

Chapter 1 : Remand and Sentencing | The Sentencing Advisory Council

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Drug law enforcement Foreword Between and the proportion of remanded prisoners rose from 12 to 20 percent of the total prisoner population, and the rate of prisoners remanded into custody tripled. In an attempt to identify the factors associated with high and low remand rates the researchers undertook a detailed study of Victoria which has comparatively low remand rates and South Australia which has comparatively high remand rates. Factors associated with increased remand rates included increasing levels of drug and mental health issues, and the informal and formal rules that influence police, police custody sergeants and court bail authorities in their decision to grant bail. The authors have concluded that the key to good practice in bail decision-making is to ensure that pre-court and non-judicial processes are given due consideration, and they point to the need for enhanced performance monitoring, data collection and research. Toni Makkai Director Remanding a person in custody is a serious matter. Remandees awaiting trial enjoy a presumption of innocence, yet they remain incarcerated, often for months at a time. With almost Australian prisoners currently in custody because they have been refused bail, there has been a renewed focus on custodial remand policies and procedures by academics and practitioners. This research task was threefold: This paper contains a summary of its conclusions. The remand in custody population Of the 24, persons in custody in Australia at June , 19, had been sentenced and had been remanded in custody awaiting trial or sentence ABS b. The proportion of prisoners held in custody on remand in Australia Like sentenced prisoners, remandees are overwhelmingly male. They are also relatively young, although, according to this research, the average age of remandees in Australia is rising at a faster rate than the average age of the sentenced prisoner population. The distribution of charge types for which remandees are in custody is generally similar to the distribution of offences in the sentenced prisoner population. In remand populations, females are more highly represented than in sentenced populations. Nationally, approximately 25 percent of female prisoners are remandees, compared with 19 percent of male prisoners ABS a. While Indigenous prisoners make up about 20 percent of the prison population and also about 20 percent of the remand population ABS b , there are significant regional differences. In Victoria, for example, around 4. In South Australia, Indigenous prisoners comprise about 17 percent of the total prisoner population, but between 35 percent and 40 percent of remandees. Remandees are also more likely than sentenced prisoners to die in custody, according to recent data released as part of the ongoing Deaths in Custody study. The death in custody rate of unsentenced prisoners, while trending slightly downwards, remains consistently higher than the rate of deaths of sentenced prisoners. In , there were 3 deaths per unsentenced prisoners compared with 1. The total number of prisoners in Australia has increased by around 20 percent since , but remandee numbers have jumped almost percent over the same period, from remand prisoners at 30 June to remand prisoners at 30 June ABS b. Remandee numbers have increased in the states and territories by between 50 and percent. Numbers continue to rise substantially in some jurisdictions New South Wales and Queensland although in South Australia, Western Australia, Tasmania, the Northern Territory and the Australian Capital Territory, the numbers appear to have remained relatively steady for the past four years. Factors critical to remand rates The decision to remand a person in custody emerges from a complex array of legal and social dynamics that vary between jurisdictions and over time. It is difficult to isolate precisely what causes remand populations to change and what factors influence the rise and fall of remand rates. Research on remand patterns in Australia has been principally concerned with the first category of explanations. Similarly, the South Australian Office of Crime Statistics found that the increase in remand numbers after could have been influenced by increased apprehensions of offenders for crimes of burglary, motor vehicle theft, and major drug offences. Other research has gone beyond crime rates, apprehensions and charging practices to look at broader political factors as well. The authors speculated that the rise in the Victorian remand rate proceeded from the same cause. This research indicates that defendant

