

# Chapter 3: Introduction to the Victorian criminal justice system (SD1), Chapter 4: Determining a criminal case (SD 2), Chapter 5: Reforming the criminal justice system (SD3)

## Quizlet

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1. <b>What is a criminal justice system?</b>	A criminal justice system is a set of processes and institutions used to investigate and determine the outcomes of criminal cases.
2. <b>What are two purposes of a criminal justice system?</b>	Two of the key purposes of the criminal justice system are to decide whether an accused is guilty of an offence, and to impose a sanction in cases where an accused has been found guilty of a crime (or pled guilty).
3. <b>What is the 'timeline' of the key stages in a criminal case?</b>	 <p>Source 1 An overview of some of the key stages in a criminal case. Over the course of Unit 3 – Area of Study 1, you will primarily be learning about the three key stages shown in pink above.</p>
4. <b>Is there a unified criminal justice system in Australia?</b>	There is no single, unified criminal justice system in Australia – this is due to the fact that under the Australian Constitution, the Commonwealth parliament does not have the power to make laws about crime in general. Instead, it is the states that have power to maintain public order and protect citizens. As a result, each state and territory in Australia has its own law that establish crime, such as what is considered a crime.
5. <b>What courts hear criminal cases in Victoria? For what cases does the Children's Court hear criminal cases?</b>	In Victoria, the courts that determine criminal cases are the Magistrates', County and Supreme Courts. Also, the Children's Court hears criminal cases in Victoria, where a child between the ages of 10-17 has been accused of committing a crime.
6. <b>What criminal matters does the Commonwealth handle?</b>	Although the administration of criminal justice is a power held by the states, the Commonwealth Parliament has the power to pass criminal laws if they relate to constitutional powers in some way – e.g avoiding customs duties, because customs is a Commonwealth power. This is because criminal offences like this have the potential to affect the whole of Australia, not just a particular state or territory.
7. <b>What types of crime could be prosecuted by both the states and the Commonwealth?</b>	Commonwealth offences, that is, offences that break a law passed by the Commonwealth Parliament, have expanded over time and there is now a great deal of overlap – some crimes, such as drug dealing, could be prosecuted by either Commonwealth or state police.
8. <b>What are some examples of Commonwealth offences, and where are these contained?</b>	Many of the Commonwealth offences are contained in the Commonwealth Criminal Code, a statute passed by the Commonwealth Parliament – the Code includes offences such as assisting enemies at war with Australia (treason) and advocating terrorism.
9. <b>Give a brief explanation for each of the two parties to a criminal case.</b>	A criminal case involves two parties – the state, i.e. the government, which is represented by a prosecutor, also called the prosecution, which acts on behalf of the people and with the authority of the Crown. Also, another party is the accused, i.e. the person or institution that is alleged to have committed a crime.
10. <b>Who prosecutes a criminal case?</b>	In Victoria, the Office of Public Prosecutions (OPP) works with the Director of Public Prosecutions (DPP) and the Crown Prosecutors to prosecute serious crime on behalf of Victorians in the County and Supreme Court of Victoria. In less serious cases, Victoria Police officers will ordinarily prosecute a case in the Magistrates' Court – other organisations such as local councils, VicRoads and WorkSafe Victoria also have the power to prosecute less serious offences.
11. <b>What is the DPP?</b>	The DPP is an independent officer responsible for commencing, preparing and conducting prosecutions against the offender of indictable offences on behalf of the Crown.
12. <b>What is the OPP?</b>	The OPP is the Victorian public prosecutions office which prepares and conducts criminal proceedings on behalf of the DPP.

13. <b>Who can an accused be in a criminal case?</b>	The person charged with a crime is known as the accused. There can be multiple accused persons in a criminal case – depending on the crime that is alleged to be committed. Companies can also be charged with offences such as taxation fraud and environmental offences.
14. <b>What is the definition of justice?</b>	Justice is difficult to define as it means different things to different people – it is more accurate to define justice in terms of considering the three principles of justice: fairness, equality and access. A 'just' outcome is one that is fair, provides equal treatment towards all parties, and where all members of the community have effective access to the legal system, without discrimination.
15. <b>What is fairness?</b>	Fairness is one of the principles of justice – it requires requires a level of impartiality and a lack of bias in legal processes, systems and institutions. It also requires that all parties to a case receive an unbiased hearing, meaning that the person exercising administrative power, such as the judge, is objective and impartial.
16. <b>What are three factors may affect the ability of the criminal justice system to achieve fairness?</b>	Aspects of the criminal justice system that relate to fairness may include: the time it takes for a criminal case to be heard and completed, and whether any delays have occurred; the availability of competent legal representation for an accused and for victims; and the opportunity for the accused to present their case and to appeal a decision made if they are unsatisfied with the result.
17. <b>What are two ways in which our justice system helps to ensure fairness is achieved?</b>	Firstly, because of the presumption innocence, all criminal defendants are considered innocent until they have been proven guilty -- this approach is fairer than adopting an approach where a person is presumed guilty and punished until they prove their innocence. Additionally, a person who believes an error was made in their hearing has the right to appeal their case, or at the very least, apply for leave to appeal (such as to the Court of Appeal). This helps check for mistakes, and ultimately ensuring that a fair outcome has been reached.
18. <b>What is equality?</b>	Equality is one of the principles of justice – it means that the legal system should strive to achieve non-discriminatory outcomes, including equal protection for all who come before it. However, the system acknowledges, that, invariably, there are differences, and so there should be resources that exist to provide balance – seeking equal rights and responsibilities, and ensuring that no individual is disadvantaged.
19. <b>What are three factors that may affect the ability of the legal system to achieve equality?</b>	Some of the aspects of the criminal justice system that relate to equality include the way differences are treated, such as cultural and religious differences; whether the system disadvantages certain groups in society (those who are incompetent at English, vulnerable witnesses); and the extent to which laws apply equally to everyone.
20. <b>What are two ways in which our justice system helps to ensure equality is achieved?</b>	Firstly, various forms of disadvantage are recognised, and targeted assistance or support mechanisms are legislated for to try to achieve substantive equality. For instance, a range of mental disabilities and psychological disorders are supported in criminal proceedings through the Assessment and Referral List in the Magistrates' Court, and interpreters are provided during police questioning and Magistrates' Court criminal proceedings. Additionally, judicial proceedings are governed by strict rules of procedure that are consistently applied to both parties equally. For instance, each party's evidence can be tested equally through cross-examination of witnesses, ensuring that all evidence is reliable.
21. <b>What is access?</b>	Access to the legal system is one of the principles of justice – it requires that all people should be able to understand their legal rights and pursue their cases. This more than just being able to access the institutions that hear criminal cases, but also for people to be able to approach bodies that provide legal advice, education, information and assistance about the various criminal proceedings that occur.
22. <b>What are three factors that may affect the ability of the legal system to achieve access to the legal system?</b>	Some of the aspects of the criminal justice system that relate to access include: the availability of the courts and legal processes; the costs and delays associated with defending a criminal case or accessing information about legal rights; and the availability of legal advice and assistance to an accused and victims who may not be able to afford legal representation.

23. <b>What are two ways in which our justice system helps to ensure access is achieved?</b>	Firstly, Neighbourhood Justice Centres (such as in the City of Yarra), for example, aim to improve the justice system by addressing social disadvantage and improving access to justice services. It combines to support services such as drug counselling and childcare with community initiatives, and mixes the legal system with the local community. Additionally, in many situations, the accused has an opportunity to receive interpreter services in the Magistrates' Court, for instance, should they have language difficulties. In this way, they are able to access the court system much better.
24. <b>What are the four key concepts in the Victorian criminal justice system?</b>	The four key concepts in the Victorian criminal justice system are: the distinction between summary and indictable offences, the burden of proof, the standard of proof and the presumption of innocence.
25. <b>What are summary offences?</b>	Summary offences are minor criminal offences that are generally heard in the Magistrates' court. They are considered to be less serious types of crime, and include offences such as drink driving, disorderly conduct and minor assaults. There is no right to trial by jury for summary offences, at all.
26. <b>In what statute are some summary offences listed?</b>	The <b>Summary Offences Act 1966 (Vic.)</b> .
27. <b>What is the proceeding, where both parties will put their cases before a magistrate called, for a summary offence?</b>	The final hearing at which both parties will put their cases before a magistrate is known as a hearing, as opposed to a trial in the County and Supreme Courts.
28. <b>What are indictable offences?</b>	Indictable offences are serious criminal offences that are heard by a judge, and also by a jury if the accused pleads not guilty, in the County or Supreme Court of Victoria. Final hearings are known as trials, and examples of indictable offences include homicide offences such as murder and drug trafficking.
29. <b>What statute lists some of the indictable offences in Victoria?</b>	As a general rule, offences in the <b>Crimes Act 1958 (Vic.)</b> are indictable offences unless the offence is stated in the Act to be a summary offence.
30. <b>What are indictable offences heard and determined summarily?</b>	Some indictable offences are known as indictable offences heard and determined summarily – these are indictable offences, but they can be heard in the Magistrates' Court as if they were summary offences, with the consent of the accused. The court must also agree that the offence is appropriate to be heard summarily.
31. <b>What indictable offences are eligible to be heard and determined summarily?</b>	Firstly, the <b>Criminal Procedure Act 2009 (Vic)</b> states that indictable offences punishable by imprisonment of 10 years or less and/or a fine of \$120,000 or less can be heard summarily. In addition, Schedule 2 of the Act lists a range of offences, such as theft and burglary in the amount of less than \$100,000, or perjury, that can be tried summarily.
32. <b>Why would an accused want to have their case heard summarily?</b>	The accused will usually choose to have an offence heard summarily, mainly because it is quicker and cheaper to have a case heard in the Magistrates' Court, and the maximum penalty that can be handed down is far less than if it were heard as an indictable offence – the maximum sentencing power of the Magistrates' Court is two years for a single offence (three years for drug offences), with a total sentence of five years. This may be particularly helpful if they are planning to plead guilty.
33. <b>Are summary offences or indictable offences more common in Victoria?</b>	Most crimes that are committed in Victoria are summary offences – according to an annual report from the Magistrates', County and Supreme Courts, the vast majority heard each year in Victoria – around 90%, are heard in the Magistrates' Court, which generally hears summary offences.

34. <b>What is the definition of a burden of proof – and what is the burden in a criminal case?</b>	The burden of proof refers to the responsibility of a party to prove the facts of the case – the burden of proof lies with the person or party who is bringing the case. In a criminal case, this is the prosecution. This means that the prosecution has the onus to prove that the accused is guilty.
35. <b>What is the justification of the burden of proof being on the prosecution in a criminal case?</b>	The burden of proof is justified by the fact that, if the prosecution is accusing a person of having committed a crime, then the responsibility should be on the prosecution to establish the facts.
36. <b>In what cases can the burden of proof be reversed?</b>	In a few cases, the burden of proof can be reversed, such as if the accused is pleading a defence such as self-defence. Drug cases are another example – people are presumed to possess a substance if the substance is on their property, for example, and it is in this case, that the onus will be on the accused to prove the drug was not in their possession.
37. <b>What is the definition of a standard of proof, and what is the standard in a criminal case?</b>	The standard of proof refers to the strength of evidence needed to prove the case. In a criminal case, this standard is beyond reasonable doubt – that is, the prosecution must prove the case to this standard. To prove that an accused is guilty beyond reasonable doubt, means that no reasonable doubt support the claim that the accused is guilty is possible, from the evidence presented – the judge or jury may still be able to think of fanciful, imaginary or unreasonable doubts, but these do not count.
38. <b>What is the presumption of innocence?</b>	The presumption of innocence is one of the key principles of the rule of law, and is one of the most important concepts on which the criminal justice system is based – it is a guarantee by the state to its citizens that if they are accused of a crime, they will be treated, as far as possible, as innocent, until the charge has been proved beyond reasonable doubt.
39. <b>Where does the presumption of innocence originate from, and which statute currently protects this right?</b>	The presumption of innocence is a very old common law right – but now, it is also guaranteed by the <b>Charter of Human Rights and Responsibilities Act</b> (Human Rights Charter).
40. <b>What are three ways in which the presumption of innocence is upheld?</b>	One of the critical ways in which the presumption of innocence is maintained, is by imposing a high standard on the prosecution to prove its case – this is ensured through both the burden of proof and standard of proof in our criminal justice system; accused persons do not have to prove they are innocent. In addition, the presumption of innocence is also upheld through the system of bail – unless there are good reasons why an accused should be deprived of their liberty, they are entitled to receive bail while they are waiting for their court date. Finally, the presumption of innocence is also guaranteed by the accused's right to silence – meaning they do not need to answer any questions, and do not have to give evidence in court – in addition, their silence is not to be taken as a sign of guilt.
41. <b>What are human rights?</b>	Human rights are the basic freedoms and protections available to every single person. Examples of human rights include the right to liberty, and the right to live free without discrimination.

42. <b>What are three human rights available to all Australians?</b>	Three human rights available to every single Australian would include a right to freedom of political expression, freedom of movement within Australia and the right for an individual to enjoy their own cultural and religious practices.
43. <b>What is the Charter of Human Rights and Responsibilities, and what is the formal title of the statute?</b>	The Victorian Charter of Human Rights, or the Human Rights Charter, or the <b>Charter of Human Rights and Responsibilities Act</b> seeks to protect and promote human rights – it is designed to ensure that any statute passed by the Victorian Parliament is compatible with the human rights set out in the Charter.
44. <b>Where do the rights of the Human Rights Charter originate from?</b>	The rights protected by the Human Rights Charter are based on those contained in the <b>International Covenant on Civil and Political Rights 1966</b> – this is an international treaty to which Australia is a signatory. Many of the rights in the Human Rights Charter mirror those in the covenant, but a number have been modified slightly to suit Australia's existing laws.
45. <b>What are three rights of an accused?</b>	Three rights of an accused are the right to be tried without unreasonable delay, the right to a fair hearing and the right to a trial by jury.
46. <b>What is the right to be tried without unreasonable delay, and where does it originate from?</b>	Pursuant to S25 of the Human Rights Charter, a person charged with a criminal offence is entitled, without discrimination, to a guarantee that he or she will be tried without unreasonable delay. This means that an accused is entitled to have his or her charges heard in a timely manner, and that delays should occur only if they are reasonable.
47. <b>What does the term 'unreasonable delay' refer to? What is an example of a delay that would be reasonable?</b>	The right to trial without unreasonable delay recognises that there may be delays in any given case, but these delays must not be unreasonable – the term unreasonable delay is not actually defined, but the reasonableness of any delay will depend on factors such as the complexity of the case and the legal issues involved – an example of a reasonable delay may be the time it takes to locate a key witness. For example, in <b>DPP v Debs &amp; Roberts (2003)</b> , the two accused of murdering two police officers in 1998 were charged in 2001, and only then sentenced in 2003. This significant time gap was considered reasonable due to the difficulty in processing and establishing evidence.
48. <b>Give two ways in which the criminal justice system tries to avoid unreasonable delays.</b>	Firstly, all criminal matters in Victoria commence with a committal hearing in the Magistrates' Court, usually between three and six months after charging, which will determine whether the prosecution's evidence is strong enough to support a conviction by a jury at trial. Additionally, all criminal cases are listed for directions hearings within 24 hours of the completion of the committal hearing in the Magistrates' Court -- at this hearing both parties may identify any problems that might prevent a trial proceeding quickly, and advise the court of the anticipated issues at the trial.
49. <b>How could it be seen that there is a tension between an adequate amount of time to prepare for trial and the right to trial without unreasonable delay?</b>	It is often difficult for courts to strike a perfect balance between ensuring all accused persons are tried without unreasonable delay, and ensuring both the prosecution and defence have sufficient time to gather evidence and prepare their cases for the court, in order to ensure a fair and unbiased hearing. Therefore, it can be seen that there is a tension that exists between the right to be tried without unreasonable delay, and the principle of fairness in the justice system, as rushed trials can often result in unfair results, due to the lack of time that both parties have to prepare their case.
50. <b>Why is there an inherent need for a right to trial without unreasonable delay for the accused?</b>	The right seems natural, because under the Human Rights Charter, people have a basic right to liberty and security, and accused persons are presumed innocent until proven guilty – so people should not be held for an unreasonable amount of time while awaiting trial.
51. <b>What does the Human Rights Charter state with reference to the timeliness of children being brought to trial?</b>	The Human Rights Charter states that an accused child (under 18) must be brought to trial as quickly as possible. Having a trial 'as quickly as possible' for an accused trial, rather than 'without unreasonable delay', which places a greater burden on the prosecution, is justified because of the impact that a trial may have on a child.
52. <b>What is the right to a fair hearing?</b>	S24 of the Human Rights Charter entitles a person charged with a criminal offence to have the charge decided by a competent, independent and impartial court after a fair and public hearing.

