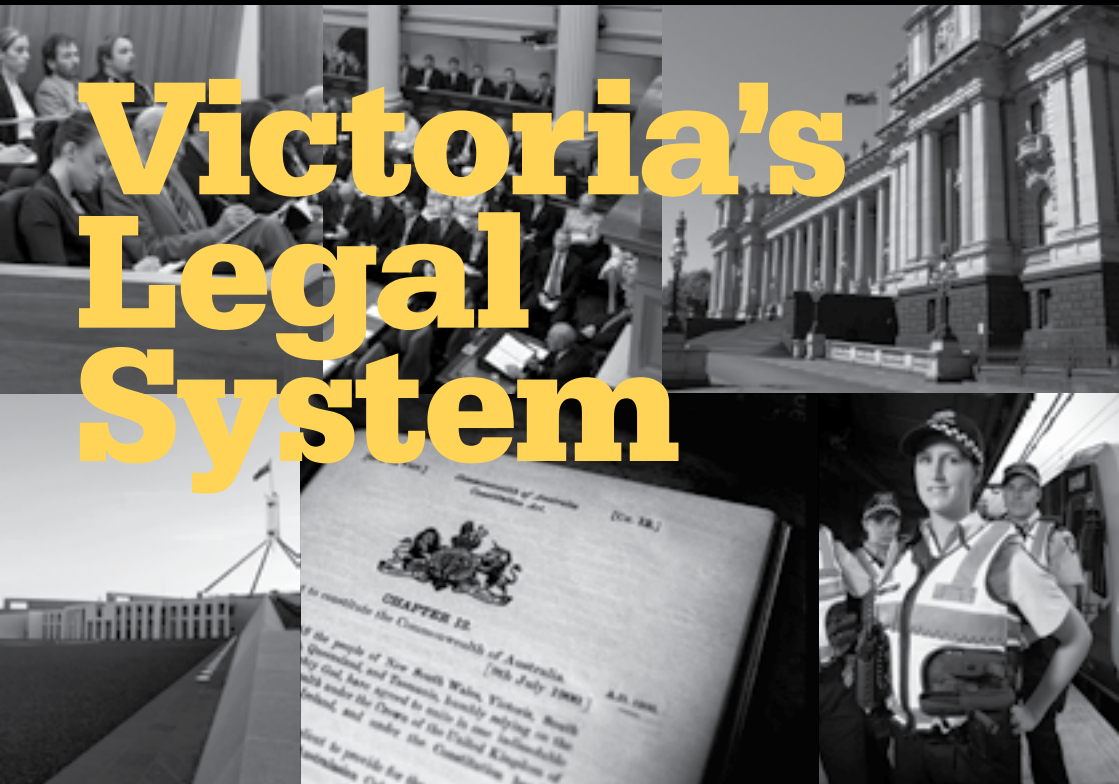


Victoria's Legal System



**An introduction
to the legal
system in Victoria**



This guide has been developed to help you understand how Victoria's legal sector works.

It explains which laws apply in Victoria and who's who in the legal sector. It will also point you in the direction of other resources if you want to know more.

Find out more at...
www.victorialawfoundation.org.au

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Victoria's legal system

There are many different people and organisations that make up Victoria's legal sector, working together to provide a fair and accessible justice system for all Victorians.

This diagram lists the sources of law that apply in Victoria and the different organisations that form Victoria's legal sector.

Laws in Victoria

Where do the laws come from?

- The Australian Constitution
- Victorian legislation
- Federal legislation
- Common law

Victoria's legal sector

Courts and tribunals

Victorian courts and tribunals

- Supreme Court of Victoria
- County Court of Victoria
- Magistrates' Court of Victoria
- Children's Court of Victoria
- Coroners Court of Victoria
- Neighbourhood Justice Centre
- VCAT (Victorian Civil and Administrative Tribunal)
- Victims of Crime Assistance Tribunal

Federal courts

- High Court of Australia
- Federal Court of Australia
- Family Court of Australia
- Federal Magistrates Court of Australia

Government

- Attorney-General
- Department of Justice
- Director of Public Prosecutions and Office of Public Prosecutions
- Commonwealth Director of Public Prosecutions
- Victoria Police
- Australian Federal Police

Legal profession

Practitioners

- Solicitors
- Barristers

Professional associations

- Law Institute of Victoria
- Victorian Bar

Regulating the profession

- Legal Services Board
- Legal Services Commissioner

Independent legal services

- Victoria Legal Aid
- Community legal centres

Law reform

- Victorian Law Reform Commission
- Victorian Parliament Law Reform Committee
- Sentencing Advisory Council
- Australian Law Reform Commission

Public education in the law

- Victoria Law Foundation

The Australian Constitution provides a framework for the development of all laws in Australia.

Laws in Victoria

This section will introduce you to the laws that affect you in Victoria and explain where the laws come from.

[63 & 64 Vict.]

Commonwealth of Australia
Constitution Act.



An Act to constitute the Commonwealth of Australia.

CHAPTER 12.

[9th July 1901.]

A. 13. 1901.

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution here established:

And whereas it is expedient to provide for the Commonwealth of other Australian Colonies:

Therefore enacted that the

Laws in Victoria

In Australia we have a federal system of government that governs all Australian states and territories; therefore people in Victoria are subject to both federal and Victorian laws.

Under our federal system, power to make laws is shared between the Federal Parliament in Canberra and each state parliament.

The Federal Parliament has power to make laws that affect all of Australia, whereas the Victorian Parliament can only make laws that affect Victoria. To reduce confusion, the Australian Constitution outlines the laws that can be made by the Federal Parliament.

Where do the laws come from?

