

NT COURT SYSTEM

Young people go to Court each day, not knowing what to expect what to say or even what to do!

This fact sheet will help you become familiar with the procedure of going to Court as well as give you an insight into the Northern Territory Courts System.

This publication should not be substituted for professional legal advice.

Legal Jargon

Legal jargon – what is it and what does it mean? Legal jargon are legal terms used by Lawyers, Judges, Magistrates and Prosecutors. Below are some commonly used legal jargon.

Lawyer: Lawyer is the general term that is given to Barristers and Solicitors.

Solicitor: A Solicitor deals directly with clients and generally works in an office environment researching for the Barrister or performing other duties such as preparing contracts (civil matters) and criminal Court cases. A Solicitor can appear in Court on general matters.

Barrister: A Barrister is otherwise referred to as an advocate, that is, they talk in Court on your behalf. Barristers often specialise in a particular field of law.

Prosecutor: A prosecutor represents the Crown in Criminal Matters and is responsible for prosecuting alleged offenders.

Magistrate: The Magistrate determines whether a person is guilty or not guilty and sits in the Juvenile Court, the Local Court (for Civil Matters) and the Court of Summary Jurisdiction (for Criminal Matters) throughout the Northern Territory.

Judge: The Judge sits in the Supreme Court of the Northern Territory. In Criminal Matters the Judge applies the law to the facts and instructs the jury. Where there is no Jury, the Judge decides the facts based on the evidence presented and determines guilt. The Judge can also hear pleas of guilty and hear appeals from Magistrates. In serious Civil Matters the Judge can also make decisions based on the facts.

Juries: The role of a Jury is to decide the facts based on the evidence presented. That is, they decide if a person is guilty or not guilty. A Jury sits in the Supreme Court.

Plaintiff: The individual who commences a legal action against another person (defendant).

Defendant: In Civil matters the individual against whom another person (plaintiff) brings the legal action. In Criminal matters, the accused is also called the Defendant.

Summons: Complaint issued by the Court setting out details of the offence charged. A Summons orders a person to attend Court. A Summons can also be issued to Police for the attendance of a witness.

Warrant: A document authorising Police to perform duties such as searching premises for drugs or bringing someone to Court or to prison. A document usually made by a Judge or Magistrate, which allows arrest/seizure/searches and carrying out an order by the Court.

DPP - Office of the Director of Public Prosecutions: The functions of the Office of the Director of Public Prosecutions (the "Crown") include preparing and handling criminal cases on behalf of the Northern Territory Government. Officers of the DPP appear in the Supreme Court, Courts of Summary Jurisdiction in the Northern Territory and the High Court of Australia.

Crime and a civil wrong: A crime is when a person does something wrong that affects the community. A civil wrong, otherwise known as a tort, is a wrong or injury for which the person who suffers as a result may seek damages.

General Courts

There are a variety of Courts in the Northern Territory. How can you tell the difference?

This fact sheet was written to help you become familiar with the different Courts in the Northern Territory and what the function of each Court is. It will also help you to understand the role of the Office of the Director of the Public Prosecutions.

Supreme Court: This is the highest court in the Northern Territory. Its decisions can override the decisions of the Lower Courts and its decisions also guide the Lower Courts. The Supreme Court has the power to hear either serious or complicated *civil and criminal* cases. Criminal trials in the Supreme Court are heard before a Judge and Jury.

The staff at the Supreme Court are not permitted to give any legal advice. The only advice that they can give relates to court times, information for jury members and administrative procedures.

Alice Springs Supreme Court Contact Number: 8951 5715.

Darwin Supreme Court Contact Number: 8999 7953.

Magistrates Court: The Magistrates Court is the name given to a collection of different courts including the:

- Local Court - deals with civil matters such as disputes about a debt or damages;
- Court of Summary Jurisdiction – deals with criminal matters for adults such as drink driving, stealing and assault. It conducts preliminary/committal hearings for more serious crimes such as murder and makes decisions whether the matter should go to the Supreme Court for a jury trial;
- Juvenile Court – deals with criminal matters for people under 18 years of age; and
- Coroner's Court – conducts investigations into reportable deaths (such as suicide, unnatural or violent deaths or one that has resulted directly or indirectly, from an accident or injury) and ensures that an inquest into a death is held where there is a duty to do so.