53. <b>What are the two parts to a right to a fair hearing for an accused?</b>	Firstly, a competent, independent and impartial court must decide the proceeding or charge – that means, for example, that every person has the right to have their case heard by a qualified and experienced judge or magistrate in an unbiased and objective manner. In addition, the right to fair hearing ensures that a hearing must be fair and public – most court hearings are open to the public, meaning that the trial and trial processes are transparent and not hidden in secrecy, which allows for public and media scrutiny of processes. Michael O'Connell SC, Chair of the Criminal Bar Association, said that " <b>The Open Courts Act enshrines a presumption that proceedings in court should be open for the public and media reporting [which] can't too easily be compromised.</b> "
54. <b>Under what circumstances could a trial be closed to the public?</b>	In some circumstances, a court may exclude members of media organisations or the general public from all or part of a hearing, if there is a legitimate reason. For example, the Magistrates' Court has the power to make an order that proceedings are closed to the public if they will cause undue distress or embarrassment to a victim in a sexual offence case.
55. <b>What is the right to trial by jury?</b>	The right to trial by jury requires a jury to be empaneled where the accused has pleaded not guilty to an indictable offence. The jury system provides a trial by others in the community – an opportunity for community participation in the legal process, and for the law to be applied according to community standards.
56. <b>How is the right to trial by jury protected?</b>	The right to trial by jury is protected in part by the Australian Constitution, and in part by statute law in Victoria. <b>Section 80</b> of the Australian Constitution states that any person who is charged with a Commonwealth indictable offence is entitled to a trial by jury – this is limited because most indictable offences are under state law. For Victorian indictable offences, <b>s210</b> of the <b>Criminal Procedure Act</b> requires a jury to be empaneled where the accused has pled not guilty to the indictable offence – there is no right to trial by jury for summary offences.
57. <b>Give two reasons to why a trial by jury is preferable to protect the rights of the accused.</b>	Firstly, juries spread the burden of decision-making. Instead of one person, the judge, being responsible for findings of fact, in a jury trial the evidence must be assessed as being beyond reasonable doubt by a group of people cooperating to reach a verdict. Additionally, the jury limits the role of the state in the accused's trial -- the jury, being drawn randomly from the community, provides an objective assessment of the evidence collected and presented against the accused, independent of the state.
58. <b>What statute determines the composition and responsibilities of a criminal jury?</b>	The <b>Juries Act 2000 (Vic.)</b> will govern the composition and responsibilities of the jury.
59. <b>What is a victim?</b>	A victim is a person who has suffered directly or indirectly as a result of crime.
60. <b>What is the Victims' Charter? What is its formal title?</b>	The Victims' Charter, or the <b>Victims Charter Act 2006 (Vic.)</b> recognises the impact of crime on victims and provides guidelines for the provision of information to victims. The Act recognises that victims should be offered certain information during the investigation and prosecution process, and help reduce the likelihood of secondary victimisation that may be experienced by the victim as a result of their interaction with the criminal justice system.
61. <b>Who may be considered as a victim?</b>	The Victims' Charter defines a victim, depending on the crime, as: a person who has suffered injury as a direct result of a criminal offence (primary victim), a family member of a person who has died as a direct result of a criminal offence, a family member of a person who is under 18 years of age or is incapable of managing his or her own affairs because of mental impairment, and that person has suffered injury as a direct result of a criminal offence, or a child under the age of 16 years who has been groomed for sexual conduct, as well as that child's family.

62. <b>What are three principles that the Victims' Charter protects?</b>	The Victims' Charter swears down principles such as respectful treatment of victims respect for victims' privacy, and ensuring victims are given information about nay criminal case brought to court
63. <b>Is a violation of the Victims' Charter actionable?</b>	A breach of the rights listed in the Victim's Charter is not actionable, in that it does not entitle the victim to take civil action to enforce them.
64. <b>What are three rights available to a victim of crime?</b>	Three rights available to a victim in a criminal case are the right to give evidence as a vulnerable witness, their right to be informed about the proceeding and the right to be informed of the likely release date of the accused.
65. <b>What is a vulnerable witness?</b>	A person who is required to give evidence in a criminal case and is considered to be impressionable or at risk – this might be a child, a person who has a cognitive impairment, or the alleged victim of a sexual offence. The court may also consider other factors that contribute to a witness' vulnerability, such as age, education, and the context of the case.
66. <b>What difficulties may be experienced by a vulnerable witness?</b>	Difficulties that can be experienced by a vulnerable witness when giving evidence include understanding the terminology and language used in questions, their level of attention and memory, particularly if they are intellectually impaired, and social factors, such as low confidence and prejudice.
67. <b>What are the protections available to vulnerable witnesses, and what statute protects these rights?</b>	A number of sections in the <b>Criminal Procedure Act</b> aim to protect vulnerable witnesses – protections under the act can be broken down into: alternative arrangements that can be made for a witness to give evidence in particular cases; a declaration that a person is a protected witness; and special arrangements that can be made for witnesses under the age of 18 years or with a cognitive impairment
68. <b>What types of cases can the court make alternative arrangements for?</b>	The court can direct alternative arrangements to be made for a witness to give evidence in criminal proceedings for a sexual offence, a family violence offence, an offence for obscene, indecent, threatening language or behaviour in public or an offence for sexual exposure in a public place.
69. <b>What are the alternative arrangements that can be made for a vulnerable witness?</b>	Types of alternative arrangements include the witness being able to give evidence from a place other than the courtroom, such as by means of closed-circuit television; screens may be used to remove the accused from the direct line of vision of the witness; a support person may be chosen by the witness to be there while giving evidence; only certain persons may be allowed in court when the witness is giving evidence; legal practitioners may be required not to be formally dressed in robes, or may be required to be seated while asking this witness questions. These arrangements must be made available for the witness if they are the complainant, unless they are aware of these rights and choose to waive them.
70. <b>What is the purpose of alternative arrangements?</b>	The purpose of alternative arrangements is to ensure that the witness is protected from unnecessary contact with the accused, and is not placed in a position where they are scared or give unreliable evidence because of the trauma they suffer in doing so – this is particularly so in cases involving charges for sexual offences and family offence, where the trauma and injuries sustained may be significant

71. <b>Who may be declared as a protected witness, and what protections do these witnesses receive?</b>	The court is able to declare at any time that a witness is a protected witness in criminal proceedings for a sexual offence, or a family violence case – a protected witness may be the complainant, a family member of the complainant, a family member of the accused, or any other witness the court declares to be a protected witness. Once the declaration is made, the protected witness must not be cross-examined by the accused – instead, the cross-examination must be conducted by the accused's legal representative.
72. <b>What happens if the accused does not have legal representation, and there is a protected witness must be cross-examined?</b>	If the accused does not have any legal representation, that is, that they are self-represented, the court must order Victoria Legal Aid to provide legal representation for the accused for the purposes of cross-examination.
73. <b>What is the purpose of declaring a witness a protected witness?</b>	Declaring a witness a protected witness ensures that the witness does not have any direct communication with the accused in court, and avoids the situation where the accused can cross-examine their victim about the evidence they have given.
74. <b>In what cases can special arrangements be made for persons under the age of 18 years or with a cognitive impairment? What protections are they allowed?</b>	Special protections are available to witnesses under the age of 18 years, or with a cognitive impairment, in criminal proceedings for a sexual offence, an indictable offence involving assault, injury or threat of injury to a person; and offences involving minor assaults where those assaults relate to one of the above two offences. These witnesses will be allowed to give their examination-in-chief by way of audio or audio-visual recording – that recording may then be provided to the accused, who will have a reasonable opportunity to hear or view it.
75. <b>What protections are available to complainants in a sexual offence case or a family violence case, where the complainant is under 18 or has a cognitive impairment?</b>	The protections include being able to give evidence at a special hearing conducted in way such that the accused is not in the same room as the complainant for the hearing; they are not entitled to see and hear the complainant while the complainant is giving evidence; no unauthorised person is to be present in the courtroom while evidence is being given; the evidence must be given on closed-circuit television; and the complainant is not to be questioned unless the court gives leave.
76. <b>Why are there protections available to children under 18 and those with cognitive impairments?</b>	The protections recognise even that children and persons with a cognitive impairment are particularly vulnerable, and as much protection should be afforded to them as possible while they are giving evidence – the protections aim to reduce the exposure of vulnerable witnesses to the accused, to the formality of the courtroom, and to any fear they may feel as a result of giving evidence about a crime they have been affected by.
77. <b>Explain the power of a court to disallow improper questions being asked.</b>	The <b>Evidence Act</b> gives the power to the court when a vulnerable witness is being cross-examined to disallow improper questions – improper questions include questions that are confusing, harassing, intimidating, offensive or humiliating. This power is available to the court in any types case.
78. <b>What is the right of the victim to be informed about the proceedings?</b>	The right to be informed about the proceedings, protected by S8 of the Victims' Charter, requires investigators agencies, prosecuting agencies and victims' services agencies (such as police officers and the DPP) to provide at reasonable intervals, clear, timely and consistent information about support services, possible compensation entitlements and the legal assistance available to those adversely affected by crimes.
79. <b>What information about the investigation of a crime must be given to a victim -- and under what circumstances can an investigatory agency deny to provide information?</b>	While the Victims' Charter requires an investigatory agency, such as Victoria Police, to inform a victim, at reasonable intervals, about the progress of an investigation into a criminal offence, the information does not need to be given if it may jeopardise the investigation (which the victim must still be informed about), or if the victim chooses not to receive that information.
80. <b>What information is the prosecution required to give a victim, once a prosecution has commenced?</b>	Once a prosecution has commenced, the Victims' Charter requires the prosecution to give a victim information such as details of the offences charged against the person, and if no offence is charged, the reason why; and the outcome of the criminal proceeding, including any sentence imposed. The victim must also be told that they are entitled to attend any court hearings.

81. <b>Why does a victim have a right to be informed about the proceedings?</b>	These requirements of the Victims' Charter are in place in recognition that that victims may wish to be kept informed about a criminal case that has affected them. Often they will want to know what offences the accused has been charged with, the verdict, and the sanction imposed, as they want to see justice done.
82. <b>What is the right to be informed about the likely release date of the accused?</b>	This right allows a victim of a criminal act of violence may apply to be included on the Victims Register -- once registered on the Victims Register, they may receive certain information about an offender who has been imprisoned, including their likely date of release, and, in some cases, their release on parole. The victim also has the right to be informed about the outcome of any bail applications by the accused.
83. <b>How long before the release of a prisoner must the release date of the accused be provided to the victim?</b>	The information must be provided at least 14 days before the release of the prisoner.
84. <b>What is the Victims' Register?</b>	The Victims' Register is maintained by the state of Victoria set up to provide the victims of violent crimes with relevant information about adult prisoners while they are in prison, such as the prisoner's earliest possible release date.
85. <b>What are some other rights of the victim protected by the Victims' Register?</b>	Other rights may be available to a victim on the Victims Register, including the right to know the length of sentence, the right to be told if the offender escapes from prison, and the right to make a submission to the Adult Parole Board about the effect of the offender's potential release on them, as the victim of the offender's crime. The board must then consider this submission when determining whether to place the offender on parole and release them from prison.
86. <b>Why should a victim have a right to be informed about the likely release date of the accused?</b>	They should have this right because an offender's release date is likely to be of interest to a victim who has suffered violence from that person.
87. <b>What are five criminal acts of violence?</b>	Rape and other sexual offences, aggravated burglary, kidnapping, stalking and child stealing.
88. <b>How could rehabilitation be specifically targeted to a condition of the offender?</b>	A 2003 report from Corrections Victoria found that two-thirds of all first-time offenders had a history substance use that was directly related to their offending. This rose to 80% for males and 90% for women sentenced to a second or subsequent prison term. Therefore, drug treatment programs in a CCO, or substance abuse treatment in Victorian prisons should aim to rehabilitate these offenders, and prevent them from future substance abuse.
89. <b>Is there a right to legal representation in Australia?</b>	The High Court ruled, in <b>Dietrich vs. The Queen (1992)</b> , that if a person is charged with a serious indictable offence, and, by no fault of their own, are unrepresented, then they should be afforded the opportunity to seek legal representation. The court found that where an accused charged with a serious offence has tried unsuccessfully to obtain legal representation, and is found guilty, <b>"there has been a serious miscarriage of justice in that the accused has been convicted without a fair trial"</b> .
90. <b>What services are in place to help an accused who cannot afford legal representation?</b>	Due to the presumption of innocence in our criminal justice system, it is regarded as essential for an accused to have legal representation so they can best prepare for their defence. However, legal representation can be expensive and factors such as social and economic disadvantage and homelessness can act against the achievement of justice. As such, if an accused can't afford legal representation, it is important that society provides government funded institutions such as Victoria Legal Aid (VLA) and Victorian community legal centres (CLCs) to help an accused in such a situation.
91. <b>What is VLA?</b>	VLA, or Victoria Legal Aid, is a government agency that provides free legal advice to the community, and also provides low to no cost legal representation for those who cannot afford it. VLA helps people with their legal problems, and focuses on people who need it most and can't get legal assistance any other way.