The laws that affect you as a Victorian come from several different sources: the Australian Constitution, Victorian legislation, federal legislation and common law.

The Australian Constitution

The Australian Constitution is Australia's supreme law, providing a framework for the development of all other laws in Australia, by establishing the division of power between the federal and state parliaments. The Constitution also provides fundamental laws and protections for all Australians.

The Australian Constitution was passed in 1900 to ensure greater cooperation between the states, which had been operating as six self-governing British colonies since European settlement. Under the Constitution, the Federal Government has the ability to make laws for all of Australia—allowing a more coordinated approach to the development of laws of national significance, such as those relating to defence.

In agreeing to the Australian Constitution, the states passed some power to the Federal Government to make laws for the whole nation, while still maintaining the power to make other laws relating to their state.

The division of power established under the Australian Constitution can be changed either by the states referring powers to the Commonwealth, or by a vote of the people, known as a referendum. As a result the division of power can change over time.

What's the difference between ...

Legislation, statutes and acts?

Nothing ... All these words mean the same thing—laws made by parliament.

Commonwealth, Federal and Australian Parliament?

Again, nothing. All three terms refer to the Australian Parliament in Canberra. You can find out more about the Australian Parliament at www.aph.gov.au.



Australia's Federal Parliament sits at Parliament House in Canberra.

Victorian and federal legislation

Victorian legislation consists of laws made by the State Parliament of Victoria. Federal legislation consists of laws made by the Federal Parliament in Canberra. The Federal Parliament can only make law under the powers provided to it under the Australian Constitution or by agreement with the states.

Federal legislation affects all Australians, while Victorian legislation affects only Victoria. At any one time there will be hundreds of pieces of legislation in place, setting out the laws in all aspects of our lives.

To look at examples of legislation, go to www.comlaw.gov.au for federal legislation or www.parliament.vic.gov.au/legislation for Victorian legislation.

Common law

Common law, sometimes referred to as judge-made law, is law developed by judges as they decide cases.

In deciding cases, judges refer to previous decisions for guidance on how the law is applied. Judges must also interpret the meaning of legislation in relation to particular situations. They record their decisions in written judgements that are then referred to in the future by other judges. This ensures that the law is applied consistently. In this way judges clarify and sometimes refine the meaning of the law, using a system of precedent.

The concept of common law is hundreds of years old and goes back to when there was little or no written legislation. At this time judges referred to other judges' decisions to ensure that matters coming before the court were treated consistently.



Left: Victorian Members of Parliament on the steps of Parliament House, Spring Street, Melbourne.

Below: Tom Roberts, *The Opening of the First Parliament of the Commonwealth of Australia by HRH the Duke of Cornwall and York, 9 May 1901* (1903).



The legal sector in Victoria



This section explains the organisations that make up the legal sector in Victoria, including courts and tribunals, government bodies, the legal profession, independent legal services, law reform and education.

The Supreme Court of Victoria is the highest court in Victoria.

The legal sector in Victoria

In Victoria, like other states, there are many different organisations and professionals that make up the legal sector. These bodies include courts and tribunals, the legal profession, government offices and bodies and non-government organisations.

This section of the guide outlines the different parts of the sector and what they do.

Courts and tribunals

The arbiters of the law in the legal sector are its courts and tribunals. As federal and Victorian laws apply in Victoria, both federal and Victorian courts and tribunals operate in Victoria.

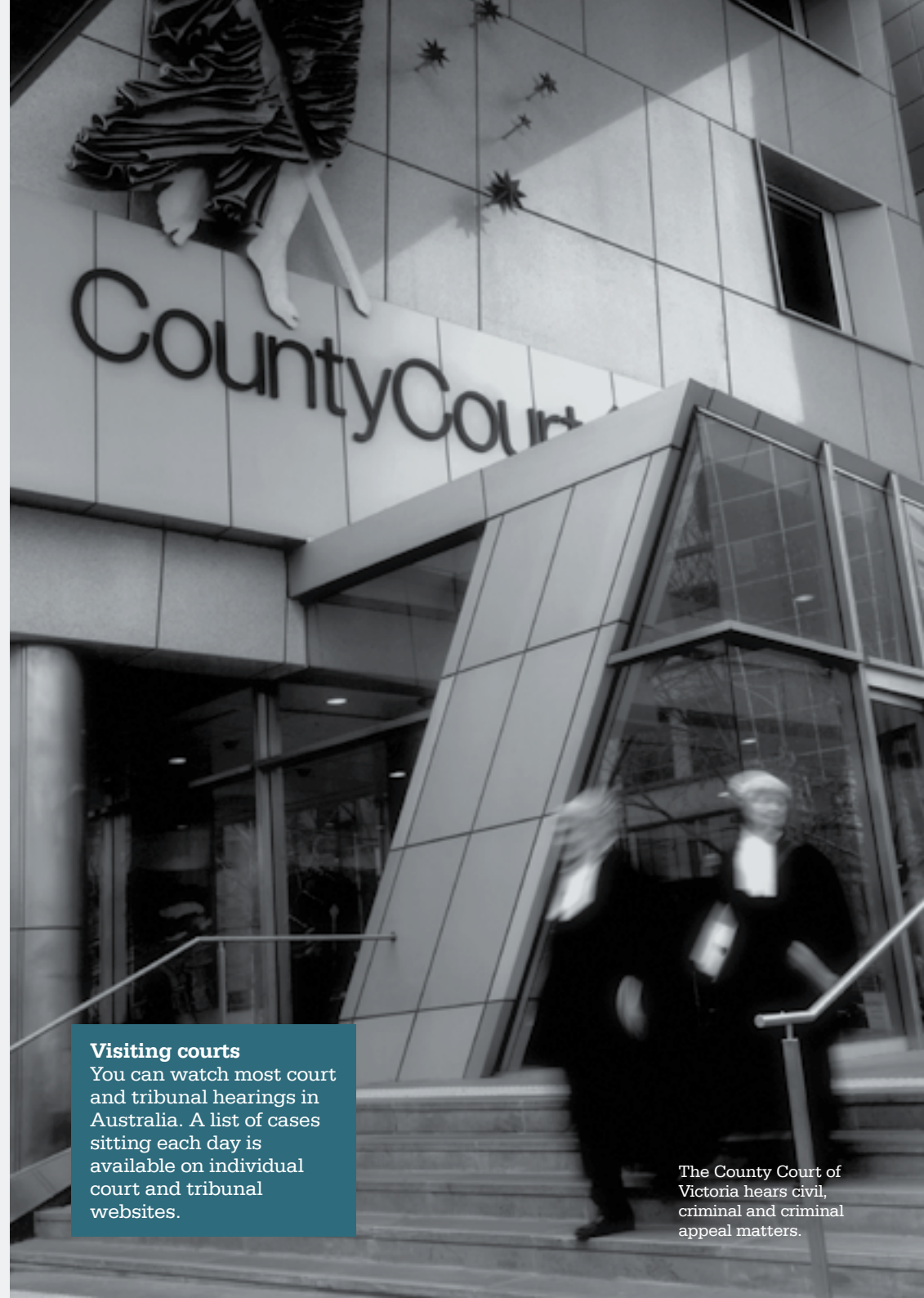
Which court or tribunal hears a case depends on the court's or tribunal's jurisdiction. *Jurisdiction* refers to the areas of law or monetary limits that may be heard by a court or tribunal. The most serious cases will be heard in the superior courts, while more general cases are heard in the lower courts.

