

## NEW SUMMARY CRIMINAL JUSTICE PROCEDURES

### SUMMARY PROCEDURE STEERING GROUP

#### Introduction

Pilots of new processes in summary procedure are underway in Ballarat, Heidelberg, Dandenong and Ringwood and will gradually be rolled out across the state. The implementation of these changes is being overseen by a multi-agency Steering Group which is committed to just and timely summary proceedings in Victoria without sacrificing the rights of those accused of criminal offences. This overview is designed to explain the rationale for the changes, where and how the pilots are taking place and where to from here.



#### Summary

- It is anticipated that the Criminal Procedure Act 2009 will commence on 1 January 2010. It makes important changes to summary crime procedures that will have a significant impact on those in the criminal jurisdiction.
- Victoria Police is making changes to the way in which its prosecution division works to give greater authorisation to prosecutors to negotiate charges and to centralise and improve the way that matters are investigated and briefs are prepared and authorised.
- These changes provide opportunities and challenges for everyone involved in summary crime.
- The Summary Procedure Steering Group (SPSG) has been established to oversee these changes. The members of the SPSG are Victoria Police, the Magistrates' Court, Victoria Legal Aid, the Criminal Bar Association, the Law Institute of Victoria and the Department of Justice.
- The pilots will be gradually expanded into new areas, but only once all agencies are ready to proceed in each new area.
- An evaluation process has been established to review the impact of the pilots. The results of the evaluation process will be reported to the SPSG monthly and changes made as a result.



#### The new procedures

It is anticipated that the *Criminal Procedure Act 2009* (CPA) will commence on 1 January 2010. The CPA overhauls existing laws that deal with criminal procedure. Key agencies and people involved in the summary jurisdiction will need to familiarise themselves with and accommodate these changes.



The new procedures may require a change in duty lawyer services and grants of assistance provided by Victoria Legal Aid.

In particular, the CPA makes specific changes to summary procedure which are currently being piloted:

- Preliminary Briefs - The preliminary brief provides sworn early disclosure of the prosecution case and must include prior convictions and other key material.
- Summary Case Conferences - Summary case conferences are out of court discussions between the parties for the purpose of getting further material, negotiating about charges and summaries or progressing a case to hearing. Senior experienced prosecutors will be appointed as Summary Case Conference Managers in each court and will be available at and out of court for negotiation be it by phone, email or in person.



### Working together towards implementation

The implementation and roll out of the new procedures is being overseen by the Summary Proceeding Steering Group (SPSG). The SPSG includes the:

- Magistrates' Court
- Victoria Police
- Victoria Legal Aid
- Criminal Bar Association
- Criminal Law Section of the Law Institute of Victoria
- Department of Justice (Criminal Law – Justice Statement)

Recognising the significant impact the new procedures will have on their respective agencies and organisations, members of the SPSG have embraced the need for collaboration in achieving the common goal of ensuring a smooth transition to the new procedures. Some time ago, for example, Victoria Police established the Brief Integration Project to meet the challenges associated with reviewing investigation practices, preparing the new Preliminary Briefs and trialling Summary Case Conference Managers at selected courts. Paul Jansen, a Senior Solicitor with VLA, has recently been seconded to the Project to add the defence perspective to the consideration of those challenges.

### Anticipated benefits of the new procedures

These changes offer an opportunity to focus on timely and just outcomes in summary proceedings generally, while making sure that fair hearing rights are not interfered with. The anticipated benefits include:

- Reducing unnecessary delays in charging people and bringing them to court.
- Reducing unnecessary adjournments.
- Improving the efficiency of the court process, without restricting the accused person's right to a fair hearing.
- Providing for early and credible disclosure of the Police case.
- Improved access to the Police early in the process to discuss access to material and to discuss charges with a prosecutor who has the authority to negotiate on charges and summaries.

The early results of the pilots of Summary Case Conferences and Preliminary Briefs in Heidelberg and Ballarat point towards a reduction in delays and improved early communication between the parties. As often occurs with a new process, some issues have arisen in this pilot phase. The advantage of the pilot phase is that these issues can be addressed and processes improved before they are rolled out across the state. The SPSG has established contact points in Victoria Police, Victoria Legal Aid and the Magistrates' Court to address issues that arise (see below). The SPSG recognises the need for ongoing robust evaluation of the pilots. Feedback on Preliminary Briefs has highlighted the need to ensure that Preliminary Briefs are credible, complete and accurate.

### What is being piloted and where?

There are two distinct parts to the pilots:

- Summary Case Conference Managers are being placed at particular courts. Summary Case Conferences will be available to all cases in that court. There are managers in Heidelberg, Ballarat, Dandenong and Ringwood courts.
- Preliminary Briefs are being trialled for cases coming out of certain police stations. This will allow development and refinement of the form and content of the preliminary briefs, before they are used more widely. Use of preliminary briefs will only happen in stations where an expert brief authorising officer has been placed. Preliminary briefs are being trialled out of the Heidelberg and Ballarat Police Stations.

Notices to Appear cannot be piloted until the CPA commences. Notices to Appear will be an alternative to the summons process and a new way of requiring an accused to appear at court. Once that happens,

they will be rolled out in stages and be assessed and evaluated as they go. The SPSG will oversee that process.

#### Evaluation – Pilots and ongoing

Detailed evaluation of the current pilots is vital for future planning by all agencies. Some agencies have already put evaluation measures in place while others are currently being developed by agencies jointly and separately. The SPSG appreciates that the results of evaluation studies have the capacity to affect all agencies and recognises the need for ongoing evaluation of the roll out itself.

The SPSG receives updates and reports from agencies and monitors the progress being made on the above pilots and systems developed by agencies. It is a forum for discussion and an opportunity for input and suggestions as to further pilots or changes in practice.

In particular, the SPSG is interested in hearing about cases in the pilots that work well and those that do not. A review process for such files has been established and is an important part of the evaluation.

#### Feedback

The dialogue - formally and informally - between agencies is well advanced and continuous. The importance of others joining that dialogue cannot be overstated.

Identifying positives and negatives of the preliminary briefs and summary case conference pilots as well as any other concerns is essential to the effective implementation of the new procedures. The SPSG encourages all those who are affected by these pilots to provide feedback to any of the following people:

#### DEFENCE PRACTITIONERS

Victoria Legal Aid Senior Solicitor Paul Jansen on 0407098033 or [paulj@vla.vic.gov.au](mailto:paulj@vla.vic.gov.au)

#### VICTORIA POLICE

Inspector David Cowan, Project Manager, Brief Integration Project on 9301 6965

or [david.cowan@police.vic.gov.au](mailto:david.cowan@police.vic.gov.au)

#### MAGISTRATES COURT

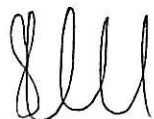
Brett Cain, State Court Coordinator, Magistrates Court on 0400 923 500 -

[brett.cain@magistratescourt.vic.gov.au](mailto:brett.cain@magistratescourt.vic.gov.au)

#### Where to from here?

The pilots will be introduced gradually to new areas on a timetable agreed by the SPSG. Information about the timing of those changes will be made available as soon as those decisions are made.

Flexibility in both timing and location are important to make sure that new processes are only introduced when the preconditions for successful implementation are in place.



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