# Retention and Disposal Authority for Records of the County Court Authority number: PROS 20/04 VAR 1



# PROS 20/04 VAR 1

# Retention and Disposal Authority for Records of the County Court

Status Date: 11/03/2022

Authority number: PROS 20/04 VAR 1

#### INTRODUCTION

#### **Context**

#### **Context**

The County Court of Victoria is the principal trial court in Victoria, occupying the intermediate tier in the hierarchy of Victorian courts.

County courts were established in 1852. The *County Court Act 1958* established one county court for the State of Victoria.

The County Court deals with matters through its criminal and civil jurisdictions across the following divisions - Criminal, Common Law and Commercial.

The criminal jurisdiction covers all indictable offences except treason, murder and related offences. It deals with a broad range of criminal matters under both Victorian and Commonwealth legislation. The County Court hears appeals that arise from the Magistrates' Court, the Children's Court and from the Family Division of the Children's Court. Decisions of the County Court are appealed to the Victorian Court of Appeal.

The criminal jurisdiction also incorporates the County Koori Court. It was established in 2008 and is the first sentencing court for Aboriginal offenders in a higher jurisdiction in Australia. The County Koori Court seeks to ensure greater participation of the Aboriginal community in the sentencing process through having Aboriginal Elders or Respected Persons advise the judge on cultural issues relating to the accused and his or her offending behaviour. It follows the successful Koori Court model introduced at the Magistrates' and Children's Courts.

The County Court has unlimited civil jurisdiction covering commercial matters, building disputes and claims for damages arising from a wide range of incidents including medical negligence, serious injury and defamation. It is also able to hear Transport Accident Commission and workers compensation matters.

In addition to proceedings at Melbourne, judges also hear cases at circuit courts in 12 regional centres.

County Court judges also sit in other jurisdictions, including the Children's Court, the Coroner's Court and the Victorian Civil and Administrative Tribunal.

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#### **Variation**

#### Variation 1

Public Records Act 1973 (Section 12)

Retention and Disposal Authority for Records of the County Court Public Record Office Standard (PROS) 20/04

In accordance with section 12 of the *Public Records Act 1973* (as amended), I hereby vary the Standard applying to records of the County Court, issued as Public Record Office Standard (PROS 20/04) on 08/12/2020, as follows:

The following activity descriptions have been changed:

#### Class 2.2 description becomes:

Records of long term value documenting:

 case files relating to the hearing and assessment of claims for statutory benefits for injured workers. Includes final orders and records transferred from the Accident Compensation Tribunal.

#### **Class 2.3** description changes:

 all instances of "(excluding adoption or workers compensation cases)" is changed to "(excluding claims for statutory benefits for injured workers or adoption cases)".

This Variation shall have effect from its date of issue.

#### **APPROVED**

Justine Heazlewood

Director and Keeper of Public Records

Date of issue: 11/03/2022

Authority number: PROS 20/04 VAR 1

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# Retention and Disposal Authority for Records of the County Court Authority number: PROS 20/04 VAR 1

## **Retention and Disposal Authority for Records of the County Court**

Retention and Disposal Authority No	PROS 20/04 VAR 1
Scope	Records of the County Court
Status	Issued
Issue Date	03 March 2022

#### Authority number: PROS 20/04 VAR 1

#### **List of Functions and Activities covered**

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# **Introduction**

#### **Purpose of this Authority**

The purpose of this Authority is to provide a mechanism for the disposal of public records in accordance with the *Public Records Act 1973*.

The Authority:

- identifies records which are worth preserving permanently as part of Victoria's archival heritage
- prevents the premature destruction of records which need to be retained for a specified period to satisfy legal, financial and other requirements of public administration, and
- authorises the destruction of those records not required permanently.

#### **Context of this Authority**

#### **Public Record Office Victoria Standards**

This Authority should be used in conjunction with the Standards issued by the Keeper of Public Records under Section 12 of the *Public Records Act 1973*. Copies of all relevant PROV standards, specifications and regulatory advice can be downloaded from www.prov.vic.gov.au. These documents set out the procedures that must be followed by Victorian public offices.

