How does Self-Defence Work in Court?

Sometimes there are legitimate reasons for breaking the law. Our justice system recognises this and provides defences in situations where acting contrary to the law is justified.

According to the NSW Crimes Act, a person is not criminally liable if they broke the law and were acting in self-defence. You've probably heard about this defence but may not be sure exactly how it works or what it covers.

Self-defence, unlike what it's name suggests, encompasses not only protection of yourself but:

- Defending not only yourself but another person
- Preventing or ending unlawful deprivation of liberty either of yourself or another person
- Preventing property from any unlawful damage, taking or interference
- Preventing or removing a person from committing criminal trespass

For these last two reasons, however, death that is a result of intentional or reckless force to kill is not a defence.

However self-defence according to some, is actually not classified as a 'defence' at all, because the onus of proof in proving that it was self-defence actually does not rest on the accused.

The prosecution must prove beyond a reasonable doubt that the person was not acting in self-defence.

A defendant must have been acting on the belief that it was necessary to act the way they did This belief must have been reasonable.

Self-defence must be:

- A belief in the mind of the accused
- A belief on reasonable grounds

This includes an honest but mistaken belief that a person is going to be attacked.

The proportionality test does not, however mean that the defendant must have weighed up the precise amount of force needed to repel an attacker. In the moment of an attack when a person may be required to make a split second judgment, this kind of analysis is not necessary.

First of all, it must be proportionate. Getting out your shotgun in retaliation to a slap in the face is hardly an appropriate reaction.

In one recent Downing Centre Local Court case, the career of an off-duty policeman was put on the line after he punched a woman in the face.

The policeman was walking home from a Sydney hotel with his girlfriend, and a woman who had earlier had an altercation with his girlfriend approached.

His girlfriend was set-upon by the woman and policeman Michael Simmons intervened. He got her on the ground and then straddled her.

He punched her once in the face, and even though she had been swinging her arms at him, the judge didn't find his reaction proportionate.

Simmons was much bigger and stronger than the attacker, and so although his conduct was provoked, it was deemed to be excessive.

Simmons got 200 hours of community service and a 12-month good behaviour bond. He is currently suspended from the police

force without pay and working as a security guard.

Self-defence is a full, not partial defence, meaning that it exempts the person from any kind of criminal liability, if successful. It can be used not just for murder but other offences, for example assault.

Excessive self-defence is a partial defence – if a person kills another and the conduct was not reasonable, a person will be found guilty of manslaughter and not murder, if they believed that the conduct was necessary to:

- Defend themselves or another person; or
- To prevent or terminate unlawful deprivation of liberty

In other words, if a person believed honestly but mistakenly that the amount of force they used was necessary, excessive self-defence will act as a partial defence, meaning that the person is not criminally responsible for murder, but manslaughter.

Of course, if you have been charged with an offence and think you may need to know about self-defence or any other defence it is best to speak with a lawyer to get professional information about your case.

How Will The Magistrate Determine My Sentence?

If you have a matter before the Downing Centre Local Court and are already seeing the prison gates looming before your eyes, relax.

Jail is a last resort in many cases so chances are, you, like

many other defendants who come up before the magistrates in the Downing Centre won't spend a day behind bars.

According to the Crimes (Sentencing Procedure) Act 1999, a court cannot order imprisonment unless they are satisfied that no other penalty is appropriate.

Penalties such as the maximum prison time and fine amount are different for each offence and are set out in the legislation. However the court also has the discretion to impose other penalties, such as home detention orders, intensive correction orders, community service orders, and good behaviour bonds.

The other significant non-custodial alternative is dismissal. If you are fortunate enough to get your case dealt with under a section 10 dismissal or conditional release order, you will be found guilty, but the charges will be dropped and you will not have a criminal conviction recorded. However if you get a non conviction order, you may still have to enter into a good behaviour bond.

In order to get a non conviction order, the court must come to the conclusion that it would not be expedient to record a conviction against your name, for example, if it would reduce the likelihood of further offences being committed by promoting treatment or rehab.

In deciding the matter, the court will consider:

- Your character, antecedents, age, health and mental condition
- If the offence was of a trivial nature
- Any extenuating circumstances
- Anything else the court considers relevant

A good criminal lawyer can enhance your chances of getting a section 10 dismissal.

Of course it will all depend on the individual circumstances

of your case but here are some things that magistrates will always take into account when sentencing you. These are called aggravating factors and mitigating factors.