The most superior court in Australia is the High Court of Australia.

Visiting courts

You can watch most court and tribunal hearings in Australia. A list of cases sitting each day is available on individual court and tribunal websites.

The County Court of Victoria hears civil, criminal and criminal appeal matters.



Victorian courts and tribunals

Supreme Court of Victoria

210 William Street, Melbourne
www.supremecourt.vic.gov.au

The Supreme Court of Victoria is the highest court in Victoria. It is headed by the Chief Justice of Victoria. The Chief Justice is the most senior judicial officer in the state.

The Supreme Court is divided into two divisions—the Court of Appeal and the Trial Division. The only court that is superior to the Supreme Court is the High Court of Australia. The Supreme Court deals with serious criminal cases and complex civil cases.

The Supreme Court is located in central Melbourne and travels on circuit throughout Victoria during the year—check the Supreme Court website for details.

The Supreme Court was established in 1852.

Court of Appeal

The Court of Appeal is a division of the Supreme Court of Victoria. It is headed by the President of the Court of Appeal and hears appeals from the Trial Division of the Supreme Court and other Victorian courts and tribunals.

The Chief Justice, the President of the Court of Appeal and a number of appeal justices make up the Court of Appeal. Usually three judges will hear an appeal, although five may sit if the matter is very significant.

Trial Division

The Chief Justice and Supreme Court justices make up the Trial Division of the Supreme Court, which hears major criminal matters, including murder, and civil cases involving major sums of money or complex legal matters.

County Court of Victoria

250 William Street, Melbourne
www.countycourt.vic.gov.au

The County Court of Victoria is headed by the Chief Judge and sits in the middle of the court hierarchy—above the Magistrates' Court and below the Supreme Court.

The County Court hears civil, criminal and criminal appeal matters. The County Court hears more serious criminal cases than the Magistrates' Court, including matters involving drugs, robbery, dangerous driving and sex offences. Criminal and civil cases in the County Court may be heard before a judge and jury or a judge alone.

The County Court is located in central Melbourne. It also presently sits at 13 locations across Victoria. Details of when the court is sitting outside Melbourne can be found on the County Court website.

The County Court was established in 1958. Prior to this, regional courts performed the role of the County Court.

What is an appeal?

An appeal is when one of the parties to a case disagrees with the decision given by the court and seeks a review from a superior court.



Jury members observe proceedings in a County Court trial.

About juries

Juries are an important part of Victoria's civil and criminal law system. Juries comprise citizens randomly chosen from the electoral register, and enable non-legal members of our community to participate in the administration of justice.

Juries are required for serious criminal trials and some civil trials in the County and Supreme Courts. Twelve jury members sit in a criminal trial. The jury must decide if the accused person is guilty as charged. For civil trials (private disputes between parties) there are six jury members. In these cases, the jury must decide which party is at fault.

Most trials take five to ten days, but they can take longer. Jurors are paid a small amount of money by the court and their employer is required to pay them the amount they would normally earn at work, minus this small stipend. Jury duty is compulsory.

For more information about jury service see the *Juror's Handbook*, available online at www.victorialawfoundation.org.au/publications/catalogue.

Magistrates' Court of Victoria

233 William Street, Melbourne
www.magistratescourt.vic.gov.au

The Magistrates' Court is headed by the Chief Magistrate.

The Magistrates' Court handles both criminal and civil matters. Within the Magistrates' Court there are a number of separate jurisdictions and lists which deal with matters on specific topics.

Magistrates' Courts sit in 53 locations, and they hear most of the cases that reach court in Victoria. There are no juries in the Magistrates' Court—each case is determined by a single magistrate.

Criminal matters that are heard in the Magistrates' Court include all summary offences, which are less serious offences than those heard by the County and Supreme Courts. The Magistrates' Court also hears some more serious offences, but only where the accused has elected not to have their case heard before a jury.