#### Disposal of records identified in the Authority

Disposal of public records identified in this Authority must be undertaken in accordance with the requirements of Public Record Office Standard PROS 10/13 *Disposal*.

It is a criminal offence to unlawfully destroy a public record under s 19(1) of the *Public Records Act 1973.* 

The destruction of a public record is not unlawful if done in accordance with a Standard established under s 12 of the *Public Records Act 1973*.

This Standard (also known as an Authority) authorises the disposal of public records as described within its provisions. However, disposal is **not** authorised under this Standard if it is reasonably likely that the public record will be required in evidence in a current or future legal proceeding.

# Retention and Disposal Authority for Records of the County Court Authority number: PROS 20/04 VAR 1

For the purposes of this Retention and Disposal Authority, a 'legal proceeding' has the same meaning as the *Evidence (Miscellaneous Provisions) Act 1958*, and includes any civil, criminal or mixed proceeding and any inquiry in which evidence is or may be given before any court or person acting judicially, including a Royal Commission or Board of Inquiry under the *Inquiries Act 2014*.

If the public office identifies that public records must be retained under other applicable legislation for a period that exceeds the retention period specified under the Standards, then the longer retention period must apply.

#### **Normal Administrative Practice**

The destruction of some public records is permitted without final authorisation under normal administrative practice (NAP). NAP covers the destruction of ephemeral material of a facilitative nature created, acquired or collected by public officers during the course of their duties.

The following material may be destroyed under NAP:

- working papers consisting of rough notes and calculations used solely to assist in the preparation of other records such as correspondence, reports and statistical tabulations
- drafts not intended for retention as part of the office's records, the content of which has been reproduced and incorporated in the public office's record keeping system
- extra copies of documents and published material preserved solely for reference.

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#### **Transfer of records to Public Record Office Victoria**

Contact Public Record Office Victoria for further information on procedures for transferring permanent records to archival custody.

#### **Use of Other Authorities**

In applying the disposal sentences set out in this Authority, reference should be made to other current Authorities where applicable. Where there is a conflict between two Authorities (for instance this Authority and the General Retention and Disposal Authority for Records of Common Administrative Functions), consult the Public Record Office Victoria for advice.

#### **Explanation of Authority Headings**

#### Class Number

The class number or entry reference number provides citation and ease of reference.

#### **Description**

The description of each record class is specified in this entry. A record class is a group of records that relate to the same activity, function or subject and require the same disposal action.

#### **Status**

This entry provides the archival status of each class - either permanent or temporary.

#### Custody

This entry specifies whether the records are to be retained by the public office or transferred to the Public Record Office Victoria. Permanent electronic records are to be transferred in VERS Encapsulated Object (VEO) format according to PROS 99/007 - Management of Electronic Records (Version 2). The storage of public records identified in this Authority must also be in accordance with the requirements of Public Record Office Standard PROS 11/01 Storage.

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#### **Establishment of Standard**

Pursuant to Section 12 of the *Public Records Act 1973*, I hereby establish these provisions as a Standard (also known as a Retention and Disposal Authority) applying to the County Court of Victoria. This standard as varied or amended from time to time, shall have effect from the date of issue unless revoked.

[Approved]

