

# COUNTY COURT TRIALS & APPEALS

The Victorian criminal court system has a hierarchy, and different cases can be heard in each Court. The County Court deals with all indictable offences, except murder, manslaughter, treason, and indictable offences tried summarily in the Magistrates' Court.

Before an indictable matter can be tried in the County Court, it must proceed through committal proceedings in the Magistrates' Court. During the Committal Proceedings, the Magistrates' Court considers whether there is enough evidence to warrant a trial in the higher courts.

Criminal matters in the County Court are usually heard and by a jury. That is, the jury delivers a verdict based on the evidence presented in Court, and the Judge imposes the appropriate penalty if the accused is found guilty. The jury normally consists of 12 people, although sometimes this number may be increased to 15 for long trials.

The County Court sits in 12 locations across Melbourne and regional Victoria, including Ballarat. The average run time of a trial in the County Court of Victoria is between 10-14 days.

## Matters Heard in the County Court

The County Court hears and determines indictable offences. Indictable offences carry a maximum penalty of more than two years imprisonment and/or a fine greater than 240 penalty units for a single charge.

## Examples of indictable offences in Victoria include:

- Sex Matters
- Drug Trafficking

The only indictable offences that cannot be heard in the County Court are murder, manslaughter and treason. These offences are considered too serious to be heard in the County Court and must be tried in the Supreme Court.

In some limited circumstances, summary offences may be heard summarily in the County Court.

## Penalties in the County Court

The County Court interprets sentencing laws and relevant criminal legislation when determining an appropriate sentence for indictable offences. Victoria's most serious indictable offences carry a maximum sentence of life imprisonment.

## Appeals to the County Court from the Magistrates Court

The Criminal Procedure Act 2009 (VIC) creates the following rights of appeal from the Magistrates' Court:

- Appeal by an accused against conviction and sentence;
- Appeal by an accused against sentence;
- Appeal by the Prosecution against sentence; and
- Appeal by the Prosecution against an offender's failure to fulfil an undertaking.

Following a decision in the Magistrates' Court, the Applicant has 28 days to lodge an appeal against conviction and sentence or against sentence alone with the registrar of the Magistrates' Court. These time limits do not apply to an appeal by the DPP or CDPP (the Prosecution) regarding a failure to fulfil an undertaking. This type of appeal may be listed at any time.

## Appealing outside of time

To lodge the notice outside the 28 days, you must seek leave from a County Court Judge. To successfully seek leave, you must satisfy the Judge that there were exceptional circumstances as to why the appeal was not lodged in the required time frame and that the delay in lodging the appeal would not prejudice the Prosecution's case.