

Victorian Courts

Mapping the Court Process

A step-by-step guide through the
Magistrates', County and Supreme Courts

DOOGUE
GEORGE
defence lawyers

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and Amelia Ramsay

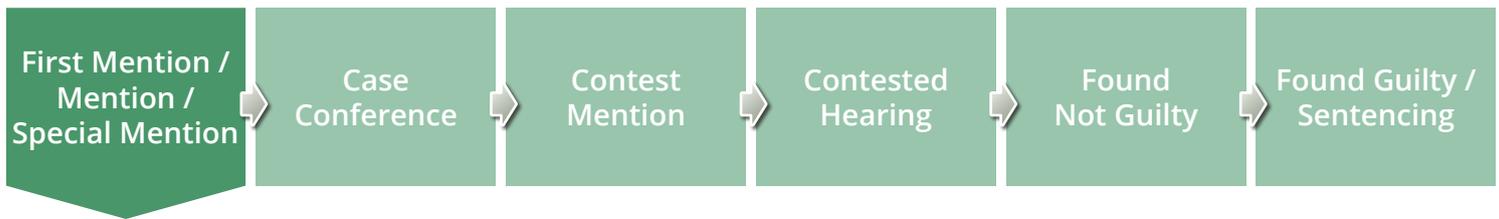
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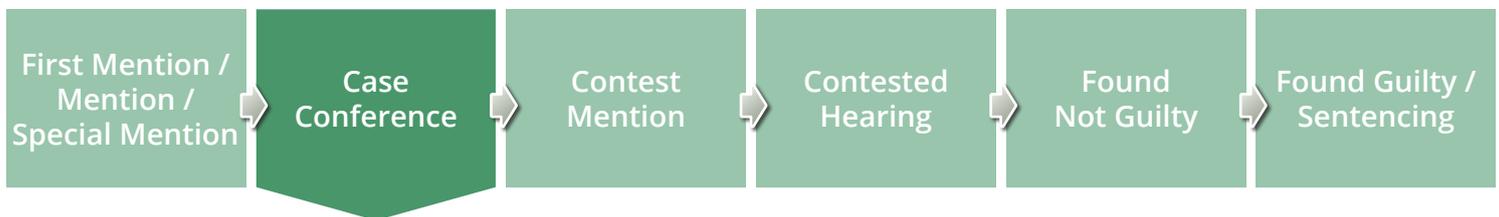
Pleading Not Guilty to an
Offence in the Magistrates' Court

Pleading Not Guilty to an Offence in the Magistrates' Court



First Mention / Mention / Special Mention

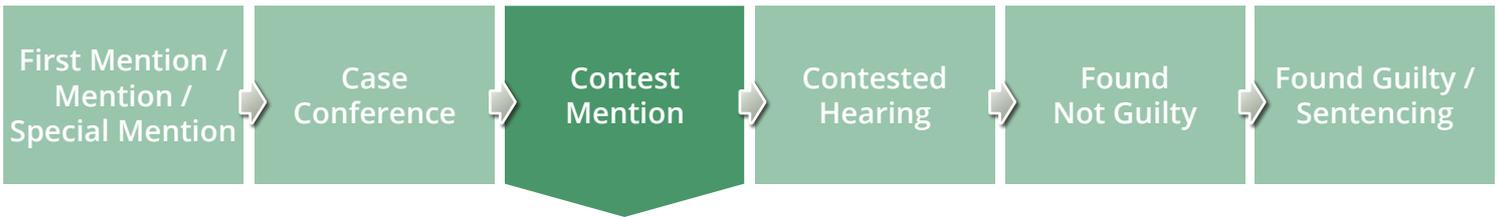
- When a matter is listed for mention, it may be finalized by way of a plea of guilty if liability for all charges is accepted and there is no dispute with the circumstances alleged.
- If there is any dispute the matter will be adjourned for a case conference or contest mention so that negotiations can take place with the prosecution.
- Matters can be listed for special mention for the Court to check on the progress of the case deal with an issue. The Court sometimes list these to see if they can resolve cases.