Justine Heazlewood, Keeper of Public Records

Date of Issue: 8/12/2020

No	Function/Description	Status	Disposal Action
1.0	Criminal Jurisdiction		
	The County Court jurisdiction to hear and determine criminal matters. Includes indictable offences under Victorian and Commonwealth law, as well as appeals from the Magistrates' Court and Children's Court.		
	Cases include:		
	• trials		
	plea hearings		
	<ul> <li>appeals from the Magistrates' Court and Children's Court</li> </ul>		
	<ul> <li>post-sentence supervision hearings such as applications for and reviews of supervision orders, contraventions of community correction orders and judicial monitoring.</li> </ul>		
	Includes case management from registration through to hearing and final decision. Includes cases that do not proceed to hearing.		
	Criminal Division		
	The Criminal Division hears all criminal matters except treason and murder and certain other murder-related offences (heard in the Supreme Court).		
	The broad ranges of offences dealt with include:		
	serious theft		
	armed robbery		
	drug trafficking		
	sexual offences		
	fraud and dishonesty offences		
	culpable driving		
	serious assault		
	<ul> <li>income and sales tax offences.</li> </ul>		
	The Criminal Division features a number of lists and specialist courts to hear specific types of cases. They include:		
	the General List (for pre-trial management of all criminal matters committed from the Magistrates' Court after an accused pleads 'not guilty')		
	<ul> <li>the Sexual Offences List (for pre-trial management of all matters committed from the Magistrates' Court after an accused pleads 'not guilty' to a sexual offence)</li> </ul>		

No	Function/Description	Status	Disposal Action
Crimina	al Jurisdiction		
	<ul> <li>the Long Trial List (for cases that are on average 15 months to hearing)</li> </ul>		
	<ul> <li>Circuit Directions List (this manages all matters committed to the County Court from a circuit location where the accused has pleaded 'not guilty', as well as all contested appeals)</li> </ul>		
	the County Koori Court.		
	County Koori Court		
	Established in 2008, the County Koori Court is the first sentencing court for Aboriginal and Torres Strait Islander offenders in a higher jurisdiction in Australia. The County Koori Court seeks to ensure greater participation of the Aboriginal community in the sentencing process of the Court via the involvement of Aboriginal Elders and Respected Persons.		
	This court is only for indigenous accused who elect to go to Koori Court, consent to the jurisdiction and plead guilty. It does not cover sexual offences or family violence order contraventions.		
	Criminal appeals		
	The Court hears criminal appeals from the Magistrates' Court, which take place before a judge alone. A decision is generally final, except when the Court imposes a sentence of imprisonment and the Magistrates' Court did not impose a sentence of imprisonment. In such a case, the appellant may appeal to the Court of Appeal, so long as leave is granted.		
	The Court also hears appeals from the Criminal and Family Divisions of the Children's Court.		
1.1	Records of continuing value documenting:	Permanent	Retain as
	<ul> <li>the registration, including summary details, of each individual case heard or administered by the criminal jurisdiction of the County Court. Summary details include the case number and the names of parties associated with a case. Includes hard copy registers, indexes and the registration data contained in any electronic case management system</li> <li>indictments. The indictment is the official record of the authority upon which a person is tried and the Court's decision on the outcome of a criminal proceeding. The indictment provides details including the location the proceeding has</li> </ul>		State Archives, Transfer to PROV

No	Function/Description	Status	Disposal Action		
Crimina	Criminal Jurisdiction				
	originated at, the name of the accused, the charges, particulars of date and place of offence, offences of which the accused has been convicted, names of victims and witnesses. The indictment is typically annotated by the judge's associate with any please of 'guilty' or 'not guilty' and a jury verdict (where applicable).				
	<ul> <li>sentencing remarks. Sentencing remarks (also called 'reasons for sentence' and 'judicial sentencing comments') is the document prepared after a person has been sentenced in the Criminal Division and records the decision on each case and reasons for the sentence. At the end of a sentencing hearing, the judge summarises the case, imposes a sentence, and outlines the reasons for the sentence. Sentencing remarks often include:</li> </ul>				
	<ul> <li>a summary of the offence, including aggravating and mitigating circumstances</li> <li>relevant factors about the offender, including his or her background and prospects for rehabilitation</li> <li>reference to the impact of the offence on any victim(s)</li> <li>reference to the purpose or purposes that the judge intends the sentence to achieve</li> </ul>				
	<ul> <li>final orders issued in indictable cases. Details include date and place of trial, presiding judge, name, age and date of birth of offender, offences of which convicted, decision or outcome, sentence and approval or communication of the Governor</li> </ul>				
	<ul> <li>suppression orders and revocations relating to criminal cases. Suppression orders are made to prevent the publication or reporting of any information about a case</li> </ul>				
	<ul> <li>the official decision given and order made of the outcome of an appeal against sentence and/or conviction, or against an order made from the Magistrates' Court and Children's Courts.</li> </ul>				
1.2	Records of medium term value documenting:	Temporary	Destroy 25		
	<ul> <li>case records of a criminal case, except the final order. Records may include documents created pursuant to pre-hearing listings and directions, various applications and notices, charge sheet and summons, subpoenas for witnesses and documents, affidavits, gaol calendars, witness statements, victim impact statements, criminal</li> </ul>		years after final order or appeal period has expired.		

