



**Magistrates' Court
of Victoria**

**PRACTICE DIRECTION
No. 3 of 2015**

Contest Mention Hearings

Background

The contest mention hearing has been a longstanding feature of the criminal process in the Magistrates' Court of Victoria (the Court). It is an important step in the process of dealing with certain criminal proceedings in the Court. It serves two purposes:

- a) enabling the Court to manage the proceeding effectively and expeditiously;
- b) enabling the parties to resolve some or all of the issues in dispute in the proceeding.

Section 55 of the Criminal Procedure Act 2009 gave the process a legislated basis with sub-section (3) setting out the powers of the Court. Sub-section (4) requires the accused to attend all contest mention hearings.

For the benefit of the parties to contest mention hearings, this Practice Direction sets out the usual way in which such a hearing will be conducted.

Direction

1. Unless impracticable, all contest mention hearings are to be heard in a separate list and should not be part of any other list (e.g. a criminal mention list).
2. Ordinarily, the Court will proceed as follows:
 - a) request the prosecution to provide the summary of the offence (supplemented, where appropriate, by further particulars of the offence or evidence proposed to be presented at the contested hearing or plea hearing);
 - b) request the accused's legal representative or the accused to identifying the issue or issues in dispute;
 - c) may, if appropriate, comment upon the issue or issues in dispute;

- d) may indicate that, if the accused pleads guilty to the charge for the offence, the Court would be likely to impose on the accused an immediate sentence of imprisonment or a sentence of a specified type.¹
 - e) require from the parties information, including:
 - (i) the estimated number and availability of witnesses (other than the accused) for the hearing and whether any witnesses are from interstate or overseas;
 - (ii) whether the accused is legally represented and has funding for continued legal representation up to and including the hearing;
 - (iii) whether there are any particular requirements of, or facilities needed for, witnesses and interpreters;
 - (iv) a party to make, file or serve any written or oral material required by the court for the purposes of the proceeding.
3. Only, in rare of cases, will the Court adjourn a proceeding to a trial date without going through some or all of the steps set out in the above direction.
4. Unless the parties agree to the contrary, the magistrate who hears the contest mention hearing will not hear the trial of the proceeding.
5. This Practice Direction operates from 1 May 2015.

Peter Lauritsen
Chief Magistrate

Date: 9 April 2015

¹ S 60 of the Criminal Procedure Act 2009