92. <b>What is the vision of VLA?</b>	VLA's vision is a fair and just society where rights and responsibilities are upheld. Its purpose is to make a difference by resolving and preventing legal problems, and encouraging a fair and transparent justice system.
93. <b>What are three roles/objectives of VLA which are related to legal aid?</b>	Three roles of VLA are to provide legal aid in the most effective, economic and efficient manner; to manage its resources to make legal aid available at a reasonable cost to the community and on an equitable basis to those throughout Victoria; and to provide the community with improved access to justice and legal remedies.
94. <b>Explain VLA's role in providing legal aid to the Victorian people.</b>	The most critical role VLA plays is to provide legal aid to accused people. In the 2015-16 financial year, VLA helped <b>86,847 different clients</b> ; of these approximately <b>56%</b> were assisted in criminal cases.
95. <b>What is legal aid? What is the difference between legal advice and legal representation?</b>	Legal aid includes legal education and information, legal advice and legal representation. Legal advice is normally limited to advice and information about the law and how it applies to a particular case; it does not necessarily mean that the person who is giving advice will represent the accused. Legal representation, on the other hand, means that the VLA will be on record as the accused's lawyer; they will represent the accused in this case.
96. <b>What are three roles/objectives of VLA which are not related to legal aid?</b>	As well as providing legal aid, VLA's other roles are to: make recommendations about law reform; control and administer the Legal Aid Fund (which contains all the money available to VLA); and also to design and implement educational programs to promote understanding by the public of their legal rights, powers, privileges and duties under law.
97. <b>Where does VLA get its funding from?</b>	VLA has two main sources of funding; the Victorian and Commonwealth governments; <b>\$140.7 million</b> in the 2015-16 financial year; and also the Public Purpose Fund (PPF), a Victorian fund to meet the costs of regulating the legal profession in Victoria and fund the VLA; <b>\$28.3 million</b> in the 2015-16 financial year.
98. <b>Does VLA receive enough funding for its workload? How does this affect the community's ability to receive legal aid?</b>	VLA says it needs an extra <b>\$72 million every year</b> to relieve the crushing pressure on community lawyers to properly help victims of crimes and disadvantaged people. Subsequently, VLA funding is criticised for not being enough to meet the demands for legal services; due to the lack of funding a large part of the community is ineligible for legal aid and people are forced to defend themselves in criminal cases. For example, VLA has said its duty lawyer services are stretched, and that duty lawyers are often limited in the time they can spend with a client.
99. <b>What are the types of legal aid available in criminal matters?</b>	In criminal matters, the types of legal assistance available include free legal information, free legal advice, free duty lawyer services and grants of legal assistance.
100. <b>What type of free legal information is available through VLA, and who is it available to?</b>	VLA's website has free publications and resources, information about criminal cases, and a public law library that includes case law and other legal materials; information like this is also available over the phone. These resources are available to everyone.
101. <b>What type of free legal advice is available through VLA, and who is it available to?</b>	Legal advice can be provided in person, by video conference or over the phone. VLA's focus for in-person advice is on people who need legal advice the most, including those who cannot afford a private lawyer, have a disability, are homeless or have a sub-par proficiency in the English language.
102. <b>What are duty lawyers?</b>	A duty lawyer is a person who is at court on a particular day and who can help people who are at court for a hearing.
103. <b>What type of free duty lawyer services are available through VLA?</b>	Duty lawyers can give fact sheets about what happens in court, offer legal advice, and represent an accused in court on that day. Duty lawyers are only available in the Magistrates' Court and the Children's Court; they are not available for indictable offence trials.
104. <b>Who can obtain fact sheets from a duty lawyer?</b>	Everyone.

105. <b>What is an income test, in relation to obtaining legal aid?</b>	An income test relates to duty lawyers – one meets the income test if they produce to the duty lawyer a current Centrelink benefit card or pensioner concession card. Without this, they must sign a declaration which shows they have a limited income – e.g. their primary source of income is from welfare, or their weekly after-tax income is less than \$18000 per annum.
106. <b>Who can obtain legal advice from a duty lawyer?</b>	Legal advice can be obtained by people who satisfy the income test and are facing a straightforward charge; people in custody are given priority and do not need to satisfy an income test
107. <b>Who can receive legal representation from a duty lawyer?</b>	For legal representation at their hearing, an accused must firstly satisfy the income test, and secondly, be facing a significant charge or be one of the people that VLA prioritises (e.g. those with a disability, are homeless, cannot speak English or are Indigenous Australians).
108. <b>What is a grant of legal assistance from the VLA?</b>	VLA may be able to grant legal assistance to people who can't afford a lawyer. This may include legal advice, helping the accused resolve matters in dispute, preparing legal documents and representing the accused in court
109. <b>What is a means test in relation to obtaining legal assistance from the VLA?</b>	The means test, as opposed to an income test, is for those who are seeking a grant of legal assistance from the VLA. The means test takes into account the person's income and other assets, such as cars or houses. For example, if the accused person makes over \$18000 per annum, they are not eligible under the means test
110. <b>Who can receive a grant of legal assistance?</b>	VLA has strict guidelines about who can get a grant of legal assistance so that money is given to people who need it most – all grants are capped, and accused people must meet the means test to be eligible for a grant VLA also considers other matters, such as if helping the accused could benefit him or her and the public, and if the matter has any merit
111. <b>If VLA has denied a person legal assistance, as they have not met the means test, what legal recourse do they have?</b>	If VLA has denied an accused person legal assistance, they can apply to have their decision reviewed by an independent reviewer. A decision made by the independent reviewer can then be appealed to the Supreme Court of Victoria.
112. <b>What is an order by the court?</b>	<b>S3</b> of the <b>Criminal Procedure Act 2009 (Vic)</b> gives the courts power to adjourn a trial until legal representation from VLA has been provided – they will make an order for legal representation for the accused. The courts must be satisfied that the accused person would not be able to receive a fair trial without legal representation, and cannot afford to pay for their own lawyer. The burden of proof is on the accused to establish that they can't afford the full cost of obtaining legal representation. The ability of the court to do so upholds the principle of fairness by making sure the accused is able to have a fair trial by being legally represented.
113. <b>What is a community legal centre? What are the two main types of CLCs?</b>	Community legal centres (CLCs) are one type of legal assistance service provider in Australia; as independent organisations they provide free legal services, including advice, information and representation to people who are unable to access other legal services. The two main types of CLCs are generalist CLCs and specialist CLCs.
114. <b>What is a generalist CLC?</b>	Generalist CLCs provide broad legal services to people in a particular geographical area. The Fitzroy Legal Service is an example of a generalist CLC, which was established in 1972. It was established to provide free legal service to all comers, in what was the poorest suburb in Melbourne.
115. <b>What is a specialist CLC?</b>	Specialist CLCs focuses on a particular group of people or area of law. An example of a specialist CLC is the Animal Law Institute. It is a national organisation, and advocates on behalf of the rights and interests of animals in the legal system.

116. <b>How many CLCs are there in Victoria? Which body is the referral body for people seeking legal assistance from CLCs?</b>	There are approximately 50 CLCs in Victoria. The Federation of Community Legal Services Inc. is the peak contact and referral body for people seeking legal advice and assistance from CLCs.
117. <b>What types of legal services do CLC provide people with?</b>	CLCs provide people with information, legal advice and minor assistance; duty lawyer assistance; and legal casework services including representation and assistance.
118. <b>What is the purpose of a CLC?</b>	Like VLA, CLCs focus on people who need legal assistance the most because of their personal circumstances. These include people who have a disability or mental health issues, refugees, people in domestic violence situations and those who cannot afford a lawyer. CLCs also help victims of crime and their families.
119. <b>What type of basic legal information does a CLC offer?</b>	CLCs provide basic legal information on a day-to-day basis – a lot of this information is online.
120. <b>What kind of initial legal advice does a CLC offer?</b>	CLCs provide legal advice and information such as preliminary assistance, and help with writing short letters and completing forms; CLCs also offer a free legal advice service that allows people to visit the CLC without an appointment and get legal information and advice; phone advice through CLCs is also available.
121. <b>What type of duty lawyer assistance is available through CLCs?</b>	Duty lawyers provide advice or representation for urgent matters that will be completed in one day.
122. <b>What type of legal casework do CLCs handle?</b>	Very rarely, a CLC will take on a criminal matter. This involves legal representation and assistance and will require ongoing legal services. Each CLC has its own eligibility requirements, and many will only take on a matter if the person is eligible for a grant of legal assistance from VLA. Many CLCs do not offer representation and assistance for indictable offences.
123. <b>What are some of the eligibility criteria for assisting an accused for CLCs?</b>	Each CLC has its own eligibility criteria for assisting an accused, and for how much assistance they can provide – CLCs will generally consider the type of legal matter the person needs help with, if other assistance is available (e.g. through VLA) or if the person has a good chance of success. For accused persons who require legal representation and assistance, it is normally only provided if they meet VLA's eligibility criteria for a grant of legal assistance – i.e. they will be subject to the means test and other criteria.
124. <b>What type of criminal matters does a CLC handle?</b>	Many CLCs only help with minor criminal matters – for example, the St Kilda Legal Service can't assist an accused charged with an indictable offence.
125. <b>Where do CLCs receive their funding from?</b>	CLCs receive their funding from a range of sources – state, Commonwealth and local governments and also private donations. A large portion of its funding comes from VLA – in the 2015-16 financial year, VLA provided <b>\$28.4 million</b> to CLCs.
126. <b>Is there a lack of funding for CLCs?</b>	Funding to CLCs is an issue in Australia because of the significant demand for legal assistance. In 2016, it was found that CLCs in Australia provide free legal help to over <b>216,000 people a year</b> , and CLCs were forced to turn away over 160,000 people every year, largely due to a lack of resources. This is partly because, in 2017, it was proposed that Commonwealth funding to CLCs would be cut by <b>30%</b> .
127. <b>What recent changes have been made to the funding of CLCs?</b>	It was proposed that in 2017, Commonwealth funding to CLCs would be cut by 30% – in April 2017, however, the Commonwealth government announced it would reverse the proposed 30% cut and would provide an additional <b>\$39 million</b> for CLCs over three years. The Victorian Government in their May 2017 budget also pledged <b>\$29.5 million</b> for VLA and CLCs. Nonetheless, there still remains a significant gap between the demand for legal aid, and the funding that is provided to meet that demand.
128. <b>What is a committal proceeding?</b>	Committal proceedings are the processes and hearings that take place in the Magistrates' Court for indictable offences – they take place in cases where an accused has been charged with one or more indictable offences (there are no committal hearings for summary offences). In other words, every single criminal charged with an indictable offence in Victoria must have a committal hearing.

129. <b>What are three purposes of committal proceedings?</b>	The purposes of committal proceedings are set out in S97 of the <b>Criminal Procedure Act</b> . The purpose include to see whether a charge for an indictable offence is appropriate to be heard and determined summarily; to decide if there is enough evidence to support a conviction for the offence charged; and to find out whether the accused plans to plead guilty or not guilty.
130. <b>How do committal proceedings ensure a fair trial?</b>	Committal proceedings ensure a fair trial by making sure the prosecution's case is disclosed to the accused; giving the accused and opportunity to hear or read the evidence and cross-examine witnesses; and also allowing the accused to properly prepare and present a case.
131. <b>What is a committal hearing?</b>	The main and final stage of the committal proceeding is the committal hearing, and is held in the Magistrates' Court. The purpose of a committal hearing is to determine whether a prima facie case exists, that is, whether the prosecutor can show that there is enough evidence to support a conviction by jury in a superior court. If sufficient evidence is shown, a case can proceed to trial.
132. <b>What are three purposes of a committal hearing?</b>	Three main aims of a committal hearing are to determine whether there is sufficient strength of evidence to support a conviction for the offences charged, to avoid wasting the time and expense of taking a case to trial that is unlikely to succeed due to insufficient evidence against the accused, and to determine the plea of the accused.
133. <b>If, in a committal hearing, it is found that there is enough evidence to support a conviction at trial, what will be the next course of action for the magistrate?</b>	If the magistrate finds there is evidence, of sufficient weight, to support a conviction at trial, and the accused pleads not guilty to the charge, the accused is committed to stand trial and released on bail to wait for the trial, or held in remand.
134. <b>If, in a committal hearing, it is found that there is not enough evidence to support a conviction at trial, what will be the next course of action for the magistrate?</b>	If the magistrate decides there is not enough evidence, of sufficient weight, to support a conviction, the accused is discharged and allowed to go free – if further evidence is found in the future, the accused can be brought before the court again. The double jeopardy rule does not apply because the committal proceeding is not a trial and the accused has not been found guilty or not guilty.
135. <b>If the accused person has been committed to stand trial, what occurs after the committal proceeding?</b>	When the accused person has been committed to stand trial, the documents are transferred to the DPP. The DPP files an indictment in the Supreme/County Court – an indictment is a written statement of the details of the charge against the accused. The filing of an indictment will commence the criminal proceeding in the higher court and ultimately leads to a trial before a judge and jury to determine guilt.
136. <b>If the accused pleads guilty at any stage during the committal proceeding, what will happen?</b>	If the accused pleads guilty at any time during the committal proceeding, the criminal case will be listed for a plea hearing in the County or Supreme Court.
137. <b>What are four strengths of committal proceedings?</b>	Committal proceedings help save time and resources of higher courts, allows the accused to be informed of the prosecution's case, supports the presumption of innocence and also tests the strength of the prosecution's case.
138. <b>How do committal proceedings help to save the time and resources of higher courts?</b>	Committal proceedings help save the time and resources of higher courts by filtering out the weak cases that are unlikely to succeed at trial because of the prosecution having insufficient evidence.
139. <b>How do committal proceedings allow the accused to be informed of the prosecution's case?</b>	The committal process allows the accused to be informed of the prosecution's case against them – this could help them decide whether to plead guilty or not guilty, and also help them to prepare their case without being ambushed by an unexpected witness.
140. <b>How do committal proceedings uphold the presumption of innocence?</b>	Because the onus is on the prosecution to establish to the court that they have evidence of sufficient weight against the accused to support a conviction of trial – if not the accused is discharged. In this way, the accused can feel that they are innocent until proven guilty.
141. <b>How do committal proceedings test the strength of the prosecution's case?</b>	Committal proceedings give the accused the opportunity to test the strength of the prosecution's case – this includes the opportunity to test the prosecution's witnesses. Once the accused has seen the prosecution's case, they may plead guilty or agree to some facts or issues with the prosecution – saving the time and resources of the courts.

