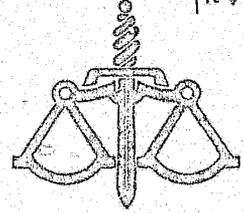


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**Law Department
Victoria**

Case Management in Magistrates' Courts

The Mention System

102751
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**November, 1985
Courts Management Change Program**

LAW DEPARTMENT - VICTORIA
COURTS MANAGEMENT CHANGE PROGRAM

CASE MANAGEMENT IN MAGISTRATES' COURTS
THE MENTION SYSTEM

102751

U.S. Department of Justice
National Institute of Justice

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INTRODUCTION

Inception and Implementation

In recent years there has emerged in the Victorian community a widespread appreciation that major problems confronted the Court system due to a failure of the system itself to adapt progressively to change. In recognition of these problems, Mr. John B. King was appointed to a newly created position of Deputy Secretary for Courts and the head office of the Courts Administration Division in the Law Department of Victoria was reorganised and strengthened.

The Courts Management Change Program was then established with the aim of bringing about major improvement in service delivery, efficiency and cost effectiveness in Courts Administration.

One of the most important initiatives of this program was the development of an improved scheduling system for the criminal and traffic jurisdiction of the Magistrates' Courts known as the "Mention System". Prior to February, 1985, the listing of cases under those jurisdictions was client controlled. As a result, Courts lacked the capacity to effectively regulate the flow of cases for hearing.

There were instances where Courts sat for short periods either because of insufficient cases or some other cause, not utilizing the available time. On the other hand, a number of Courts did not reach cases on the days appointed because they were overburdened with work.

Of additional concern was the amount of police time spent waiting in

Courts, when they could otherwise be attending to more productive police duties. This caused significant cost to the government in overtime payments and generated costs to the community for other employees of private and government enterprises.

The uncertainty of hearing times drew heavy criticism about the administration of justice in this State, as well as causing extreme inconvenience and unnecessary costs to the public, the legal profession and the prosecuting agencies.

This inefficiency prompted an inquiry to be undertaken by the Victorian Law Department into alternative methods of administering prosecutions. A Steering Committee consisting of representatives from the Law Department, the Magistracy, Clerks of Courts, the Law Institute, the Victorian Bar Council, the Commonwealth Crown Solicitor's Office, the Legal Aid Commission and the Police Department was constituted to formulate a system giving administrators in Magistrates' Courts control over caseloads. Its objectives were to:-

- Efficiently deploy the use of Magisterial time and existing Court room availability without detracting from access to Courts on a local basis;
- Reduce inconvenience to the public in having to attend Court unnecessarily, or in having to spend excessive time in Court waiting for their cases to be heard;
- Reduce claims made to the Appeals Cost Funds, a fund made available to meet costs incurred by parties to legal proceedings

where the Court is unable to proceed through no fault of the parties;

- Guarantee hearing on the date cases are scheduled for hearing, and
- Reduce the time between the charging of defendants by prosecuting agencies and the final disposition of their cases by the Courts.

An alternate management procedure titled the Mention System was developed and introduced at Moonee Ponds and Prahran Magistrates' Courts in August, 1984 for a trial period to assess its viability. When found to be successful it was extended for further evaluation to Gippsland, Geelong and other metropolitan regions in early 1985. A Departmental Review Committee was established in July, 1985, to assess and report on the operation of the system. The review saw a detailed paper presented to a seminar chaired by the Attorney-General, the Hon. Jim Kennan and attended by members of the Magistracy, Coordinating Clerks of Courts (responsible for operating the Mention System) and Police Prosecutors.

Proposals were made to obviate difficulties identified by the Review Committee in respect of bail matters, prosecutions where the defendants failed to appear, and other issues concerning inconsistency of procedures.

This process of review will continue in order to further refine the system prior to its introduction into the remaining country areas.

HOW THE MENTION SYSTEM WORKS

The main elements of the system are:

- The channelling of all cases for a defined geographical area through a designated Court, known as a Mention Court.
- The designation of other Courts in the same area as Hearing Courts.
- Removing the requirement for police informants or their witnesses to attend the Mention Court.
- The summary disposal of cases by the Magistrate where the defendants plead guilty.
- The adjournment of all other cases to Hearing Courts to dates as agreed by the parties with the Court Co-ordinator (including pleas of guilty requiring lengthy character evidence).

As a result the control of the scheduling of cases is firmly placed with the Mention Court. Defendants have their cases heard relatively quickly at the Mention Court on the mention day or at a later more convenient time and place, thus reducing unnecessary inconvenience and expense.

Pre-Mention Court Procedure

A fundamental requirement of an efficient Mention Court procedure is

the need of the Court Co-ordinator to know in advance the caseload of that Court.

