

## **The Children's Court**

If you are charged with an offence which occurred while you were under 18, you go to the Children's Court. This applies for any offence (except for some traffic matters), so long as you are *charged* before you turn 21, and the offence is alleged to have been committed while you were under 18.

For example, if you commit a crime when you are 17, but don't get caught until you are 18, it still goes to the Children's Court. If you are caught when you are 22, it will go to an adult court.

### **Do I need to organise a lawyer who will represent me?**

In the Children's Court you are automatically entitled to Legal Aid representation. Each of the Children's Courts in NSW is staffed by Legal Aid duty lawyers who will pick up your case at court on the day. You do not need to organise anything in advance.

### **Do I get to choose my lawyer?**

Generally you do not get to choose your lawyer if you are being represented by Legal Aid. You will be represented by whoever is rostered on that day. But you can be assured that all of the lawyers who do Legal Aid work in the Children's Court are very experienced in that jurisdiction. Legal Aid is available to all young people (without income or merit tests). Our duty lawyers work only in the Children's Court and appear there daily. They are very experienced at the workings of that court.

### **Will I have the same lawyer each time I come to court?**

You may have the same lawyer throughout the duration of your case. Legal Aid tries to make sure that you do not change lawyers. However, if people are on leave or sick, you may be represented by another lawyer.

If you do have to change lawyers, be assured that your new lawyer will have clear notes on your file from the previous lawyer and will know what is happening with your case.

### **Do I need any references or other documents to bring to court? What papers should I bring?**

You should bring along any papers that were given to you by the Police (Court Attendance Notice, Factsheet, Criminal History etc). We are able to obtain copies of these papers at court if you forget, but this can delay your matter going into court, so try to remember.

Lots of people ask whether they need to bring references - from employers, schools, youth centres or other organisations. This can be very helpful. Your lawyer will talk to you about references if they are necessary.

### **What should I wear? How should I behave?**

There are no rules, but you should try to look neat. You should not wear caps, beanies or sunglasses into the courtroom. You should also make sure that your phone is off in court, and that you don't have your earphones in.

You should not eat, drink or chew gum while you are in the courtroom. The magistrates like to see that young people are taking the process seriously. It is important that you pay attention to what is happening in court.

### **Do I need anyone to come with me to court? Do my parents have to be there? Can my friends come in to support me?**

It is always good if your parents or carers come with you to court. Magistrates are often concerned if parents are not present, many will ask why they are not there. Having your family present shows that you have some support and perhaps a better chance of not getting into trouble again.

If you have a youth worker or a local youth service that you are working with, ask if one of the workers can come along to court with you. It really helps your case to show that you are working cooperatively with community agencies and have some community support.

Most magistrates do not like young people bringing their friends into court. A girlfriend or boyfriend, or one close friend if you do not have anyone else is OK. Bringing a large group of your mates does not look good. If they come along to support you, it's best to get them to wait outside. Your lawyer will guide you on this.

### **Who else will be in court?**

The children's court is a "closed court". This means that it is not open to the public. The only people in court are lawyers, the prosecutor, the magistrate, the court staff and you. You are allowed to bring in a few people to support you – family, youth workers, carers etc.

### **Can the media report information about my case or take pictures of me at court?**

The media are allowed in the courtroom and are allowed to report or publish general information about a particular case.

However, the media is *not allowed* to publish any information which may (directly or indirectly) identify any young person who is charged or associated with the case. This means that they are not allowed to publish photographs depicting the persons face or any identifying features (such as distinctive haircuts, tattoos etc). It also means they must not publish their names in any articles or news reports.

These "non-identification" rules are strictly enforced. If a media outlet or journalist breaks these rules, they have committed a crime and can be prosecuted. There are very serious penalties which can be imposed. If you are worried about media reporting in relation to your case, talk to your lawyer about it. In certain cases, the court can make special orders that certain details about the case or crime be "suppressed" or restricted from publication.

### **When I get to court do I need to register somewhere?**

Many courts have a Legal Aid list and you write your name down as you arrive. Other courts have a Children's Court Assistance Scheme staffed by local youth workers and they will take your name as you arrive at court.

### **Do I have to do anything in the courtroom? Where do I sit? Do I have to speak?**

You should bow as you enter the courtroom, and you usually sit behind your lawyer. Your lawyer will speak in court; you do not usually have to speak. Occasionally the magistrate may ask you a direct question, but this is unusual. You should stand up if the magistrate speaks directly to you.

### **How does the court work? When will my case get called in? Is there any order? How long will I have to wait?**

Waiting is the worst part of going to court, and each court has a different system about what order the cases get called in.

Generally, you will see your lawyer earlier in the morning. Legal Aid will usually see people in the order that they arrive. However this is not necessarily the order that you will get called into court.

The general rule of priority in most courts is to deal with young people in custody first, then move on to short cases (adjournments, short mentions), and then tend to deal with longer cases (sentences, or final court appearances) later in the day. However, there is no fixed rule.