142. <b>What are four weaknesses of committal proceedings?</b>	Committal proceedings are very complicated; the services of a legal representative can be expensive; criminal proceedings can add to the delay of getting a case to trial; and the committal proceeding stage can often be considered unnecessary in stronger cases.
143. <b>How can committal proceedings be very complicated?</b>	Committal proceedings are very complex in nature – they can involve cross-examination of witnesses and making submissions to the court. Without experience with the processes, and without the aid of a legal representative, the accused may find it hard to understand, which could also increase the risk of an unfair outcome – due to the inequality between a very experienced prosecutor, and a relatively inexperienced accused person.
144. <b>How does a committal hearing increase costs for the accused?</b>	As already discussed, without the aid of a legal representative, the accused may be at an inherent disadvantage in their committal proceeding – and the services of a legal representative can be expensive, adding to the costs for the accused, who may not be working if they are remanded in custody. If they cannot afford legal representation, then there is a greater risk of an unequal outcome.
145. <b>By adding to the delay of getting a case to trial, how is a committal proceeding disadvantageous?</b>	Committal proceedings can add to the delay of getting a case to trial, which can reduce access to the criminal justice system, and could also increase the risk of an unfair outcome – as a result, some have suggested that strong cases should proceed directly to trial and bypass the committal stage.
146. <b>Why would committal hearings be considered unnecessary?</b>	For stronger cases, the committal proceeding stage is often considered unnecessary and a burden – adding extra stress and inconvenience to the parties and to victims and family members. Besides, regardless of what the magistrate's decision is, the DPP has the statutory power to override it, which leads those such as Attorney-General in 2012 to describe it as being an <b>"unnecessary examination of cases"</b> .
147. <b>What is bail?</b>	When a suspect has been charged with an offence, they may apply to be released on bail -- bail is when a person who has been charged with an indictable offence is released from custody until the time of their court hearing or trial. Conditions may be attached to the granting of bail, such as the surrender of their passport.
148. <b>What is remand?</b>	Remand is when an accused person is held in custody until the time of their trial after being refused bail.
149. <b>Provide four reasons for why bail may be refused.</b>	Bail may be refused to an accused if they may not appear in court (flight risk), if they might commit further offences while they are on bail, if they may endanger the safety of the public, or if they may interfere with witnesses in their court case.
150. <b>What are two means that encourage an early determination of a criminal case without the need to go to trial, or any pre-trial hearings?</b>	Two means to encourage an early determination of a criminal case are plea negotiations and sentence indications.
151. <b>What are plea negotiations?</b>	Plea negotiations, in criminal cases, are discussions that take place between the prosecution and the accused, aimed at resolving the case by agreeing on an outcome to the criminal charges laid, also known as 'plea bargaining' or 'charge negotiations'.
152. <b>What is the process of a plea negotiation?</b>	Plea negotiations usually begin when the accused (or their lawyer) indicates to the prosecution that they are willing to discuss the charges. With plea negotiations, the defence counsel will argue with the prosecutor as to which charges are likely to succeed and which are not. Plea negotiations are essentially what charges the accused will plead guilty to if other charges are dropped.
153. <b>Can plea negotiations be used against the accused at trial?</b>	Negotiations are conducted on a 'without prejudice' basis, meaning that the accused can feel that they are free to negotiate with the prosecutor, without fear that whatever they say during the negotiations will be used against the the at trial or hearing if the negotiations fail.
154. <b>What types of agreements could take place in a plea negotiations?</b>	Plea negotiations can result in an agreement being reached about the charges that the accused will plead guilty to. The agreement reached may be either that the accused pleads guilty to fewer charges, with the remaining charges not proceeding, or that the accused pleads guilty to a lesser charge – a charge for an alternative offence with a lower maximum penalty.

155. <b>What is an example of a plea negotiation resulting in the accused receiving a lesser charge?</b>	For example, a person charged with culpable driving causing death could negotiate to have this changed to dangerous driving causing death, which carries a lower maximum penalty than culpable driving, on the basis that they plead guilty to the new offence.
156. <b>What relationship do plea negotiations have with the sentence that the accused receives?</b>	Plea negotiations do not determine the sentence. Following plea negotiations, the accused will still need to be sentenced by a court – the court will be informed of the charges the accused has plead guilty to, and will then decide on what sanction to impose.
157. <b>When do plea negotiations occur?</b>	Plea negotiations can occur at any stage, even before the initial charges have been laid.
158. <b>What relationship do victims have with plea negotiations?</b>	Victims should be consulted before the plea negotiations, and victims' views should be taken into account when deciding to enter into an agreement with the accused – however, the victims' views are not a deciding factor for the prosecutor to enter into such an agreement
159. <b>What is one purpose of a plea negotiation?</b>	Plea negotiations can help to resolve a criminal case by ensuring a plea of guilty to a charge that adequately reflects the crime that was committed – that is, that the charges must adequately reflected the accused's wrongdoing.
160. <b>What is another purpose of a plea negotiation?</b>	Another purpose is to achieve a prompt resolution to a criminal case without the cost, time, stress, trauma and inconvenience of a criminal trial/hearing – this benefits the accused, victims, witnesses and the community from the time nad cost of going to trial. Additionally, an early resolution relieves victims and witnesses of the burden and trauma of having to give testimony, and may help victims move on from what has happened.
161. <b>What are three factors that determine the appropriateness of plea negotiations?</b>	A number of factors are considered when deciding whether plea negotiations are in the public interest and appropriate for a particular case, including the time and expense involved in a trial, particularly the prosecutor's cost of running the case; the likelihood of a long trial; and also whether some witnesses are reluctant or unable to give evidence, which would jeopardise the prosecution's ability to achieve a guilty verdict
162. <b>What are four strengths of plea negotiations?</b>	Plea negotiations save the cost of a full trial or hearing; help with the prompt determination of criminal cases; benefits the accused who may received a shortened sentence; and ensures certainty of outcome for both parties.
163. <b>How does a plea negotiation save the cost of a full trial?</b>	Negotiations provide substantial benefits to the average taxpayer by saving the cost of a full trial or hearing – many have commented that our criminal justice system would not cope if the parties could not negotiate.
164. <b>How does a plea negotiation help with the prompt determination of a criminal case?</b>	Negotiations help with the prompt determination of criminal cases and increase public confidence in the legal system – delays can lead to unfairness, so justice can be achieved by making sure that the determination of guilty happens more quickly.
165. <b>How many a plea negotiation be advantageous for the accused?</b>	In negotiations, there are advantages for the accused, who may receive a reduced sentence because of a plea of guilty before trial – depending on the sentencing judge and the time the guilty plea was entered.
166. <b>How is there a certainty in outcome for all parties in plea negotiations – that is, how is the certainty of outcome different from a trial?</b>	Negotiations help to make sure that there is certainty in outcome for all parties – going to trial can still risk the possibility that the jury or the magistrate (summary offences) will decide that there is reasonable doubt, and acquit the accused for an unforeseeable reason, which is not in control of either one of the parties.
167. <b>What are four weaknesses of plea negotiations?</b>	People may feel that the accused has been 'let off'; the accused may be compelled into admitting guilt; negotiations do not need to be disclosed; also if negotiations do not succeed one party may gain an unfair upper hand at trial.

168. <b>How would people feel that an accused is being 'let off' if they take a plea deal?</b>	The community and victims may feel the negotiations have resulted in the accused being 'let off' or receiving a lenient sentence that does not reflect the gravity and nature of the crime they have committed. For example, Tony Mokbel, an infamous underworld figure, was sentenced to drug trafficking offences, after having pleaded guilty to a deal struck with the OPP, which allegedly included the withdrawal of eight additional drug-related charges and his involvement in up to three murders. The presiding judge stated that had Mokbel not pleaded guilty, he would have sentenced him to a total effective period of life imprisonment without parole, whereas his actual sentence was 30 years imprisonment, with a total effective non-parole period of 22 years.
169. <b>How could it be said that plea negotiations could unfairly compel the accused to plead guilty?</b>	The negotiation process can be seen to pressure accused persons, particularly those who are self-represented, into accepting a plea deal even if the evidence is not strong.
170. <b>How do plea negotiations lack transparency?</b>	Negotiations do not need to be disclosed and can be held privately – this lack of transparency means that the processes are not subject to review or appeal, and are not reported; some people may question why the prosecution would drop serious charges.
171. <b>How would plea negotiations give either party an unfair advantage if negotiations do not succeed?</b>	If negotiations do not succeed, then either party may be given an advantage or disadvantage if the matters proceed to trial, because, for example, one party may get insight into the weaknesses of the other party's case – this creates an unfair outcome.
172. <b>What are sentence indications?</b>	A sentence indication is a statement by a judge to an accused about the sentence they could face if they plead guilty to an offence – this regime was introduced in Victoria in 2008, and similar to plea negotiations, it is used to encourage an early determination of a criminal case.
173. <b>How are plea negotiations and sentence indications different, and similar?</b>	In one sense, like plea negotiations, sentence indications are used to encourage the early determination of a criminal case, but on their other hand, sentence indications involve the court, in that the court provides the accused with an idea of the likely sentence that would be imposed.
174. <b>What cases can sentence indications be given for?</b>	The <b>Criminal Procedure Act</b> allows sentence indications to be given for both indictable offences and summary offences.
175. <b>At what time during the proceedings of an indictable offence may a sentence indication be given by the court? What type of information does this sentence indication give the accused?</b>	At any time after the indictment is filed – that is, after the committal hearing has finished and the accused is charged, the court (the judge) may indicate that if the accused pleads guilty to the charge, the court is or isn't likely to impose an immediate term of imprisonment – that is, a custodial or non-custodial sentence.
176. <b>Under what conditions can a sentence indication be given? Can the court refuse to give a sentence indication?</b>	A sentence indication can be given only if the accused applies for one and the prosecution agrees – it can only be given once during the proceeding. In addition, the court can refuse to give a sentence indication, for example, if it considers there is insufficient information about any impact of the offence on victims.
177. <b>Can a sentence indication be used against an accused at trial?</b>	No – the fact that the accused asked for a sentence indication cannot be used against him or her as evidence that he or she is guilty if the matter proceeds to trial.
178. <b>Is the court bound to anything they decide in a sentence indication for an indictable offence?</b>	In some cases – if the court indicates that it is not likely to impose an immediate term of imprisonment and the accused pleads guilty at the first available opportunity, then the court must not impose a sentence of imprisonment

179. <b>What happens if the accused does not plead guilty at the first available opportunity after a sentence indication?</b>	If the accused asks for a sentence indication but does not plead guilty at the first available opportunity a different judge must preside over the trial (unless if all parties agree otherwise) – the sentence indication will not bind the trial judge.
180. <b>At what time during the proceedings of summary offence can a sentence indication be given? What kind of information is given in this sentence indication?</b>	The <b>Criminal Procedure Act</b> states that at any time during a proceeding, the Magistrates' Court may indicate that, if the accused pleads guilty to the charge for the offence at that time, the court would be likely to impose an imprisonment, or a sentence of a specific type.
181. <b>Is the court bound by anything they decide in a sentence indication for a summary offence?</b>	In some cases – if the court gives a sentence indication, and the accused plead guilty to the charge for the offence at the first available opportunity, then the court must not impose a more severe type of sentence than the type of sentence indicated. Therefore, the indication of sentence will cap the maximum sentence that could be imposed, as long as the accused pleads guilty at the first available opportunity.
182. <b>Does the prosecution need to consent to a sentence indication in a summary offence?</b>	No – there is no need for the prosecution's consent for sentence indications in a summary offence.
183. <b>What happens if the accused does not plead guilty after they receive a sentence indication?</b>	If the accused asks for a sentence indication but chooses not to plead guilty, then a different magistrate will ordinarily hear and determine the charge, and the different magistrate will not be bound by the sentence indication.
184. <b>What are three differences between sentence indications in summary and indictable offences?</b>	First, the accused must apply for a sentence indication for an indictable offence, whereas in a summary offence sentence indications can be given at any time by the court. In addition, for indictable offences, prosecution must consent to a sentence indication, whereas for summary offences there is no need for this consent. Finally, the information of the sentence indication is different – for indictable offences there is an indication as to whether immediate sentence of imprisonment is likely to be imposed, whereas for summary offences there is an indication as to what type of sentence is likely to be imposed.
185. <b>What is one purpose of a sentence indication?</b>	One purpose of a sentence indication is to provide the accused with some clarity about the likely sentence that will be imposed, so that they can make an early decision to plead guilty and alleviate the fear that they will receive a custodial sentence.
186. <b>What is another purpose of a sentence indication?</b>	Providing the accused with a sentence indication can also save the time, costs, resources, stress and inconvenience of having a contested trial/hearing that may result in a higher sentence.
187. <b>What is another purpose of a sentence indication?</b>	Early guilty pleas as a result of a sentence indication are desirable because they help to bring an earlier closure for the victims and their families, signify an accused's willingness to accept responsibility for their actions, and also reduces the need for lengthy trials and free up the resources of the justice system for other matters.
188. <b>What is one factor that would determine the appropriateness of a sentence indication?</b>	A sentence indication may be appropriate to encourage the early finalisation of a criminal case, but whether it is appropriate in a particular case depends on a series of factors, such as in indictable offences, whether a sentence indication has already been given – a sentence indication may given only once during a proceeding for an indictable offence, unless the prosecution consents to another indication being given.
189. <b>What is another factor that would determine the appropriateness of a sentence indication?</b>	The type of offence and the court hearing the charges – sentence indications are more likely to be appropriate in the Magistrates' Court and the County Court; offences heard in the Supreme Court are of such a severity that an accused who is found guilty will usually receive a custodial sentence.

190. <b>What is another factor that would determine the appropriateness of a sentence indication?</b>	The nature of the offence – the Sentencing Advisory Council has said that sentence indications may not be appropriate for sex offence cases, given their sensitivity, but they may be more useful in drug or fraud cases.
191. <b>What is one strength of sentence indications?</b>	It may result in the early determination of a case – this results in prompt justice rather than delayed justice, a prompt determination can benefit everyone involved, including victims, witnesses, the accused, families and the community – for example, it can minimise the trauma, stress and inconvenience of victims and witnesses, because they will not have to go through a full trial/hearing, which may include them giving stressful evidence.
192. <b>What is another strength of sentence indications?</b>	It can save money and resources – not having to take the case to trial saves the prosecution and the community costs.
193. <b>What is another strength of sentence indications?</b>	It can be conducted in open court – this means there is transparency in the indication that the judge gives, rather than the secrecy that may apply to plea negotiations.
194. <b>What is another strength of sentence indications?</b>	Sentence indications are given by an experienced and impartial judge or magistrate who has expertise in the area of law and in sentencing – this may give the accused more confidence about the appropriateness of the sentence.
195. <b>What is one weakness of sentence indications?</b>	A sentence indication may be given before all the facts have been admitted or proved – this may disadvantage an offender who has pleaded guilty, because it commits them to a particular sentence that might turn out to be different after all the facts are brought out at trial.
196. <b>What is another weakness of sentence indications?</b>	The judge is not obliged to grant the accused's request for the sentence indication – this may be seen to be unfair if the accused is willing to consider pleading guilty on the basis of the sentence indication.
197. <b>What is another weakness of sentence indications?</b>	In the higher courts, the prosecutor must consent to the indication begin given – therefore limiting the availability of the regime where the prosecutor, for whatever reason, does not consent. As such, some defence practitioners have indicated that the regime should be changed so that consent is not required.
198. <b>What is another weakness of sentence indications?</b>	For indictable offences, the court only needs to give an indication if it would impose an immediate term of imprisonment – this means that the accused will have less certainty about the type of sentence that he or she will actually receive.
199. <b>How are the Victorian courts ranked, in a hierarchy?</b>	Victorian courts, like courts in other Australian states, are arranged in a hierarchy – they are ranked based on the severity and complexity of the cases they hear. For example, the Supreme Court of Victoria, which is the highest state court in Victoria, would hear the most serious indictable offences.
200. <b>What is the Victorian hierarchy of courts?</b>	 <p>Source 1 The Victorian court hierarchy, including state courts and the High Court (a federal court).</p>
201. <b>What is a jurisdiction?</b>	Jurisdiction is the lawful authority of a court, tribunal or other dispute resolution body to decide legal cases.
202. <b>What are the two types of jurisdiction for courts?</b>	There are two types of jurisdiction – original jurisdiction, which is the power of a court to hear a case for the first time. There is also appellate jurisdiction, which is the ability of a court to hear a case in which a decision is being reviewed or challenged on particular ground (i.e. an appealed case).
203. <b>Is the High Court a state court? What is its appellate jurisdiction?</b>	No – the High Court is a federal court. The High Court hears appeals from the state and territory Courts of Appeal – the High Court also needs to give leave (consent) to a party who wants to appeal their case.

