

- *I am dealing with my alcohol/drug problem through counselling/rehabilitation*
- *I am sorry for what I did and understand the effects and consequences of my actions.*

If you have learnt the lesson from your wrong doing, then briefly explain this to the Magistrate.

A character reference is sometimes useful. The person who writes the reference must either note the charges you face or at least refer to them.

You should tell the Magistrate if you believe a conviction will mean you lose your job or will not longer be able to work in that industry.

How should I dress?

You should dress as if you were going to a job interview and wanted to make a good impression. No shorts, no singlets, no t-shirts.

What should I do when I get to Court?

Turn up to Court at least 15 minutes before you are due. Check the Court Lists to find out where you need to go. Ask the Security staff for help if you are unsure. If you are waiting outside the court room, listen carefully for your name to be called and immediately go into court.

Be polite to all Court staff. Be especially respectful to the Magistrate. You should stand when the Magistrate speaks to you and refer to him or her as "Your Honour".

Speak slowly and clearly.

Are you ready?

- ◇ Have you a written your Plea? Does it cover everything? Is less than 2 pages?
- ◇ Have you got the right clothes to wear?
- ◇ Are you taking any character references?
- ◇ Have you organised transport to get there on time?
- ◇ Have you checked your summons or court documents for the right day and time to appear?

What if I can't afford to pay a fine?

If you are fined, the Magistrate will order that it be paid within 28 days. If you can not pay the fine within that time, you must contact Monetary Penalties Enforcement Unit as soon as you can to arrange an instalment plan.

Phone: 1300 366 776

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 1300 366 611**



CRIMINAL LAW Plea in Mitigation



**This brochure is
 designed to help
 unrepresented
 defendants pleading
 guilty in a Tasmanian
 Magistrates Court**

What is a Plea in Mitigation?

A Plea in Mitigation is a formal statement read to the court after you have pleaded guilty or admitted the offence. The aim of a Plea is to explain your personal circumstances and provide an explanation for committing the offence. The Magistrate can then decide an appropriate penalty.

This brochure helps you put together a Plea in Mitigation.

What Happens When I Get to Court?

When your name is called, you will be asked to confirm who you are. For example: "Are you John Ken Smith?" The court clerk will then read out the charges and ask you how you wish to plead: guilty or not guilty.

If you **plead not guilty** a future date will be set for a hearing where you and any witnesses will give evidence

If you **plead guilty**, the Magistrate will ask you to sit at the table in the centre of the court and hear from the police prosecutor and then you.

The prosecutor will read out the facts about the charges to which you have pleaded guilty. The prosecutor will show you a copy of your prior convictions (if you have any), and will ask you if you agree they are yours.

The Magistrate will then say, "Mr Smith is there anything you wish to say?" This is your opportunity to stand up and tell the court about yourself and the circumstances of the offence which should explain your actions.

How Should I Prepare My Plea?

Prepare your Plea in writing well before you are due in court. Keep it to less than 2 pages. Choose your words carefully; use short sentences, make sure that what you say is relevant and get straight to the point.

Remember you are asking for leniency in the hope of a lesser penalty. Make sure your Plea is truthful.

It is important to remember that you are **not** offering a defence in your plea. You are merely giving reasons for your actions. Your plea will not be accepted by the Magistrate if you are effectively pleading not guilty by offering a defence.

What Should I Put in My Plea?

There are 3 parts to a Plea in Mitigation. Each part deals with different information. This brochure offers suggestions for the kind of information the Magistrate is interested to know.

1. Personal Details

The Magistrate wants to know your age, your level of education, whether you have a job and your family situation. For example: "

Your Honour, I am 22 years old. I've lived at 14 Belle Street in Craigie Town for 3 years with my de facto wife & 2 year old son. I have worked part-time at Cadbury's since I was 17..."

2. Circumstances of the Offence

The Magistrate has already heard the facts from the prosecutor. This is now your chance to explain the facts from your point of view. If you disagree with some of what the prosecutor says, you can mention it now. The Magistrate will allow this provided you still agree with the main charge.

The Magistrate wants to know the background leading up to the offence that will help explain why you committed the offence.

For example:

- *I was very stressed because I had just split up from my partner and don't know why I took the shampoo from the shop. I had the money to pay for it.*
- *I was with my mates and they convinced me to break the window.*
- *I knew I had been drinking, but it was only a short drive home. My boyfriend left the pub with his mates earlier. I had no money for a Taxi. I was stranded and felt I had no option but to drive home.*
- *There was an emergency - my son had a fit. I knew I'd had a few drinks, but less than my partner. I did not want to wait 20 minutes for an ambulance to arrive.*

Remember to tell the truth.

3. Summary

In the summary of a Plea you need to bring certain important points to the Magistrate's attention:

For example:

- *Your Honour I pleaded guilty on my first appearance for this matter.*
- *I co-operated with the Police and told the truth.*
- *I no longer associate with the friends who were a bad influence on me.*
- *I have no prior convictions for this sort of offence and ask that no conviction be recorded.*