No	Function/Description	Status	Disposal Action
Crimin	al Jurisdiction		
	records/history, medical and psychiatric reports, police summaries, bail conditions and undertakings, bond and surety documents, probation documents, intervention orders, certificates of available services, sentencing reports, finalised case notifications, exhibits lists, communications with prisons and other detention facilities and appeal documents		
	<ul> <li>case records for appeals, except the final order.</li> </ul>		
	Criminal case records exclude the separate client files created for clients receiving support under a Courtbased support program - see class 4.2.		
1.3	Records of short term value documenting:	Temporary	Destroy 5
	<ul> <li>judges' notes on cases heard. These are rough notes on each criminal case as it was heard</li> </ul>		years after last entry.
	<ul> <li>associates' notes on cases heard. These are the notes of the judges' associates.</li> </ul>		
1.4	Records documenting:	Temporary	Destroy after
	<ul> <li>duplicate copies of transcripts of testimony of a party or witness. Known as depositions, these are tendered at a committal proceeding and received by the Court from the Office of Public Prosecutions or the Commonwealth Director of Public Prosecutions.</li> </ul>		reference ceases.

No	Function/Description	Status	Disposal Action
Civil Ju	urisdiction		
2.0	Civil Jurisdiction		
	The County Court jurisdiction to hear and determine civil matters. Includes civil matters such as personal injury, building and commercial disputes, defamation and workers compensation claims.		
	The civil jurisdiction has unlimited authority with no monetary cap on damages. The jurisdiction falls across two divisions, Commercial Division and Common Law Division, both of which feature a number of lists (specialist categories of cases that are administered by a judge).		
	Commercial Division		
	The Commercial Division deals with matters that include debt recovery, contract, trust and property. It features a number of lists to hear specific types of cases including the:		
	<ul> <li>Banking and Finance List (consists of proceedings relating to any transaction involving the provision of credit. This includes a proceeding concerning a mortgage or guarantee, or a proceeding for the recovery of possession of land)</li> </ul>		
	Building Cases List (hears proceedings concerning agreements related to building works)		
	<ul> <li>Expedited List (the aim of the Expedited List is to provide faster resolution of commercial matters. Proceedings are intensively case managed by a judge or judicial registrar)</li> </ul>		
	<ul> <li>General List (consists of any proceeding arising from a commercial transaction, involving personal or real property, which does not relate to the Building Cases List, Banking and Finance List, or Expedited List).</li> </ul>		
	Common Law Division		
	The Common Law Division deals with damages and compensation cases. It features a number of lists to hear specific types of cases including the:		
	<ul> <li>Adoptions, Surrogacy and Name Changes List (hears proceedings relating to child and adult adoptions, surrogacy and relevant change of name applications)</li> </ul>		
	<ul> <li>Applications List (hears applications for brief proceedings such as changes of names or requests to extend the time allowed for a claim.</li> </ul>		