characteristics are changing, and that these changes are influencing remand in custody trends. For example, there appear to be increasing levels of drug and mental health issues affecting those in custodial remand populations. Victorian data collected as part of this study indicate that, over the three years studied, remandees demonstrated statistically significant declines in seriousness of criminal history at the same time as there were indications of increasingly severe drug and alcohol abuse and mental health problems. Key persons interviewed for this study nominated these changes in defendant characteristics as one of the significant reasons for rises in custodial remand numbers in recent years. Corrections data on Indigenous remandees, however, highlight the fact that personal characteristics on their own are an insufficient explanation for remand rate differences. In South Australia, over the three years, there were remand receptions of Indigenous Australians from an Indigenous population of 23, ABS a, whereas in Victoria there were only remand receptions in the same period from a very similar sized Indigenous population 25. Finally, there is always a suspicion that delays in prosecutorial processes or court delays might affect upward trends in remand rates in a significant way. In this analysis, however, time on remand, while important in influencing overall remand rates, was found to be an unreliable predictor of rates. For example, South Australia has, and has consistently had, one of the shortest average times on remand. Over the past three years, the mean time of remand in South Australia was around 56 days whereas in Victoria it was over 85 days. Yet Victoria has a remand rate about one-third that found in South Australia. Australian remand rates, Source: The remand rate in South Australia continued to climb steeply from In, these rates converged slightly, with South Australia coming down to By, this had shifted again, with the South Australian rate rising to South Australia also has a much higher percentage than Victoria of remand prisoners as a proportion of all prisoners. Over one-third of all prisoners in South Australia are remandees, compared with less than a fifth of all prisoners in Victoria. These differences pointed to the possibility that these two jurisdictions might reveal useful information about what it is that drives remand rates up and down, and whether there is anything that policy-makers can do to influence those movements directly or indirectly. Analysis of Victorian and South Australian processes and policies, along with statistical data and interviews with key personnel, indicate that the critical factors are to be found in the personal characteristics discussed earlier that draw certain individuals to the attention of police and hence into the criminal justice system, but more significantly, in the decision-making processes once those individuals have been selected. That is, the policies and practices of police, police custody sergeants and court bail authorities in relation to bail and the formal and informal rules that empower and constrain them are crucial to the determination of remand trends. Four critical factors are: Differences in bail legislation Bail decision-makers rely on bail legislation to guide their decisions. Legislation in different jurisdictions is similar but not identical. The Victorian Act distinguishes between grounds for remand in custody and the information to be used in determining whether those grounds exist. The South Australian Act is less constraining, with grounds for bail merged with information to be used in determining the granting of bail. The Victorian Act also contains reverse onus provisions that require defendants in certain circumstances to overcome a presumption against bail, provisions that are currently under investigation by the Victorian Law Reform Commission. The Victorian legislation also provides for immediate review of police bail decisions, either by a court or, if out of court hours, by a Bail Justice. The approach taken by the courts and some police to the reverse onus provisions, and the extensive use of Bail Justices, reflects a culture that either promotes bail or does not discourage the granting of bail. The accountability of bail authorities and review of remand decisions There is significantly greater transparency of remand decisions in Victoria than in South Australia. The opportunity for review of police remand decisions is more available in Victoria with its Bail Justice process, compared with the more piecemeal telephone review process in South Australia. Those opposing bail for accused persons in Victoria operational police are required to attend the Bail Justice and any subsequent court hearing to give sworn evidence. This ensures that the information upon which a court assesses the risk of a defendant not complying with bail is more likely to be closely scrutinised. Moreover, the increased level of scrutiny of information is reflected in the time taken to consider contested bail applications. Agency operational procedures Bail decision-making occurs in a time-pressured context and in accordance with the policy and cultural constraints of the various bail authorities, especially the police. In South Australia