204. <b>What is one reason for a court hierarchy?</b>	Specialisation of courts – within the hierarchy of courts, the courts have been able to develop their own areas of expertise or specialisation. In relation to criminal cases, the Supreme Court Court of Appeal, for example, specialises in determining criminal appeals in indictable offences, and has particular expertise in sentencing principles. The Magistrates' Court, for example, instead is familiar with cases involving summary offences that need to be dealt with quickly and efficiently, such as traffic or drink-driving offences.
205. <b>What is an appeal?</b>	An appeal is an application to have a higher court review a ruling (a decision) made by a lower court. A party who appeals is known as the appellant, and the other party is the respondent.
206. <b>What is another reason for a court hierarchy?</b>	System of appeals – a party who is dissatisfied with a decision in a criminal case can take the matter to a higher court to challenge the decision, assuming there are reasonable grounds for appeal. The system of appeals provides fairness and allows for any mistakes made in the original decision to be corrected – without a court hierarchy to create a system of appeals, there would be unfairness if a court incorrectly determined a case.
207. <b>What are three examples of grounds for appeal in a criminal case?</b>	Appealing on a question of law – where a particular law has not been followed, such as when inadmissible evidence has been allowed. Also, they may appeal a conviction (guilty/non-guilty). Finally, one may appeal based not on the severity or leniency of a sanction imposed – for example, the accused quite often will appeal their sentence on the basis that it was excessive.
208. <b>In what cases would the appellant need leave of the court for an appeal?</b>	They would require leave of the court when appealing a conviction or sentence to the Court of Appeal (Supreme Court), or when appealing to the Court of Appeal in the High Court.
209. <b>What is the original criminal jurisdiction of the Magistrates' Court?</b>	They hear all summary offences and indictable offences heard summarily. The Magistrates' Court also hears committal proceedings, bail applications and warrant applications.
210. <b>What is the appellate criminal jurisdiction of the Magistrates' Court?</b>	They do not have an appellate jurisdiction.
211. <b>What is the original criminal jurisdiction of the County Court?</b>	They hear all indictable offences except murder, attempted murder, certain conspiracies and corporate offences. The offences they hear may include drug trafficking, culpable driving and serious sexual assault.
212. <b>What is the appellate criminal jurisdiction of the County Court?</b>	They hear appeals from the Magistrates' Court on the basis of conviction or sentence.
213. <b>What is the original criminal jurisdiction of the Supreme Court (Trial Division)?</b>	They hear the most serious indictable offences, such as murder and attempted murder.

214. <b>What is the appellate criminal jurisdiction of the Supreme Court (Trial Division)?</b>	They hear appeals from the Magistrates' Court on points of law.
215. <b>What is the original criminal jurisdiction of the Supreme Court (Court of Appeal)?</b>	They have no original jurisdiction.
216. <b>What is the appellate criminal jurisdiction of the Supreme Court (Court of Appeal)?</b>	They hear appeals from the County Court or the Supreme Court (Trial Division).
217. <b>What is the judge's role in a criminal trial?</b>	The judge is one of the central figures in a criminal trial – he or she acts as an 'umpire' at trial and makes sure that the court procedures are carried out in accordance with the court's rules and that each of the parties is treated fairly. The judge must act impartially, not favour any side, and must have no connection with the prosecution or the accused.
218. <b>What is one responsibility of the judge in a criminal trial?</b>	To decide on the admissibility of evidence -- the judge is responsible for deciding which evidence is to be permitted, and can exclude inadmissible evidence from the trial. The <b>Evidence Act 2008 (Vic.)</b> is the main statute that governs the admissibility of evidence. For example, evidence must be relevant to the issues in dispute, hearsay evidence -- evidence that was given by a person who did not personally witness the thing that is being stated to the court, is inadmissible in most circumstances, and evidence of an opinion is also generally inadmissible, that is, if someone thinks the accused committed the crime.
219. <b>What is another responsibility of the judge in a criminal trial?</b>	To attend to jury matters – at the start of a trial, the judge will provide the potential jurors with information about the trial and the accused to make sure that any person can be excused from being a juror if something about the case may affect their ability to act as a juror (e.g. if they know the accused/witnesses). At any time during a trial, the judge may address the jury about the issues in the trial, and may also discharge a juror if it appears that the juror is not impartial, is ill, or can't continue to act as a juror for any other reason.
220. <b>What is another responsibility of the judge in a criminal trial?</b>	To hand down a sentence – if a jury finds an accused guilty, or the accused pleads guilty, the case will be set down for a plea hearing and the parties will make submissions about sentencing. Following that hearing, the judge must hand down a sentence, following sentence guidelines established in the <b>Sentencing Act 1991 (Vic)</b> and comply with legislation about the sentence that should be imposed.
221. <b>Where does the jury system originate from?</b>	The jury system is a trial by peers – it dates back to well before the Magna Carta, but the Magna Carta in England made it a fundamental right. It stated that no free man was to be imprisoned " <b>but by the lawful judgement of his peers</b> ".
222. <b>What is the role of the jury in a criminal trial?</b>	The jury system is a trial by peers, and provides the opportunity for community participation in the legal process, and for the law to be applied according to community standards. A criminal jury is the decider of facts – they are not used for sentencing. In other words, it makes a decision about which facts in the cases they believe to be true.

223. <b>What is the composition of a criminal jury?</b>	A criminal jury comprises 12 jurors – they are chosen randomly from people eligible to vote and who are on the electoral roll.
224. <b>What are the reasons to why one may not be able to, or be removed, from a jury?</b>	Some members of society are disqualified (e.g. some prisoners) or ineligible (e.g. lawyers and police officers) from being on a jury – others can be excused if they have a valid reason (e.g. if they are severely unwell). Potential jurors can also be challenged by the prosecution or the defence, with or without a reason (but they are limited to the people they are allowed to challenge without good reason).
225. <b>What is a unanimous verdict for a jury?</b>	A unanimous verdict is a decision where all the jury members are in agreement and decide the same way – for example, if they all agree that the accused is guilty.
226. <b>What is a majority verdict for a jury?</b>	If a criminal jury is unable to agree on a verdict, then the court may accept a majority verdict – a jury verdict where all but one of the members of the jury agree with the decision. However, majority verdicts cannot be accepted when the accused has been charged with murder, treason or certain drug offences.
227. <b>What are the different verdicts a jury could give in a criminal case?</b>	Guilty or not guilty – but the court may also accept a guilty verdict for an alternative offence.
228. <b>What is one responsibility of a criminal jury?</b>	To be objective – a jury must be unbiased and bring an open mind to the task, putting aside any prejudices or preconceived notions. A jury must have no connection with any of the parties, and must also ensure they decide whether the accused person is guilty or not guilty based not he facts and not on their own biases.
229. <b>What is another responsibility of a criminal jury?</b>	To listen to and remember the evidence – evidence is sometimes complicated, particularly in cases such as fraud, and often presented gradually, in the form of questions and answers. The jury members will need to be able to make sense of all the evidence – they must not undertake their own investigations of what happened, such as conducting research on the internet for information – doing so can lead to penalties and the discharge of the jury.
230. <b>What is another responsibility of a criminal jury?</b>	The jury must take part in the deliberations in the jury room and form an opinion about which party's story or arguments they believe – deliberations should be undertaken freely and without any coercion of one juror by another to reach a verdict. The jury must make a decision on the facts of the case – in a criminal trial, they must decide whether the accused is guilty. They must aim to achieve a unanimous verdict, but if they cannot, in many cases, a majority verdict will be accepted by the court (except in cases of murder, treason or certain drug offences).
231. <b>What is a sanction?</b>	A sanction is a penalty, such as a fine or a prison sentence, imposed by a court on a person guilty of a criminal offence.
232. <b>What is the Sentencing Act? What are two purposes of the Sentencing Act?</b>	The <b>Sentencing Act</b> sets out the court's power to impose sanctions and establishes various types of sanctions – two purposes of the act are to promote consistency of approach in sentencing and to provide fair procedures for imposing sanctions.
233. <b>How have criminal sanctions changed over time?</b>	The nature of criminal sanctions has changed over time – from harsh, inhuman punishments aimed to deter others and seek revenge for society, to a greater realisation of the needs of offenders and the desire to reform and rehabilitate them.
234. <b>What are the purposes of sanctions.</b>	The purposes of sanctions, as set out in <b>S5(1)</b> of the <b>Sentencing Act</b> are: rehabilitation, punishment, deterrence, denunciation and protection.

235. <b>What is the principle of parsimony?</b>	The principle of parsimony states that a judge must not impose a sentence that is more severe than necessary to achieve the purposes of the sentence imposed.
236. <b>What does rehabilitation mean?</b>	Rehabilitation is one purpose of a sanction – a strategy where the court will consider sanctions that could help treat the offender and address their underlying reasons for committing the crime – aiming to assist offenders to change their attitudes and behaviour with the goal of preventing them from reoffending in the future.
237. <b>How might rehabilitation be achieved?</b>	Rehabilitation could be achieved by giving a community correction order (CCO) to encourage rehabilitation rather than sending offences to prison – it could help them by requiring offenders to participate in skills training, for example. Although prison is the sanction of last resort, rehabilitation programs are also carried out within prisons. For example, prisoners are offered the opportunity to undertake life skills programs, such as drug treatment and violence programs.
238. <b>What does punishment mean?</b>	Punishment is one of the purposes of sanctions – it gives the community some revenge against the offender. The offender must be punished so that the victim of crime and the community feel justice has been done, especially if they have been harmed by the offender. The offender should receive 'just punishment', that is, punishment to an extent and in such a manner which is equal to the gravity of their offence, so that the community can feel that it has achieved retribution.
239. <b>Why is punishment of the offender necessary for victims of crime?</b>	Offenders must be punished in a manner that is equal to the gravity of the harm that the victim has suffered, or the victim of crime will be inclined to take the matter into their own hands and seek revenge.
240. <b>What does deterrence mean?</b>	Deterrence is one purpose of a sanction – a process by which the court can discourage the offender and others in the community from committing similar offences. When sanctions are aimed at discouraging other people from committing similar crimes, this process is known as general deterrence, because they see the severe consequences of committing the crime. Sanctions are also a specific deterrent, because they discourage the offender from committing the same offence again.
241. <b>What does denunciation mean?</b>	Denunciation is one purpose of a sanction – a process by which a court can demonstrate the community's disapproval of the offender's actions. A particular sanction may be given to show the community that the court disapproves of the offender's conduct – for example, a harsher sentence may be given by the judge for a particularly violent rape, and they make a comment about how the court is showing disapproval of this type of behaviour.
242. <b>What does protection mean?</b>	Protection is one purpose of a sanction – it is a strategy designed to safeguard to community from an offender in order to physically prevent them from committing further offences (e.g. by imprisoning them). A non-custodial sentence, such as a CCO, may also protect the community from offenders because they keep offenders busy when they might otherwise be engaged in criminal activity – however, sometimes offenders abuse their CCOs and commit offences while carrying out community work.
243. <b>From most severe to least severe, list the hierarchy of sanctions provided in the Sentencing Act.</b>	Imprisonment, court secured treatment order, drug treatment order, community correction order, fine (can be without conviction), adjournment (can be without conviction), discharge, dismissal (without conviction).
244. <b>What is a conviction?</b>	A conviction is a criminal offence that has been proved – prior convictions are previous criminal offences for which the person has been found guilty.
245. <b>What is a fine?</b>	A fine is a sanction that requires the offender to pay an amount of money to the state of Victoria. The amount of fine will often depend on the maximum penalty that may be imposed for a certain offence, which is normally prescribed in the statute setting out that offence. It can be given as a sanction alone, or used in combination with other sanctions.
246. <b>How are fines expressed in the Sentencing Act?</b>	The <b>Sentencing Act</b> expresses fines in levels (1-12). Level 2 is the highest level, attracting a penalty of 3000 penalty units, and level 12 is the lowest level, with a penalty of 1 penalty unit. For example, for offences relating to bomb hoaxes, one of the possible sanctions is a level 6 fine (600 penalty units maximum). The use of penalty units means that the government can increase the value of penalty unit each year without changing all statutes.

247. <b>What factors must the court consider when determining the amount of a fine?</b>	According to the <b>Sentencing Act</b> , when fixing a fine a court must consider the financial circumstances of the offender and the nature of the burden that the payment will impose. The court may also consider any loss or destruction of, or damage to, property suffered by a person as a result of the offence and the value of any benefit to the offender as a result of the offence.
248. <b>What may the court do if a fine is not paid?</b>	If a fine is not paid, the offender can be imprisoned or ordered to undertake community work.
249. <b>How do fines meet the purposes of sanctions?</b>	Fines serve to punish offenders as they receive a financial loss, deters the individual from reoffending, and also deters others from committing the same crime, in the hopes that they too, will not receive a similar fine, and denunciation can be achieved when the court gives a larger fine to express their disapproval for the offender's actions.
250. <b>How do fines seek to punish offenders?</b>	Fines serve to punish offenders by requiring them to pay money to the state – the financial circumstances of the offender are important because the amount of the fine needs to be high enough to act as a punishment.
251. <b>How do fines act as a deterrent?</b>	Fines can act as a specific deterrent to discourage an offender from reoffending, but they can also act well as a general deterrent to other members of the public who know they will have to pay a fine if they are caught committing a similar act – they will be discouraged from doing so.
252. <b>How do fines act as a form of denunciation?</b>	Fines can act as a form of denunciation, as a court may give a very lofty fine to a person or organisation as a way of public denouncing certain actions and showing strong disapproval.
253. <b>What are three factors that would determine whether a fine is able to achieve the purposes of sanctions?</b>	The wealth of the offender – for example, if the offender has significant wealth, then the fine may not punish them much and therefore would not act well as a specific deterrent. Also, the ability to denounce the crime – for example, since a level 2 fine is only just above \$460,000, it may not send a strong enough message to some of the wealthier members of community about the court's disapproval. Finally, whether there is a more appropriate sanction – for example, a sanction that protects the community or rehabilitation the offender might be more beneficial to the community.
254. <b>What is a community correction order?</b>	A community correction order (CCO) is a supervised sentence served in the community that includes special conditions, such as treatment of the offender and unpaid community work for a number of hours.
255. <b>How is a CCO 'tailor-made' to the offender?</b>	CCOs give offenders the opportunity to stop their criminal behaviour and undergo treatment or take part in educational, vocational or personal development programs – they are 'tailor-made' to the offender.
256. <b>Under what circumstances can a CCO be given?</b>	A court can only impose a CCO if the offender has been convicted or found guilty of an offence punishable by more than 5 penalty units, the court has received a pre-sentence report, and the offender consents to the order. The court must also be satisfied that the CCO is appropriate for the particular offender.
257. <b>What happens if the offender doesn't consent to the order?</b>	If the offender doesn't comply with the order, it can be cancelled, and the offender will be re-sentenced for the original offence. This could mean a tougher sentence because the offender has failed to comply with this CCO.
258. <b>What is the maximum length of a CCO that an accused may be sentenced to?</b>	A CCO can be imposed for up to two years in the Magistrates' Court for a single offence, and no more than five years in any of the Victorian courts.
259. <b>What severity of other sanctions could be imposed with a CCO?</b>	A CCO can be combined with a fine or up to one year in prison – when combined with a prison sentence, the CCO will commence on the offender's release from jail.