Aggravating factors are those that made your offence more serious, whereas mitigating factors are those which mean that the offence may be dealt with more leniently.

Aggravating factors include:

- The use or threatened use of violence
- The use or threatened use of a weapon
- Previous convictions
- Whether there was substantial harm, loss or injury caused by the offence
- If the victim was vulnerable
- If the act was part of organised criminal activity

Bringing to the attention of the magistrate mitigating factors in your case will help your chances of getting a favourable outcome. These can include:

- No substantial harm, loss or injury caused by the offence
- The offence was not part of organised criminal activity
- You were provoked by the victim
- You were acting under duress
- No previous convictions (or no significant ones)
- Good character
- Unlikely to reoffend
- You show remorse such as accepting responsibility for your actions or made reparations for any loss caused
- You weren’t aware of the consequences of your actions because of age or disability
- A guilty plea
- Any pre-trial disclosure to the police
- Assistance to law enforcement authorities

If you are intending on representing yourself in your matter,

bringing along character references and writing a letter of apology to the court is a good idea.

It will demonstrate to the magistrate some of the mitigating factors that they are going to be taking into account when sentencing you.

It is also important to note that being intoxicated, if it was self induced, is not a mitigating factor and therefore can't be relied on to reduce your sentence.

And finally, be polite and courteous in the courtroom – any rudeness to the magistrate will certainly not help your chances!

Are You Facing Charges Of Malicious Damage In A Sydney Court House?

If you are facing charges of malicious damage in a Sydney court house, there are a few basics that you need to know before you go to court.

Firstly, malicious damage can be done even without a specific intent to be 'malicious' – your actions may classify if you were acting recklessly.

Malicious damage is different to accidental damage, because you must have either had an intent to damage or destroy someone else's property, or because you were reckless about whether or not your actions may result in damage or destruction of someone else's property.

The elements of malicious damage are:

- Damage caused to property
- The property belonged, at least in part, to someone else
- That you intended to cause the damage or reckless to the possibility that your actions would cause damage

Police must be able to prove all three of these things in order for you to be convicted.

According to the NSW Crimes Act, a person who intentionally or recklessly causes damage to another persons property or destroys property belonging to another person is liable to five years imprisonment, or if the destruction or damaged was caused by fire or explosives this increases to 10 years.

Doing either of the above adds an extra year to the maximum penalty, and anyone who does either during a public disorder adds two extra years. If the damage caused to property was less than $5,000, the maximum penalty is 12 months in jail, and a fine of $5,500 – or $2,200 if the property is worth less than $2000.

However if your case is held in the Local court instead of the District court, you are not exposed to the maximum penalty of five years.

If the damage caused was over $5,000, it can still be dealt with at the Local court level, but the penalties are higher: a maximum of two years in jail and a $11,000 fine.

It is actually one of the most common property offences in NSW. Most people who commit malicious damage to property do not go to jail. The most common penalty is a fine.

Apart from these penalties set out in the statutory provisions about malicious damage, the court may also impose other alternatives such as community service, a suspended sentence or an intensive correction order.

Sydney court houses hear many cases for malicious damage. It is the most commonly reported criminal offence in NSW. In 2011, almost 87,000 incidents were reported.

If you are facing charges of malicious damage in a Sydney court house and are planning on pleading guilty, you might want to consider a few steps you could take to minimise your sentence.

Writing an apology note to the court may have favourable results on the outcome of your case and the judge will consider this when deciding your ultimate sentence. Let the court know you take full responsibility for your own actions and have learnt your lesson.

The same goes for bringing along some character references – people who know you well and can vouch for your good behaviour. It is important that the people who write your character references know beforehand that you have been charged with and intend on pleading guilty to malicious damage.

Finally, plead guilty early – the earlier you plead guilty the more time and money this saves the court system, making it more efficient. As a result, you may even receive a reduced sentence or perhaps even a section 10 dismissal or conditional release order, which means that you won't end up with a criminal conviction.

If you plan on pleading not guilty, it may be best to talk to a lawyer. An experienced criminal lawyer will be able to point out your options, and the best ways of challenging the prosecution case.

What Penalties Can A Local Court Impose If I Am Caught Driving With A Suspended Or Disqualified Licence?

The penalties for driving without a valid licence were changed on 28 October 2017.

