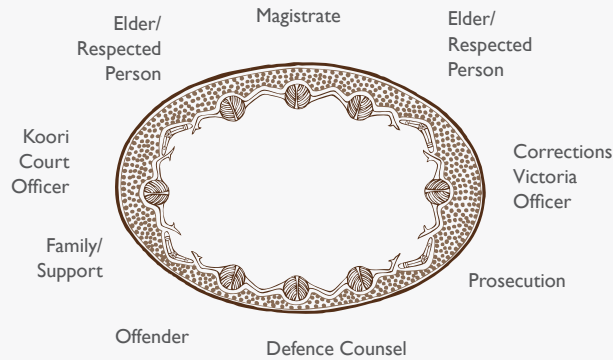


This diagram explains where everyone will sit in the Koori Court:



## WHO IS ELIGIBLE?

Those who:

- i. are Aboriginal and/or Torres Strait Islander.
  - ii. are charged with an offence that can be heard in a Magistrates' Court.
  - iii. are charged with an offence that does not involve family violence offences or sexual assault.
  - iv. plead guilty to the offence.
  - v. Are willing to join-in the Koori Court.
  - vi. Principles of proper venue will apply.
- Indigenous defendants must elect to go to Koori Court, consent to the jurisdiction and plead guilty.

Aboriginality:

Aboriginality is a jurisdictional requirement; a defendant must be Aboriginal to come before the Koori Court. Everyone who has their matter listed in the Koori Court will be required to complete a 'Confirmation of Aboriginality or Torres Strait Islander Descent' Form, and affirm that they fit the definition of 'Aboriginal' (under s3).

"Aborigine" means a person who –

- (a) is descended from an Aborigine or Torres Strait Islander; and
- (b) identifies as an Aborigine or Torres Strait Islander; and
- (c) is accepted as an Aborigine or Torres Strait Islander by an Aboriginal or Torres Strait Islander community.

## WHAT SENTENCING OPTIONS ARE AVAILABLE?

- As in conventional Magistrates' Courts, the decision regarding the sentencing order is the Magistrates'.
- The Magistrate will retain all sentencing alternatives of the conventional Magistrates' Court, including the power to send defendants to prison.
- However, the primary goal of the court is to create sentencing orders that are more culturally appropriate to Aboriginal offenders, thereby reducing the rate of re-offending.

## WHERE ARE THE COURTS?

The Koori Court is located at Bairnsdale, Broadmeadows, LaTrobe, Mildura, Shepparton, Swan Hill and Warrnambool. Children's Koori Courts are located at Melbourne Children's Court and Mildura Magistrates' Court.

Koori Court Officers at the court can be contacted on:

- Bairnsdale Koori Court – (03) 5153 1000
- Broadmeadows Koori Court – (03) 9221 8900
- LaTrobe Valley Koori Court – (03) 5116 5222
- Melbourne Children's Koori Court – (03) 8601 6700
- Mildura Koori Court – (03) 5021 6000
- Shepparton Koori Court – (03) 5821 4633
- Swan Hill Koori Court – (03) 5032 1352
- Warrnambool Koori Court – (03) 5564 1111



The Koori Court logo was created by Mildura based artist Lance Atkinson, a Gamilraay man.

For more information please contact the Koori Court Unit at the Magistrates' Court of Victoria  
436 Lonsdale Street, Victoria 3000.  
Phone (03) 9603 9364.



[www.magistratescourt.vic.gov.au](http://www.magistratescourt.vic.gov.au)



# KOORI COURT

Information for legal representatives

The Koori community and the Department of Justice working together to make the justice system fair.  
An Initiative of the Victorian Aboriginal Justice Agreement

## WHAT IS THE KOORI COURT?

- The Koori Court was created under the Magistrates' Court Act 1989 as a division of the Magistrates' Court.
- The Koori Court is a sentencing court.