Case Conference

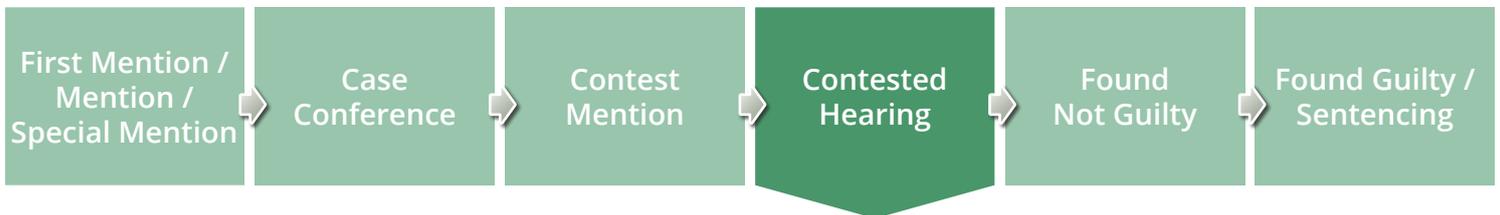
- Negotiations with the prosecution.
- Seek further material.
- Special mentions, subpoenas and other legal issues.
- For a guilty plea a date will be obtained in the relevant court.
- For a not guilty plea a date is obtained and leave sought from the Court to cross-examine relevant witnesses.
- This stage could involve a sentence indication.

Pleading Not Guilty to an Offence in the Magistrates' Court



Contest Mention

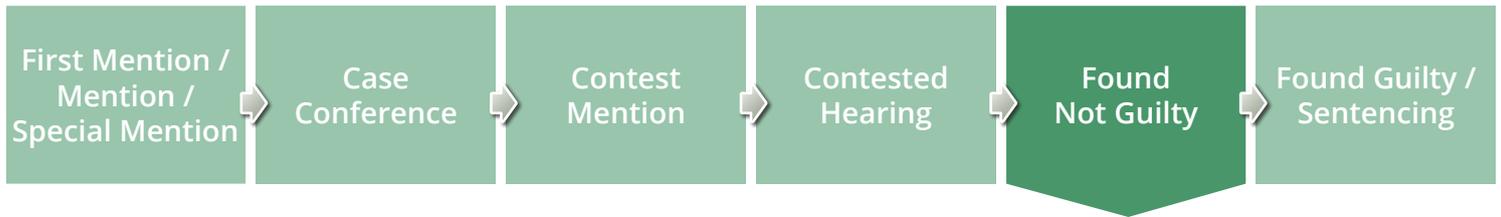
- A contest mention is heard in front of a Magistrate. This is the difference between a contest mention and a case conference.
- Negotiations take place with police prosecutors and informants about the disputed aspects of a matter.
- This might result in a plea to only some of the charges or amendments to the facts alleged as part of the case.
- If you are pleading not guilty this stage is necessary to advise the Court what the disputed issues are and which witnesses will be required at the hearing.
- Further information or evidence can be requested.
- This stage could involve a sentence indication.



Contested Hearing

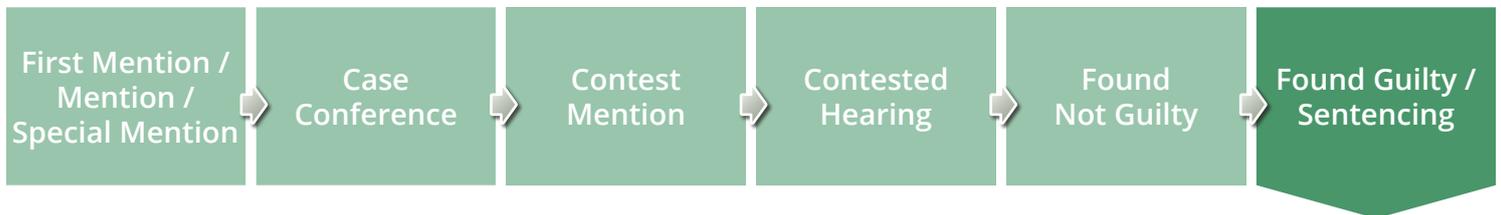
- The stage at which the prosecution must call witnesses to give evidence and prove their case.
- Prosecution witnesses can be cross-examined by the defence and we can call our own witnesses, including the accused, to give evidence.