260. <b>How did Victorian legislation in 2016 impact the use of CCOs?</b>	In 2016, Victorian legislation was passed to restrict the use of CCOs for offences committed after March 2017 – a CCO cannot be a sanction for 'category 1 offences' (e.g. murder, rape, incest) or, with exception, such as mental impairment, 'category 2 offences' (e.g. manslaughter, child homicide, kidnaping).
261. <b>What are three core conditions of a CCO?</b>	The offender must not commit any other offence punishable by imprisonment during the term of the order, must report to a specified community corrections centre within two working days of the order coming into force and must report to and receive visits from a community corrections officer.
262. <b>What are special conditions of a CCO? Give three examples.</b>	The court is required to attach at least one special condition to a CCO – these may include unpaid community work, where the offender must perform a number of hours of community work, as specified in the court order, which must not exceed 600 hours total, or 20 hours over a seven-day period (unless the offender requests more). Also, a specific condition may include treatment and rehabilitation, where the offender must undergo treatment and rehabilitation ordered by the court, designed to address the causes of the offending. Finally, the alcohol exclusion may be ordered, meaning that the offender must not enter or remain in a licensed premises, or a major event, or consume liquor in any licensed premises.
263. <b>What are the sentencing purposes of CCOs?</b>	CCOs aim to punish the offender, rehabilitate the offender, and act as a deterrent.
264. <b>How can CCOs punish the offender?</b>	CCOs punish the offender because conditions such as requiring the person to receive visits from a community corrections officer, obtaining permission before leaving Victoria and complying with directions by a community corrections officer can be a limitation on the freedom of the offender.
265. <b>How can CCOs rehabilitate the offender?</b>	CCOs rehabilitate the offender because special conditions such as alcohol exclusion, and treatment and rehabilitation aim to rehabilitate the offender by treating the underlying causes of the offending. In fact, statistics from Corrections Victoria from 2016-17 show that 26.7% of those who were sentenced with CCOs were re-sentenced to a CCO within 2 years (essentially recidivism rate), whereas for imprisonment, this rate was 43.6%. Clearly, CCOs rehabilitate the offender in a much more effective manner.
266. <b>How can CCOs act as a deterrent?</b>	A CCO can act as a specific deterrent, because having to do unpaid community work and comply with burdensome conditions may discourage the offender from ever committing the same crime again. It may also act as a general deterrent, because if people in the community see that they may have to serve the same arduous sentence, they too, would be discouraged from committing such a crime.
267. <b>What are three factors that may affect the ability of CCOs to achieve the purposes of sanctions?</b>	Some factors to consider when determining whether a CCO is able to achieve its purposes include: whether there is a condition that will achieve the right purpose for the particular type of offending, whether the offender is likely to comply with the conditions and whether there is another or a better sanction that will achieve the necessary purposes.
268. <b>What is imprisonment?</b>	People who have been convicted of a crime can be sentenced to imprisonment for a time, which means they will be removed from society for a stated period of time and placed in prison – they will lose their freedom and liberty.
269. <b>How are prison terms expressed?</b>	Prison terms are expressed in levels from 1-9, one being the most serious (life imprisonment maximum) and nine being for six months maximum. Offences such as murder or trafficking a large commercial quantity of drugs has Level 1 imprisonment as a sanction.

270. <b>Under what conditions does a non-parole period have to be given?</b>	If a court sentences an offender to imprisonment for two years or more, it must also state a minimum, non-parole period – if the sentence is between one and two years, then the court has an option of stating a non-parole period.
271. <b>What is parole?</b>	Parole is the supervised and conditional release of a prisoner after the minimum period of imprisonment (non-parole period) has been served. After the non-parole period, the Adult Parole Board reviews the prisoner's suitability for parole – if there is no non-parole period or parole is rejected, prison sentences are served in full.
272. <b>What is a non-parole period?</b>	A non-parole period is a part of the minimum period of imprisonment during which a criminal is not to be released on parole.
273. <b>What is the sentencing power of the Magistrates' and Supreme Courts?</b>	The Magistrates' Court is limited in the length of imprisonment it may impose – the maximum term of imprisonment for a single offence is two years, and five years for two or more offences. The Supreme Court, on the other hand, is the only court that can impose the maximum term of imprisonment.
274. <b>What does a term of 'life imprisonment' actually mean?</b>	A term of life imprisonment means the term of the prisoner's natural life – however, a court may set a minimum non-parole period, after which they may be granted parole.
275. <b>How would the time served while an offender is remanded in custody considered in sentencing?</b>	If an offender has been held in custody (e.g. on remand) before sentencing, any time spent in prison may be taken into account as part of the sentence to be served.
276. <b>What is the difference between concurrent and cumulative sentences?</b>	Terms of imprisonment can be served concurrently or cumulatively – a concurrent sentence runs at the same time as another sentence. For example, someone who has been found guilty of theft and assault and sentenced to six months each 'to be served concurrently', will serve only six months because the two sentences are served at the same time – sentences are usually ordered to be served concurrently. A cumulative sentence, on the other hand, is served straight after another sentence. In the above example, the sentence would cumulatively add up to one year.
277. <b>In what circumstances would a cumulative sentence be given?</b>	A cumulative sentence must be given for serious offenders (e.g. arson, drug, sexual and violent cases), where the imprisonment is in default of payment of a fine or sum of money, for an offence by a prisoner or an escape offence, or for an offence committed by a person released on parole or bail.
278. <b>What is an aggregate sentence?</b>	If an offender has been convicted of multiple, related offences, the court has an option of imposing an aggregate sentence that applies to more than one offence – rather than separate sentences for each offence. For example, a judge may hand down a stretch of three years in prison for all of the offences, and may not specify how much of that sentence is with respect to each individual offence.
279. <b>What is the merit of an aggregate sentence?</b>	By giving an aggregate sentence, the court is able to impose a sentence that reflects all of the offender's conduct, and provides a clearer explanation of the total sentence.
280. <b>In what circumstances is an aggregate sentence not allowed to be given?</b>	Aggregate sentences are not available for serious offences where there is a presumption that sentences will be served cumulatively.

281. <b>What is the maximum length of an aggregate sentence?</b>	An aggregate sentence cannot exceed the total sentence that would have been imposed if a separate sentence were imposed for each offence.
282. <b>What is an indefinite sentence?</b>	An indefinite sentence is the imposition of a sentence of imprisonment with no definite period of time set during sentencing. Its length is instead determined during imprisonment based on the inmate's conduct. The inmate can be returned to society or be kept in prison for life.
283. <b>In what situations may indefinite sentences be given?</b>	If a person (other than a young person) is convicted by the County or Supreme Court of a serious offence, the court may sentence them to an indefinite term of imprisonment. Serious offences include murder, manslaughter, child homicide and rape. The court can only impose an indefinite sentence on an offender if it is satisfied, Tor a high degree of probability, that the offender is a serious danger to the community because of factors such as the nature and gravity of the serious offence.
284. <b>How could an offender be released if they have been sentenced to an indefinite sentence of imprisonment?</b>	The court will review the indefinite sentence periodically – unless the court is satisfied, to a high degree of probability, that the offender is still a danger to the community, the indefinite sentence must be discharged, and the offender must undertake a five-year reintegration program administered by the Adult Parole Board.
285. <b>Can a discharge from an indefinite sentence be appealed?</b>	The offender or the OPP may appeal against a decision to discharge or not discharge an indefinite sentence.
286. <b>What is recidivism? What is the current rate of recidivism in Victoria?</b>	Recidivism is a measure of the number of prisoners who return to jail, under sentence, within two years of release. In Victoria, the recidivism rate for the return of released prisoners back to prison within two years is about 40 per cent
287. <b>Why is imprisonment seen as a sanction of 'last resort'?</b>	Imprisonment is seen as the sanction of last resort, as it results in a loss of liberty and freedom. Some would argue that more offenders should be kept in jail and that sentences should be harsher – others argue that the most significant aim of criminal sanctions should be to rehabilitate offenders so that they are more likely to lead a useful and productive life within the boundaries accepted by society.
288. <b>What are the purposes of imprisonment?</b>	Imprisonment aims to punish the offender, protect society, there is a chance for rehabilitation, long sentences denunciate the offender and act as a deterrent
289. <b>How does imprisonment punish the offender, and protect society at the same time?</b>	Imprisonment removes the offender from society as a punishment for offending against society, as they are deprived of their liberties and freedom, and by removing them from society, society is protected from this individual. Having a prison system leads to a safer society because serious criminal are kept out of society.
290. <b>How is there a chance that imprisonment may lead to rehabilitation? Is there a chance that prisoners would not be rehabilitated at all?</b>	There is a chance that imprisonment may lead to rehabilitation, because of the various programs offered to prisoners, but it is more likely to lead to further crimes because of the influences of other prisoners and the difficulty of getting back into normal life after having spent time in prison. In fact, statistics from Corrections Victoria from 2016-17 show that 26.7% of those who were sentenced with CCOs were re-sentenced to a CCO within 2 years (essentially recidivism rate), whereas for imprisonment, this rate was 43.6%. Clearly, CCOs, by comparison, are much more effective at rehabilitating the offender than imprisonment
291. <b>How could courts use imprisonment to denounce the offender?</b>	Courts could impose long sentences on offenders, and in doing so, would show their disapproval of the acts committed.
292. <b>How does imprisonment act as a deterrent?</b>	Imprisonment is likely to act as a general deterrent, in that most people would be deterred rom committing a crime, by the possibility of going to prison. It may also act as a specific deterrent for a particularly offender, because they would not want to go to prison for a second time. Nonetheless, a 2011 report by the Sentencing Advisory Council found that: <b>"The research demonstrates that increases in the severity of punishment [...] have no corresponding effect upon reoffending."</b>

<p>293. <b>What are three factors that may affect the ability of imprisonment to achieve the purposes of sanctions?</b></p>	<p>Some of the factors to consider when determine whether imprisonment is able to achieve its purposes include: the exposure of offenders to negative influences, such as the availability of drugs in prisons (Corrections Victoria, in 2016 found that nearly 10% of prisoners had drugs in their urine), whether the offender is offered appropriate opportunities to rehabilitate, and whether they will take advantage of these opportunities, and also the extent to which the community is protected if short prison terms are given.</p>
<p>294. <b>In what cases may the judge hand down a long sentence, and ignore the need to rehabilitate the offender?</b></p>	<p>In <b>R v Bilal Skaf (2004)</b>, the trial judge sentenced one of the defendants, who participated in a gang rape of one victim who was raped 44 times by 14 different men over six hours, to 55 years imprisonment. The sentence was considered long enough to condemn the behaviour and show extreme disapproval of it -- the 55-year term was not directed towards rehabilitation, mainly because of the demonstrated attitude of the offender and lack of remorse, which made him seem not an ideal candidate for rehabilitation.</p>
<p>295. <b>What are four factors that should be considered when deciding an appropriate sanction to be imposed on an offender?</b></p>	<p>The <b>Sentencing Act</b> requires a court to take a number of factors into account when choosing a sanction; four of these include: aggravating factors, mitigating factors, guilty pleas and victim impact statements.</p>
<p>296. <b>What are aggravating factors?</b></p>	<p>Aggravating factors are circumstances about the offender or the offence that can increase the seriousness of the offence, or the offender's culpability. If they are present, a higher sentence should be imposed.</p>
<p>297. <b>Give three examples of aggravating factors.</b></p>	<p>The use of violence, explosives or a weapon when committing the offence; the nature and gravity of the offence, such as the offence being unprovoked, being pre-planned or where the victim suffered a particular type of brutality; and any vulnerabilities of the victim, such as if they have a disability or being of old and frail or very young age.</p>
<p>298. <b>What are mitigating factors?</b></p>	<p>Mitigating factors are circumstances that a court should consider when determine the appropriate sentence -- they can be circumstances relevant to the offender, the victim or the crime itself. They reduce the seriousness of the offence or the offender's culpability, and result in a more lenient sentence.</p>
<p>299. <b>Give three example of mitigating factors.</b></p>	<p>The offender was provoked by the victim; the offender showed remorse; and the offender is a first-time offender, i.e. they have no record of previous convictions.</p>
<p>300. <b>Is a guilty plea taken into consideration in sentencing?</b></p>	<p>One of the factors a court must take into account when sentencing an offender is whether the offender pleaded guilty to the offence and, if so, how far into the case. A guilty plea at an early stage before trial or hearing, or at the start of trial, can result in a less severe sentence.</p>
<p>301. <b>Why does an early guilty plea result in a more lenient sentence?</b></p>	<p>First, if the offender knows that an early guilty plea is taken into account in sentencing, it may encourage them to plead guilty rather than going to trial. Second, an early guilty plea can have significant benefits to the criminal justice system, including the prosecution, the victims, society, the accused and his or her families, by avoiding the time, expense and stress of a trial. A reduction in sentence, as a result of an early guilty plea, will therefore reward the offender for admitting to the crime that he or she has committed.</p>
<p>302. <b>Does the court have to indicate how much the early guilty plea has had an impact on the sentence's severity?</b></p>	<p>If a court imposes a less-severe sentence because the offender pleaded guilty, and the sanction is either a custodial sentence, a fine exceeding 10 penalty units or an aggregate fine exceeding 20 penalty units, the court must state how much 'discount' it gave for the guilty plea.</p>
<p>303. <b>What is a victim impact statement?</b></p>	<p>A victim impact statement contains particulars of any injury, loss or damage suffered by the victim as a direct result of the offence. Its purpose is to assist the court when it is deciding on the sentence.</p>
<p>304. <b>What kind of information does a victim impact statement contain?</b></p>	<p>When sentencing an offender, the court must take into account the impact of the offence of any victim, and the personal circumstances of the victim -- more often than not, the court will learn about the impact and personal circumstances of the victim through victim impact statements. Victim impact statements are used widely by the courts to allow victims to have their say in the sentencing process.</p>

305. <b>How are victim impact statements given to the court?</b>	A victim may make a statement to the court only if a person is found guilty of an offence – a copy must be filed with the court a reasonable time before sentencing. Victims can also give the court medical and psychological reports, which can be attached to their victim impact statements. Furthermore, a victim may request that their victim impact statements be read aloud in open court – this may be done by the victim, or a person whom the victim requests read the statement (the court must approve this person). The court may give directions as to which parts of the statement are admissible, and hence which should be read aloud.
306. <b>What are three factors that can affect the ability of the criminal justice system to achieve the three principles of justice?</b>	Three factors that can affect the ability of the criminal justice system to achieve the three principles of justice are cost factors, time factors and cultural factors.
307. <b>What are two cost factors that may restrict the criminal justice system's ability to achieve justice?</b>	The costs associated with the criminal justice system can be significant, particularly for an accused who cannot afford legal representation. Therefore, two cost factors are the costs of legal representation and the availability of legal aid.
308. <b>How might cost factors impact on the ability to achieve justice?</b>	Achieving justice and resolving a criminal dispute is a very expensive process -- in order to defend themselves, a defendant must usually pay fees to file documents with the court; hire a barrister to speak for them in court proceedings, among other cost; as well as coping with time off from work without pay. Sometimes an accused in a criminal case will be held on remand, which will exacerbate all of these.
309. <b>Explain the costs of legal representation for an accused.</b>	While everyone has the right to legal representation, not everyone can afford it– this can be particularly damaging for an accused person, because <b>"access to adequate legal advice is an internationally recognised human right and a fundamental pillar of the rule of law"</b> (The Law Council of Australia), which was reinforced was reinforced in <b>Dietrich v. The Queen</b> . In 2012, the then federal attorney-general said: <b>"Unless if you are a millionaire of a pauper [to equality for Legal Aid assistance], the cost of going to court to protect your rights is beyond you."</b> Figures from 2008 from the Law Institute of Victoria indicate that a 5 day trial in the County Court, for solicitor/client costs only could likely reach up to <b>\$19,500</b> – these figures have likely increased after 10 years. Additionally, simply applying for leave to appeal with the Court of Appeal costs a filing fee of approximately \$3660, as of 2017.
310. <b>How does the cost of legal representation impact upon the ability to achieve fairness?</b>	If an accused person can't properly participate in a hearing, it may lead to an unfair result. In particular, a lack of familiarity with the language of criminal trials, or a lack of understanding of procedure can have an impact.
311. <b>How does the cost of legal representation impact upon the ability to achieve equality?</b>	If parties can't afford representation, they are at risk of not being treated as equal before the law – for example, they might come up against skilled and experienced prosecutors who understand the law and its procedures, formalities and language – placing an unrepresented accused at risk of not being able to perform at the same level of their legal opponent.

