

Supreme Court

of Victoria



The highest court
in Victoria



A **Victoria Law Foundation** publication

Supreme Court of Victoria

The Supreme Court of Victoria is the highest court in Victoria. The court was established in 1852, only a few months after the Colony of Victoria was created.

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About the Supreme Court

The Supreme Court is the highest court in Victoria, hearing among the most serious criminal and civil cases in the state, as well as some appeals from Victorian courts and tribunals.

Made up of the Trial Division and Court of Appeal, the Supreme Court of Victoria is led by the Chief Justice.

The State of Victoria, through the Director of Public Prosecutions, initiates criminal cases in the court on behalf of the whole community.



In civil cases, generally one party (an individual or organisation) takes action against another whom they believe has infringed their legal rights.

Hearing cases

Most cases before the Supreme Court are heard in Melbourne. However, the Supreme Court sits in many other locations across Victoria including Ballarat, Bendigo, Geelong, Hamilton, Horsham, Morwell, Mildura, Sale, Shepparton, Wangaratta, Warrnambool and Wodonga.

It is possible to observe most cases heard by the Supreme Court. Visit the Supreme Court website for information about sittings, and to access judgments and sentences: www.supremecourt.vic.gov.au

Court hierarchy

There are several courts and tribunals operating in Victoria.

The Supreme Court hears appeals from other Victorian courts and tribunals. Because the Supreme Court is the highest court in Victoria, only the High Court of Australia can review its decisions.



In criminal cases the judge wears red robes.



Divisions of the Supreme Court

The Supreme Court has two divisions – the Trial Division and the Court of Appeal.

Trial Division

The Trial Division hears among the most serious criminal and civil cases in Victoria, including:

- cases of treason, murder, attempted murder and other major criminal matters
- civil cases unlimited in the amount of money that may be claimed
- civil cases involving complex legal issues
- appeals from the Magistrates' Court and VCAT judicial review
- procedural matters, including applications for bail; probate business (dealing with the wills of deceased persons); and urgent applications for injunctions (for example, for a court order that a party stop doing something)
- judicial review of administrative decisions
- corporations matters.

In civil cases, the Supreme Court also offers mediation to settle disputes and avoid trial.


Court of Appeal

A person who receives a judgment in a criminal or civil case in the Supreme Court Trial Division or County Court can appeal to the Court of Appeal if they think an error has occurred. The Court of Appeal also hears some appeals from VCAT. Some appeals require permission from the Court of Appeal before they can be heard.

The Court of Appeal determines whether a trial was conducted fairly, and whether the law was correctly applied.

Usually three judges will hear an appeal. Upon deciding a case, the Court of Appeal may:

- order a retrial of the case
- change the decision in a case; for example, reduce or increase a sentence of imprisonment
- conclude that there was no error and that the lower court's decision stands.



Visitors to the Supreme Court listen quietly to proceedings.