custodial remand was closely linked to operational policing objectives and strategies. For example, it is not uncommon to find operational policies that encourage arrest even where a summons could also be appropriate, or that use custodial remand as an incapacitation strategy to achieve crime reduction goals. That same operational ethos was not as apparent in Victoria. Therapeutic justice and court resources The research identified a trend in Victoria towards new perceptions of judicial roles that have not been identified in South Australia to the same extent. While both jurisdictions boast a wide variety of diversionary courts, some Victorian magistrates have, in addition, adapted what has been described as the therapeutic jurisprudence or therapeutic justice model to the bail process. Under this model, the court through the magistrate or judge explores opportunities to act as a therapeutic agent using mental health and related disciplines Birgden This trend appears to be, in part, a response to the changing characteristics of defendants appearing in the remand system, and is designed to focus on their needs. The therapeutic emphasis has enabled Victorian courts to attract a greater range of resources than those available in South Australia to help defendants with alternatives to remand in custody. What are the effects of custodial remand? The study was also designed to identify the effects of any remand strategy on remandees and the wider justice environment. There are arguably, three broad goals to be achieved in bail decision-making. Bail authorities will make their decisions with the following aims in mind: There are limited data collected by agencies that allow the measurement of the extent to which current bail and remand practices achieve these aims. The availability of data on issues such as failure to appear, the reasons for failure to appear, offending on bail, interference with witnesses and victims is so poor that the effectiveness of the remand in custody system cannot be analysed with any degree of accuracy. There is a clear tension between the goals of custodial remand. It is arguable that, in the past 40 years, there have been legislative and operational policy changes that have shifted the emphasis away from the first and third of these goals in order to elevate the importance of the second. Studying the effect of having been remanded in custody on the final sentence of accused persons subsequently found guilty fell beyond the scope of this research. However, custodial remandees who are not subsequently convicted or imprisoned were examined briefly. If custodial remandees typically receive sentences of imprisonment, this may indicate that the decision to remand anticipates or perhaps influences subsequent sentencing decisions. Conversely, a low remand-to-sentence rate might suggest that bail authorities are too often wrong in their assessments, or that custodial remand is being used inappropriately as a substitute punishment. This research could not make a judgement about the relationship between custodial remand and subsequent sentence. Nevertheless, in South Australia only about 30 percent of those remanded in custody serve additional time in prison following sentencing, whereas in Victoria, with its lower remand rate, about 60 percent of remandees spend additional time in custody after sentence. Another part of the study reviewed the significant number of defendants each year who fail to attend court as required. Good practice in bail and remand The final purpose of this research was to identify desirable good practice characteristics of a remand system. A preferred system of bail and custodial remand will establish, develop and maintain: Within both South Australia and Victoria differences in interpretation of the principles, objectives and criteria guiding bail decision-making were found. For example, while both jurisdictions appear to use the statutory criteria for custodial remand in similar ways, there is evidence of cultural differences underpinning practice and policy. The Victorian process appears to be willing to go beyond the legislation in certain areas and to take a pro-bail approach to the reverse onus provisions in some situations, and to facilitate a review of police decisions to refuse bail. Good practice in remand requires clearly defined roles for decision-makers. The judicial power of bail was initially exercised only by the sheriffs in medieval England, but it has now also become a power exercised by police. It became clear from this study that it is very easy for police to merge their role as bail decision-makers with their role as crime preventers and crime investigators, and that custodial remand can be employed as a tool to achieve other police objectives such as crime reductions. Clearer definitions would remove these ambiguities. Resourcing is crucial to good practice. Resources are required to ensure that support services that have been established are maintained, such as the South Australian Bail Advocacy Unit, and the Victorian Bail Advocacy and Support Programme which is available in some parts of Melbourne.

Chapter 2 : Remand (detention) - Wikipedia

The Outcomes Of Remand In Custody Orders by John R Walker; Australian Institute of Criminology DRL Custody and child support; orders of protection It is an order issued by a court or judge of competent.

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Introduction This guidance describes how to run bail and remand services. It is for youth offending teams YOT and managers. The strategy should look at how you meet the welfare needs and risk of harm to others for children and young people on bail. This is to present viable packages to court. This is defined in the Police and Criminal Evidence Act

If a family member or carer is not able to attend, you must supply an appropriate adult. You can do this: They should advise and support them and ensure that they are fairly treated and their needs met. In particular they should be aware of and able to support any:

The first choice for an appropriate adult should be a parent, carer or other responsible family member. No one known or suspected of involvement in the offence or its investigation may be an appropriate adult. In the case of children and young people in the care of the local authority, the organisation providing accommodation and day-to-day support may fill this role, or the allocated social worker. If this is not possible, or if the offence is serious, then you may send a team member rather than a volunteer or commissioned agency. The police custody sergeant will contact you or your contracted provider for the appropriate adult service. The service must be available seven days a week, with arrangements made for out of office hours. If an offence has taken place by a looked-after child within a care home, staff from the establishment cannot act as an appropriate adult and the social worker must attend. The service must be available seven days a week, with arrangements made for out-of-office hours. There are different ways to commission you an appropriate adult service. For the most serious offences, you may choose to send a team member rather than a volunteer or commissioned agency. The Youth Justice Board YJB and National Appropriate Adult Network have created a resource to provide information on the key elements of the model, factors for consideration and how it works in practice. View the appropriate adult scheme models in the effective practice library for more information. The main responsibilities include: The role is subject to a Disclosure and Barring Service check and the recruitment process should be rigorous to ensure suitability for the role. Training for appropriate adults should also be provided. Good practice suggests that training should be a minimum of 20 hours and include: Arranging to shadow an experienced appropriate adult will help with your training, as will a visit to a local custody suite to meet the relevant staff. If your team are a member of the National Appropriate Adult Network then you can also access their training. Access the National Appropriate Adult Network training

There should be a clear process in place with all local police stations to request an appropriate adult service. Whenever possible the service must be provided within two hours of the request being made, providing legal representation is in place and any additional services, such as an interpreter, have been arranged. The appropriate adult attending should have advance warning of any risk or safeguarding issues and any speech, language or communication needs. If the child or young person is detained for an extended period or there are extensive delays, it may be necessary to change the appropriate adult. You should do this in consultation with the custody sergeant and managed to reduce delays. An appropriate adult attending the police station may also be asked to act for another child or young person. You may want to consider whether there is time to do this and still provide a quality service. The appropriate adult should introduce themselves at the custody desk and have access to the custody record. They should then see the child or young person alone and explain their role and assess any welfare needs. They should let the child or young person know how to access legal support, and can insist that this is provided even if the child or young person refuses it. The appropriate adult must not discuss the detail of the offence with the child or young person, as they could risk being called as a witness. For the same reason, when the solicitor attends, the appropriate adult must not be present. During the police interview the appropriate adult should ensure the child or young person understands the proceedings, and that their welfare needs are met. They should ensure that the child or young person understands what has happened, any bail conditions imposed and the

implications of not complying with these, and the next steps in the process. If bail is refused, the appropriate adult must contact you immediately, as an assessment for viable alternative accommodation should be made in liaison with police and Crown Prosecution Service colleagues. The Appropriate Adult must report back to you at the conclusion of the service. They should let you know of any issues of concern. Transfers cannot be used for young people detained for breach of bail or under a warrant. The custody officer will liaise with the local authority to arrange accommodation. You must assist with the process of identifying a placement and contribute information on risk and vulnerability. Transfers must take place unless extreme circumstances such as severe weather conditions make it physically impossible to do so. Transfers may not be refused because of difficulties finding a placement, or concerns about behaviour or the offence. If a transfer is agreed, there should be a local agreement on how the child or young person is physically transferred to the accommodation. This responsibility may fall to the police, YOT or local authority, depending on local arrangements. It is important that the transfer of children and young people takes into account the: The appropriate adult should let you know immediately if they notice that the police have concerns about granting bail. Once they have done this you should speak to the custody officer to find out what their concerns are, and identify a bail supervision and support package which could address them. The police may consider refusing bail if: This may be by: Police and Criminal Evidence Act transfer arrest as a result of a warrant, who will be dealt with by the court that day. In these cases you should use the information you gather to reduce the chances of remand to youth detention accommodation. Your court staff will see the child or young person in the court cells to: The Bail and Remand section of AssetPlus helps you make an assessment to respond to objections to bail, and to recommend the most suitable bail package. If the child or young person is previously known, you should use information from past assessments to ensure that the assessment reflects current circumstances and is accurate. If the child or young person is not previously known, all sections must be completed to give a detailed picture of their situation, history and risks. At this stage, it is vital that you establish whether the child or young person is currently, or has previously been looked after by any local authority. You need to be particularly aware of the impact of the accommodation needs of children and young people who are looked after. This will affect the likelihood of the court granting bail and you should work with local authority housing services to ensure that an appropriate bail address can be provided to court. Due to time constraints at court, the assessment for bail needs to be short and simply expressed. These should continue to be used until AssetPlus is fully implemented in your area. The case should be allocated within 24 hours, and if the parent or carer was not present in court there should be a home visit within 24 hours of allocation. If the child or young person is currently on a statutory order you can use the appointments associated with this as contacts for the bail supervision. The case manager should ensure that the child or young person and parents and carers understand the requirements of the bail package. The programme should be agreed and signed, and a copy provided to the child or young person. Contact with the YOT may be with the case manager directly or with other specialist workers if necessary to address the needs identified in their AssetPlus assessment. Bail Support and Supervision cases should not be held on duty, nor should the majority of appointments be with a duty worker. YOTs should continue to manage young people who turn 18 while on bail for under offences. This will help to ensure the stability of Bail packages, supervision and risk management. Once the young person has been sentenced, you should follow the Youth to Adult Transitions Framework. This will help to establish which agency will continue supervision of the young adult. They will be prepared for court in an agreed local format, but should contain the following at a minimum: You should prepare reports in writing wherever possible to ensure clarity of communication and for review at future court hearings. If custody is being considered, section 12 of the Criminal Justice and Immigration Act mandates that the report must be in writing. Your court staff should provide the report to court alongside the bail application by the defence solicitor. If the child or young person is the responsibility of a different local authority and the host YOT is presenting the package to court, the agreement with the home authority should be both confirmed and acknowledged for accuracy within the report. The report must be shared promptly with any responsible colleagues from other areas. Read the national protocol for case responsibility for more information 2. This must provide a minimum of 25 hours structured time over 7 days each week, including the core elements of: As the child or young person will not