This court also conducts hearings called committal hearings, where a magistrate decides if there is enough evidence for a serious case to proceed to the County or Supreme Court.

Bail hearings are also conducted in the Magistrates' Court. This is where a magistrate decides if an accused person on remand should be granted bail and what conditions should be imposed.

The Magistrates' Court also determines civil disputes in which the disputed amount is \$100,000 or less. Disputes involving larger amounts are heard in the County or Supreme Courts.

The Magistrates' Court has been operating since around 1838.

Drug Court

The Drug Court is a division of the Magistrates' Court, based at the Dandenong Magistrates' Court. It handles criminal cases where the offender has a drug or alcohol problem.

The Drug Court has the power to sentence offenders to undertake a drug treatment program rather than spend time in jail, although jail sentences are usually suspended—meaning a person could still have to go to jail if they breach the conditions imposed by the Drug Court.

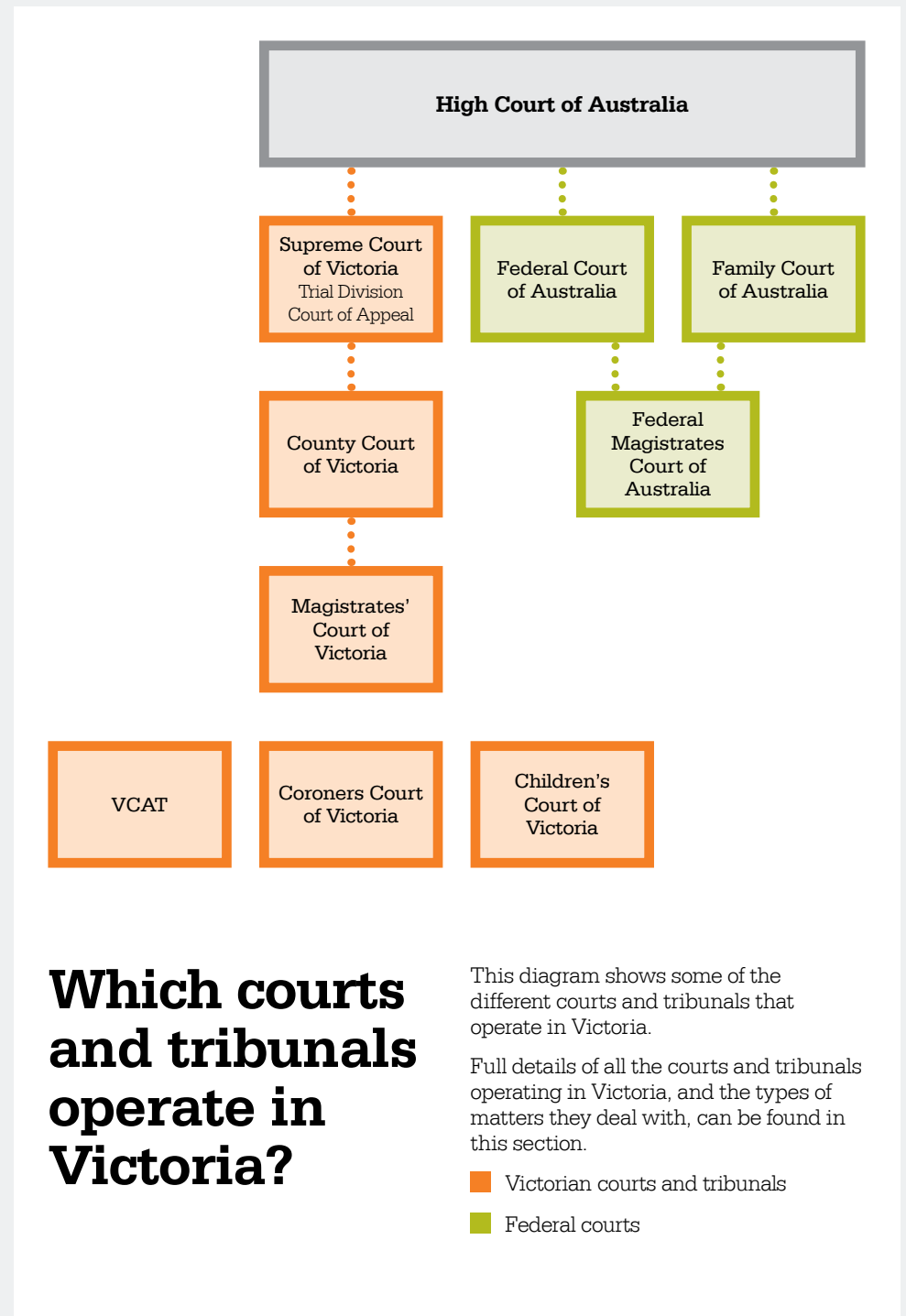
Assessment and Referral Court List

The Assessment and Referral Court List is a special list for criminal cases in the Magistrates' Court where the person accused of the crime has a mental illness or cognitive impairment. The court process is more informal than in the ordinary Magistrates' Court.

The Assessment and Referral Court List aims to address the underlying factors that cause mentally ill people to commit crime, and make sure that they have access to the support services they need. It was set up to help find alternatives to prison sentences for mentally ill people.

Koori Court

The Koori Court is a division of the Magistrates' Court for Aboriginal Victorians who have been charged with criminal offences. Koori Courts have been developed to reflect cultural issues and operate in a more informal way than the Magistrates' Court. All the participants sit around one table, including the magistrate, Aboriginal elders, the accused person, and members of their family. The matter is then discussed without technical legal language, and the magistrate decides on a sentence that is appropriate for the offender and their community.



