

## At Court

### Entering a Plea

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

### I've pleaded guilty – now what?

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.

Stand up and read out your plea in mitigation. Address the Magistrate as "Your Honour."

The Magistrate will then make a decision on an appropriate penalty and give you reasons.

## Checklist

- Written Plea in Mitigation.
- Character witness
- Neat clothes
- Confirmed time and date of your appearance
- Got transport to arrive early

If you receive a fine it needs to be paid within 28 days. If you cannot pay within that time, you must contact Monetary Penalties Enforcement Unit on 1300 366 776 as soon as you can to arrange an instalment plan.

Tasmania Legal Aid acknowledges and pays respect to the palawa (Tasmanian Aboriginal people) as the traditional and original owners, and continuing custodians of the land and waters of this island, Lutruwita (Tasmania), where we live and work.

## 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 is to explain your personal circumstances. The Magistrate can then decide an appropriate penalty.

# Legal Aid

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# 1300 366 611

# PLEADING GUILTY & DON'T HAVE A LAWYER?

PLEA IN MITIGATION  
CRIMINAL LAW

How to tell your story in the Tasmanian Magistrates Court

**Legal Aid** For Tasmanians

# Before Court

## Know the Police Facts

You should find out what the police will rely upon to prove the charges against you. Do this as soon as you receive your summons. It will also help you decide whether to plead guilty or not guilty. If you disagree with the Police Facts or your Record of Prior Convictions are not correct, call 1300 366 611 for free legal advice..

## Apply to Police for Basic Disclosure

This is free of charge and will give you:

- The complaint/charge against you;
- Your prior convictions;
- The police facts for the prosecutor;
- Your record of interview.

Full Disclosure will cost you \$53.90. You will receive all of the above, plus witness statements. Apply at [www.polic.tas.gov.au/information-disclosure](http://www.polic.tas.gov.au/information-disclosure)

## Disputing the Police Facts

If you don't agree with the Police Facts you may be able to negotiate with the prosecutor before court. Otherwise, the matter may need to go off to another date for a Disputed Facts Hearing. For help about this call for free legal advice on 1300 366 611.

## How will you plead?

If you are unsure of how to plead, call for free legal advice on 1300 366 611.

If you plead guilty, you are agreeing to the charge and the police facts. The matter will be dealt with on that day.

If you plead not guilty, you are disputing that you committed the offence and will need a valid defence. The Magistrate will set a date in the future for a hearing where you and any witnesses will attend to give evidence.

## Writing your Plea in Mitigation

Prepare your Plea well before your court date. Don't write more than 2 pages and make sure it is all relevant. Your guilty plea will not be accepted by the Magistrate if you try to offer a defence. Be truthful. Remember you are asking for leniency in the hope of a lesser penalty.

## What should I say?

There are 3 parts to a Plea in Mitigation. Each part deals with different information. Here are some suggestions of relevant information for the Magistrate:

### 1. Personal Details

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

*"Your Honour, I am 22 years old. I've lived at 14 Belle Street in Craige 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. I receive \$550 per week clear. From that I pay \$260 rent a week."*

### 2. Circumstances of the Offence

After the Prosecutor tells the Magistrate the facts, it's then your chance to explain the facts from your point of view. You can disagree with some facts so long as they don't affect your agreement with the charge. (See above Disputing the Police Facts.)

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

For example:

- I was with my mates and they convinced me to break the window.
- My boyfriend left the pub after we had an argument. I had no money for a taxi. I was stranded I had no option but to drive.
- It was an emergency—my son had a fit. I knew I'd had a few drinks, but less than my partner. I could not wait 20 minutes for an ambulance.

### 3. Summary

In the Plea summary you must bring certain important points to the Magistrate's attention. Briefly explain how the offence has affected you.

For example:

- Your Honour I pleaded guilty on my first appearance for this matter.
- 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.

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

You must tell the Magistrate if you believe a conviction will mean losing your job or no longer able to work in the industry.

## On the Day of Court

### How should I dress?

Dress as if you were going to a job interview. Make a good impression. No shorts, no singlets, no t-shirts, no caps, no hats, no sunglasses.

### What do I do when I get to Court?

Turn up to court at least 15 minutes early. Check the court lists to find out where you need to go. Ask security for help if you are unsure. If waiting outside the courtroom, listen carefully for your name to be called and immediately go into court.

**Be polite to all court staff.**