yet have been convicted, the restorative justice element of Intensive Supervision and Surveillance must not be included in the timetable, and while general discussions around offending behaviour can take place, specific offending behaviour work must not be carried out. Bail Intensive Supervision and Support packages can be in place for substantial timescales where there is a delay in the case coming to court. An application can be made to the court to vary the condition, reducing the hours to a minimum of 5 hours a week, where there has been consistent compliance. As well as explaining these clearly to the court in individual cases, they may wish to invite youth court magistrates to meet supervising officers and ask questions. You should also consider the following actions to reduce unnecessary remands: It is up to you, with oversight by an operational manager, to agree the terms of a reasonable excuse. Where there is no reasonable excuse, a written warning must be issued. Written warnings may also be issued when a child or young person attends an appointment but behaves in an unacceptable manner. Once two written warnings have been issued, further instances of non compliance will lead to breach. You may also proceed straight to breach if there is one instance of serious behaviour that warrants this. When you decide whether or not to breach the child or young person you should make a balanced appraisal of what is being achieved with them as well as their failure to comply with specific requirements. Breach proceedings are instigated by making a Witness Statement to police. The child or young person should be advised that breach has been instigated and that they should present to their nearest police station or to the court early the next day. You will then prepare a breach report giving full details of the non compliance including:

Chapter 3 : Remand and custody - Suffolk Youth Justice Service

Remand and custody Remand If a court decides that a young person is not suitable for bail then the young person will be remanded to youth detention accommodation until at least the next court hearing.