## HOW IS IT DIFFERENT?

- The Koori Court provides an informal atmosphere and allows greater participation by the Koori community in the court process.
- The Magistrate sits at a table with all other participants, not at the bench; the defendant sits with their family at the table.
- Participants talk in plain English, rather than using technical legal language.
- The Koori Court gives Koori people the chance to have a say. Offenders can talk about their past, why they did things, and what they can do about it. Offenders' families and community members can also give their view.
- It is expected that the offender will be involved and participate in the "sentencing conversation" during the hearing.

## WHY HAVE A KOORI COURT?

- Koori people are over-represented within the criminal justice system, more so than any other cultural group.
- Numerous reports, such as the Royal Commission into Aboriginal Deaths in Custody and the Bringing Them Home Report, have recommended that the legal system be modified to make it less culturally alienating and more tailored to the needs of the Aboriginal offenders and their community.
- The Victorian Aboriginal Justice Agreement is an agreement developed between the State Government and the Victorian Koori community. One of the major recommendations has been the need for a Koori Court.

## OBJECTIVES OF THE KOORI COURT

- Increase the accountability of the Koori community, families and offenders.
- Reduce the amount of breached court orders and the recidivism rate.

- Increase community awareness about community codes of conduct.
- Explore sentencing alternatives prior to imprisonment.
- Create a court system that is culturally responsive.
- Ensure greater participation by the Aboriginal community in the sentencing process which increase Koori ownership of the administration of the law.
- The Court reduces perceptions of cultural alienation and tailors sentencing orders to the cultural needs of Koori offenders.
- Encourage offenders to appear in Court.

## WHAT LEGISLATION IS IT BASED UPON?

The Koori Court was established under the Magistrates Court (Koori Court) Act 2002, which has subsequently been incorporated into the *Magistrates Court Act 1989* (the Act).

## JURISDICTION OF THE KOORI COURT

Section 4E of the Act sets out the jurisdiction of the Koori Court Division:

### 4E. Jurisdiction of Koori Court Division

The Koori Court Division has –

- (a) the jurisdiction to deal with a proceeding for an offence given to it by section 4F; and
- (b) jurisdiction to deal with a breach of sentencing order made by it (including any offence constituted by such a breach) or variation of such a sentencing order; and
- (c) any other jurisdiction given to it by or under this or any other Act.

4F. Circumstances in which the Koori Court division may deal with certain offences

- (1) The Koori court division only has jurisdiction to deal with a proceeding for an offence (other than an offence constituted by a breach of a sentencing order made by it) if –
  - (a) the defendant is Aboriginal; and
  - (b) the offence is within the jurisdiction of the Magistrates' Court, other than –
    - i. a sexual offence as defined in section 6B(1) of the Sentencing Act 1991; or
    - ii. an offence against section 22 of the Crimes (Family

Violence) Act 1987 (breach of an intervention order or interim intervention order) or an offence arising out of the same conduct as that out of which the offence against section 22 arose; and

(c) the defendant

- i. intends to plead guilty to the offence; or
  - ii. pleads guilty to the offence; or
  - iii. intends to consent to the adjournment of the proceedings to enable him or her to participate in a diversion program; and
- (d) the defendant consents to the proceeding being dealt with by the Koori Court Division.

- (2) Subject to and in accordance with the rules –
  - (a) A proceeding may be transferred to the Koori Court Division, whether sitting at the same or a different venue;
  - (b) The Koori Court Division may transfer a proceeding (including a proceeding transferred to it under paragraph (a) to the Court, sitting other than as the Koori Court division, at the same or a different venue.
- (3) Despite anything to the contrary in this Act, if a proceeding is transferred from one venue of the Court to another, the transferee venue is the proper venue of the Court for the purposes of this Act.

## WHO IS INVOLVED IN THE KOORI COURTS HEARING?

- The Koori Courts are open and accessible to the public for observation, similar to mainstream courts.
- Koori Elders or Respected Persons, a Koori Court Officer, the defendant and their family can all contribute during the Court hearing.
- The Koori Court Officer is available to provide assistance and referrals to defendants to access support services. Koori specific services will be sought as far as possible.
- The Koori Elders or Respected Persons will provide the court with advice relating to cultural matters. The Magistrate might consider this advice when handing down the most appropriate sentencing order.