It is crucial to the ultimate success of the system that the Court Co-ordinator control the scheduling of cases. When a defendant pleads guilty the informant is not required to attend Court. Where a defendant pleads not guilty, or where there is an ex parte hearing, the informant is required to attend the Hearing Court on the date fixed by the Mention Court. Accordingly, it is desirable that each defendant comply with the advice on the Mention Notice to seek advice from a Clerk of Courts, a Solicitor, or the Victorian Legal Aid Commission prior to the Mention Court day so as to be well informed of the procedural implications of their plea. Subsequently the defendant is requested to notify the Court Co-ordinator of their intended plea.

Three mechanisms have been established to ensure effective pre-Mention Court day procedures. These are the "Booking In" system, the use of "Mention Notices" and the option of contacting the Court to make arrangements for adjournments prior to the Mention Court day.

"Booking In" System

The "booking in" system is used by all Mention Court Co-ordinators to ensure a stable number of cases are heard on each Mention day. An appropriate caseload per Magistrate for each Mention day is determined after due consultation with Magistrates and Police. A diary is kept in a Police Station or Police Prosecutors' Office close to the Mention Court and under the supervision of the Court Co-ordinator. Police Informants are required to "book-in" all cases for a Mention Court at

the time of issuing any information or summons. The Police have been requested to initiate proceedings within four weeks of the date of the offence. The Mention Court day will normally be fixed for approximately four weeks after the issue date. In most instances this will mean that there is only an eight week period between the offence and the Mention Court date.

The "Booking-In" procedure also ensures that unpredictable fluctuations in caseloads are avoided and the hearing of a plea of guilty at the Mention Court is guaranteed. Additionally, it gives the Court Co-ordinator control of the Court's case load from the time the informant issues a summons or information.

Mention Notices

Mention Notices have two objectives. First, to encourage the defendant to seek advice and second, to notify the Court Co-ordinator of the likely plea and its duration. At the time of being served with a summons, or being bailed to appear before a Mention Court, defendants receive a Mention Notice. (See Appendix A.) This Notice gives information about Court procedures at the Mention Court and encourages the recipient to consult a Solicitor, the Legal Aid Commission or to seek assistance from a Clerk of Courts prior to the Mention day. This recommendation to seek advice is also given in eight languages on the reverse of the Notice.

A copy of the Notice is sent to the Court thus acting as a confirmation of the "book-in" diary reference. This copy also contains dates which are suitable for the Informant to attend the

Court should the defendant elect to plead not guilty or desire the informant's presence for some other reason should the case be scheduled at a later date. Therefore, the Notice services the dual purpose of giving the defendant referral information very early in the proceedings and of enabling the Court Co-ordinator to more effectively schedule those cases where the informant is required.

Adjournment Arrangements Prior to the Mention Day

The Mention Notice advises Defendants that they or their solicitor have the option of contacting the Court Co-ordinator prior to the Mention Court day to arrange for cases to be heard at a later date. Cases may be redirected to the Hearing Court closest to where the offence was alleged to have been committed. This avoids inconvenience to defendants residing and working some distance from the Mention Court.

Bail cases still present some difficulties which are yet to be resolved. Where persons are bailed to attend on a Mention Court day, and do not appear, they run the risk of the Court issuing a warrant of apprehension. Whilst a number of Magistrates have been prepared to adopt a "wide" interpretation of provisions in the Bail Act, allowing bail to be extended in the defendant's absence in appropriate circumstances (See Appendix B), others have adopted a narrow interpretation in which they regard such defendants as absconding. Amending legislation, which allows for the extension of bail in the defendant's absence provided the prosecution agrees to the adjournment and has no objection to the non-appearance, is proposed.

Mention Court Procedure

At the Mention Court, on the mention day the Magistrate proceeds to hear short pleas of guilty. In these cases, the Police Prosecutor presents to the Court a summary of the evidence as compiled by the Informant. The Magistrate, after hearing this summary and taking into consideration anything the defendant wishes to advance, determines the matter.

Significantly, under the Mention System, Magistrates leave associated administrative matters, such as the arrangement of adjournments, to Court Co-ordinators. Magistrates can thus concentrate totally on matters requiring disposition.

At most Mention Courts, Co-ordinators are prominently placed in Court foyers or have offices set aside for the purpose of arranging adjournments. Police Prosecutors are also in attendance to enable dates to be scheduled quickly.

Staggered Hours

A prime objective in the efficient organization of the Mention list is the need to avoid congestion caused by the attendance of all defendants, solicitors, and support personnel at 10 a.m. Accordingly, some refinement to caseflow techniques are being trialled.

In the Geelong region Co-ordinators insist that all adjournments be arranged prior to the Mention Court day. In addition, defendants who indicate an intention to plead guilty are given specific times to

attend on the Mention Court day. This is considered to be the ideal system.