Family Violence Court Division

This court is a special division of the Magistrates' Court that deals with violent crime within families. Magistrates at these divisions have the power to order violent offenders to attend counselling programs. Family Violence Divisions are located at the Magistrates' Courts in Ballarat and Heidelberg. These two divisions have special support services on site, including trained social workers, extra security officers, and extra legal advisors from Victoria Legal Aid and community legal centres.

Melbourne, Frankston, Sunshine and Werribee Magistrates' Courts also have similar support services. The service at these courts is called the Specialist Family Violence Service.

Children's Court of Victoria

477 Little Lonsdale Street, Melbourne
www.childrenscourt.vic.gov.au

The Children's Court handles cases involving children and young people under the age of 18. It has two divisions: the Family Division and the Criminal Division. The Family Division deals with matters relating to the care and protection of children and young people at risk, as well as applications for intervention orders. The Criminal Division deals with children and young people accused of committing crime.

The Children's Court is separate from the Family Court. The Family Court (a federal court) deals with divorce and other related matters, such as the distribution of property and access to children. See page 23 for more information about the Family Court.

Coroners Court of Victoria

222 Exhibition Street, Melbourne
www.coronerscourt.vic.gov.au

The Coroners Court investigates the cause and circumstances of some deaths and fires. Unlike other courts, it is investigative rather than adversarial. A coroner cannot find guilt or innocence, or criminal liability. Their primary purpose is to make recommendations to help prevent similar deaths or fires in the future. Not every death in Victoria is investigated by a coroner.

Coroners can only investigate deaths that are unexpected, unnatural, violent or which resulted from accident or injury. This can include deaths that occur during or following a medical procedure, or where a doctor is unsure of the cause of death. A coroner must investigate all deaths that occur while the person was in state custody. Coroners must also investigate reviewable deaths. Reviewable deaths occur when two or more children of the same parents have died.

Formerly the State Coroner's Office, the jurisdiction became a court in its own right with the commencement of the *Coroners Act 2008* in November 2009.



Group problem solving is used by the Neighbourhood Justice Centre to help people address issues before the court.

Neighbourhood Justice Centre

241 Wellington Street, Collingwood
www.neighbourhoodjustice.vic.gov.au

The Neighbourhood Justice Centre is an innovative court that brings together integrated support services and community programs. It aims to tackle the underlying causes of criminal behaviour and disadvantage, reducing crime and improving the wellbeing of the community.

The centre's magistrate hears Magistrates' Court cases, Children's Court cases, and cases that would otherwise be heard at VCAT or the Victims of Crime Assistance Tribunal.

The Neighbourhood Justice Centre offers special on-site support services such as legal aid, financial advice, mental health assistance, victim support and alcohol and other drug assessment and support.

Different courts and tribunals operate in different ways. Some courts are designed to accommodate different cultural needs, like the Koori Court. Some tribunals, like VCAT, are less formal to assist people to represent themselves and to reduce the cost of going to court.

VCAT (Victorian Civil and Administrative Tribunal)

55 King Street, Melbourne
www.vcat.vic.gov.au

The Victorian Civil and Administrative Tribunal, commonly referred to as VCAT, deals with a wide range of everyday legal disputes. VCAT is located in central Melbourne and also sits at various locations across metropolitan and regional Victoria.

VCAT hears disputes about discrimination, building, debt, guardianship, health, privacy, legal practice, mental health, owners corporations (formerly known as bodies corporate), tenants and landlords, and the purchase and supply of goods and services.

VCAT also hears disputes between people and local or state governments, including matters about planning and land valuation, business licences, state taxation, decisions made by the Transport Accident Commission and decisions made under the *Freedom of Information Act 1982*.

VCAT runs a separate list of cases for each different type of dispute. A list is a group of cases that involve similar subject matter—for example, civil claims, mental health or land valuation. VCAT encourages people to settle their disputes before the matter reaches a hearing, by attending mediation or a compulsory conference.

If either party is unhappy with a VCAT decision, they can appeal to the Supreme Court. However, appeals must be about ‘a question of law,’ not ‘a question of fact.’ This means that you can only appeal a decision if the tribunal has made a mistake in its application of the law.

VCAT was established in 1998.

VCAT lists

Anti-Discrimination List
Civil Claims List
Domestic Building List
General List (including Transport Accident Commission and Freedom of Information)
Guardianship List
Health and Privacy List
Land Valuation List
Legal Practice List
Mental Health List
Occupational and Business Regulation List
Owners Corporation List (body corporate issues)
Planning and Environment List
Real Property List
Residential Tenancies List
Taxation List

Victims of Crime Assistance Tribunal

233 William Street, Melbourne
www.vocat.vic.gov.au

The Victims of Crime Assistance Tribunal gives financial assistance to Victorians who have been injured by an act of violent crime. This tribunal sits at most Magistrates’ Courts across Victoria. Victims of crime and their families can make an application to this tribunal. The tribunal decides if they are entitled to financial assistance and, if so, how much. The act of violence must have occurred in Victoria, and it must have resulted in injury or death to at least one person. The word *injury* includes physical harm, mental illness and pregnancy. It does not include damage to property or theft.

The Victims of Crime Assistance Tribunal was established in 1996.

Federal courts

The Victorian court system includes federal courts. These are courts that apply laws made by the Federal Parliament in Canberra. These courts include the Federal Court of Australia, the Family Court of Australia and the Federal Magistrates Court of Australia. The High Court of Australia is also a federal court.

The federal courts in Melbourne primarily sit at the Commonwealth Law Courts on the corner of William and La Trobe streets.