Those penalties can be summarised as follows:

Offence	**Penalty where it's your first major traffic offence in the past 5 years**	**Penalty where it's your second or more major traffic offence in the past 5 years**
Driving whilst suspended, disqualified, cancelled or refused	– 6 months disqualification which may be reduced by the court to 3 months, – Maximum fine of $3,300, and – Maximum prison sentence of 6 months	– 12 months disqualification which may be reduced by the court to 6 months, – Maximum fine of $5,500, and – Maximum prison sentence of 12 months

Driving whilst suspended due to a fine default	– 3 months disqualification which can be reduced by a court to 1 month, and – Maximum fine of $3,300	– 12 months disqualification which can be reduced by a court to 3 months, – Maximum fine of $5,500, and – Maximum prison sentence of 6 months
Driving whilst unlicensed (never licensed)	– Maximum fine of $2,200	– 12 months disqualification which can be reduced by a court to 3 months, – Maximum fine of $3,300, and – Maximum prison sentence of 6 months.

What is the difference between disqualification and suspension?

Disqualification is when a court removes driving privileges for a set time period. A local court may disqualify your licence if you are convicted of certain driving offences .

A suspension, on the other hand, can be imposed by police or the RMS. Police have the authority to suspend and confiscate your licence if you:

- Committed a serious driving offence causing death or grievous bodily harm

- Were speeding more than 45km/h over the speed limit or more than 30km/h on a provisional or learner licence
- Had a middle or high range prescribed concentration of alcohol or committed another serious alcohol offence
- A street racing offence or aggravated burnout offence
- Are a learner and were driving unaccompanied by a supervising driver

Any of these offences give the police authority to suspend your licence either on the spot or within 48 hours of being charged.

Offences like speeding, which may be picked up with speed camera, can also include a licence suspension along with a fine. And the accumulation of demerit points may also disqualify you from driving.

What can a lawyer do for me?

If you have been issued with a court attendance notice for a driving offence, a good lawyer will be able to help you prepare relevant materials and persuasively present your case in court.

If you wish to plead guilty, they may be able to convince the magistrate to give you a reduced penalty – or even to not record a conviction against your name. If no conviction is recorded, you will not receive a licence disqualification, a fine or any other penalty.

If you have filed a licence appeal, a good lawyer may be able to convince the court to revoke your suspension or reduce the period you are off the road.

Are The New Lockout Rules Actually Working?

It has been several months since the new lockout rules came into place for the Sydney CBD and Kings Cross Precinct and many people are looking to evaluate their success.

Recently released statistics available on the Bureau of Crime Statistics and Research website show that assaults were already dropping up until March, 2014, and the Australian Hotels Association even went so far as to say the lockout reforms were unnecessary, as assaults inside licensed premises were already falling by over 30 percent by March of this year.

The lockout rules were off to a positive start. The very first night of the lockout, of the 97 venues that were inspected the first weekend of the new lockout laws, only one was found to be non-compliant.

But what started off well did not continue to meet with success. Several factors have indicated that the new lockout rules are not as effective as hoped.

Statistics from the Bureau of Crime Statistics and Research found that in March there were six assaults in Kings Cross. But just one month after the laws came into effect there had been 45 assaults outside licensed premises in the Cross.

The Daily Telegraph also reports that the lockout may be responsible for a spike in the number of pedestrians hit by cars.

This is due mainly to patrons making a dash to their next venue, rushing to try and make it before the 1:30am lockout began, or heavily intoxicated party-goers heading home en masse and not being cautious.

The number of casualties was higher in the month following the lockout than it was over the busy Christmas and New Year period.

Critics of the lockout laws point, not without cause, to the fact that the legislation is not well-matched to the problem: attacks which sparked the reforms happened well before the 1:30am lockout time and 3:00am last drinks that have been implemented. One victim of a random assault, Thomas Kelly was attacked at 9:30pm.

And after Daniel Christie was king-hit on New Years Eve, the then-Premier Barry O'Farrell had received over 126,000 signatures to a petition urging reform to curb alcohol fuelled violence by 10 January.

O'Farrell did implement harsher measures to cut down on drunken violence. But the reforms were criticised as pushed through too quickly, and as a response to popular outcry without proper drafting.

Bars and licenced venues that complied with laws to avoid $11,000 fines or even 12 months prison time. But the streets are a whole different ball game.

Patrons, angry that their business has been hit by the new laws argue that their premises, with trained security guards are much more likely to be able to control a situation that gets out of hand, making them safer places than dimly lit streets.

One such owner, mogul John Ibrahim is even willing to put his money where is mouth is – it has been reported that he would be willing for venue owners like himself to foot the bill for police calls instead of the taxpayer.

