



The different Criminal courts in South Australia

Date: Thursday January 26, 2017

Different criminal offences are obviously and understandably treated very seriously. Some criminal offences might result in simply a small fine whereas others result in life imprisonment.

Certain criminal offences are much more prevalent in society with several thousand charges laid per year whereas other offences like murder or manslaughter are relatively uncommon in society.

To combat the differences in severity and prevalence of certain offences, South Australia has established different courts to deal with different offences. There is a 'court hierarchy', not just in SA but across the country, and Australia's top court is the High Court located in Canberra. The High Court is generally an 'appellate' court, meaning it does not hear criminal trials, but can hear appeals regarding the correct interpretation of the criminal law and the appropriateness of any sentences imposed on criminals.

In South Australia, the main criminal courts are:

1. The Youth Court;
2. The Magistrates Court (including the [Early Resolution Court](#));
3. The District Court; and
4. The Supreme Court.

South Australia's current top judicial officer is the Chief Justice of the Supreme Court, The Honourable Chris Kourakis SC.

This blog cannot provide a complete overview of the extremely complex structure of each Court (noting that each Court is governed by its own set of unique rules and legislation) but should provide some insight into some of their differences.

The Youth Court

The Youth Court was established more than 100 years ago to deal with trials and hearings involving child offenders. In addition to youth offending, the Court can also deal with matters concerning child protection, adoption and other matters involving children.

It is a specialist court, and deals with young offenders up to the age of 17. More serious offences like endangering life and robbery are heard by a Judge whereas more minor offences like graffiti or common assault can be dealt with by a Magistrate. To protect young offenders, the hearings are generally closed to the public. The media can listen to proceedings, but cannot provide reports that might identify the young defendant.

The Magistrates Court

The Magistrates Court hears the vast majority of criminal cases in South Australia. All defendants charged with a crime have their first hearing in this Court.

The vast majority of charges are finalised in the Magistrates Court, whereas more serious charges are 'committed' to the District or Supreme Court. There are no juries in the Magistrates Court. A defendant either pleads guilty to the offence and then the Magistrate imposes sentence, or the defendant pleads not guilty which initiates a process of litigation leading up to a trial.

At a trial, the Magistrate hears evidence from prosecution witnesses, and then the defendant may provide their own evidence (or remain silent). After hearing the evidence, the Magistrate will find the defendant guilty and then subsequently impose a sentence, or 'acquit' the defendant by finding them not guilty.

A Magistrate's decision to find a defendant guilty can be appealed to a higher court. Similarly, the sentence imposed by the Magistrate can be appealed by either the defendant or the prosecution on the basis that it is either too harsh (manifestly excessive) or too lenient and therefore not reflecting community standards of punishment (manifestly inadequate).

The Magistrates Court has jurisdiction to hear many criminal cases including 'summary' and 'minor indictable' cases including, but not limited to:

- Common assault;
- Drink driving;
- Indecent assault;
- Minor drug offences;
- Minor theft offences; etc

The Magistrates Court can also deal with major indictable offences, but only in cases where the defendant pleads guilty. In other words, a Magistrate cannot hear a trial involving the most serious criminal offences.

The Magistrate has a limit on the maximum penalty they can impose, including imposing fines up to \$150,000 and imprisonment for one offence up to five years.

The District Court

The District Court is the main trial court for more serious offences in South Australia.

If defendants are 'committed' up to the District Court from the Magistrates Court, the defendant is again asked if they plead guilty or not guilty (this is called 'arraignment'). If they are prepared to plead guilty, the Judge can hear submissions regarding the appropriate sentence and then hand down their sentence on the defendant.

If the defendant pleads not guilty, a process commences leading up to trial. Before trial, the defendant can elect for the trial to be heard by jury or by a single Judge of the District Court. The trial either results in the defendant being found guilty or acquitted of the offence. A finding of guilt by the Judge or jury can be appealed to the Supreme Court, as can the sentence imposed by the Judge.

The Supreme Court

The Supreme Court is South Australia's highest criminal court. It is generally an appellate court dealing with appeals from the defendant or prosecution regarding decisions/judgments in lower courts. But it can also hear the most serious criminal trials including murder, manslaughter and treason. It is the only court in South Australia that can deal with the offence of murder.

In its appellate jurisdiction, the Supreme Court can deal with matters including:

- Appeals against conviction – that is, the defendant appealing because they maintain their innocence and think they were wrongly found guilty;
- Appeals against sentence – that is, the defendant believes the sentence imposed was too harsh or the prosecution believes the sentence imposed was too lenient;
- Bail reviews – for example, the defendant was denied bail by a lower court, and is appealing for bail to be granted; etc

The appellate jurisdiction is generally heard by a Full Bench, including three Supreme Court Justices, whereas a trial in the Supreme Court is only heard by one Justice.

If, after exhausting the appeals through the Supreme Court, the prosecution or defendant remain dissatisfied with the outcome, the parties may then seek special leave to appeal to the highest court in the land – the High Court of Australia.

Today's article is written by Associate [Michael Irvine](#). Michael now practices in Civil Litigation and Employment Law. He has previous experience in the field of criminal law. If you have any queries or require assistance in criminal law, please feel free to get in touch directly with one of our lawyers practicing in that field; [Toni Monteleone](#) or [Nes Alexandropoulos](#).

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