312. <b>How does the cost of legal representation impact upon the ability to achieve access?</b>	An accused who cannot pay for legal representation may have trouble accessing the courts and mechanisms that are used to determine the criminal charges. This may result in accused person having to plead guilty to a crime they may not have committed because they do not have the means or ability to defend the case.
313. <b>Explain the availability of legal aid.</b>	Due to lack of funding, a large part of the community is not eligible for legal aid, and CLCs are stretched in their ability to offer legal aid to people affected by crime – as a result, these people can be denied access to legal services. Legal aid is currently available to less than 8 percent of Australia's population – in addition, in 2014-15 Australian CLCs turned away over 159,220 people because they did not have the resources to help them. While such institutions provide legal assistance, chronic funding shortfalls (\$72 million more annually is estimated to be required for VLA) mean that ongoing help is restricted to those on lowest on incomes; 98% of legal aid recipients receive an income level considered below the poverty line, which leaves many people unable to afford legal representation but ineligible or assistance. If people cannot get assistance, they are forced to represent themselves against a complex and difficult court procedure.
314. <b>How may the availability of legal aid impact upon the ability to achieve fairness?</b>	Limits on access to free legal services can impact an accused's ability to present their case in the best possible light and receive a fair hearing. Lack of legal aid may result in people having to represent themselves. Furthermore, the lack of legal aid can also impact on victims and their families who want to assert their rights in the criminal justice system, understand criminal processes and need information about matters such as giving evidence.
315. <b>How may the availability of legal aid impact upon the ability to achieve equality?</b>	Legal aid aims to ensure that an accused is not disadvantaged because of their lack of legal representation, but without the ability to access legal aid, victims and their families may be at a disadvantage by not being able to assert or understand their legal rights at the same level as someone who has private representation.
316. <b>How may the availability of legal aid impact upon the ability to achieve access?</b>	VLA and CLCs aim to ensure that there is access to justice, so a party who can't get any form of legal aid through these institutions is at risk of not being able to access information, legal help, advice, assistance or representation, and may not be able to understand the processes involved.
317. <b>How could time factors impact upon the ability to achieve justice?</b>	Delays can gravely affect the ability of people to use the legal system because they may want closure and to be able to get on with their lives; criminal defendants can be compelled to plead guilty because they are not financially or emotionally able to defend themselves over a long period of time; a long delays can impair the ability of witnesses to give accurate evidence.
318. <b>What are two time factors that may restrict the criminal justice system's ability to achieve justice?</b>	Two time factors that restrict the ability of the criminal justice system to achieve justice are the delays in preparing a case for trial and court delays.

319. <b>Explain delays in preparing a case for a trial.</b>	Most criminal cases involve a range of tasks such as gathering evidence, locating and interviewing witnesses, and determining what charges should be laid against an accused -- how long these tasks take to complete will be different from case to case, and may have adverse effects on those involved. The 2015-16 annual report of the Director of Public Prosecutions (DPP) and the OPP stated that the average time taken to complete criminal matters was 19.2 months. Many see this as an unfortunate byproduct of the nature of our justice system, which relies on the prosecution gathering evidence -- particularly an over-reliance on hard copy documents, and the need for committal proceedings in what may be seen to be straightforward cases.
320. <b>How may the delays in preparing a case for a trial impact upon the ability to achieve fairness?</b>	Delays in criminal cases can result in emotional strain for the accused and his or her family, the stigma of being charged with a crime, the possible loss of a job, and disruption of family life -- similarly, victims and their families have to wait for the case to be heard, and may not be able to move on until it is over. Furthermore, delays could also mean that witnesses may be unavailable, or their memories may become cloudy; this can reduce the likelihood of a fair outcome.
321. <b>How may the delays in preparing a case for a trial impact upon the ability to achieve equality?</b>	Delays can disproportionately on those who are most vulnerable, putting them at risk of not being treated equally before the law. For example, delays can be particularly distressing for people with a mental illness or disability, those who are aged, or victims who have suffered significant trauma. Delays can therefore place someone in a more disadvantageous position than they otherwise would have been.
322. <b>How may the delays in preparing a case for a trial impact upon the ability to achieve access?</b>	The greater the wait in having a case heard and determined, the less the courts become accessible to the parties -- in addition, a delayed determination of a criminal case will render the courts unavailable for the use of others, which would decrease the confidence people have in the criminal justice system.
323. <b>Explain court delays.</b>	Delays are not just met when getting a case ready for trial -- parties often have to wait for a hearing date in court. The court system is often said to be stretched and unable to handle the increasing number of criminal cases that are before them. For example, in the County Court the waiting time can range between 8 months to over a lengthy 12 months. In recent years, the courts have tried to reduce the delays, but they have had to deal with the equally difficult challenge of the increasing number of self-represented parties, more complex matters, and some pockets of society demanding a 'tough on crime' approach, which can lead to more cases brought before the courts.
324. <b>How may court delays impact upon the ability to achieve fairness?</b>	A fair hearing includes the right to be tried without unreasonable delay, as guaranteed by the Human Rights Charter -- Court delays in setting a matter down for trial or hearing can be considered unfair given the strain it can have on the accused, victims, families and society as a whole. Furthermore, long delays can also impact on evidence. For example, witnesses lose their memory over time, and victims often find it traumatic to have to wait so long for justice.
325. <b>How may court delays impact upon the ability to achieve equality?</b>	Delays can impact on those who are most vulnerable, putting them at a potential disadvantage in comparison to those who are not as vulnerable. Delays can therefore place someone in a more disadvantageous position than they otherwise would have been.

326. <b>How may court delays impact upon the ability to achieve access?</b>	The greater the wait in having a case heard and determined, the less accessible the courts are to the parties. This can cause parties to compromise in order to finalise the case early, when there might otherwise be a strong case for or against the accused.
327. <b>What are two time factors that may improve the criminal justice system's ability to achieve justice?</b>	Two time factors that may improve the criminal justice system's ability to achieve justice are the use of plea negotiations and sentence indications and expedition of appeals in the court of appeal.
328. <b>Explain how the use of plea negotiations can improve the ability to achieve justice.</b>	The use of plea negotiations and sentence indications have helped significantly in addressing the delays faced by the courts and the prosecution in criminal matters. Plea negotiations can reduce delays by achieving an early guilty plea in a case. This ensures a quicker determination of the case and allows resources to be used elsewhere. Sentence indications can also reduce delays by providing an accused with an opportunity to plead guilty once they know what sentence is likely to be imposed. In their 2015-16 annual report, the DPP and OPP stated that guilty pleas were achieved in 77% of matters.
329. <b>How do plea negotiations and sentence indications uphold fairness?</b>	An accused person is given the opportunity to negotiate a plea, or seek a sentence indication. The accused does not have to accept any negotiation or sentence indication. He or she has an opportunity to decide whether to plead guilty. Also, plea negotiations are intended to ensure that the charges reflect the accused's criminality, ensuring that there is fairness in what is being negotiated. Similarly, sentence indications are based on the information available to the judge or magistrate. Additionally, plea negotiations and sentence indications avoid the burden of trial for victims and witnesses. However, victims and members of society may see both of these methods as unfair in that the accused is seen as being 'let off'.
330. <b>How do plea negotiations and sentence indications uphold equality?</b>	Plea negotiations and sentence indications are generally available to all accused persons, therefore everyone has an equal opportunity to negotiate with the prosecution or seek a sentence indication. On the other hand, victims may feel they are themselves disadvantaged because an accused does not have to face trial (though equally they may avoid the trauma and stress involved in a trial).
331. <b>How do plea negotiations and sentence indications uphold access?</b>	Guilty pleas avoid the trauma, stress and inconvenience of trial, which enables better access to parties and victims to the criminal justice system. In plea negotiations, victims are often consulted about their views, ensuring the prosecution considers their views when negotiating charges. The victim's views, however, do not determine plea negotiations.
332. <b>Explain the expedition of appeals in the Court of Appeal.</b>	Since 2011, criminal appeals in the Court of Appeal of the Supreme Court have been conducted under reforms known as the Ashley-Venne reforms. These reforms include the filing of grounds of appeal and supporting arguments early in the process of applying for leave and having more detailed and uniform paperwork. Since the Court of Appeal hears most of the criminal appeals in Victoria, the reforms have greatly assisted in reducing backlogs in courts and delays in having a criminal appeal finally determined. In its 2014-15 annual report, the Supreme Court has said that it has been able to reduce the time taken to finalise an appeal to just six months - in 2010-11 this was 12.5 months.
333. <b>How do expeditions in the Court of Appeal uphold fairness?</b>	Appeals can add to the trauma of victims and other parties involved, as they involve additional steps in the final determination of a case. Having the appeal heard quickly can reduce that trauma. Hearings should be heard without unreasonable delay, so the reforms assist in ensuring a fair hearing.

334. <b>How do expeditions in the Court of Appeal uphold equality?</b>	The reduction in time can reduce the stress, trauma and inconvenience involved, thus ensuring equality before the law, particularly for those who are more vulnerable to delays.
335. <b>How do expeditions in the Court of Appeal uphold access?</b>	Reducing the time it takes for a matter to be finally determined can increase access to justice - if appeals took years and an accused was wrongly found to be guilty it would significantly decrease access to a final determination and the chance to establish an accused's innocence, or have a sentence reviewed.
336. <b>How could cultural differences impact upon the ability to achieve justice?</b>	While the criminal justice system tries, in a number of ways, to accommodate difference, our criminal justice system is founded primarily on a culture of European and UK heritage and westernised education extending to a tertiary level. Therefore, our system is less compatible with people who do not share the same culture.
337. <b>What are two cultural factors that may restrict the criminal justice system's ability to achieve justice?</b>	Two cultural factors that may restrict the criminal justice system's ability to achieve justice are difficulties faced by Aboriginal and Torres Strait Islander peoples in questioning and giving evidence and the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.
338. <b>Explain the problems during questioning and giving evidence that Aboriginal people may face.</b>	Aboriginal and Torres Strait Islander peoples have a complex system of law and customs, handed down from generation to generation, and these traditions may not be compatible with the processes of contemporary Australian society. For one, they may experience problems in clearly understanding the English language, due to subtle semantic differences in language use; 'kill', in Aboriginal language, may mean to hit someone, probably causing injury, but not necessarily killing them. Such language difference could create confusion and a misrepresentation of the truth in a court of law. Another series of problems the Aboriginal people may incur relate to direct questioning; in many Indigenous cultures, group agreement through long, sometimes roundabout discussion and telling with stories is the polite way to settle differences, and directness is impolite. The criminal justice system, with its forced yes/no answers, sets Aboriginal people up to look evasive or dishonest when they are actually being respectful.
339. <b>How may problems for Aboriginal people when giving evidence and during questioning impact upon the ability to achieve fairness?</b>	The way questions are asked and answered may risk the accused person making confessions or admissions he or she may not otherwise make, leading to an unfair result due to confusion or a misrepresentation of the truth. Furthermore, an Indigenous person's different customs and lack of understanding of court processes can leave them at risk of procedural unfairness, as they may not be able to present their case as required by the criminal justice system. They may therefore be treated in an unfair manner.

<p>340. <b>How may problems for Aboriginal people when giving evidence and during questioning impact upon the ability to achieve equality?</b></p>	<p>Cultural differences can significantly impact on the ability of a party to be seen to be equal before the law, and have an equal opportunity to present their case. Aboriginal and Torres Strait Islander peoples, charged with a crime that they have pleaded not guilty to, have to adapt to a system that is different from their own.</p>
<p>341. <b>How may problems for Aboriginal people when giving evidence and during questioning impact upon the ability to achieve access?</b></p>	<p>Inability to understand legal processes and terminology, legal rights and the court system can impact on a person's ability to access the system without some adaption of processes or assistance.</p>
<p>342. <b>Explain the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.</b></p>	<p>For some years now, there has been a significant over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system. According to the Australian Bureau of Statistics on Prisoners in Australia as at June 2016, the total Aboriginal and Torres Strait Islander adult population was approximately 2% of the Australian population, yet Aboriginal and Torres Strait Islander prisoners accounted for 27% of the total Australian prisoner population. The over-representation is not limited to offenders. Research in 2002 by Gardiner and Takagaki showed that Indigenous women in Victoria are two to four times more likely to be the victim of certain types of crime than non-Indigenous women. Furthermore, Indigenous children and teenagers are 24 times more likely to be incarcerated than their non-Indigenous peers, while Indigenous women are 30 times more likely to be incarcerated.</p>
<p>343. <b>How may the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system impact upon the ability to achieve fairness?</b></p>	<p>Language and other issues can lead to misunderstandings between Aboriginal and Torres Strait Islander peoples and their lawyers and court personnel, resulting in unfair processes and a possible unfair trial or hearing.</p>
<p>344. <b>How may the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system impact upon the ability to achieve equality?</b></p>	<p>The over-representation of Aboriginal and Torres Strait Islander peoples demands greater attention by courts and those involved in the justice system to the complexity of their legal needs. If courts fail to understand these needs and take them into account, they risk denying them equality before the law.</p>

