

# About the County Court



A **Victoria Law Foundation** publication

# History and role of the County Court

County courts were established in Victoria in 1852. They were modelled on English county courts and operated in various locations throughout Victoria. Their purpose was to provide cheap and readily available forums for the quick disposal of small civil claims. In 1957, the County Court was established in the city of Melbourne as a single court for the State of Victoria. The jurisdiction of the County Court was expanded in 1968 to include criminal matters in addition to civil cases.

Judges from the court go ‘on circuit’ to regional centres throughout the year, continuing the court’s mission to provide accessible and affordable justice to the people of Victoria.

*Below: the County Court building*





## The building

A new County Court building, designed by Daryl Jackson, SKM and Lyons Architects, was opened on the corner of Lonsdale and William Streets on 31 May, 2002. With 54 courtrooms, the County Court building is Victoria's busiest trial court. The court building is equipped with various technologies, such as audio-visual conferencing. This might be used where parties are unable to attend the court session, or in cases where there might be a security risk to the parties or others if they were to attend in person. Many of the courts have monitors that can display evidence for the judge, counsel, jury and defendant to view. Courts on the upper levels have additional security features, such as



retractable screens, which can separate the dock area from the rest of the court.

The new County Court building also contains a number of works of art. These include the sculpture *The Lady of Justice* by William Eicholtz, and a mural by Judy Watson entitled *Ngarrn-gi—Land/Law* which reflects the importance of the land for the Indigenous people of Australia.

Unlike most courts, the County Court building is privately owned. Its owner, the Liberty Group Consortium, provides services to the court, and courtrooms may be privately booked for mediations, seminars or moot courts.

*Above: Colin Lanceley's artwork Quality of Mercy, made from suspended coloured glass panels, takes advantage of the natural light in the Public Hall. Photo: gregnoakes.com*

# Who's who in the County Court?

## Judge

The judge presides over the court and hears the matters brought before it. The judge acts impartially to ensure that the rules of evidence and proper procedures are followed. A judge also directs the jury and answers any questions it may have during a trial or when deliberating on the verdict.

If the jury finds a person guilty of a criminal offence, it is the judge's responsibility to decide the sentence to be imposed. In those civil cases in which there is no jury, the judge must decide whether the plaintiff has established his or her claim against the defendant. If the claim is established, the judge decides on the remedy.

## Jury

Trial by jury is a vital component of our legal system and our democratic way of life. Jury service is a fundamental responsibility of all citizens, as well as being a privilege. Jurors are randomly selected from the electoral roll.

### Typical criminal court





In the County Court of Victoria, all criminal trials are heard before a judge and jury. Twelve jurors are empanelled, although this may increase to 15 for long trials. It is the role of the jury to determine the facts and then apply the law, as explained by the judge, to those facts. In this way the jury reaches a verdict of guilty or not guilty. Majority verdicts (where 11 of the 12 jurors agree) may be accepted in trials relating to an offence under state law in the County Court.

Juries are not commonly used in civil cases. However, either party has the right to request that their trial be heard before a jury. When this happens, the party making the request must pay for the cost of the jury. A civil jury has six members. The jury's job is to decide whether the plaintiff has established the claim being made. It does this by applying the law, as explained by the judge, to the facts heard in evidence. The jury also determines the amount of damages (money) to be awarded. Majority verdicts of five of the six jurors may be accepted in civil trials.

## **Associate**

An associate assists the judge and many associates have legal qualifications. Associates record all orders made by the judge and



assist with the preparations for court hearings. They also coordinate and help to organise the judge's hearing and trial schedule and sit in court with the judge. Associates empanel juries and look after the exhibits that are presented as evidence in the trial. They liaise with other sections of the court, prison authorities, the legal profession and the public.

### **Tipstaves**

It is the tipstaff's duty to assist the judge and to ensure the smooth running of the court hearing. Tipstaves carry out ceremonial and practical tasks such as making announcements, swearing in witnesses, attending to the jury, and operating technology.

### **Barristers and solicitors**

These are the legal representatives of the parties. Parties in the County Court are usually represented by counsel (barristers). Occasionally, parties represent themselves: some cannot afford legal representation. Counsel wear legal robes, and sit at the bar table facing the judge. Instructing solicitors provide assistance during the case, sitting opposite counsel.



# What happens at the County Court?

The County Court is the main trial court in Victoria. Currently judges hear over 11,000 criminal and civil cases a year.