Thursday, April 23, When Things Change - Virginia Custody and Support Modifications As always, before reading this post please review my disclaimer by clicking on the above link or by clicking on this link. As always, any legal principles discussed apply only to the Commonwealth of Virginia. This is because the rules vary across types of orders and courts. What court are you in? As odd as it may seem, it does matter which court your case is in as of your last order. So, your first step is to figure out what court you are in. If it was in the Circuit Court, however, you need to review the Order itself. If it does not, you should still be in the Circuit Court, but check the court file to make sure no one later filed a motion to remand. In the Circuit Court, usually you will have to take care of serving the other side, and getting the case set for trial. What kind of order are you trying to change? The next inquiry is to figure out what kind of order you are trying to change. As a result, various standards have been adopted for determining if a modification should be allowed. The rule basically is "has there been a material change in circumstances that warrants reconsideration of the current order? First, the change must be material. It must be something that actually alters in a noticeable way the reality that was in place when the previous order was entered. The second key phrase is that the material change must warrant a reconsideration of the current order. Spousal support orders Spousal support has its own set of standards as there are three basic types of spousal support orders you can get more detail about this here. If your separate spousal support award comes from a Separate Maintenance decree, it ends as soon as you are divorced. As you can see, defined duration spousal support is complicated to modify. Its "material change" standard is much harder to meet than the normal "material change" standard since you also have to prove that the material change is not something that could have been foreseen at the time of the award - a very hard thing to prove , and its "something the court anticipated would happen" standard is also very difficult to show. All elements need to be re-proven or agreed to. In all cases except indefinite spousal support from a divorce, the same standard is used in judging your modification hearing now as was used in judging the original hearing. Now, this is where you have to be careful about picking your cases. So, pick your modification motions carefully. So, what does all of that mean? For child support, this means that the court must gather all information needed to determine the child support guideline numbers under Virginia Code Section For non-divorce spousal support, the court will again consider the needs of the receiving spouse and ability to pay of the payor spouse. For defined duration divorce spousal support, the court then must again consider all of the factors in Virginia Code Section Indefinite spousal support ordered as part of a divorce is the only exception here. While the original award had to be made in accordance with the factors of Virginia Code Section Instead, Virginia Code Section A only says that the court may modify the award "as the circumstances may make proper. Retroactivity Now, for support orders, I often deal with clients who find out that their ex-spouse is earning substantially higher income months, even years after the fact. They typically want to get back the money that they paid or should have received for all of that time. Unfortunately, I have to be the bearer of bad news. With two exceptions, child support and spousal support cannot be modified retroactively. In other words, the modification occurs as of the date of the new order, with only two exceptions. The first exception is that, in recognition of how long the legal process may take, and to discourage intentional foot-dragging, the judge can, in his or her discretion, order that the modification be made retroactive as far back as the date that the other party was served with the modification motion. When someone receives spousal support, they have an affirmative duty in Virginia to inform the payor spouse of the re-marriage so that the payor spouse can stop paying - since, unless expressly agreed to otherwise in a property settlement agreement, a remarriage of the ex-spouse receiving support automatically terminates spousal support. In that case, where the payee spouse has failed in his or her affirmative duty to inform the payor of their remarriage, then the termination of the spousal support can be made retroactive to the date of the remarriage, and the payee can be ordered to reimburse the payor for all post-remarriage payments, plus interest. No retroactive support - so you need to be

proactive about finding out if you are eligible for a modification. If you have questions about a modification for a case you are involved in, please feel free to call or e-mail me at SLeven thebaldwinlawfirm. Our initial consultations are free for up to half an hour!

Chapter 4 : Remand (court procedure) - Wikipedia

Remand (also known as pre-trial detention) is the process of detaining a person who has been arrested and charged with an offense until their trial. A person who is held on remand may be held as a prisoner in prison.