Pleading Not Guilty to an Offence in the Magistrates' Court



Found Not Guilty

- The case is finished.
- Costs may be requested depending on the circumstances of the case.



Found Guilty / Sentencing

- The Judge will make sentencing remarks and deliver sentence.
- This generally takes place on the same day as the contested hearing
- It may be adjourned to get a date.



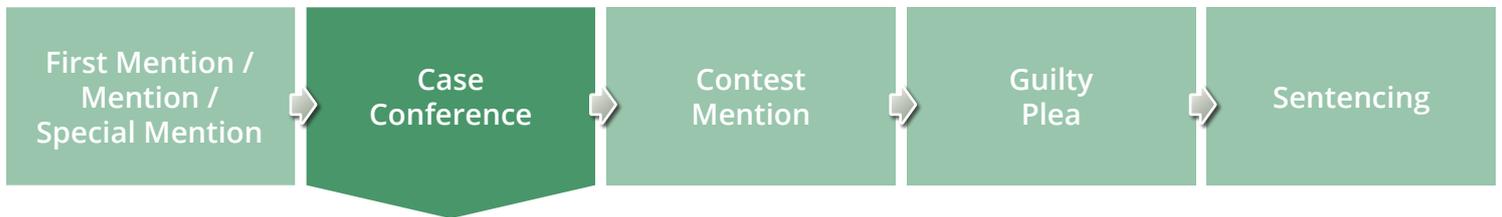
Pleading Guilty to an
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Pleading Guilty to an Offence in the Magistrates' Court



First Mention / Mention / Special Mention

- When a matter is listed for mention, it may be finalized by way of a plea of guilty if liability for all charges is accepted and there is no dispute with the circumstances alleged.
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Case Conference

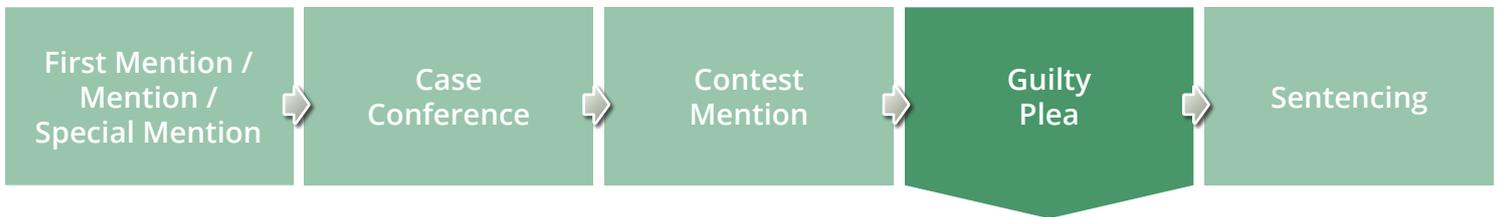
- Negotiations take place with police prosecutors and informants about the disputed aspects of a matter.
- This might result in a plea to only some of the charges or amendments to the facts alleged as part of the case.
- Further information or evidence can be requested.
- This stage could involve a sentence indication.

Pleading Guilty to an Offence in the Magistrates' Court



Contest Mention

- A contest mention is heard in front of a Magistrate.
- Negotiations take place with police prosecutors and informants about the disputed aspects of a matter.
- This might result in a plea to only some of the charges or amendments to the facts alleged as part of the case.
- This stage could involve a sentence indication.



Guilty Plea

- Guilty plea may take place at a mention or following a hearing, contest mention or case conference.
- This is the sentencing stage where your personal circumstances and an explanation of the offending and surrounding circumstances is put to the Court.

Pleading Guilty to an Offence in the Magistrates' Court



Sentencing

- Usually you will be sentenced on the same day as the plea hearing. Occasionally, this may occur on a subsequent day.
- The Judge will make sentencing remarks and deliver sentence.

