. Comparable cases within the same category of seriousness as the case at hand provide general **guidance** to the range of sentences reasonably open to the sentencing judge. The tables are sufficiently detailed so that a meaningful comparison (and submission) can be made yet sufficiently succinct to serve the function of an **overview**. Bearing in mind that every sentence is the product of the intuitive synthesis of all factors relevant to the particular case, and that sentences passed in other cases are not

precedents, the tables should mean that practitioners will rarely see the need to rely upon the sentencing reasons themselves.

The summary tables will also help contribute to community understanding of sentencing, and so aid the objective of general deterrence. They will provide a public window into the work of the County Court, Victoria's principal trial court, further promoting the transparency and accessibility of the court system.

Courts Open Day

As part of Law Week 2017 hosted by the Victoria Law Foundation, Courts Open Day will be held on Saturday 20 May



2017. The Court will soon be seeking volunteers from the prosecution and defence to assist with mock plea hearings as part of the 'Day in the Life of an Accused' hearings. Courts Open Day is a good opportunity for members of the profession and general public alike to talk to members of the judiciary and to get a better idea of how the Court operates.

Senior Associate to the Chief Judge

The position of Senior Associate to the Chief Judge was recently advertised on the Victorian Government Careers website. The Senior Associate assists the Chief Judge in court and in relation to legislative and policy reform. In addition, the Senior Associate provides high level administrative and research skills and supports the effective management of the Chief Judge's chambers. A law degree is required and practical experience is preferred. Suitable applicants are encouraged to apply [here](#). Applications close on **7 March 2017**.



Criminal Division Contacts

Criminal Division

Ryan Mallia

Senior Administrator – 8636 6288

Nancy Molloy

Support Coordinator – 8636 6430

General List Associates

Naomi McLinden – 8636 6422

Leone Garro – 8636 6418

Sexual Offences List Associates

Natalie Perera – 8636 6459

Circuit

Larna Edney

Circuit Co-ordinator – 8636 6504

Etienne Wagener

Circuit Administrator – 8636 6404

Criminal Registry

Lucille Thomas, Manager Criminal Listings & Registry – 8636 6540

General Enquiries – 8636 6570

crim.reg@countycourt.vic.gov.au

Practice and Procedure

Media Test Court

Practitioners are reminded about the importance of ensuring that any media sought to be played in court is compatible with the Court's audio visual systems. Media incompatibility results in costly and avoidable delays.



The Media Test Court was established last year and is available for practitioners to test audio visual material for compatibility prior to it being used in Court. The Media Test Court is available between 4:15pm and 4:45pm each day in Court 2-10 and a Tipstaff will be present to assist with media playback.

Chapter 49.13 of the [Criminal Division Practice Note](#) outlines the requirement to ensure that all media is compatible with the Court system prior to attempting to play it in Court. Practitioners should refer to this chapter for further details.

Applications that do not proceed

When an application is listed in either the General or Sexual Offence List Court, a Judge and time is allocated for the hearing of the application. If a decision is made not to proceed with the application, **it is the solicitor's duty to advise the court as soon as possible that the application will not proceed.**

Filing of documents via eLodgment

A number of documents recently filed via eLodgment have been lodged against the incorrect cases. Please ensure that when you eLodge a document, you are filing it against the correct case.



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

Family Violence Checklist

Practitioners are reminded to ensure that they complete and file the Family Violence Checklist in relevant cases. 'Family violence' is defined in s.5 of the [Family Violence Protection Act 2008](#) and the Family Violence Checklist is in Attachment 4 of the [Criminal Division Practice Note](#). The checklist is an important tool to ensure that the needs of complainants and victims of family violence are met, that appropriate safety measures are in place and that accurate data is collected.

Trends in the Criminal Division

Indicative Time to Hearing Figures

As part of the Court's commitment to the *International Framework for Court Excellence* adopted in 2010, the Criminal Division has recently published the latest indicative time period from Initial Directions Hearing to the commencement of a hearing.

The time periods published below, in relation to Melbourne trials, pleas and appeals only, reflect the most current assessment by the Division of the time to hearing based on the number of judges available to hear matters over the listing period.

Hearing Type	Time to Hearing
Custody Trials (all durations)	8 months
5 day Trials	9 months
10 day Trials	9 months
15 day Trials	10 months
Plea Hearings	3 months
Sentence-only Appeals	2 months
Conviction and Sentence Appeals	4 months



Next Edition

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

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

ryan.mallia@countycourt.vic.gov.au

nancy.molloy@countycourt.vic.gov.au

[Sentencing \(Community Correction Order\) and Other Acts Amendment Act 2016](#)



The *Sentencing (Community Correction Order) and Other Acts Amendment Act 2016* will commence on **20 March 2017**. The Act amends the *Sentencing Act 1991* to:

- Prevent courts from being able to impose a Community Correction Order (whether in combination with a term of imprisonment or on its own) for a range of the most serious offences (*category 1 offences*);
- Prevent courts from being able to impose a CCO (whether in combination with a term of imprisonment or on its own) for a range of serious offences (*category 2 offences*) unless certain circumstances exist;
- Reduce the period of imprisonment that a court can impose in combination with a CCO to one year and provide that a court cannot set a non-parole period if it is also imposing a CCO; and
- Set a maximum length of five years for a CCO that is imposed by the Supreme Court or the County Court.

Category 1 offences include Murder, ICSI or RCSI (Gross Violence), Rape, Incest (with own or de facto's child, lineal descendant or step child where victim was under 18), Sexual Penetration of a Child Under 16 (where the child was under 12), Persistent Sexual Abuse of a Child Under 16, Trafficking a Drug of Dependence in a Large Commercial Quantity and Cultivation of Cannabis in a Large Commercial Quantity.

Category 2 offences include Manslaughter, Child Homicide, Intentionally Causing Serious Injury, Kidnapping, Arson Causing Death, Trafficking a Drug of Dependence in a Commercial Quantity, Cultivation of Cannabis in a Commercial Quantity and Providing Documents or Information Facilitating Terrorists Acts.

The amendments to the *Sentencing Act 1991* in relation to Category 1 and 2 offences outlined above will only apply to offences committed after the commencement date.