Czech Police station in Teplice Under Article 8 of the Charter of Fundamental Rights and Basic Freedoms of the Czech Republic , which has the same legal standing as the Czech Constitution , a suspect must be immediately familiarized with the grounds of detention, must be interviewed and within 48 hours either released or charged and handed over to a court. The court then has a further 24 hours either to order a custody, or to release the person detained. In an urgent case the police may detain a suspect without the consent. In both cases, however, the police detention may take place only when grounds for pre-trial detention exist see below. The perpetrator must immediately be handed over to the police, or when that is not possible, detention of the perpetrator must be immediately reported to the police. Constitution states that "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it". A declaration of a state of emergency can suspend the right to habeas corpus. No person shall be held to answer for any capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; Federal authorities have also exercised the power to arrest people on the basis of being a material witness. Involuntary commitment of the mentally ill is another category of detention without criminal prosecution, but the right of habeas corpus still applies. The scope of such detentions is also limited by the Bill of Rights. Administrative detention , a term applied to many of these categories, is also used to imprison illegal immigrants. There are two degrees of suspicion: A person may be held in custody for a period of normally not more than 14 days seven days if only the degree of suspicion "reasonable suspicion" exists , then normally new remand hearing should be held. For suspect who has not yet turned 18 needed "serious reasons" for detention decisions are to be notified of the court. A person, with less serious crimes, they are given by prosecutors a summary penalty order. The Committee for the Prevention of Torture of the Council of Europe has repeatedly criticized pre-trial detention in Sweden for the high percentage of cases where restrictions on communication are applied. Detention after charge[edit] See also: Bail The term "remand" may be used to describe the process of keeping a person in detention rather than granting bail. A prisoner who is denied, refused or unable to meet the conditions of bail, or who is unable to post bail, may be held in a prison on remand. Although remanded prisoners are usually detained separately from sentenced prisoners, due to prison overcrowding they are sometimes held in a shared accommodation with sentenced prisoners. Reasons for being held in custody on remand vary depending on the local legal system, but may include: For example, most jurisdictions that prohibit convicted criminals from voting in elections will still allow remand prisoners to vote, unless they have been disqualified from voting for some other reason. Other privileges commonly granted include: Often[citation needed] they are denied all visits and all newspaper and media access, for risk of interfering with the investigation, such as communicating a story with fellow remand prisoners.

Chapter 5 : The Law is Your Friend: When Things Change - Virginia Custody and Support Modifications

Remanded in Police continued remand in custody until the conclusion of the court process can result in conviction and a custodial sentence, conviction and release (time served, community.

PC Conclusion The concept of remand in Cr. PC has a very important value in our legal system. But what is remand in Cr. Remand is basically used when the competent authority e. What is the procedure of giving remand under Cr. C and what are the guidelines while granting remand? I will try my best to elaborate this important topic in this post. Generally, the word remand means to return or send back. The Legal Definition of remand has two different meanings. Secondly, it is used to send back the cases from the appellate court to the lower court. The case was remanded from the appellate court to lower court when the lower court commits error in a trail. In the context of detained person remand means to send back the arrested person who is waiting to conclude his trial, to police custody for further interrogation. On following three ground we can say that remand is necessary The original purpose of remand in custody was to ensure that the accused attends the court as required Protection of victims Final disposition of matters for which accused is remanded in custody. Safeguards As To Arrest And Detention 1 No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice. Types Of Remand In Pakistan There are three types of the arrest of remand mentioned in the criminal procedure code which will be explained as follows: Police Remand Under Cr. This authority is given by the magistrate to the police to keep accused in their custody for certain time period. The person who is arrested for the first time, cannot be detained in custody for more than 24 hours. He must be produced before illaqa magistrate immediately after arrest. PC, it is explained that how arrest should be made. This section says that: If such person forcibly resists the endeavor to arrest him or attempts to evade the arrest, such police officer or another person may use all means necessary to effect the arrest. The force must not be used when the accused person surrenders himself. Under criminal procedure code, every person who is arrested without the warrant has to be produced before the court where the proceeding is pending against him or to the police station or post. The interrogation must not be carried out at any private jail but only at the police station or police post. This is document is prepared in those cases where a non-cognizable offense is made out. The police officer will enter the substance of information in the daily diary of Police Station. A copy of roznamcha is also given to the complainant. Another copy of the complaint is sent to the concerned judicial magistrate for further action. PC, every police officer who is investigating the case is bound to maintain a daily diary on daily basis. The diary set forth that: The time at which the information reached to him At what time he began and closed his investigation The place of visit Statements of circumstances ascertained by his investigation and etc. Persons discovered by him to be witness to some offense Section of Cr. PC throw light on remand but other sections 61, 62, , and Cr. PC are also relevant. Now section prescribes that when the investigation of an offense cannot be completed within 24 hours. The accused should be produced before the class first magistrate who may order his remand as he thinks necessary. But the following conditions must be fulfilled. C He should ensure that allegation is well founded on good grounds. If allegation is not well founded he is not bound to entertain order of remand To examine police diary: Without examining the police diary magistrate cannot grant remand in any case. Police diary is not a public document court cannot take it as evidence but the court may examine to ascertain the nature of the allegation. To examine the accused: Without producing the accused no police officer can secure physical remand. The magistrate cannot give remand of accused without examining him. What Is Parcha Remand Remand Application To obtain physical remand a remand application has to be filled by the police officials before the magistrate. This application is called parcha remand. In this remand application, Police request the court to give them remand for certain period. The court depending on the circumstances of the case may grant remand as is demanded by the police or it can deny. Subsection 2 of of Cr. PC states that the magistrate is authorized to give remand irrespective of whether he can try that case or not. Even in murder cases, remand is given by the magistrate. Numerous physical remands can be granted but the aggregate amount should not exceed 14