Pleading Not Guilty to an
Offence in the County or Supreme Court

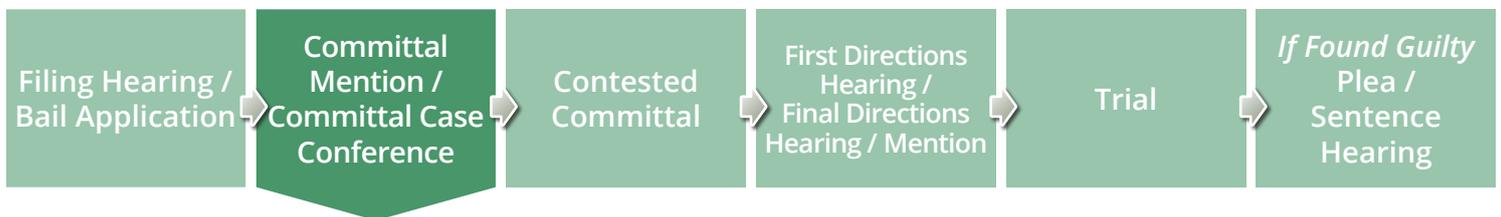
Pleading Not Guilty to an Offence in the County or Supreme Court



Filing Hearing / Bail Application or Variation*

- Dates set for service of brief of evidence and for committal mention.
- Discussions with the prosecution.
- First opportunity to make a bail application or bail variation.

*This stage of the proceedings is always heard in the Magistrates' Court.

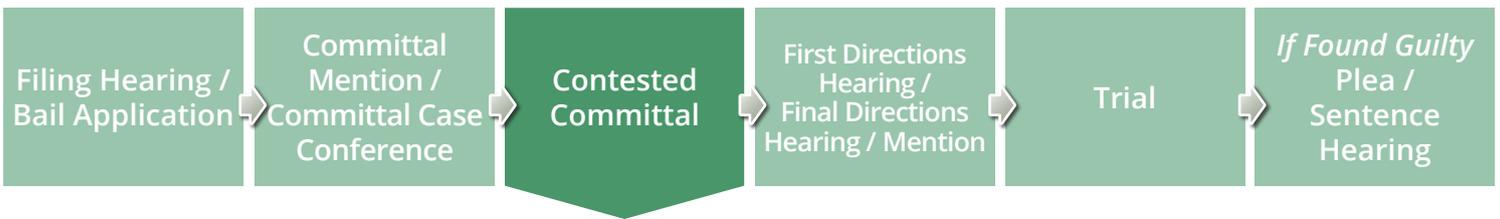


Committal Mention / Committal Case Conference*

- Negotiations with the prosecution.
- Seek further material.
- Special mentions, subpoenas and other legal issues.
- For a not guilty plea a date is obtained and leave sought from the Court to cross examine relevant witnesses.
- If the charges permit, an application can be made that the case remain in and be determined in the Magistrate's Court without going to the County Court.

*This stage of the proceedings is always heard in the Magistrates' Court.

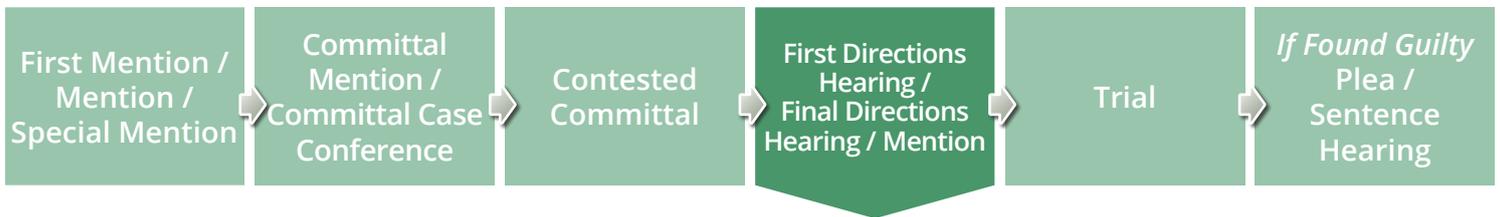
Pleading Not Guilty to an Offence in the County or Supreme Court



Contested Committal*

- Test the prosecution case, to see if there is sufficient evidence to go to trial.
- Witnesses cross-examined. Question police informant about investigative steps.
- Committed to stand trial OR
- Discharged & might be able to apply for costs.
- Test of sufficient evidence a very low threshold.
- Almost all accused are committed to stand trial.