The staff at the Magistrates Courts are not permitted to give any legal advice. The only advice that they can give relates to court times and administrative procedures. There is information about where to get legal advice at the back of this fact sheet. The contact numbers for the Magistrates Courts are:

Alice Springs: 8951 5710
Darwin: 8999 6380 (Criminal) or 8999 6225 (Civil)
Katherine: 8973 8956
Nhulunbuy: 8987 1378
Tennant Creek: 8962 4377

Family Court: The Family Court deals with matters under the Commonwealth *Family Law Act*. Helpful information for young people may be collected from the Family Court. The contact number to arrange this is 8981 1488 or by visiting their website (www.familycourt.gov.au).

Have You Been Charged With An Offence?

Being charged with an offence and/or receiving summons to attend Court can be a rather nervous time for not only the individual, but also for family and friends.

This fact sheet will help you prepare to go to the Court of Summary Jurisdiction. It is important to get legal advice as soon as you can. If a private solicitor is too difficult or too expensive to access, you may get legal advice from the Northern Territory Legal Aid Commission ("Legal Aid") or one of the community legal services. A lawyer from Legal Aid may represent you in Court if your case is assessed as suitable for legal aid. You may not wish to get a solicitor to represent you, but it is still important to get some form of legal advice so that you understand what may happen to you at Court and so that you know your rights.

If you need an interpreter, the Court or Legal Aid can arrange this.

Preparing For Court

It is necessary that you prepare for Court and you should do the following things:

- Make sure you know which day you have to be at Court;
- Find out where the Court is;
- Find out which Courtroom you are in;
- Organise important papers;
- Write down your version of events;
- Arrive early enough to meet with your lawyer at the Court before the hearing time;
- Bring a jumper or something long sleeved to wear as it can get cold in the air-conditioned court room; and
- Make sure you have something to eat and drink before you go to court – it will help you to concentrate, and sometimes you will have to wait quite a while before your matter is called to go before the Magistrate.

If, for some reason, you are uncertain about when and where you have to appear, the arresting police officer, your solicitor or the Office of the DPP should be able to provide you with this information.

What Happens In Court?

If you decide to plead guilty, you or your solicitor will have to explain to the Magistrate your version of events leading up to and at the time you were charged with an offence.

The Magistrate will make a decision about your sentence or penalty after considering such things as the general circumstances surrounding the offence, whether you have been convicted of any offences before, character references and your general behaviour.

If you don't have a solicitor and you don't understand your sentence, ask someone at the Court to explain it to you. Your sentence could have a serious effect on your life, so it is important that you understand what the Magistrate has told you so that you can do what is required by the Court, and not do the wrong thing or "breach" your sentence.

If I don't want to plead guilty, then what? If you decide you want to plead not guilty, you definitely need to seek legal advice. Your case will then be given another date for hearing. The Police tell their story to the Magistrate, then you can tell your version of events. If the Magistrate finds you not guilty, then you are free to go. If the Magistrate finds you guilty, he or she will then consider your sentence.

Sentences

There are a number of different sentences the Court can order, including:

- A period of detention (if you are under 18 years of age) or imprisonment (if you are 18 or over);
- A period of detention or imprisonment that is suspended after a certain time spent in custody. When the court suspends a custodial sentence, it is still a serious sentence. It means that if you commit an offence during the suspended period, you may be detained or imprisoned for the period of time that was suspended;
- A period of detention or imprisonment which is suspended straight away on certain conditions, such as having to live at a certain place and report to the police station or a probation officer once a week;
- A period of home-detention;
- Community service;
- A good behaviour bond;
- A fine. This will require you to pay money to the *Fines Recovery Unit*, which is part of the Office of Courts Administration. You can pay your fines by either cash, credit card (Visa, MasterCard, Bankcard), online using net pay, cheque or money order or if you have a registered savings or cheque account by phoning Australia Post's Bill pay and quote Biller code 57265; or
- Recording a conviction and release without sentence.

Infringement/ Penalty Notices: Also known as on the spot fines and are in relation to less serious offences such as parking and speeding offences and do not require a court attendance unless you fail to pay and receive a summons.