In the Southern region defendants are summonsed or bailed to appear at two different times during the day, e.g. 10 a.m. and 11.30 a.m. This reduces the number of defendants requiring the attention of the Co-ordinator and the support services operating in the Court at 10 a.m.

Staggered hours are perhaps more successful in catering for those defendants who have not sought advice prior to the Mention Court. These persons are usually advised by Legal Aid Officers or Clerks of Courts on the Mention Court day. This opportunity to attend at different times also reduces inconvenience to defendants and their legal representatives.

Failure of Defendants to Attend

At present, where defendants fail to attend the Mention Court, their cases are adjourned to the Hearing Court nearest to where the offence arose on a date convenient to the Informant. The defendant is not notified of the new date or venue and the case proceeds with the Magistrate giving a decision on the sworn evidence of the Informant. If legal practitioners or defendants attend on this date their cases should not be permitted to proceed and should be re-adjourned back to the Mention Court. The reason for this procedure is to avoid an abuse of the system.

Defendants may fail to attend at the Mention Court due to a number of reasons, but in particular because of the distance involved. Often

these defendants then attend their local Court and enter a plea of guilty. The informant has attended the Mention Court as required but has effectively wasted his or her time.

This practice, if allowed to develop, will erode the control of the Mention System over caseload management. An increasing number of defendants will fail to attend the Mention Court thus reducing the number of cases disposed of, and the lists at the Hearing Courts will become unpredictable, thus destroying any attempt to effectively allocate judicial resources.

To prevent this situation occurring, and to retain the benefits of the Mention system publicity is being given to the defendant's right to arrange with the Court Co-ordinator prior to the Mention day the adjournment of a case to a more accessible Court. This should be of particular assistance to defendants living in locations poorly serviced by public transport.

BENEFITS OF THE MENTION SYSTEM

In each region where the Mention System is operating significant benefits have been achieved. These include a substantial reduction in the number of police time spent in Court, a drop in claims on the Appeals Cost Fund, the elimination of delays both prior to hearing and at Court, and a recognisably more efficient Court system.

For example, in the Geelong Region, the Mention System has seen an average reduction of 250 hours in fortnightly Court time.

In the Southern Region, at Oakleigh Mention Court alone it is estimated that forty-five police days per month are currently being saved.

More specific figures in Gippsland Region indicate the following:-

	Up to end of second quarter 1984	Up to end of second quarter 1985
Police time in Court	4,445 hours	854 hours

The Sale Police Prosecutors have produced the following figures:-

Police Station	Police Time in Court	
	First Quarter 1984	First Quarter 1985
Rosedale	44 hours	1 hour
Maffra	56 hours	14 hours
Heyfield	57 hours	7 hours
Traffic Operations Group	204 hours	52 hours

[An overall reduction of 79%]

It is anticipated that these savings in Police Court time will be reflected in all areas where the Mention System is implemented.

Claims on the Appeals Cost Fund, because of Police matters not being reached on listed days, have been extensively reduced as the Mention System ensures certainty of hearing on a listed day.

Controlled Court listings, including the use of staggered listing times, have led to reductions in waiting time in Court to the benefit of all Court users.

Delays leading up to Court hearings have also been reduced. In part this is due to the decrease in time necessary to dispose of police prosecutions. This has increased the rate of case disposition and reduced the backlog of cases awaiting hearing.

Problems associated with delay, such as stress and the progressive blurring of witnesses memories, are effectively being reduced. More particularly, defendants charged with driving offences and expecting

mandatory licence cancellations are driving for shorter periods prior to the hearing.

The range of benefits from the system has led to its proposed extension to prosecutions instituted by instrumentalities other than the Police Force. In this regard interest has already been expressed by other Court user organisations, such as Municipal Councils and the Road Traffic Authority. (At present, for various reasons, some Police matters are exempt from the Mention System. These are Drunk and Disorderly offences, Gaming and Prostitution charges and summonses issued under the Service and Execution of Process Act.)

Implementation of the system throughout Victoria will continue to be monitored by officers of the Courts Administration Division. A program of consultation with affected agencies has already begun and will continue as the system is further improved.

Name of Person Charged:—

NOTICE TO PERSON CHARGED

1. You have been charged with an offence and **MUST APPEAR ON**
the _____ day of _____ 19____
at the _____ Magistrates' Court.
This is a "MENTION DAY".
The Court is located at _____
(Describe Location)
2. Before the "mention day" you should talk to **YOUR SOLICITOR OR THE LEGAL AID COMMISSION** at 179 Queen Street, Melbourne, telephone 607-0234 or at Regional offices in Dandenong, Frankston, Glenroy, Sunshine, Preston, Morwell or Geelong so that you will have legal advice and be able to tell the court whether you will plead "GUILTY" or "NOT GUILTY" to the charge(s).
3. If you intend to plead "GUILTY" on the "mention day" your case will be heard on that day, unless arrangements are made with the Co-ordinating Clerk of Courts for it to be heard on another day.
4. If you intend to plead "NOT GUILTY" on the "mention day" your case will be heard on another day to be arranged by either you or your solicitor with the Co-ordinating Clerk of Courts.
5. If you wish to obtain Legal Aid you may apply through your solicitor or the Legal Aid Commission.
6. If you are not sure of what to do you should contact any Clerk of Courts at a Court for advice.

