

District Court Criminal Practice Note 6

Sexual Assault Case List

The purpose of this Practice Note is to create separate lists for sexual assault cases coming before the District Court to ensure all such cases are kept under close management and are dealt with as expeditiously as possible.

1. Each Registry of the Court should maintain a separate list of cases involving sexual assault charges. The list should indicate when the matter was committed for trial. In the callovers to list trials and monitor the status of trials, these cases should be called over as a separate section of the general list. Matters involving a child complainant should be identified and given priority over matters involving adult complainants.
2. In fixing these cases for trial they should wherever possible be listed for trial within four months of the date of committal for trial but in no case later than six months from committal. The longer period of six months is only to make allowance for country areas where the Court sits on a circuit basis. Generally the Court has the capacity to list cases within the four month period and if Registry Managers have difficulties in listing such cases within the specified time standards, they should communicate with the Manager, Criminal Listings and Judicial Arrangements, in Sydney because any appropriate cases can be transferred to Sydney or Sydney West where early dates are always available.
3. In sexual assault cases the impact on the complainant will be a primary consideration. Counsel accepting a brief to appear in these cases in committal proceedings should do so on the basis that they will be able to appear in the trial within four months after committal for trial.
4. If there should occur a situation where a particular Court has more trials listed in the week than can be accommodated, priority should be given to sexual assault cases being heard subject only to cases where an accused is in custody solely on some other charge. Care should be taken when listing country circuits not to over list sexual assault matters where this could result in the cases not being reached.
5. In the management of sexual assault cases every effort should be made to identify when a complainant will be required to give evidence in order to avoid unnecessary anxiety in the complainant.

6. In cases involving charges of sexual assault, complainants who are required to give evidence are often anxious about the trial process, the need to confront the accused, give evidence and be cross-examined. The level of that anxiety naturally increases as the trial approaches and can be expected to reach its highest level on the day of trial.
7. When the case is adjourned on the day of trial or the accused pleads guilty on the day of trial, that anxiety is not avoided.
8. Practitioners should notify the Court as soon as possible of an intention to seek to vacate the trial or to enter a plea of guilty. This can be done by listing the case for mention before the trial date (see Practice Note 5). It can also be done by letter, facsimile or email. This is to ensure there is a record of the notification. A copy of any such notification should also be sent to the prosecution.
9. Where no such notification is received prior to the trial date, the Court record will reflect this and if the plea is on the day of trial that will normally be taken into consideration when passing sentence.
10. During the course of sexual assault trials it is desirable to provide some certainty to complainants as to when they will give evidence and where possible the giving of evidence should be arranged accordingly.
11. Generally speaking it is not appropriate for a sexual assault trial to commence unless a daily transcript is available. Appropriate arrangements should be made with Reporting Services Branch to ensure in advance that a daily transcript will be available.

The Hon Justice R O Blanch
Chief Judge
27 April, 2007