

What is a plea in mitigation?

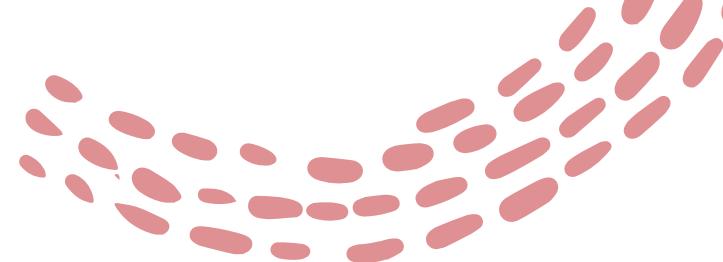
A plea in mitigation is a formal statement by you or your lawyer. It is an opportunity to explain your personal circumstances and provide an explanation for committing the offence. Your plea should outline circumstances that may lessen the penalty you receive.

What is a mention?

The Court may list your matter(s) for mention. This is a time when the Magistrate will ask for an update from you and/or the Prosecutor about what is happening with your matter.

What if I don't agree with the outcome of Court or my sentence?

You can apply to appeal a decision of the Magistrate to the Supreme Court of Tasmania. This must be done within 21 days of the decision. Details on how to appeal a decision can be found on the Magistrates Court of Tasmania website. A TALS Lawyer can give you advice in respect of your prospects of success if you are eligible for our service.



WHAT HAPPENS AT THE MAGISTRATES COURT



What does TALS do?

Tasmanian Aboriginal Legal Service ('TALS') is a non-profit, Aboriginal and Torres Strait Islander community-based organisation in Tasmania. TALS provide culturally safe, holistic, and appropriate services that are inclusive and open to all Aboriginal Tasmanians.



The material in this brochure is intended as a general guide only. This publication should not be used to replace legal advice. The Tasmanian Aboriginal Legal Service does not accept any responsibility for any loss, damage or injury, financial or otherwise, suffered by any person acting on information contained in this publication or omitted from it.

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CONTACT TASMANIAN
ABORIGINAL LEGAL
SERVICE ON
1800 595 162

If you are arrested and bailed to appear at court or receive a summons to appear in Court, TALS can assist you if you are eligible for our service. We can support you with the steps outlined below and appear on your behalf in Court.

Know the police facts

If you have been charged, you should know what the police will rely on in court to prove charges against you.

You can apply to police for 'basic disclosure'.

This gives you:

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

You can also apply for 'full disclosure'. This includes everything in basic disclosure AND witness statements. There is a fee of \$53.90 (unless you have a waiver).

If you do not agree with the police facts, you may negotiate with the prosecutor before court to agree to change the facts. If you cannot agree, it may go to a 'disputed facts hearing'.



At the first court appearance

You can ask for your matter to be adjourned (postponed) to a later date to allow time to obtain legal advice.

You can enter a plea at the first appearance. If you are unsure how you should plea, we encourage you to seek legal advice.

If your matter is adjourned from the first appearance, the Court can either remand you un custody or grant bail (**see 'Arrest and Bail' fact sheet for more information on bail**).

Pleading guilty means that you agree with the charge and the police facts. If you plead not guilty, you will need to come back to court for a hearing at a future date.



What happens at the hearing?

At the hearing the Prosecutor will call witnesses and show evidence that goes to proving the charge against you. You (or your lawyer) will have the opportunity to cross-examine (question) the Prosecution's witnesses. There are rules that you cannot cross-examine (question) some witnesses, and this will be explained to you by the Magistrate if you are not represented by a lawyer. When the Prosecutor has finished presenting their evidence, you will have the opportunity to provide evidence and call witnesses. The Prosecutor can cross-examine your witnesses and you.

You are innocent until proven guilty. It is up to the Prosecutor to convince the Magistrate that you are guilty of the offence(s) you have been charged with.

The Magistrate will decide whether you are guilty or not guilty based on the evidence they have been presented with. If they decide you are not guilty, you will be free to go. If they decide you are guilty, they may sentence you then, or adjourn the matter to a later date for sentencing. You or your lawyer can make a plea in mitigation before the Magistrate sentences you.