ATTENTION: DO NOT IGNORE THIS NOTICE

Get advice on this notice from:-

- * Your Local Clerk of Courts
- * Your Local Solicitor
- * The Victorian Legal Aid Commission
179 Queen Street,
MELBOURNE. Tel.: 607 0234

ARABIC

انتباه: لا تتجاهلوا هذا الإعلان
إحصلوا على النصح بشأن هذا الإعلان من:

- * كاتب المحام المحلي لمنطقتكم
Local Clerk of Courts
- * محاميك المحلي
- * مفوضيّة المساعدة القانونيّة الكنكورية.
The Victorian Legal Aid Commission,
179 Queen Street,
MELBOURNE. 607 0234 هاتف:

GREEK

**ΠΡΟΣΟΧΗ: ΠΑΡΑΚΑΛΕΙΣΘΕ ΟΠΩΣ ΜΗΝ
ΑΓΝΩΣΕΤΕ ΤΗΝ ΕΠΙΣΥΝΑΠΤΟΜΕΝΗ
ΣΗΜΕΙΩΣΗ**

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- * Του Τοπικού Γραμματέα Δικαστηρίου (Local Clerk of Courts).
- * Του Δικηγόρου της Περιόχης σας.
- * Της Επιτροπής Νομικής Βοήθειας Βικτώριας:
The Victorian Legal Aid Commission,
179 Queen Street,
MELBOURNE: Τηλ.: 607 0234.

SERBIAN

**ΥΠΟΖΟΡΕЊЕ: НЕ ЗАБОРАВИТЕ ОВУ
ОБАВЕСТ**

За ову обавест затражите упуте од:

- * Од судског службеника у вашем месном суду.
- * Од вашег месног адвоката.
- * The Victorian Legal Aid Commission,
179 Queen Street,
MELBOURNE. Telefon: 607 0234.

TURKISH

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- * Yerel Avukatınızdan.
- * Victoria Yasal Yardım Komisyonu'ndan,
(The Victorian Legal Aid Commission),
179 Queen Street,
MELBOURNE. Tel: 607 0234.

CROATIAN

**UPOZORENJE: NE ZABORAVITE OVU
OBAVIJEST**

Za ovu obavijest zatražite upute od:

- * Sudskog službenika u vašem mjesnom sudu.
- * Vašeg mjesnog odvjetnika.
- * The Victorian Legal Aid Commission,
179 Queen Street,
MELBOURNE. Telefon: 607 0234.

ITALIAN

**ATTENZIONE:
NON IGNORATE QUESTO AVVISO**

Per consulenza in merito a questo avviso rivolgetevi a:

- * Cancelliere del Tribunale locale.
- * Vostro avvocato locale.
- * The Victorian Legal Aid Commission,
179 Queen Street,
MELBOURNE. Tel: 607 0234.

SPANISH

**ATENCIÓN:
NO IGNORE ESTE AVISO DE:**

Obtenga consejo referente a este aviso de:

- * El Secretario del Tribunal de la localidad.
- * Su propio Abogado.
- * The Victorian Legal Aid Commission,
179 Queen Street,
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VIETNAMESE

**XIN LƯU-Ý:
ĐỪNG LÀM NGƠ VỀ GIẤY BÁO NÀY.**

Hãy đến những nơi sau đây để được hướng-dẫn:

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- * Ủy-Ban Trợ-Giúp Luật-Pháp tại Victoria,
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4. If you intend to plead "NOT GUILTY" on the "mention day" your case will be
heard on another day to be arranged PRIOR to the "mention day" by either you
or your solicitor with the Co-ordinating Clerk of Courts.
5. If you do not attend on the "mention day" when your case is to be heard you
will be advised of the penalty imposed.
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179 Queen Street,
MELBOURNE. Điện-thoại: 607 0234.

Bail Act 1977 Section 16 (3)

Where a person charged with an offence or apprehended under a warrant is remanded in custody or committed to safe custody during an adjournment or released on bail and a Court is satisfied that the accused person is by reason of illness or accident or other sufficient cause unable to appear personally on the day on which he is required to appear the Court may, in the absence of the accused person, order him to be further remanded for such time or committed to safe custody for such time as the Court thinks fit and may order any undertaking to be extended so as to require the appearance of the accused person at every time and place to which the accused person is remanded or the hearing is adjourned.