plus 3 days. The session or high court or 2nd or 3rd class magistrate are not authorized to give remand. The class second magistrate can give remand if authorized by the provincial government. According to section 3 of Cr. PC magistrate is bound to record reasons for the passing order of remand. While Considering all the condition and circumstances the magistrate can give remand. The magistrate should reduce those circumstances in writing and thereafter he must send a copy of the order to the court of session. Can A Remand Order be Appealed? The order of session court must have sufficient reasons in it. The High Court can also change the order of remand given by session court. Before passing the order the magistrate has to receive the arguments from both parties accused against remand and police in favor of remand. After considering all arguments magistrate has to reach a conclusion whether remand should be granted or denied. Rights Of Accused Held In Remand There is a wrong perception that physical remand means that accused will be tortured by the police in order to get the information relating to the offense. These questions are frequently asked by many. So the accused has certain rights while in custody of police: Right to get legal assistance 2. Right to communicate with relatives 3. Right to get medical assistance if he is sick 4. Can you get bail on remand? The answer is in YES. The magistrate can ask the accused counsel to argument on bail application. On the other hand if the magistrate grant remand of accused, it means the bail application is dismissed. During physically remand another bail application is not allowed unless the physical remand is expired and the custody of accused is transferred to the court. After the expiry of remand, another bail application can be filed. Whether to send a person on physical remand or judicial remand is a total discretion of the magistrate. The magistrate must follow the guidelines laid down by the high court while granting remand. These are as under: Discharge the accused at once on the ground that there is no cause shown for further detention. Or Remand him to police custody for a term not exceeding 15 days in whole. A copy of the order is also provided to the Sessions Judge for the purpose that: Proceed at once and try the case himself. Forward the accused to Sessions judge. Physical remand can only be given when the presence of accused is absolutely necessary for the completion of the inquiry. In the case of physical remand, the period should be as short as possible. In the case of confession, the person must be sent to judicial custody. There is a very important case in which superior courts have sets the standards while giving remand. The magistrate shall not authorize the police remand except on the strong and exceptional ground. The magistrate shall record reasons. A copy of the order must be sent to the session judge. After expiry of 15 days magistrate shall require the police to submit complete or incomplete challan and in case challan is not submitted, he shall refuse further detention of the accused and shall release him on bail with or without sureties. Before granting police remand magistrate shall assure about sufficient evidence. No remand in absence of accused. The magistrate shall avoid granting remand at his residence. Opportunity should be given to accused to raise objection. The magistrate shall examine police file. If no investigation was conducted after obtaining remand, the magistrate shall refuse to grant further remand. In case complete challan is not submitted magistrate shall commence the trial at the strength of incomplete challan.

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The Court may, if it thinks fit, by order in writing, stating the reasons therefore from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody.

Chapter 7 : How Remand Under Cr.P.C Is Granted- Meaning, Types And Procedure | @Mateen

Between and the proportion of remanded prisoners rose from 12 to 20 percent of the total prisoner population, and the rate of prisoners remanded into custody tripled. In an attempt to identify the factors associated with high and low remand rates the researchers undertook a detailed study of Victoria (which has comparatively low.

Chapter 8 : Holding a Defendant on Remand while awaiting Trial - blog.quintoapp.com

A child custody case determines who has the legal right to care for a child on a daily basis and make decisions on their behalf.. Overview of possible outcomes. Child custody is divided into two different types of custody.