High Court of Australia

www.hcourt.gov.au

The High Court is Australia’s federal constitutional court and the highest court of appeal. It is headed by the Chief Justice of the High Court. The High Court interprets and applies the law of Australia; decides cases of special federal significance including challenges to the constitutional validity of laws; and hears appeals, by special leave, from federal, state and territory courts, including the Supreme Court of Victoria.

When deciding whether to grant special leave to appeal, the High Court considers whether the matter involves a question of law that is of public importance, whether there are differences of opinion between courts or within a court as to the state of the law on the matter, and whether the appeal should be heard in the interests of the administration of justice.

The High Court was established in 1901 under the Australian Constitution. The first sitting of the High Court took place in the Banco Court of the Supreme Court in Melbourne on 6 October 1903. While most sittings are held in the national capital, Canberra, the court may sit in the capital cities of the states. Applications for special leave are heard one day each month in Melbourne and Sydney and on occasions by video link with other capital cities. Check the High Court website for visiting dates.

Federal Court of Australia

www.fedcourt.gov.au

The Federal Court of Australia deals with complex matters of federal law, including shipping law, bankruptcy, corporations law, competition law, constitutional law, native title and some criminal matters. The Federal Court of Australia also deals with appeals from the Federal Magistrates Court.

The Federal Court opened in 1977.

Family Court of Australia

www.familycourt.gov.au

Family law matters like divorce and disputes relating to property and children after separation are dealt with under federal laws.

The work of the Family Court has changed over the years, and it now generally deals with appeals and with the most complex family law cases that often involve issues such as international law, allegations of family violence, mental illness or substance abuse. Most family law matters are now dealt with in the Federal Magistrates Court.

Federal Magistrates Court of Australia

www.fmc.gov.au

The Federal Magistrates Court deals with over 80 per cent of all family law cases in Australia (except Western Australia). It also has a wide jurisdiction to hear general federal law matters. In family law, the court generally deals with divorce applications, applications for parenting and/or property orders and with child support and enforcement issues. The court’s general federal law jurisdiction includes bankruptcy, migration, industrial law, copyright, discrimination, privacy, trade practices and consumer protection, admiralty and administrative law. In 2013, the Federal Magistrates Court will be renamed the Federal Circuit Court of Australia.

In Victoria, the main registries are located in Melbourne and Dandenong. The court also sits in many regional locations.

Government

There are many government bodies that deal with legal or law-related matters. The following are the most significant, working directly within the legal sector.

Attorney-General of Victoria

The Attorney-General of Victoria is the state government minister responsible for the legal system in Victoria, including all the Victorian courts and tribunals. The person who holds the office of Attorney-General is an elected member of the Victorian Parliament.

The Attorney-General is responsible for advising the government on improving the legal system. This includes providing advice on general government policy relating to the law and the courts, as well as recommendations for law reform. This practical work is carried out by the Department of Justice, the department of the Victorian public service that provides advice and support to the Attorney-General.

Department of Justice

www.justice.vic.gov.au

The Department of Justice is part of the Victorian public service. It is the key coordinating agency for the state's justice system, including police, criminal prosecutions, the administration of courts and tribunals, prisons and community corrections services, and emergency services. The department also deals with racing and gaming, and the provision of legal advice to the government.

The Department of Justice is responsible for some dispute resolution services, such as those offered by Consumer Affairs Victoria and the Dispute Settlement Centre of Victoria.

The Department of Justice is responsible to five Victorian Government ministers: the Minister for Police, Emergency Services and Bushfire Response; the Minister for Corrections, Crime Prevention and for the establishment of an anti-corruption commission; the Minister for Gaming and Consumer Affairs; the Minister for Racing; and the Attorney-General.

Director of Public Prosecutions and the Office of Public Prosecutions

www.opp.vic.gov.au

The Office of Public Prosecutions is the independent statutory authority responsible for preparing and conducting criminal prosecutions in Victoria. It is headed by the Director of Public Prosecutions.

In 1983, Victoria became the first jurisdiction in Australia to establish an Office of Public Prosecutions and appoint a Director of Public Prosecutions.

The Director of Public Prosecutions has responsibility for prosecuting all indictable offences under Victorian law on behalf of the Crown in the High Court, the Supreme Court of Victoria and the County Court of Victoria.

Among the matters prosecuted by the Office of Public Prosecutions are:

- all murders
- corruption cases involving police or lawyers
- major sex offence cases
- major drug and fraud cases
- criminal appeals in the Court of Appeal and the High Court.

The Office of Public Prosecutions also supports the prosecution of serious offences by a range of other statutory authorities and state government departments.



The State Parliament of Victoria is located on Spring Street in central Melbourne.

Commonwealth Director of Public Prosecutions

www.cdpp.gov.au

The Office of the Commonwealth Director of Public Prosecutions is an independent prosecuting service established by the Federal Parliament to prosecute alleged offences against federal laws.

It prosecutes a wide range of criminal offences including the importing of drugs, frauds against the Commonwealth including tax and social security fraud, people smuggling and terrorism.

Victoria Police

www.police.vic.gov.au

Victoria Police investigates and enforces traffic and criminal matters under state and Commonwealth legislation in Victoria. In some circumstances Victoria Police may also appear in court to prosecute breaches of Victorian law.

There are over 300 police stations in Victoria. Many of these stations are open 24 hours a day.

Australian Federal Police

www.afp.gov.au

The Australian Federal Police enforces Commonwealth criminal law (criminal laws developed by the Federal Government) and protects Australia's interests from crime in Australia and overseas. It works closely with Victoria Police and other state, national and international law-enforcement bodies.

Matters investigated and prosecuted include terrorism, drug trafficking, people smuggling, high-tech crime involving information technology and communications, and money laundering.

