



# County Court Criminal Division

**Her Honour Judge Lisa Hannan – Head of Criminal Division**

## Message from the Head of the Criminal Division

As the holiday period rapidly approaches it is timely to reflect on what has been another busy year with many challenges and successes. Some of the achievements that the Criminal Division is proud of include the number of trials, pleas, appeals and applications completed, the further development of the Trial Management Table, the implementation of eLodgment for appeals and the continuing work on the Blue Sky Review of listing practices.



Her Honour Judge Hannan

In terms of challenges, we continue to manage issues such as increasing trial duration and the sharp increase in post-sentence judicial management including Supervision Orders, judicial monitoring and contraventions. This work mostly occurs outside of normal trial sittings times and in the absence of any increase in resources to deal with such matters.

I thank you all for your hard work and commitment and I trust that everyone is looking forward to a well-earned break. The Criminal Division newsletter will resume in February 2017 and I look forward to working with you again next year.

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## Judge Lyon's Welcome Ceremony

On 26 October 2016 Judge Gregory Lyon was sworn in and welcomed as a Judge of the County Court. The welcome was well attended by family, friends, colleagues and members of the profession. David O'Callaghan QC spoke about Judge Lyon's beginnings in a civil law firm in 1984 before realising his passion for criminal law and advocacy and joining the bar in 1988.



His Honour Judge Lyon

His Honour read with now Director of Public Prosecutions John Champion SC before going on to appear in high profile and complex matters such as the Grollo trials and the Victorian Bushfires Royal Commission.



Chief Judge Kidd welcomes Judge Lyon

President of the Law Institute of Victoria, Steven Sapountis, outlined some of Judge Lyon's professional history and experience and spoke of His Honour's calm and composed demeanour as a barrister.

Judge Lyon spoke about the importance of briefing female barristers and the noticeable under-representation of female silks in criminal law. His Honour emphasised the importance of ensuring that both the bar and the bench are representative of our whole community.

The Criminal Division welcomes Judge Lyon to the County Court. Video of His Honour's welcome ceremony can be viewed [here](#).



## 'Law and Courts in an Online World' International Conference

On 8 and 9 November 2016, Chief Judge Kidd and Judge Hannan each chaired sessions at Victoria University's international conference *Law and Courts in an Online World*. The conference's aim was to bring the legal sector together to explore the ways in which disruptive change and emerging business models are reshaping law and legal institutions, and how we can improve access to 'justice for all' via technology.



Judge Hannan discusses jury management in Victoria and New South Wales.  
*Photo courtesy of Victoria University*

Chief Judge Kidd chaired a session entitled 'Disrupting the Court Process - Better, stronger, faster, cheaper and more sustainable courts'. The panel and audience members had a fruitful discussion about how improving the technology used by courts can have a positive impact on court users across all jurisdictions. The challenges that in-court technology present were also discussed along with the benefits from the perspective of sustainability and the environment.

Judge Hannan chaired a session entitled 'Digitised Jury Management, Innovation & Cross Jurisdictional Collaboration'. Paul Dore, Juries Commissioner for Victoria, and Nicola Church, Manager of Jury and Court Administration for New South Wales described how both jurisdictions worked together to develop and implement the new Jury Management System, customised for each jurisdiction. This has dramatically reduced administrative tasks, allowed instant communication with prospective jurors through email and SMS, and reduced the need for prospective jurors to attend court unnecessarily.



Chief Judge Kidd chairs the session on improving court processes.  
*Photo courtesy of Victoria University*

The conference was attended by judicial officers, members of the legal profession, court administrators and academics from around the world. It was a valuable opportunity to share experiences and learn from other jurisdictions.



## Key Dates

### Friday 23 December 2016

Last sitting day for the year

### Monday 23 January 2017

First sitting day for the year

### Thursday 26 January 2017

Australia Day Public Holiday

## Chief Judge on 774 ABC Radio



Chief Judge Peter Kidd

On 15 November Chief Judge Peter Kidd featured on 774 ABC radio with Jon Faine. In an effort to further deliver and promote justice through better engagement with the community, Chief Judge Kidd responded to questions submitted by text message from the public. Chief Judge Kidd commented that the more the public know about the work of the Court, the better they understand the sentences that are imposed.



## Next Edition

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

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

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Chief Judge Kidd also spoke about initiatives that the County Court has undertaken this year to increase understanding of the work of the Court such as the journalists' media portal. The interview with Chief Judge Kidd can be heard [here](#).

## Practice and Procedure

### General Subpoenas and Confidential Communications

Practitioners are asked to pay particular attention when issuing a **general subpoena** for the production of documents. If a practitioner intends to issue a subpoena likely to contain confidential communications, then the procedure in [s.32C of the Evidence \(Miscellaneous Provisions\) Act 1958](#) and chapter 22 of the [Criminal Division Practice Note](#) must be complied with.

### Listing Times for Trials, Pleas and Appeals

The current listing times for trials, pleas and appeals remain steady and are all the same as, or a reduction from the same time last year.

|  |           |
|--|-----------|
| Custody Trials ( <i>all durations</i> )  | 8 months  |
| 5 and 10 day Trials                      | 9 months  |
| 15 days Trials                           | 10 months |
| Pleas                                    | 3 months  |
| Appeals – <i>Sentence Only</i>           | 2 months  |
| Appeals – <i>Conviction and Sentence</i> | 4 months  |

## New Tipstaff Uniform

The traditional green coat and trousers worn by tipstaves will be replaced in 2017 with a charcoal suit, consistent with the County Court's move towards a more modern, accessible and approachable Court.

The traditional green coat has been worn by Tipstaves (formerly known as both court messengers and court criers) since 1880 and the colour green was later chosen for County Court Tipstaves as it identified a person who was in service to the State of Victoria. The uniform change is welcomed by our Tipstaves, who have worn the current green uniform since the late 1960s.



A Court Crier circa 1887

Practitioners and court users will be able to identify the new uniform by the inclusion of the Lady of Justice logo on the front left side together with the gold crowns on the lapels. Tipstaves who have been awarded military ribbons or citations will continue to display these embellishments on their jackets.

## Media Test Court

The Media Test Court 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.



Practitioners are encouraged to utilise this resource to ensure that any media they intend to rely upon in court is compatible with the court system.

Chapter 47 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.



## Legislation Update

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



The *Sentencing (Community Correction Order) and Other Acts Amendment Bill 2016* received Royal Assent on **15 November 2016**. The Bill will amend 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. The Act will commence on 2 October 2017 unless proclaimed earlier.