## **Criminal jurisdiction**

The County Court has jurisdiction to hear all indictable offences except treason, murder and certain other murder-related offences. Usually, the Director of Public Prosecutions decides whether to present a person for trial in the County or Supreme Court. In practice, the great majority of offences, such as drug offences, sex offences, driving offences, firearms offences and, on occasion, manslaughter, are heard in the County Court. The procedure followed depends on how the accused person pleads.

### *'Not guilty' plea*

Where an accused person pleads 'not guilty' to the charges, the court hears the matter as a criminal trial. The jury listens to the evidence and is instructed on the law by the judge.

The jury will then determine whether the defendant is 'guilty' or 'not guilty', according to the criminal standard of proof, that is, beyond reasonable doubt.





## *'Guilty' plea*

Where a person pleads 'guilty' to the charges brought against them, there is no need for a trial. Instead, the judge hears submissions in court regarding the nature of the offence, factors which might be taken into account in sentencing, and appropriate penalties.

Witnesses might be called to give evidence about the character of the person. The judge then passes sentence according to the requirements of the *Sentencing Act*.

## **Appeals**

The County Court can hear criminal appeals from the Magistrates' Court. These take place before a judge alone and relate to a conviction or an imposed sentence. A decision of the County Court in its appellate jurisdiction is generally final. The exception is when the County Court substitutes a sentence of imprisonment for a non-custodial sentence. In this case, the defendant may appeal to the Court of Appeal, provided leave is granted.

Appeals can also be heard from both the Criminal and Family divisions of the Children's Court.

*Photos: Max Deliopoulos*



## Civil jurisdiction

The County Court has unlimited monetary jurisdiction for all civil claims. Civil matters are heard by a single judge or, at a party's request, a judge and jury.

The procedure for civil matters in the County Court begins when a writ is filed. This is then served on the defendant(s). Once the writ is served, a notice of appearance is filed and the case is listed for a directions hearing. A directions hearing is a preliminary step which establishes time frames or makes orders relating to the payment of fees, discovery of documents and other court matters. The court may allocate a trial date or order mediation. If a dispute is not settled at mediation, a trial will be ordered. If a case proceeds to trial, a verdict will be entered based on the civil standard of proof, that is, on the balance of probabilities. When a judge alone hears a civil matter, the judge will hand down a judgment setting out the orders made by the court. Further information on the civil process can be found on the County Court website under 'Practice and Procedure' ([www.countycourt.vic.gov.au](http://www.countycourt.vic.gov.au)).

## Court Network services in the County Court

Court Network offers personal support, information and referral to people going to court. This service is provided by trained volunteers. Court Network also provides a telephone service which can assist people preparing to attend court. It provides information about court procedure and referrals to legal services or community resources.

Further information about the services offered by other agencies can be found on the County Court website under 'Support Services' ([www.countycourt.vic.gov.au](http://www.countycourt.vic.gov.au)).



## Court hierarchy

The County Court is the intermediate and largest trial court in the Victorian court hierarchy. The County Court has a criminal and civil jurisdiction for matters appearing before the court for the first time and in some circumstances may hear criminal appeals.

**High Court of Australia**

**Supreme Court of Victoria**

Court of Appeal  
Trial Division

**County Court**

**Magistrates' Court**

**Children's Court**  
**Coroner's Court**

**Victorian Civil and  
Administrative Tribunal (VCAT)**

*Above: Detail from Judy Watson's mural Ngarrn-Gi—Land/Law, displayed in the public entrance. Photo: Max Deliopoulos*

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## For further information:

Find more information about the County Court of Victoria at [www.countycourt.vic.gov.au](http://www.countycourt.vic.gov.au)

School tours of the court can be arranged via the Law Institute of Victoria (03) 9607 9468. For other queries, contact the Court's Communications Manager on (03) 8636 6272.



## County Court of Victoria

250 William Street  
Melbourne Vic 3000 Australia  
[www.countycourt.vic.gov.au](http://www.countycourt.vic.gov.au)

*The image on the front of this brochure shows the entrance to the County Court building, featuring the original sculpture by William Eicholtz, The Lady of Justice, 2002.*

*Photo: Max Deliopoulos*

*The County Court logo is based on this sculpture.*

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This brochure was produced for the County Court of Victoria by

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Victoria Law Foundation helps Victorians understand the law and their legal system. We are a not-for-profit organisation funded by the Legal Services Board Public Purpose Fund.

See our website at [www.victorialawfoundation.org.au](http://www.victorialawfoundation.org.au)

First published 2008

This edition May 2011

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ISBN 978 1 876045 94 4

Except where otherwise indicated, photographs courtesy of The Liberty Group, owners & operators of the Victorian County Court facility

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