Crime in Victoria

Most criminal law in Victoria is made by the Victorian Parliament and enforced by state government departments, including Victoria Police and the Office of Public Prosecutions.

There are some crimes that the Victorian Government does not deal with—these are crimes that affect the whole Australian nation in some way, or crimes that have an international aspect. The Federal Government makes laws regarding these crimes, and they are enforced by the Australian Federal Police. Federal crimes include people smuggling, cyber-crime and international drug trafficking.



Victoria Police are an important part of Victoria's legal sector, investigating and enforcing crime across the state.

The legal profession

The legal profession is an integral part of the legal system in Victoria. Legal professionals work across many organisations and bodies as well as providing advice and appearing in court. In Victoria lawyers practise as either solicitors or barristers.

The profession

Solicitors

If you have a legal problem that you need help with, you will generally first seek advice from a solicitor.

Solicitors advise clients on legal matters, prepare legal documents and brief barristers about the details of their clients' claims so that a barrister can represent their client in court.

Some solicitors represent clients in the Magistrates' Court or help barristers represent clients in higher courts. A very small number of solicitors act as advocates in the higher courts.

Solicitors can work for themselves, private law firms or for other organisations such as government, community legal centres or Victoria Legal Aid.

Barristers

Barristers are lawyers who specialise in representing clients in court. Generally, a client will first seek advice from a solicitor who then briefs a barrister if the matter is to go to court or if specialist advice is required.

The most skilled barristers are recognised by the mark of distinction of Senior Counsel (prior to 2000 they were appointed Queen's Counsel or QCs), also known as SCs or silks.

Professional associations

Solicitors and barristers have their own professional associations.

Law Institute of Victoria

www.liv.asn.au

The Law Institute of Victoria is the state's peak body for lawyers. The Law Institute of Victoria's purpose is to be a leader and innovator of the legal profession, to support and inform members, and to raise the profile and standing of the legal profession.

The Law Institute of Victoria's Legal Referral Service assists the public to find a member lawyer to assist them with their legal issue.

Victorian Bar

www.vicbar.com.au

The Victorian Bar is the professional association of barristers practising in Victoria. On behalf of its members the Victorian Bar promotes the administration of justice and the rule of law.



How do I find a lawyer?
Finding the right legal service can be difficult. Victoria Legal Aid, the Federation of Community Legal Centres and the Law Institute of Victoria can all assist you in finding the right legal or related service for your needs.

For more information on legal services in Victoria, see the *Law Help Guide*, available online at www.victorialawfoundation.org.au/publications/catalogue.

Regulating the profession

At present the legal profession is regulated by a Victorian body, though discussions are currently taking place which may see national regulation in the future.

Legal Services Board

www.lsb.vic.gov.au

The Legal Services Board is an independent authority responsible for regulation of the legal profession in Victoria. This involves registration of practitioners and compliance and enforcement functions. Its role is to protect consumers and to support and maintain high professional standards.

The Legal Services Board issues practising certificates that allow a person to practise as a lawyer in Victoria. If you want to know if a person is a lawyer in Victoria, the Legal Services Board can assist with this. They can also inform you if a lawyer has been found guilty of any misconduct.

Legal Services Commissioner

www.lsc.vic.gov.au

The Legal Services Commissioner handles complaints about lawyers registered in Victoria. These complaints can be about matters such as professional conduct or service (for example, unreasonable delay, dishonesty, conflict of interest) or about costs (for example, charging excessive costs). The commissioner also plays a role in educating the members of the legal profession about professional responsibility, as well as educating the public about what they should expect when they deal with members of the legal profession.



Solicitors and barristers provide legal advice to clients.



Independent legal services

While there are many legal practitioners working in private practice in the Victorian legal sector, many also work for statutory or independent bodies that offer free or low-cost legal services.

Victoria Legal Aid

www.legalaid.vic.gov.au

Victoria Legal Aid is an independent, statewide organisation that assists people with legal problems, especially Victorians who are financially or socially disadvantaged. Victoria Legal Aid has offices throughout Victoria.

Victoria Legal Aid assists Victorians to find the most appropriate legal service.

Victoria Legal Aid provides a number of services, including:

- free legal advice
- duty lawyers at courts and tribunals
- legal information in many languages.

Victoria Legal Aid also provides funding to help people run a case when they cannot otherwise afford to do so, though this is means-tested.

Victoria Legal Aid provides advice on criminal law, family law and some civil law matters.

Victoria Legal Aid runs a phone advice service offering free general information about the law, in several languages. You can contact the advice line on (03) 9269 0120, or 1800 677 402 (for country callers).

Community legal centres

www.communitylaw.org.au

Community legal centres (sometimes referred to as CLCs) are independent, not-for-profit community organisations that provide free legal services to members of the public. Community legal centre services focus on disadvantaged people and those with special needs.

Generalist community legal centres assist people within their local area with a range of legal issues. Specialist community legal centres focus on groups of people with specific needs (such as women, people with disabilities, students) or on particular areas of law (such as consumer rights, environmental law, tenancy) throughout Victoria.

There are forty-nine community legal centres in Victoria.

The peak body for community legal centres is the Federation of Community Legal Centres (Victoria). Information about community legal centres and legal information and resources can be found on their website. The federation can assist you to find the most appropriate community legal centre. You can contact the federation on (03) 9652 1500.



Victoria Legal Aid's Community Legal Education team works with leaders of newly arrived communities to deliver legal information sessions.

Law reform

The state and federal parliaments have the power to amend existing laws and make new ones. Before a law is amended or a new one made, considerable consultation, research and planning takes place to ensure that the laws are needed and will work.

There are a number of bodies within the legal sector that undertake this work.

