



VICTIMS OF CRIME ASSISTANCE TRIBUNAL

Chief Magistrate's Chambers
Melbourne Magistrates' Court

PRACTICE DIRECTION

NO. 8/2003

**PERSONS WITH A LEGITIMATE AND/OR SUBSTANTIAL
INTEREST PURSUANT TO SECTIONS 34 & 35 OF THE
*VICTIMS OF CRIME ASSISTANCE ACT 1996***

PRACTICE DIRECTION ISSUED PURSUANT TO SECTION 58
OF THE VICTIMS OF CRIME ASSISTANCE ACT 1996

A person, including the alleged offender, may have a:

1. Legitimate interest in the proceedings pursuant to Section 34(2) of the *Victims of Crime Assistance Act 1996*; and/or
2. Substantial interest in the proceedings pursuant to Section 35(1) of the *Victims of Crime Assistance Act 1996*.

This situation usually arises in either of the following ways:

1. A Tribunal Member may consider that a third party might have a legitimate and/or substantial interest in the proceedings ("Tribunal initiative"); and/or
2. A third party may notify the Tribunal that they believe they have a legitimate and/or a substantial interest in the proceedings ("Third party application").

This practice direction sets out the procedure to be followed in these circumstances.

Tribunal initiative

When a Tribunal Member indicates that consideration is being given as to:

1. Whether a person, including the alleged offender, has a:
 - a. legitimate interest pursuant to Section 34(2) of the *Victims of Crime Assistance Act 1996*; and/or
 - b. substantial interest pursuant to Section 35(1) of the *Victims of Crime Assistance Act 1996*.
2. Notification of a person who may have a legitimate interest, including the alleged offender, pursuant to Sections 34 (2) and (3) of the *Victims of Crime Assistance Act 1996*.

the following procedure will be followed:-

- (1) The Tribunal will advise the applicant or the applicant's legal practitioner in writing.
- (2) 21 days will, unless otherwise ordered by the Tribunal, be allowed for a response.
- (3) After the expiration of the time limit for the response referred to in paragraph 2, the matter will be referred back to the Tribunal member together with the response, if any, received from the applicant or the applicant's legal practitioner.
- (4) The Tribunal Member will consider all relevant matters including the applicant or the applicant's legal practitioner's response and will thereafter make a decision regarding the potential third party interest.
- (5) If the Tribunal decides that the third party has a legitimate or substantial interest or decides to notify the alleged offender as the case may be; the applicant or the applicant's legal practitioner will first be advised of this in writing.
- (6) 21 days will, unless otherwise ordered by the Tribunal, be allowed for the applicant or applicant's legal practitioner to advise the Tribunal whether the applicant still wishes to pursue the claim.
- (7) If the applicant or applicant's legal practitioner advises that the applicant seeks to proceed with the claim, or no response is received, notification will be sent to the third party/alleged offender as the case may be, by registered mail.
- (8) 14 days, unless otherwise ordered by the Tribunal, will be allowed for a response.
- (9) If no response is received from the third party/alleged offender, the application will be listed and the applicant or the applicant's legal practitioner will be advised that the third party/alleged offender will not be attending.
- (10) If the third party/alleged offender indicates that they wish to be involved in the proceedings or wish to be notified of the hearing, the matter will be listed for a Directions Hearing. The applicant and the third party/alleged offender will be notified of the time, date and place of the Directions Hearing.
- (11) Procedural directions for the further conduct of the proceedings will, unless otherwise ordered, be determined at the Directions Hearing (see practice direction 6/2003).

Third party application

When a person, including the alleged offender, considers they:

1. Have a:
 - a. Legitimate interest pursuant to Section 34(2) of the *Victims of Crime Assistance Act 1996*; and/or
 - b. Substantial interest pursuant to Section 35(1) of the *Victims of Crime Assistance Act 1996*.
2. Should be notified of the hearing of the proceedings pursuant to Sections 34 (2) and (3) of the *Victims of Crime Assistance Act 1996*.

the following procedure will be followed:-.

- (1) The third party/alleged offender must make application in writing, setting out the reasons why they consider that they have a legitimate interest, substantial interest or should be notified of the proceedings. The application need not be in any prescribed form and can be made by letter.
- (2) Applications are to be put before a Tribunal Member in chambers.
- (3) Unless otherwise ordered by the Tribunal, the Tribunal will forward to the applicant or the applicant's legal practitioner a copy of the third party/ alleged offender application and seek a response.
- (4) Unless otherwise ordered by the Tribunal, 21 days will be allowed for the applicant or applicant's legal practitioner to provide a response.
- (5) If no response is received from the applicant or the applicant indicates that he or she does not oppose the application, the application will be put before a Tribunal Member in chambers for determination of the application.
- (6) If the applicant opposes the third party application the matter will be listed for a directions hearing.
- (7) The applicant and the third party/alleged offender will be notified of the time, date and place of the Directions Hearing
- (8) Procedural directions for the further conduct of the proceedings will, unless otherwise ordered, be determined at the Directions Hearing (see practice direction 6/2003).

This Practice Direction has effect from 1 July 2003

**IAN LESLIE GRAY
CHIEF MAGISTRATE**

16 May 2003