



Practice Note No. 6 of 2014

Criminal Division: Case Management by Post-Committal Directions Hearings

The Criminal Division of the Supreme Court will continue to manage matters committed to the Supreme Court for trial or plea.

From 1 October 2014, pursuant to Part 5.5 of the *Criminal Procedure Act 2009* (Vic), such matters will be listed for a Post Committal Directions Hearing (PCDH) within 24 hours of the completion of the committal hearing. An indictment will not be required to be filed at the PCDH, however the relevant Director of Public Prosecutions will provide a police summary to the Supreme Court prior to the PCDH.

Counsel retained for the committal will be required to appear at the PCDH.

At the conclusion of the committal hearing, the Magistrates' Court will contact the Supreme Court Principal Registry (Registry) to schedule the PCDH. The Supreme Court Registry will advise the Magistrates' Court to bail or remand the accused to the relevant PCDH date. The Magistrates' Court will forward relevant documents to the PCDH Registry inbox (PCDH@supremecourt.vic.gov.au) on the day the accused is committed.

Where the committal proceeding concludes before 2pm, and where feasible, the PCDH may be heard in the afternoon on the same day and otherwise will be heard at 9:30 am the following sitting day.

Where a committal proceeding concludes outside of business hours, and it is not feasible to list the matter for the PCDH the following morning, subject to the availability of Counsel, the matter may be heard the following afternoon, or otherwise will be heard at 9.30 the morning after that.

If the committal has been conducted in a Magistrates' Court outside the Melbourne metropolitan area, then the PCDH will occur within five days of the completion of the committal hearing. Counsel who appeared at the committal will be required to appear at the PCDH.

Although where feasible, it is preferable for accused persons to attend the PCDH, with the exception of those defendants bailed to appear at the Supreme Court, accused persons will not be required to be present.

Supplementary to the matters contained in section 181(2) of the *Criminal Procedure Act 2009* (Vic), counsel will be expected to be in a position to address the following matters:

1. Whether the accused intends to plead guilty;
2. Whether the prosecution and the accused intend to enter into negotiations in relation to the plea of the accused;
3. The anticipated issues at the trial;
4. The admissions likely to be sought and/or offered;



5. Any potential issues that might warrant one or more early pre-trial hearings, and if so
 - (a) an estimate of the hearing time of those issues;
 - (b) appropriate directions for the disposition of those pre-trial issues;
6. The identification of any other pre-trial issues and the appropriate directions for the disposal of those pre-trial issues;
7. An estimate of the hearing time of the trial;
8. Trial date problems;
9. Any potential problems that might prevent a trial proceeding expeditiously;
10. Any potential legal representation and funding problems;
11. The estimated number and availability of witnesses for trial and whether any of the witnesses are interstate or overseas;
12. Whether there are any special requirements or facilities needed for witnesses;
13. Any issues as to obtaining psychiatric reports as to fitness to stand trial or mental impairment;
14. Any other potential expert witness issues;
15. Any subpoena issues, such as whether the defence intends to subpoena substantial police or other documentation;
16. Any security issues;
17. The possibility of an application for non-publication or like orders by the prosecution or defence, or both;
18. Whether a request should be made to the Magistrates' Court for immediate preparation of the whole or any part of the transcript of the committal hearing;
19. Whether extensive pre-trial management is desirable;
20. Whether a directions hearings timetable is desirable.

Where management is appropriate, cases will be managed by the judge presiding over the PCDH. Counsel at the PCDH, or the nominee or nominees of such counsel, are required to keep the Criminal Division informed and up-to-date as to any progress towards resolution and as to any later problems at the earliest possible stage to ensure that the trial commences on the proposed or fixed trial date. That should be done by communicating with the Associate to Principal Judge and by e-mail to the Supreme Court PCDH Registry inbox (PCDH@supremecourt.vic.gov.au). Where management is not appropriate, the provisions of Practice Note No. 4 of 2010 as to Final Directions Hearings will continue to apply.

Vivienne Macgillivray

Executive Associate to the Chief Justice

26 September 2014