RUNNING A COMMITTAL

FOLEY'S – 12TH FEBRUARY 2026

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1. **Purpose of the Committal** -

i. This is an opportunity to find out:

- The extent and how good the evidence is.
- What the witnesses are like.
- What is missing.
- What enquiries you should be making in the future e.g. phone numbers, phone records.

No longer can get a discharge but this is the first available opportunity to look at the Prosecution case.

The Police officers have taken Statements. You get a chance to look at:

a. a witness and what they are like and how committed they are; and

b. when and how they made the Statement and what might have influenced them.

ii. Don't overlook resolving the case and then making a summary jurisdiction application.

iii. If utterly doomed try to avoid a committal by resolving the case **or making a really crunchy offer in writing and then going straight hand up aiming to protect the discount.**

iv. The facts that will be vital to your RAT/ultimate defence.

Lock in –

Closing the doors, locking the windows.

Use a piggyback question.

- "As you told us you saw the blue car driving away at about 6pm, was that down Spencer Street?

v. Roll over witness.

Explore what charges they were facing and the motive to roll over and what they gained and the undertaking they gave.

vi. The ultimate aim is that there be no surprises by the time you come for trial and you know the extent and the value of the Prosecution evidence so -

the fundamental difference between trial and committal

2. **Committal Preparation** - Read the Brief

Prepare a chronology

Elements of the offence

Confer with client

Visit the scene

Prepare the RAT.

NB: Be careful because you prepare the Prosecution and the police.

i. Sometimes have to save a good point and not highlight it

e.g. rape case where the woman had been to the house before.

Photographic evidence.

ii. A taped telephone call for a critical witness.

3. **Running the Committal** -

Civilian witnesses

1. **Personal.**

   Who are they and what are they?

   How they are connected to the case.

   Their age, health, background, experience.

2. **Statements.**

   a. How many?

   b. When made.

   c. True and correct.

   d. Read them recently.

   e. Got a copy.

   f. Asked to have a look.

3. **Notes/records** –

   a. Of the events.

   b. Contemporaneous notes.

      Police all notes,

      diary notes, promis, interpose,

      emails,

      correspondence with the cops,

      correspondence with other

      witnesses.

4. **Contact with the police** -

   When?

   Who?

   How frequently?

   b. **Other witnesses** e.g.

      "Do you know XYZ?"

" I suppose you'd talked about what you'd seen?"

"Who have you spoken to with the police?"

c. **For the police reverse it** –

"What has your contact been with XYZ witness?"

5. **Go through the Statement**.

   a. The making of the statement.
   b. The contents of the statement.
   c. Drafts.
   d. Emails.
   e. Computers.
   f. Establish the details of critical events e.g. view –
      - Where were you?
      - Opportunity to view.
      - What else was happening.

      Use words like quick, sudden etc.

6. **Timeline chronology**.

7. **Health**

   a. Psych medical health.
   b. Medical issues at the time.
   c. Taking your tablets or medicines then or now?
   d. Counselling.
   e. Glasses.
   f. Hearing aids.

8. **Phone**

What's your mobile no.?

Who is the carrier?

Do you have the phone with you?

Did you communicate with anybody that day?

Who did you contact?

Expert

- What were you asked to do and when?
- What information were you given?
- Discuss possibilities.

NB: Maybe hide aces.

Police officers

1. Personal - Who are they?

   How long a police officer?

   Where they'd been stationed?

2. Their role in the matter.

   Notes or records that they kept or maintained or contributed to.

   Briefings they attended.

   Investigation stage.

Resolution phase - was there a plan?

Interview – was there a plan?

Did they use telephone intercepts, listening devices, informers, surveillance?

Witnesses they have seen.

Investigations that they made.

Are there any outstanding enquiries?

Have they made full disclosure? If not, what have they excluded?

NB: Open questions not leading questions.

- What happened next?
- Who did you know?
- After this happened who did you see?
- What did you talk about?
- Did anybody else see what you'd seen?

4. **RAT/Defence concept**

a. You don’t have to put your case theory.

b. Don’t give too much away, you’ll put the Prosecution on notice.

c. Maybe set it up but don’t flag it.

d. Sometimes you run a red herring.

5. **Post Committal**

i. Write a memo to your solicitor.

ii. While the events are fresh in your mind think of what has to be done.

iii. Recommend a list of jobs to the solicitor.

6. **Finale**

This is a fishing expedition.

You don't want any surprises at the trial – this is your opportunity to find out.

We are lucky to have committals in Victoria, many other states don't have them.

It doesn't matter whether it is Legal Aid or highly paid private do your best.