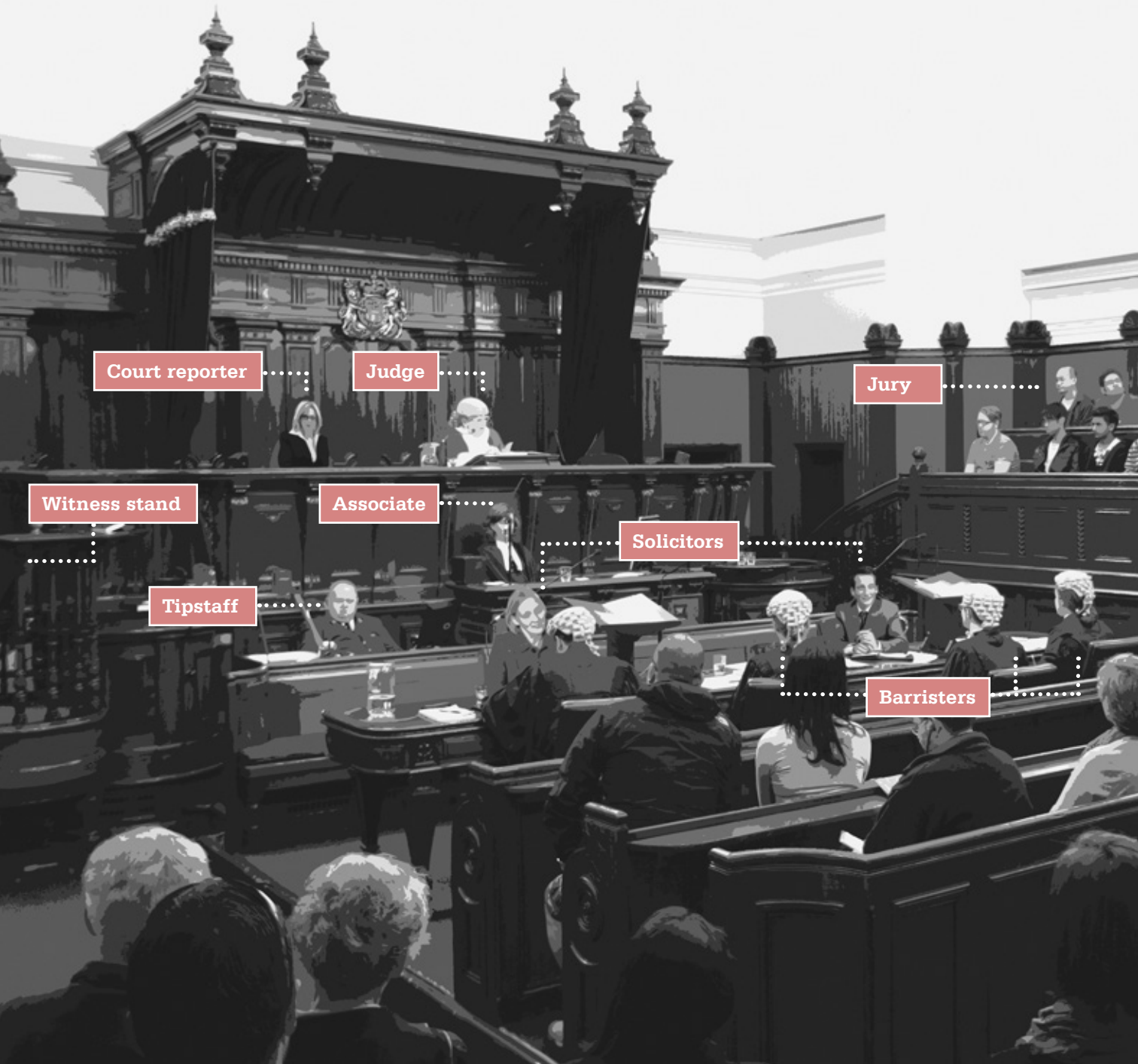
Conduct in court

The court is open to the public, except under special circumstances. Seating is provided in the public gallery, usually at the back of the courtroom.

When visiting a courtroom, you should:

- enter and leave quietly (do not disrupt proceedings)
- bow to the judge when you enter and before you leave
- stand and bow when a judge enters or leaves the courtroom
- dress appropriately (no hats or sunglasses)
- avoid talking and eating
- turn off mobile phones and any other electronic equipment.

Who's who in the courtroom



Court reporter

Judge

Jury

Witness stand

Associate

Solicitors

Tipstaff

Barristers

Who's who in the courtroom

Judge

The judge acts as an impartial referee, ensuring that the rules of evidence and proper procedures are followed. The judge guides the jury on legal matters. The jury decides the facts and returns its verdict.

In criminal trials, the parties are known as the prosecution and the defence. If the defendant is found guilty, the judge imposes a sentence.

Sentencing is a complex process. Parliament provides guidance in the *Sentencing Act 1991* on the factors judges must take into account when sentencing. The judge must consider all the facts as well as relevant decisions made by higher courts.

In a civil trial, parties are known as the plaintiff and the defendant. Many civil cases are decided by a judge sitting on their own, without a jury. In these cases, the judge decides whether the plaintiff has established a claim against the defendant. If the claim is established, the judge decides on the remedy, such as monetary compensation (damages).

Associate

The associate performs various administrative and court duties to assist the judge. This may include conducting research, coordinating the judge's hearing and trial schedule, empanelling and looking after juries, and liaising with other sections of the court, the legal profession and the public.

Tipstaff

The tipstaff announces when the judge is entering or exiting the courtroom, maintains order in the court, swears in witnesses and looks after the jury. Sometimes this role is undertaken by a second associate.

Court reporter

The court reporter's role is to record everything that is said during the trial. This document becomes the official record of the trial. The role of the court reporter is quite different to journalists (also referred to as court reporters) who are often present in court reporting for the media.

Barristers and solicitors

Barristers and solicitors are the legal representatives of the parties. In the Supreme Court, parties are usually represented by barristers (also known as counsel), who are assisted by instructing solicitors. Occasionally parties choose to represent themselves.

In most hearings, barristers wear legal robes and sit at the bar table facing the judge. Instructing solicitors provide assistance during the case. In Victorian courts, solicitors sit opposite barristers at the bar table; in appeals they sit behind them.

Jury

A jury is a group of people randomly selected from the electoral roll to sit on a case before the court.

In the Supreme Court, criminal trials are heard before a judge and jury of twelve. The jury decides the facts in the case and applies the law (as explained by the judge) to those facts to form a verdict of guilty or not guilty.

In a civil trial, the job of the jury, made up of six members, is to decide whether the plaintiff has established the claim being made. The jury must decide who is at fault and the amount of compensation to be awarded.

Witnesses

A witness is a person who has information about a case. Witnesses are called one at a time to the witness box. They are asked to take an oath or make an affirmation to be truthful, and are then asked questions by counsel representing the different parties.

Defendant

In criminal proceedings the defendant sits in the dock, located at the back of the court.

Video conferencing

Video conferencing is sometimes used in court – for example, when a witness gives evidence from a remote location, or for the appearance of an accused person who is not present in the courtroom.



The Court of Appeal is open to the public and is located at 459 Lonsdale Street in Melbourne.

Support services

Attending court can be a daunting experience for anyone unfamiliar with how the legal system functions, such as victims of crime, people accused of crime, witnesses and families.

The Court Network's support service operates in the Supreme Court of Victoria. Court Network volunteers can help court users to become familiar with how the court and the legal system operate before their day in court and can provide non-legal support at the court while a trial is in progress.

See www.courtnetwork.com.au for more information.

There is a range of other organisations that provide support and assistance to people attending court, including:

- Victims Support Agency
www.victimsofcrime.vic.gov.au
- Witness Assistance Service – supported by the Office of Public Prosecutions
www.opp.vic.gov.au
- Child Witness Service – 1300 790 540
(free call outside metropolitan area).

Education program

The Supreme Court runs an education program for high school students undertaking law-related studies. Students learn about the court and its processes and have the opportunity to observe a court case in progress.

For further information and bookings, email info@supremecourt.vic.gov.au



See www.supremecourt.vic.gov.au for more information about the Supreme Court of Victoria.

Supreme Court of Victoria

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