Frequently Asked Questions

What should I do in Court? If you have a solicitor representing you, he or she will speak on your behalf. If you decide that you want to represent yourself, you will need to tell the Judge or Magistrate that you are not represented. The Court will assist you in presenting your case.

What do I call the Judge or Magistrate? A Judge is referred to as "Your Honour" and a Magistrate is referred to as "Your Worship".

What is the role of the Office of the Director of Public Prosecutions? The duties and responsibilities of the Office of the Director of Public Prosecutions are to act as an independent body, advising and conducting Criminal matters.

The Victim Support Unit in the Office of the Director of Public Prosecutions also supports and assists victims and their families and witnesses and their families. The Victim Support Unit can be contacted in Darwin on 8999 7533 and in Alice Springs on 8951 5800 or free call 1 800 659 449.

What is the role of the Police Prosecutor? The Police Prosecutor tells the Police version of the alleged offence to the Court. You or your lawyer may then tell the Court your version of the story.

Why is a Witness required to attend? A witness is called into Court to tell the court what he or she saw. A witness may be called by either the Prosecution or Defence in support of their case. They may be questioned by your solicitor or the prosecution and sometimes by the Magistrate or Judge.

What if I have been the victim of a Crime? If this has happened to you, you can contact *Victims of Crime NT* on 1 800 672 242 for support and information.

What does it mean to take an Oath? Taking an Oath means that you swear on the Bible that you are telling "the truth".

What does it mean to take an Affirmation? An Affirmation means that you affirm instead of give oath that whatever you are saying is the truth. If you don't believe in the Bible, you can give an affirmation to confirm that you are telling the truth. After you have affirmed or taken an oath, it is an offence to lie to the Court. The court takes this very seriously.

What if I want to appeal the decision? If you are unhappy with the final decision you may be able to get the decision reconsidered in the Supreme Court. It is necessary however, that you discuss this with a solicitor who will be able to point you in the right direction.

What does a Jury do? A Jury's duty is to consider and ultimately decide upon the facts of a case, whether someone is guilty or not. A jury is rarely used in civil cases and is not used in the Magistrates Court.

Why is there a Court Officer? A Court Officer is sometimes referred to as an Orderly or a Sheriff's Officer. The Court Officer is responsible for making sure that matters are organised, for formally opening and closing the Court, for calling witnesses into Court at the correct time and providing the Court files to the Magistrates and Judges. The Court Officer asks you to take the Oath/Affirmation before you give evidence. Court Officers also act as jury guards and look after the needs of the jury members.

Legal Advice

There are a number of organisations that are able to give legal advice; however, not all of them are free!

The Northern Territory Legal Aid Commission (the Commission): This is a merit-based service whereby the client is assessed on how much income they (or their families) earn and the possibility of imprisonment. The Commission generally provides advice and representation on legal matters and deals in the areas of Family Law, Civil Law and Criminal Law. The contact numbers are:

Alice Springs: 8951 5377

Darwin: 8999 3000

Katherine: 8973 8704

Aboriginal Legal Aid Service: If you are of Aboriginal or Torres Strait Islander descent, Aboriginal Legal Aid is available as well. This is different from the Northern Territory Legal Aid Commission. The Aboriginal Legal Aid Service also deals in the areas of Family Law, Civil Law and Criminal Law, and provides a 24-hour, 7-day a week telephone service for its clients. The contact numbers are:

Alice Springs: 8952 2933 (CAALAS)

Darwin: 8982 5100 (NAALAS)

Katherine: 8972 1133 (KRALAS)

Community Legal Centres: A number of these centres operate throughout the Northern Territory and provide both assistance and advice to individuals who are unable to get legal representation. Occasionally they will represent clients.

- Darwin Community Legal Service operates free legal advice sessions once a week in Darwin, Casuarina and Palmerston.
Contact Number: 8982 1111
- Central Australian/Top End Women's Legal Service provides free legal advice to women throughout the Northern Territory.
Contact Number: 1 800 041 998

- Domestic Violence Legal Help provides legal assistance to any individual suffering or experiencing domestic violence.
Contact Number: 8981 9726

Law Firms: There are many private law firms located throughout the Northern Territory. It is necessary to remember that fees charged by these firms can vary and that some firms charge for first consultation visits. Before agreeing to have a solicitor represent you, make sure you have agreed to the costs that will apply. It is your right to have these costs fully explained to you.