<p>345. <b>How may the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system impact upon the ability to achieve access?</b></p>	<p>The lack of legal resources and legal aid for some Aboriginal and Torres Strait Islander peoples faced with the criminal justice system can result in poorer access to justice. Since they are some of the most vulnerable, and are over-represented, they often have the least access to legal services and assistance.</p>
<p>346. <b>What are two cultural factors that may improve the criminal justice system's ability to achieve justice?</b></p>	<p>Two cultural factors that may improve the criminal justice system's ability to achieve justice are the Koori Court and the use of interpreters.</p>
<p>347. <b>Discuss the role of the Koori Court in achieving justice.</b></p>	<p>The Koori Court is a division of the Magistrates' Court, the County Court and the Children's Court (Criminal Division). The Koori Court is not a trial court and is only used for sentencing. The Court must ensure that proceedings are informal and conducted in such a way that they can be understood by the accused, the accused's family and any member of the Indigenous community who is present in court. An oval table is used as the bar table and Koori elders or respected persons can advise the Court on Aboriginal cultural issues. The accused sits with his or her family, rather than in the dock.</p>
<p>348. <b>When was the first Koori Court established, and how many are there now?</b></p>	<p>It was first established in 2002 to provide fair, equitable and culturally relevant justice services to the Indigenous community, as well as to provide the Indigenous community with greater protection and participation in the sentencing process for criminal offences. The Koori Court system has expanded since it was introduced into the Magistrates' Court in 2002, with the first Koori Court opening in Shepparton. There are now 11 adult Koori Courts and 12 Children's Koori Courts in Victoria.</p>
<p>349. <b>How does the Koori Court uphold fairness?</b></p>	<p>Koori Courts can help limit the possibility of an unfair trial by ensuring that people can communicate in a way that is familiar to them. The informality and layout of the courtroom will be more familiar for an offender, enabling them to actively participate in the hearing with elders present.</p>
<p>350. <b>How does the Koori Court uphold equality?</b></p>	<p>The Koori Courts help to overcome some of the problems arising from the cultural differences of the Indigenous community. The differences and values of the Indigenous community are recognised in sentencing, which upholds equality. The informality and equality shown here reflect the strengths of Aboriginal ways of communicating and the importance of elders. The Koori Court is limited to sentencing, and so does not address equality issues that may exist in a hearing or trial to determine guilt.</p>
<p>351. <b>How does the Koori Court uphold access?</b></p>	<p>The informality of the Court, the requirement that the offender and the Indigenous community are able to understand the proceedings, and the involvement of an Indigenous elder or respected person, assists the court to address some of the inequities faced by Indigenous people. The Koori Court provides access to only guilty offenders, and not to those who wish to defend the charges.</p>
<p>352. <b>How does the use of interpreters help achieve justice?</b></p>	<p>Many members of our community were born overseas, and many have a language other than English as their first language. This can affect an accused being able to understand court documents, court processes and the language used in criminal cases. Under the Human Rights Charter, S25(2)(i), one of the rights guaranteed to a person charged with a criminal offence is the right to have the assistance of an interpreter, at no cost, if he or she cannot understand or speak English. Interpreters can help accused people who cannot speak English to speak with their lawyer and to court personnel. However, access to an interpreter can vary greatly from court to court.</p>
<p>353. <b>How does the use of interpreters uphold fairness?</b></p>	<p>People from non-English-speaking backgrounds can find it difficult to present their case well. Legal processes and language are unfamiliar. This increases the likelihood of an unfair outcome. This is equally the case for victims and other parties whose first language is not English. The use of interpreters can bridge the language gap by ensuring that what the person wants to say is communicated.</p>
<p>354. <b>How does the use of interpreters uphold equality?</b></p>	<p>A person who cannot communicate well in a court setting may risk being treated differently, or may not be able to perform as well as an experienced prosecutor who does not suffer the same issues, thereby jeopardising the right to equality before the law. The use of interpreters can help people who are not familiar with the English language to communicate with their lawyers and with the court and to present their case in a way that ensures they are not discriminated against, making them more equal in the process.</p>

355. <b>How does the use of interpreters uphold access?</b>	Unless information and advice is presented in a different language or an interpreter is available, people of a different cultural and linguistic background will find it difficult to understand processes and their legal rights. People may also come from different legal systems and therefore not understand our own processes. Interpreters can help people access legal advice and information in a way that they understand.
356. <b>What are two recent reforms addressing cost factors?</b>	Two recent reforms addressing cost factors are greater access to legal services in the Hume/Goulburn region and also a free online tool called 'Robot Lawyers'.
357. <b>Explain the reforms which have led to greater access to legal services in the Hume/Goulburn region.</b>	In December 2016, the Victorian Government opened a new VLA office in Shepparton -- the office includes seven lawyers and support staff with specialist skills in criminal and family law, including family violence and child protection matters. The office is intended to serve a significant population in the Hume region including Shepparton, Cobram and Wangaratta. A new courthouse has also been designed as the headquarters for the Hume/Goulburn region for delivery of justice and to reduce court delays, provide more accessible and responsive services for regional Victoria and offer a safe, secure environment.
358. <b>Discuss the effectiveness of reforms which have led to greater access to legal services in the Hume/Goulburn region.</b>	While the reforms help provide access to those in rural areas, and those who are in vulnerable positions and need it most, such as victims of sexual offence cases, it does not address any of the important funding problems that VLA currently faces. Additionally, individuals wanting legal aid still need to pass the means and income tests, which restricts legal aid to a large proportion of those who actually need it.
359. <b>Explain the reform of the 'free online tool' for people who cannot find adequate legal representation.</b>	In 2016 lawyers Doogue O'Brien George, as part of their pro bono work, released a free online tool called Robot Lawyers, designed to help people who cannot afford a private lawyer and do not qualify for legal aid. It is aimed at filling the gap in the legal services industry by helping people who cannot afford a lawyer to represent themselves if required. The online tool has a number of 'robots' - assault robot, drug robot and theft robot as examples - which are specifically designed to help accused people face particular charges.
360. <b>Discuss the effectiveness of the 'free online tool' for people who cannot find adequate legal representation.</b>	While the robot lawyers do improve access, by helping bridge the gap between those who can't afford lawyers, and those who can, by helping the accused with elementary legal services, because the program is online, and accessible to anyone with a working access to internet, access is still restricted, to an extent. Those who do not have access to a computer, or who will have to travel distances to access one, will find it difficult to use this tool, and it is likely that the target user-base -- those who cannot afford adequate legal representation, may also not have convenient access to electronic devices. Therefore, the effectiveness of this reform is restricted.
361. <b>What are two recent reforms addressing time factors?</b>	Two recent reforms addressing time factors are the increase in use of court technology and the removal of the time limit for jury deliberations.
362. <b>Explain reforms which have led to the increase in the use of court technology.</b>	The County Court and the Supreme Court are increasingly aiming to become paperless or increase their use of digital processes to ensure they are more efficient in dealing with cases. The County Court re-released its criminal division practice note in February 2017, requiring particular documents to be filed electronically. The County Court is also now recording evidence in a format that allows it to be played if there is a retrial to avoid the cost, time and inconvenience of witnesses having to give evidence again.

<p>363. <b>Discuss the effectiveness of reforms which have led to the increase in the use of court technology.</b></p>	<p>The increase in the use of court technology reduces the use of paper in offices, which would clog up the system, increasing the speed in which proceedings are conducted, thereby reducing court delays and giving greater access to both the individuals involved in a particular case and others looking to pursue their case. Also, if evidence is recorded either through image or audio, it saves the victim the trauma and inconvenience of having to testify multiple times. However, the increase in court technology in some courts, particularly the County and Supreme Courts, where the technology, is yet to be well established. Therefore, the court technology is still not as fluid; it will take a substantial amount of time and money until all courts will be on the same page, and for their technology to get up to speed.</p>
<p>364. <b>Explain reforms related to the removal of time limits for jury deliberations.</b></p>	<p>Previously, it was mandatory for jurors to take six hours in a criminal trial to get to a unanimous verdict before a majority verdict was accepted. The Juries Act 2000 (Vic) was amended in 2017 so that the mandatory six-hour timeframe -- the previous minimum time required to get to a unanimous verdict, was removed and a majority verdict could be accepted earlier. This is intended to help reduce delays and deliver shorter trials.</p>
<p>365. <b>Explain the effectiveness of reforms related to the removal of time limits for jury deliberations.</b></p>	<p>The removal of a time limit for jury deliberations ameliorates the stress and trauma that the accused and the parties have to suffer. Even if the jury has reached a unanimous verdict under six hours, or was not able to achieve a majority verdict in the mandatory time frame, the accused is required to be trucked from the remand centre, all parties are required to attend, and it is overall a huge waste of time and resources. This reform also helps ensure fairness by not locking juries into having to reach a unanimous verdict. On the other hand, the removal of this time limit means that the jury will not try as hard for a unanimous verdict, which reduces the jury's momentum, possibly affecting the achieving of a fair outcome. This reform also does not apply where the unanimous verdict must be accepted.</p>
<p>366. <b>What are two recent reforms addressing cultural factors?</b></p>	<p>Two recent reforms addressing cultural factors are expansion of the Koori Court, and additional funding for Aboriginals' prisoner programs.</p>
<p>367. <b>Explain the recent reform of the expansion of the Koori Court.</b></p>	<p>In August 2016 a new Koori County Court opened so that Aboriginal and Torres Strait Islander peoples in the Mildura region have access to the sentencing court. This followed the introduction of the hearing of Koori Court matters in Geelong from June 2016, which will be for both Magistrates' Court and Children's Court matters. It has been opened in areas where there is likely to be greater Indigenous Australian population, providing greater access to the sentencing court for those who are likely to need it.</p>
<p>368. <b>Explain the effectiveness of reforms related to the expansion of the Koori Court.</b></p>	<p>The expansion of the Koori Court enables greater access to this already effective sentencing court and emphasises the Koori Court as a way to ensure fairness and equality. This court is likely to reduce recidivism, as those who are pleading guilty to a crime are demonstrating some form of remorse, and an acknowledgement of the wrongs they are committed -- they are more likely to accept the sentence they are given, in the hopes of not losing respect from elders in their community. However, the Koori Court is a sentencing court only; also, it cannot hear serious indictable offences such as murder, and there are still many regions in which Koori Courts are not well accessible. Additionally, the Koori Court can be regarded as the favourable treatment of Aboriginals, which is unequal towards some other minorities which need the same level of unique treatment.</p>
<p>369. <b>Explain the recent reform of the increase of funding to Aboriginal prisoners' programs.</b></p>	<p>In 2017 the Victorian Government announced grants worth almost \$2.5 million to support programs designed to rehabilitate Aboriginal prisoners by focusing on cultural strengthening, tackling family violence, healing, parenting and women's programs. The aim is to help drive down the over-representation of Aboriginal people in Victorian prisons.</p>

<p>370. <b>Explain the effectiveness of reforms related to the increase of funding to Aboriginal prisoners' program.</b></p>	<p>The Aboriginal prisoners' program provides for tailored programs while in prison, which accounts for factors unique to Indigenous peoples, such as their low literacy rates, which will rehabilitate them and increase their ability to rejoin society once out. However, these reforms could be regarded as a lost opportunity cost -- the money spent on this program could well have been spent on funding VLA, which is arguably more valuable in terms of achieving justice. Additionally, this reform preferentially aids Indigenous people, which may achieve an unfair result.</p>
<p>371. <b>What are two recommended reforms addressing cost factors?</b></p>	<p>Two recommended reforms addressing cost factors are increases in funding for legal assistance and improving the availability of pro bono services.</p>
<p>372. <b>Discuss the recommended reform of increasing funding for legal assistance.</b></p>	<p>The Victorian Access to Justice Review Report recommended that additional state funding be provided for legal assistance, with priority for duty lawyer services, family violence-related services and Aboriginal legal services. It also recommended that the proportion of Commonwealth funding for legal assistance be increased, and that a transparent funding model with the Commonwealth Government be entered into which takes into account population growth and service demand. Although the Commonwealth and Victorian Governments have agreed to increase funding, that funding is unlikely to meet the demand for legal aid.</p>
<p>373. <b>Evaluate the effectiveness of the recommended reform of increasing funding for legal assistance.</b></p>	<p>While the reform does provide greater access to those in need of legal aid, significant funding will be required to fill the needs of legal aid, and the most recent increases in legal aid funding are unlikely to meet the growing demand for legal aid. Therefore, alternative reforms may be required to fill this gaping hole in funding.</p>
<p>374. <b>Discuss the recommended reform of improving the availability of pro bono services.</b></p>	<p>The Victorian Access to Justice Review Report recommends that the Victorian Government, Justice Connect and the legal profession work together to improve pro bono services. An instance of this may include developing an online tool or website portal on which community legal centres or other organisations that require pro bono assistance can advertise their need and be matched with lawyers who can assist. The Victorian Government in May 2017 agreed to implement this recommendation.</p>
<p>375. <b>Evaluate the effectiveness of the recommended reform of improving the availability of pro bono services.</b></p>	<p>While this reform provides people with access to free legal representation, thereby ensuring their legal needs are optimally met, it requires the participation of lawyers willing to act free of charge, which is unlikely, given no incentive to represent one with a low profile such as an accused criminal. Therefore, this reform is unlikely to fill the gap of those who cannot receive legal representation.</p>
<p>376. <b>What are two recommended reforms addressing time factors?</b></p>	<p>Two recommended reforms addressing time factors are the abolition of committal proceedings and case management by Supreme Court.</p>
<p>377. <b>Discuss the recommended reform of the abolition of committal proceedings.</b></p>	<p>In 2012, it was reported that the Victorian Government was considering abolishing committal proceedings, saying they were causing backlogs because of an unnecessary examination of cases -- it adds to delays when cases are straightforward, and adds to the stress, inconvenience and costs of parties and victims. Some people believe that committal proceedings remain a problem and add to delays in the criminal justice system. Committal hearings were abolished in New Zealand in 2011 and there remains some support for their abolition, but it is not currently a government priority.</p>

378. <b>Evaluate the effectiveness of the recommended reform of the abolition of committal proceedings.</b>	While the abolition seeks to reduce many court delays and unnecessary procedures in the system, abolishing committal proceedings will deny the accused the right to test the evidence, and may risk the presumption of innocence being upheld if the prosecution is permitted to go straight to trial, thereby leading to an unfair result. Also, because committal proceedings act as a filter for what cases can and cannot go through, its abolition may lead to a backlog of cases, particularly in higher courts.
379. <b>Discuss the recommended reform of case management by the Supreme Court.</b>	In a 2017 discussion paper on reforms to criminal procedure, the Victorian Government sought public submissions on flexible early case management. It proposed reforms for some indictable offence cases to allow the Supreme Court to manage those cases from the time a person is charged through to trial. Case management is a method used by courts and tribunals to control the progress of legal cases more effectively and efficiently, and generally involves the judge presiding over the case making orders and directions in the proceeding, such as an order that the parties attend mediation. The proposal would reduce delays, for example, by eliminating the need to revisit issues in different courts and resolving issues early in proceedings.
380. <b>Evaluate the effectiveness of the recommended reform of case management by the Supreme Court.</b>	While case management by the Supreme Court may assist in reducing delays, and effectively drawing from the expertise of the judges in the court early in the timeline of a proceeding, this procedure is limited to only some indictable offences and may require significant time and resources of the court. It is also uncertain whether this procedure will reduce delays.
381. <b>What are two recommended reforms addressing cultural factors?</b>	Two recommended reforms addressing cultural differences factors are improving access to interpreters, and the continued focus and expansion of the Koori Court system.
382. <b>Discuss the recommended reform of improving access to interpreters.</b>	The Victorian Access to Justice Review has recommended adequate availability of interpreters in all courts. The Victorian Government has accepted this recommendation and has committed additional funds for interpreter services, but it is unclear whether this funding will be adequate.
383. <b>Evaluate the effectiveness of the recommended reform of improving access to interpreters.</b>	This reform may ensure equal access to interpreters in all the courts, which would increase both equality and access, but it would be costly to introduce, and even still, it is unlikely that enough interpreters would be introduced to meet growing demand.
384. <b>Discuss the recommended reform of expanding the Koori Court system.</b>	There continues to be calls for the Koori Court to be expanded into other areas of Victoria. It is expected that the County Koori Court will expand so that it sits in additional parts of Victoria.

385. **Evaluate the effectiveness of the recommended reform of expanding the Koori Court system.**

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Given the existing success of the Koori Court, expanding the Koori Court and providing those in restricted areas access, would help ensure equality in sentencing. However, this court still does not address major issues in Aboriginal over-representation in prison, and is also only a sentencing court, as opposed to a trial court. It also does not hear serious indictable offences.