As a general rule, once your lawyer has seen you, they will make sure your case is mentioned in court as soon as possible. This may depend on the general rules of priority described above.

This can be frustrating – you may have been the first person there in the morning and not go into court until late in the day. The best approach is to expect the worst and assume that you may be there all day – court sits until 4.00pm. All you can do is be prepared! Have something to read, or something to do. Make sure you bring something to eat or some money to buy lunch.

### **Will my case be finished today, or will I have to keep come back again?**

This depends on the seriousness of the charge, and also whether you are pleading guilty or not guilty.

If you plead *guilty*, some matters can be finished on the day. If it is a minor crime and you have no record, the court may sentence you on the day. For more serious charges, they will adjourn to order a “background report” from Juvenile Justice. This takes 6 weeks.

If you plead *not guilty*, the case will be adjourned for the Police to obtain witness statements and other evidence, and serve copies of this material on your lawyer. This is called the *brief of evidence*. Most defended cases will involve quite a few adjournments and can sometimes be finished in around 3 – 6 months, but very serious matters can take more than one year to be finalised.

Your lawyer will explain all of this to you in your interview. This does not mean that you come to court every week for that entire time, but you may be on bail and you will have to deal with the stress of the case hanging over your head. This can be very hard and the delay in court cases is one of the most difficult things to deal with.

## **Penalties in the Children’s Court. What will happen to me? Can I get locked up?**

Your lawyer will give you advice about what sort of sentence (penalty), you are facing. It is important to know that the Children’s Court is focused on helping young people to not re-offend. It is different to an adult court and the penalties tend to be a little less harsh.

There are a range of penalties that can be imposed, including:

- cautions
- youth justice conferences
- good behaviour bonds
- fines
- probations orders
- community service hours

For very serious crimes, or where people have long criminal records, the court can impose:

- a control order (a sentence of detention / lock up)
- suspended sentences

## **How does the magistrate work out what my sentence should be?**

The magistrate will choose the sentence by balancing the following things:

- the seriousness of the crime you have committed
- whether you have a criminal record
- your background (family, school, employment etc)
- whether you have any particular issues that have caused you to get into trouble (drugs, alcohol, mental illness)
- whether you are likely to get into trouble again

Your lawyer will present this information to the magistrate. They will explain why you committed the crime, explain your circumstances and argue for the best possible outcome (sentence).

## **Can I get a criminal record when I am under 18?**

Yes. There are many different kinds of records. A **Criminal Record** is where the court *records a conviction* against you. This is the record that most people worry about – it is the one that employers may ask about, or may be important for security licenses or visa applications.

In the Children’s Court, if you are under 16, the court *cannot* record a conviction. If you are 16-18, the court has the power to decide whether to record a conviction or not.

However, there are other kinds of “records” – everyone who has had a case in any court, including the Children’s Court, will have that case recorded on a **Criminal History**. This is basically an internal record only available to the courts and the Police. It is different to a *Criminal Record* and employers and other members of the public cannot find out about it.

However, if you get into trouble again, and find yourself facing the courts, the magistrate will have that criminal history and take into account your previous crimes. So your juvenile matters do not “disappear” as many people think. They will not generally affect you or come up in your life, but they will affect you if you get into trouble again as an adult.

### **What happens if I don't show up at court?**

You may get charged with failing to appear at court, and in most cases, the court will issue a warrant for your arrest. This gives Police the power to arrest you and bring you before the court.

The court may also find you guilty of your original charge in your absence. This can make it hard to defend the charge later. It is very important that you show up at court. If you can't come to court (eg you are sick), call the court or your lawyer to explain what is happening.

### **What happens if I breach my bail?**

If the Police catch you breaching your bail, they will usually arrest you, place you into custody and take you before a court to re-apply for your bail.

If you breach your bail a few times, you will probably not be granted bail again and will have to stay in custody until your case is finished. If your charges are serious, even one breach of bail can be enough for bail to be refused. This can result in weeks or months in custody until your case is finished, so it is very important that you stick with your bail conditions and do not run this risk.

Many young people think that they will not get caught but you should be aware that Police do spot bail checks for many young people to check that they are living at home and not breaching their curfew.

### **What should I do if one of my bail conditions is causing me problems, or if I need to move house, or change reporting stations?**

You can make an application to vary your bail conditions. Ask your lawyer on the day, or call the Legal Aid Hotline on 1800 10 18 10 to get advice before hand.

Many young people have curfews on their bail and it is sometimes hard to lift them without a good reason, like work or study.

### **What should I do if I am sick or can't make it to court for some reason?**

If it is your first day at court, you should call the court and tell them that you are sick. You must also get a medical certificate for that day and fax a copy to the court. The court may adjourn your case, usually for one week. You should bring along the medical certificate when you come to court on that date. The certificate should say what your sickness is and that you are unfit to attend court.

*This Fact Sheet is designed to give you a very basic understanding of how the law works. If you have a legal problem, or want to know how these laws apply to a specific situation, you should speak to a lawyer. If you are under 18, you can call the Legal Aid Youth Hotline 1800 10 18 10.*