No	Function/Description	Status	Disposal Action
Civil Ju	risdiction		
	The Applications List mainly includes short or preliminary applications that may precede more complex matters)		
	<ul> <li>Confiscation List (hears proceedings related to the confiscation of property, money and other assets linked to crime)</li> </ul>		
	<ul> <li>Defamation List (hears and determines defamation proceedings. Plaintiffs can bring defamation claims against individuals and organisations)</li> </ul>		
	<ul> <li>Family Property List (hears proceedings related to deceased estates and testator's family maintenance applications, and domestic partnership property disputes)</li> </ul>		
	<ul> <li>General List (hears proceedings related to compensation, such as applications for compensation following a workplace or car accident, and claims arising from a personal injury caused by negligence)</li> </ul>		
	<ul> <li>Medical List (hears proceedings claiming compensation for death or bodily injury as a result of negligent medical treatment or advice)</li> </ul>		
	<ul> <li>Serious Injury List (hears and determines applications for permission to seek compensation following a workplace or car accident)</li> </ul>		
	<ul> <li>WorkCover List (hears proceedings related to claims for statutory benefits for injured workers).</li> </ul>		
	Includes case management from registration through to hearing and final judgment.		
2.1	Records of continuing value documenting:	Permanent	Retain as
	<ul> <li>the registration of each individual case heard or administered by the civil jurisdiction of the County Court. Includes those that come before the court but are not heard – such as those settled beforehand. Records include the case number and summary details such as names of the complainant and defendant, brief summary of the nature and monetary value of the case, date complaint was lodged, date of hearing. Includes hard copy registers and indexes and the registration data contained in any electronic case management system</li> </ul>		State Archives, Transfer to PROV
	<ul> <li>adoption orders and case records. Includes child adoption, adult adoption or substitute parentage cases. Adoption orders made in the Court can also include adoptions of children originating</li> </ul>		

No	Function/Description	Status	Disposal Action
Civil Ju	ırisdiction		
	from other countries. Records include applications, correspondence, affidavits, certificates issued overseas, declarations, memos written to the presiding judge or any other records including those to prove the identity of the child.		
2.2	Records of long term value documenting:	Temporary	Destroy 75
	<ul> <li>case files relating to the hearing and assessment of claims for statutory benefits for injured workers. Includes final orders and records transferred from the Accident Compensation Tribunal.</li> </ul>		years after final order or appeal period has expired.
2.3	Records of medium term value documenting:	Temporary	Destroy 25
	<ul> <li>final judgments of the Court including reasons for judgments in civil cases (excluding claims for statutory benefits for injured workers or adoption cases)</li> </ul>		years after final order or appeal period has expired.
	<ul> <li>orders for civil cases (excluding claims for statutory benefits for injured workers or adoption cases)</li> </ul>		
	<ul> <li>case records for civil cases (excluding claims for statutory benefits for injured workers or adoption cases). Records include documents initiating proceedings, applications, summonses, subpoenas, affidavits, warrants, witness statements and correspondence</li> </ul>		
	<ul> <li>records of judgments and orders from other jurisdictions which are registered in Victoria for enforcement including those from the Victorian Civil and Administrative Tribunal (VCAT), interstate and overseas</li> </ul>		
	<ul> <li>suppression orders and revocations relating to civil cases. Suppression orders are made to prevent the publication or reporting of any information about a case – and can be made relating to a person or an organisation.</li> </ul>		
2.4	Records of short term value documenting:	Temporary	Destroy 5
	judges' notes on cases heard. These are rough notes on each civil case as it was heard		years after last entry.
	<ul> <li>associates' notes on cases heard. These are the notes of the judges' associates.</li> </ul>		

No	Function/Description	Status	Disposal Action
Court /	Administration		
3.0	Court Administration		
	The administration of the Court including the development and administration of court practices and procedures and the management of committees concerned with the interpretation, review and administration of the <i>County Court Act 1958</i> and the operation of the Court.		
	Includes the Council of Judges who meet to consider the operation of the Act and the County Court Rules, as well as the Board of Management, the major committee that discusses the procedures, overarching operations or strategic directions of the County Court.		
	Also includes activities associated with the support of Court proceedings and practice across both criminal and civil jurisdictions.		
	See General Retention and Disposal Authority for Records of Common Administrative Functions for records of fee collection.		
	See General Retention and Disposal Authority for Records of Common Administrative Functions for records of all other committees.		
3.1	Records of continuing value documenting:	Permanent	Retain as
	<ul> <li>the master set of minutes, agenda, reports and submissions of the Council of Judges meetings and the Board of Management meetings</li> </ul>		State Archives, Transfer to PROV
	<ul> <li>the Council of Judges' annual report to the Governor</li> </ul>		
	<ul> <li>the master set of practice notes which are formal directions issued with the authority of the Chief Judge which inform legal practitioners about practice and procedure before the Court</li> </ul>		
	the master set of the registrar practice directions which record the procedures of the Registry of the County Court and are issued with the authority of the Principal Registrar		
	<ul> <li>the master set of minutes, agenda, reports and submissions of any other meetings of governance committees or committees concerned with the interpretation, review and administration of the Act.</li> </ul>		
3.2	Records of short term value documenting:	Temporary	Destroy 1
	audio and visual recordings of court proceedings. These are made by court staff and are for double-checking of evidence, submissions or		year after appeal period expires or otherwise