*This stage of the proceedings is always heard in the Magistrates' Court.



First Directions Hearing / Final Directions Hearing / Mention

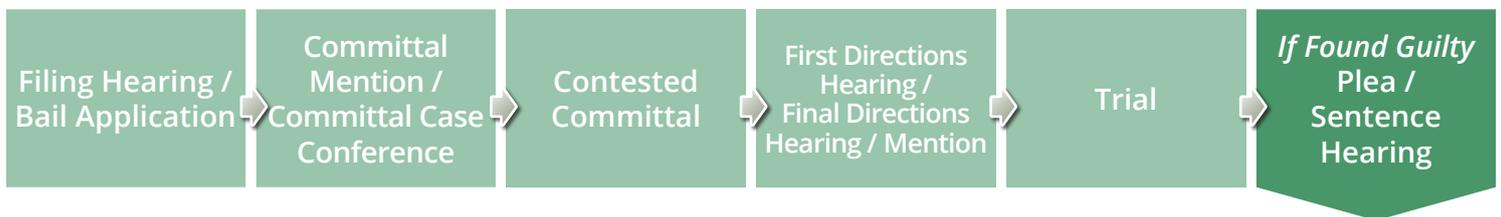
- Court is informed of factual & legal issues.
- Formally state case in writing.
- Preliminary legal issues discussed.
- Can be any number of directions hearings but at least two.
- A mention is when you go to Court to argue some issues before trial, or to get documents under subpoena.

Pleading Not Guilty to an Offence in the County or Supreme Court



Trial

- Preliminary legal issues ruled upon.
- Prosecution call witnesses and tender evidence to prove its case.
- Prosecution witnesses can be cross-examined by defence. Defence can call our own witnesses, including the accused to give evidence.

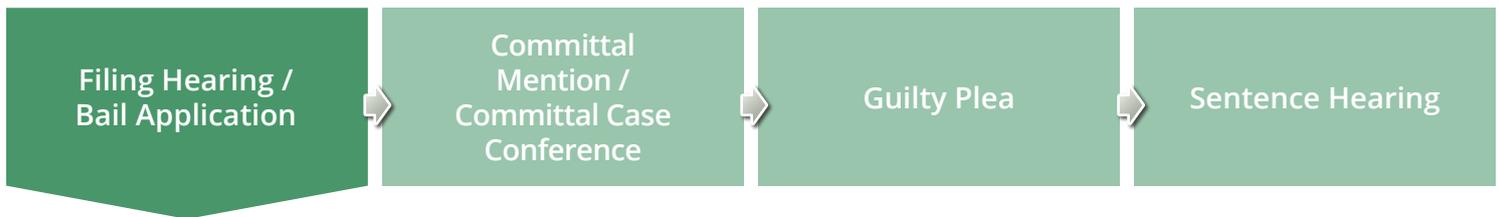


Plea / Sentence Hearing

- Plea in mitigation. Personal history and the circumstances of the offence.
- Submissions about legal issues, sentencing considerations and appropriate sentence.
- Often, sentencing will take place on a different date as the Judge wants to consider the information and will often write a long judgement.
- Sometimes, the Judge will ask for further submissions on the sentencing date.
- The Judge will make sentencing remarks and deliver a sentence.