Victorian Law Reform Commission

www.lawreform.vic.gov.au

The Victorian Law Reform Commission is an independent, government-funded organisation that develops, monitors and coordinates law reform in Victoria. The Commission has a charter to consult the community and to advise the Attorney-General on ways to improve and update Victorian laws. The commission's major responsibility is to research issues referred to it by the Attorney-General (these are called references), but it also has the power to recommend minor changes to the law without a reference through its Community Law Reform program.

The Victorian Law Reform Commission was established in 2001.

Victorian Parliament Law Reform Committee

www.parliament.vic.gov.au/lawreform

The Law Reform Committee of the Parliament of Victoria is a joint investigatory committee made up of members of both houses and members of the Victorian Government and the Opposition. Its function is to investigate and report to the parliament on legal and justice issues which are referred to it by the parliament.

Sentencing Advisory Council

www.sentencingcouncil.vic.gov.au

The Sentencing Advisory Council was set up to bridge the gaps between the community, the courts and government by informing, educating and advising on sentencing issues.

The council's functions include the provision of statistical information on sentencing, including information on current sentencing practices; conducting research and disseminating information on sentencing matters; gauging public opinion on sentencing; consulting on sentencing matters; and advising the Attorney-General on sentencing issues.

Australian Law Reform Commission

www.alrc.gov.au

The Australian Law Reform Commission is an independent federal agency that reviews Australia's laws to ensure they provide improved access to justice for all Australians, by making laws and related processes more equitable, modern, fair and efficient.

The commission cannot change the law, but rather makes recommendations to the government on how the law can be improved.

The Australian Law Reform Commission was established in 1975.



Laws in Victoria are made by the Victorian Parliament.

Public education in the law

Many of the organisations listed in this guide provide public legal education. Organisations such as Victoria Legal Aid, community legal centres and the courts all produce information on their services and some produce information on legal issues. However, there is one body that specialises in improving the quality of community legal information and Victorians' understanding of the law and their legal system.

Victoria Law Foundation

www.victorialawfoundation.org.au

The Victoria Law Foundation is an independent statutory body that helps Victorians understand the law and their legal system. The foundation is an advocate for improving the quality of community legal information by providing training and support in this area. It also has a grants program that supports other organisations to fulfil these aims.

The foundation's education programs reach out to the general community and secondary school students through programs that aim to engage and promote debate on legal issues. The foundation coordinates Law Week each year in May.

The foundation publishes a range of guides that help demystify the law. As well as addressing common legal issues, these guides also provide information on the legal sector in Victoria and how to find a lawyer. The foundation produces a range of school resources.

Connecting Victorians to the legal information they need is another key focus of the foundation. To make it easier to find the legal information that Victorians want, the foundation coordinates the Victoria Law website (www.victorialaw.org.au). Victoria Law provides access to easy-to-understand legal information produced by organisations across Victoria.

Victoria Law Foundation coordinates Law Week in May each year.



Need more information?

About laws in Victoria

Victoria Law

www.victorialaw.org.au

The Victoria Law website provides access to easy-to-understand information about legal issues that affect Victorians.

Resources available from the site include books, booklets, fact sheets and helpful links to webpages. Many publications are free to print or download in PDF format. Resources are available in English and a range of community languages.

Victoria Law provides access to materials from:

- Victoria Law Foundation
- Law Handbook Online
- Victoria Legal Aid
- Federation of Community Legal Centre's Community Law website

as well as many other organisations.

About the legal system in Victoria

All of the organisations in this publication have websites you can visit for further information. To find the website you are looking for, see the organisation's listing in this publication.

Victoria Law Foundation also publishes a number of guides on the legal system, including:

About the County Court

Architecture of the Supreme Court of Victoria

Juror's Handbook

Melbourne's legal precinct

Supreme Court of Victoria

Wigs and robes: A lasting tradition.

You can find these publications online at www.victorialawfoundation.org.au/publications/catalogue or contact Victoria Law Foundation on 9604 8100 or via email contact@victorialawfoundation.org.au.

Further reading

If you would like more information about the legal system generally, legal theory or history, the following resources may be useful. If your local library doesn't have them, they may be able to order them for you.

General texts

Carvan, J, *Understanding the Australian Legal System*, Lawbook Co., 6th edition, 2009.

Cook, C, *Laying Down the Law*, LexisNexis Butterworths, 8th edition, 2011.

Hughes, R, *Australian Legal Institutions: Principles, Structure and Organisation*, Thomson Reuters, 2nd edition, 2003.

Legal theory

Anleu, S, *Law and Social Change*, SAGE Publications, 2nd edition, 2010.

Hart, HLA, *The Concept of Law*, Oxford University Press, 3rd edition, 2013.

Tamanaha, B, *A General Jurisprudence of Law and Society*, Oxford University Press, 2001.

History

Attwood, B, *Possession: Batman's Treaty and the Matter of History*, Miegunyah Press, 2009.

Macintyre, S, *A Concise History of Australia*, Cambridge University Press, 3rd edition, 2009.

McHugh, PG, *Aboriginal Societies and the Common Law: A History of Sovereignty, Status and Self-Determination*, Oxford University Press, 2005.

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“The very important role that Victoria Law Foundation plays is that it connects the various elements of the legal sector and communicates these to Victorian classrooms.”

David Thomson

Teacher-in-Residence,
Victoria Law Foundation,
and Teacher,
Caulfield Grammar



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Victoria Law Foundation

Level 5, 43 Hardware Lane
Melbourne Vic 3000 Australia
T 03 9604 8100 F 03 9602 2449
contact@victorialawfoundation.org.au

 facebook.com/VicLawFoundn

 @VicLawFoundn

See our website at
www.victorialawfoundation.org.au

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