No	Function/Description	Status	Disposal Action
Court .	Administration		
	other matters that have taken place in the courtroom or for parties to review when considering lodging an appeal		ordered by a judge.
	<ul> <li>duplicate copies of transcripts of court proceedings made by the Victorian Government Reporting Service (VGRS) or private contractors excluding sentencing remarks.</li> </ul>		
3.3	Records documenting:	Temporary	Destroy after reference ceases.
	<ul> <li>the scheduling of cases heard in the Court.         Includes case listings, courtroom bookings and records related to the allocation of judges to cases.     </li> </ul>		

No	Function/Description	Status	Disposal Action		
Progra	Programs and Services Management				
4.0	Programs and Services Management				
	The management of support programs and services for accused, applicants and respondents with the aim of reducing re-offending, improving safety and increasing confidence in and access to the justice system. This includes the management of the County Koori Court.				
4.1	Records of continuing value documenting:	Permanent	Retain as		
	<ul> <li>the establishment, review and monitoring of programs and services, including the content, audience, and delivery mechanisms of the program</li> </ul>		State Archives, Transfer to PROV		
	<ul> <li>the nomination and selection of members of the community to participate as role models, advocates, mentors and/or champions, for example Koori elders for participation in the County Koori Court.</li> </ul>				
4.2	Records of short term value documenting:	Temporary	Destroy 7		
	<ul> <li>client files for clients appearing before the Court and receiving support under one of the Court- based support programs. Includes case notes.</li> </ul>		years after program support case closed.		
	These client files are separate to the case records of the criminal jurisdiction and contain additional notes made by program officers in relation to the client's background and processes during the case. This includes:		ciosed.		
	<ul> <li>what occurred during the hearing, as recordings are not made</li> </ul>				
	<ul> <li>what undertakings were made by the client to the program officers</li> </ul>				
	<ul> <li>cultural knowledge of the client, for example for Aboriginal clients, information about family members, who is their mob, connection to country, connections to elders</li> </ul>				
	details of referrals to other agencies.				

No	Function/Description	Status	Disposal Action
Legacy Records			
5.0	Legacy Records		
	This section authorises the disposal of records that are no longer created by the County Court.		
	Includes records in obsolete recordkeeping formats and/or records which document actions which no longer fall within the Court's jurisdiction.		
	This section does not cover records that document functions that are continuing and are created in modern systems. Please refer to the applicable classes in functions 1-4 of this RDA.		
5.1	Records of continuing value:	Permanent	Retain as State Archives, Transfer to PROV
	<ul> <li>Maintenance Appeal Record - documents appeals heard in the County Court against maintenance orders made in the Court of Petty Sessions (later known as the Magistrates' Court). Includes the date entered in the register, appellant name, respondent name, order appealed against (for example maintenance of wife or child), date of hearing, a precis of the judgment, the adjudicating judge and remarks</li> </ul>		
	<ul> <li>Infant Investment Index - documents orders made by a County Court judge requiring the investment of money on behalf of a minor or a person under a disability. Indexes record in alphabetical order the surname of the infant plaintiff and the corresponding court case number, bank account numbers and date of account opening and closure.</li> </ul>		