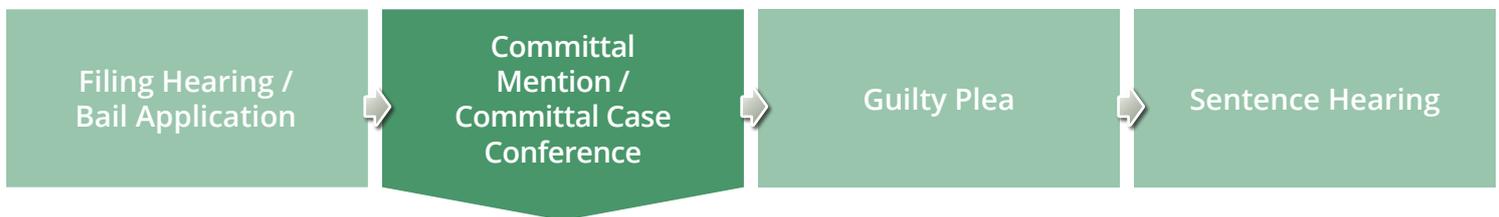
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Filing Hearing / Bail Application

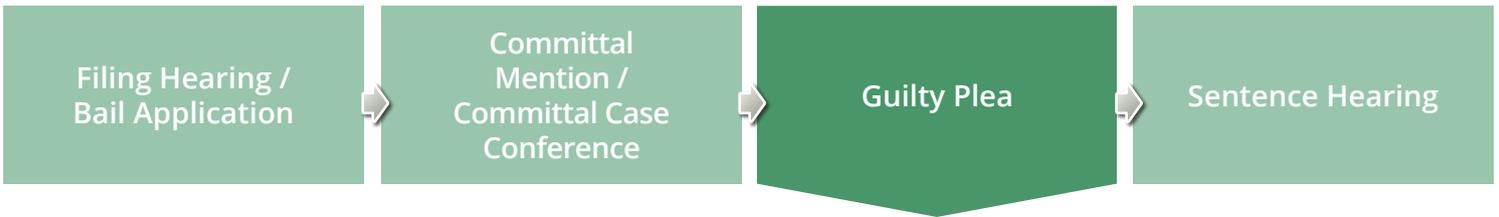
- Dates set for service of brief of evidence and for committal mention.
- Discussions with the prosecution.
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Committal Mention / Committal Case Conference

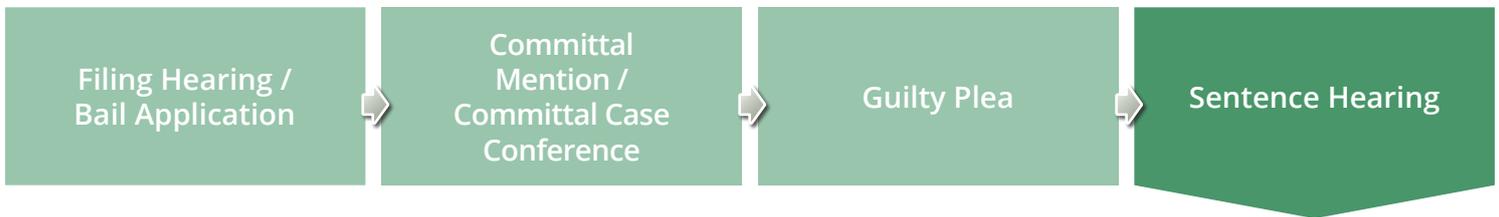
- Negotiations take place with police prosecutors and informants about the disputed aspects of a matter.
- This might result in a plea to only some of the charges or amendments to the facts alleged as part of the case.
- Further information or evidence can be requested.
- For a guilty plea, a date will be obtained in the relevant Court.
- Sometimes leave is sought from the Court to cross-examine relevant witnesses to establish the facts of the plea of guilty.
- This stage could involve a sentence indication.

Pleading Guilty to an Offence in the County or Supreme Court



Guilty Plea

- The prosecution present their case.
- Plea in mitigation. Personal history and the circumstances of the offence are presented.
- Submissions are made about legal issues, sentencing considerations and appropriate sentence.
- The Judge may sentence on this date or adjourn for sentencing.

