

BAR ASSOCIATION OF QUEENSLAND
ANNUAL CONFERENCE - 8 MARCH 2014

SUPREME COURT – UPDATE
JUSTICE JOHN H BYRNE AO RFD¹

TECHNOLOGY

eTrials

eTrials save time and money, especially in longer cases.

In the last year, our eTrials software has been updated. The new eTrials site looks similar to the old, to maximise user convenience.

Staff from the DPP and Legal Aid have been trained on the new platform.

The Registry is more than happy to train barristers in private practice, and to work with your Association to achieve that.

Video conferencing

In the last 15 years or so, there have been several legislative innovations and new rules of court to facilitate evidence being given, and submissions taken, by audiovisual link.²

Video conferencing saves costs, for the parties as well as the public. It can enhance convenience and efficiency: in particular for witnesses.

Those links also promote the quality that judges most admire in advocates: brevity. For some reason, barristers are more succinct when putting arguments, and asking questions, electronically.

Recent legislative initiatives³ promote greater use of video conferencing.

Section 15A of the *Penalties and Sentences Act 1992* allows audiovisual links to be used in sentencing an offender, where the “use of the link is in the interests of justice”.⁴

¹ Senior Judge Administrator, Supreme Court of Queensland.

² As examples: *Criminal Practice Rules 1999*, Part 4; *Uniform Civil Procedure Rules 1999*, rr 392, 595N; *Evidence Act 1977*, Subdivisions 3 and 4 of Part 2, Part 3A; *Victims of Crime Assistance Act 2009*, s 15B(2)(d).

³ *Criminal Law (Criminal Organisations Disruption) and other Legislation Amendment Act 2013*, Parts 5, 9, 12, 18.

⁴ s 15A(1).

Part 9 of the *Supreme Court of Queensland Act 1991* authorises the use of “video link” facilities to link the courtroom with a correctional institution where a detainee is held in custody.

It may be used where a detainee may, or must, attend court about an offence with which the detainee is charged, other than for sentencing. So a bail hearing may be conducted by video link.

The link must permit two-way audio and visual communication.

To enable the lawyer to communicate confidentially with the client, facilities must also be available for private communication between them.⁵

Arraignment may be by audiovisual link - again, provided that facilities for private communication between lawyer and client are assured.⁶

Your Association is represented on a working group to advance these welcome initiatives.

The working group is exploring client visitation by video link.

The technology already exists to allow lawyers to confer with a client who is in custody by using a smart phone or computer.

A trial of legal visits by video link is under way.

PRACTICE

Since last year’s Bar Conference, the Supreme Court has published a number of practice directions. These include:

PD 16 of 2013: Citation of Authority.

This prescribes the reports of judgments that are to be cited.

It also contains an ethical precept: if you cite a case, you must refer to any “subsequent judgment which has doubted...the cited judgment in a relevant respect”.⁷

PD 7 of 2014: Digitally Recorded Proceedings: Means of Identifying Proceeding, those Appearing and Witnesses. This PD explains:

- the need to give a witness list to Auscript, supplier of the Court’s transcription service, where a witness is to give evidence orally;
- how to announce your appearance.

PD 4 of 2014: Criminal Jurisdiction: Supreme Court consolidates earlier directions relating to criminal jurisdiction.

⁵ s 83(1).

⁶ *Criminal Code*, s 597C(4).

⁷ Para 3(f).

PD 5 of 2014: Criminal Listing Procedures – Brisbane explains how trials and sentences are managed in Brisbane.

PD 8 of 2014: Electronic Devices in Courtrooms. This clarifies who may use what electronic devices in court. It is of particular interest to lawyers and journalists.

PD 10 of 2014: Supervised Case List – Self Represented Parties – Brisbane.

Justice Peter Lyons, who was instrumental in developing this practice direction, will speak about it soon.

PD 6 of 2013: Case Management in Complex Criminal Trials. This regulates management of trials that will last at least three weeks.

It has two main objectives:

- To ensure that the trial is ready to proceed expeditiously on the appointed date;
- To enhance the fairness and efficiency of the trial itself.

Specialist criminal practitioners - barristers and solicitors - made thoughtful suggestions which have been incorporated into the practice direction. The Court is grateful to leaders of your Association for their help.

Most barristers who practise in crime do not appear in lengthy trials. But the practice direction is a valuable aid to the preparation of trials of any length. It includes checklists that are adaptable for use in shorter cases too.

The regime encourages early preparation on both sides, and co-operation.

Judicial management – typically, by the designated trial judge – is intensive.

Implementation of this regime will mean shorter, better conducted, trials, and without putting the defendant's rights in jeopardy. Shorter trials are an imperative.

As I said at this conference five years ago: "Judges have a responsibility to manage their resources efficiently and effectively...".

So no more time, effort or expense should be committed to the case than is needed for its just determination.

The practice direction aims to achieve that.