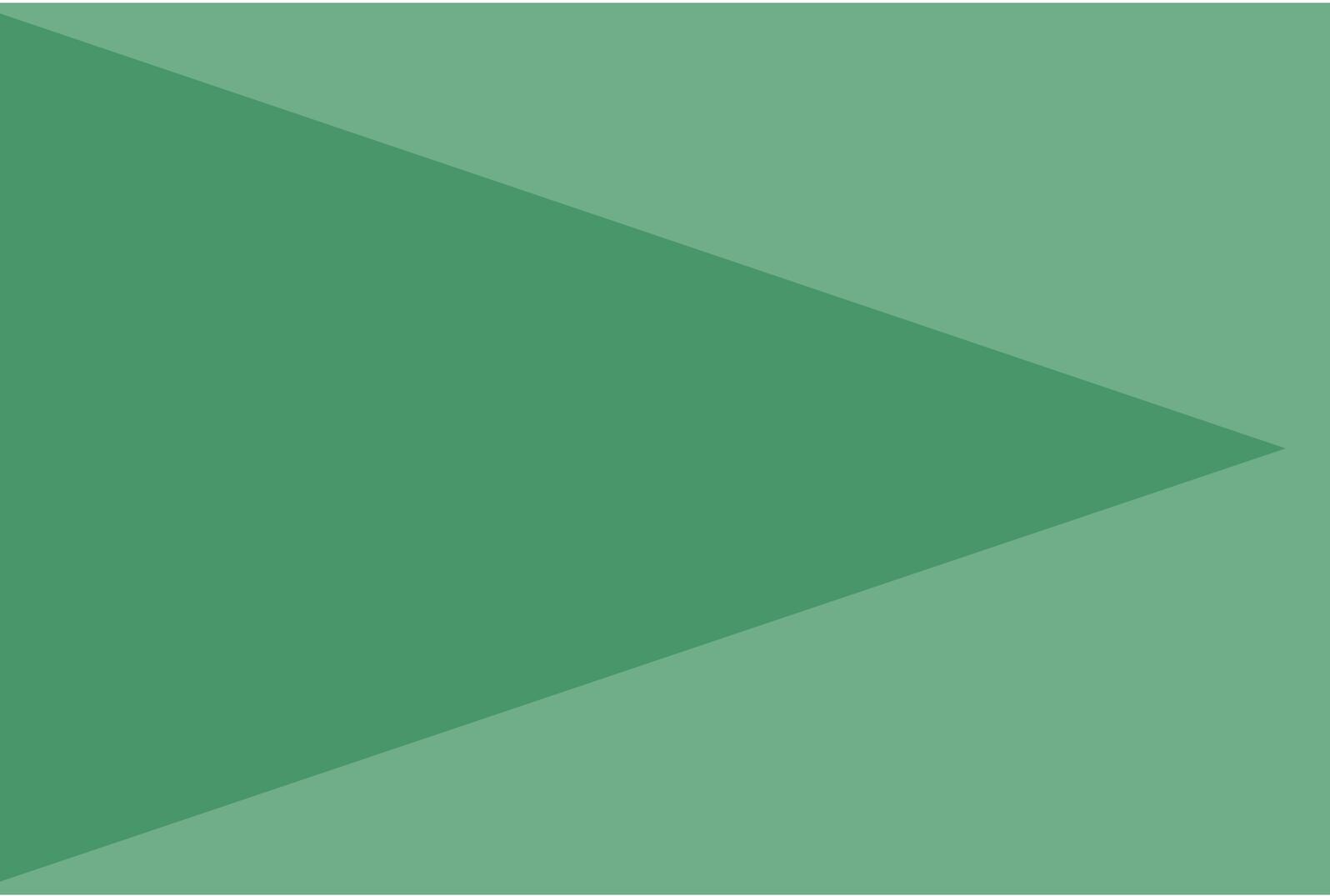


Sentence Hearing

- Often, sentencing will take place on a different date. The Judge wants to consider the information and will often write a long judgement.
- Sometimes the Judge will ask for further submissions on the sentencing date.
- The Judge will make sentencing remarks and deliver a sentence.

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