With these changes have also come police powers – revellers out to enjoy the nightlife could be slapped with a fine of $1,100 if they are drunk and disorderly. This fine is more

than five times the previous amount.

And those who assault the police officer who fines them will be sentenced to a minimum of two years in jail.

Police are pleased and hope that rowdy partygoers will learn from their stupidity if they wake up with a massive fine.

Don Weatherburn from the Bureau of Crime Statistics and Research says it is still too early to tell if the lockout measures are a success or not.

If you have been caught out by the new laws it may be best to speak with a professional criminal lawyer, who has the experience to get you the best possible results for your trial.

What Is The Role Of Magistrates In Local Courts?

If you have ever been to a busy local court like the Downing Centre Local Court, you may have noticed the long court lists that local court magistrates have to get through each day.

Typically, all matters due to be heard on a particular day are scheduled for the same time, usually 9:30 or 10:00 in the morning. Everyone who is due to appear in a case, either as a party or a witness should turn up at this time, but it is impossible to know how long each case will take.

Inevitably, some of those who turn up in the morning have to wait until mid-afternoon to come before a magistrate.

And when they finally do, the matter is often dealt with

surprisingly quickly. Many who come before a local magistrate after being charged with an offence spend hours agonizing on the seats outside the courtroom. When their name is called and they finally come before a judge, their case, if it is a small matter and they plead guilty, may be dealt with in just five or ten minutes.

Magistrates have time pressures, and often have to work towards 'getting through the list' – not surprising, considering how many cases come before the courts.

In 2011, 280,307 criminal matters were commenced in the local court, and 99.36% of them were finalised there. With 132 magistrates on the bench throughout NSW, you don't need to be a maths genius to realise that magistrates hear an incredible amount of cases each year.

The roles that magistrates play today are vital: in the Local Court magistrates can hear civil cases which involve claims of monetary value that are under $100,000. Over 90% of all civil cases begin in the local court.

All criminal matters start in the Local Court, although the more serious ones will be referred to the District or Supreme Court.

Magistrates, by virtue of their position are also coroners which mean they have the jurisdiction to conduct an inquest if a person died a violent, sudden or suspicious death.

Magistrates sit without juries and must determine all questions of law and fact in the cases that come before them.

A large number of local court users in NSW are unrepresented so magistrates must make sure that these people are treated fairly in court.

Local courts in NSW have consistently had the lowest number of judicial officers of any magistrates court per head in

Australia. But an annual review report from NSW lawlink showed that NSW local courts actually have the lowest levels of criminal backlogs in Australia.

And local courts have not been immune from budget cuts either – the North Sydney Local Court was closed in December last year for renovations and is not expected to reopen. No new magistrate is sitting this year and it seems the courthouse will be used in the future as a shop front.

This is just one of nine courts across NSW which are going to be closed down, or have sitting days cut as money-saving measures are rolled out across the state.

Cases that would normally be heard in these courts will be moved to others, such as the Downing Centre, already Sydney's busiest criminal courthouse.

One concern is for women seeking out AVOs, who would now have to travel further to seek court help against abusive partners. In the past the North Sydney Local Court would get between five and fifteen AVOs per week.

These moves have left many scratching their heads, especially considering the negative impacts that court closures could have on the community.

Magistrates certainly don't spend days agonising over the facts of each case. In fact shorter matters may be in and out of the courtroom in a matter of minutes measured only in single digits – but they perform a vital function in our community.

Dangerous Dogs: Could Your Pet Send You In Front Of A Magistrate?

Your precious pooch may be nothing but perfect in your eyes but your neighbours, local council or police may not see it this way.

In NSW, a dog is classified as dangerous if it has, without provocation, attacked or killed a person or animal.

But as of last year, dogs who display unreasonable aggression towards a person or another animal – even if they have never actually attacked – can also be classed as dangerous or menacing.

What can I do if my dog has been declared dangerous or menacing?

Authorised officers (employees of the local council) or a local court can declare a dog to be dangerous or menacing. If your pet has been found to be dangerous under the laws of another State or Territory under corresponding legislation, then it can also be considered dangerous or menacing here.

An authorised officer or council should have notified you if they are planning on declaring your dog dangerous or menacing.

When notice is given of the intention of the authorised officer's intention to declare the dog dangerous, you must ensure that:

- when the dog is away from where it is ordinarily kept that it will be under the control of a competent person and held by a chain, leash, cord or similar
- when the dog is away from where it is ordinarily kept that it has a muzzle fixed securely over its mouth to

prevent it biting anyone or other animal

- when the dog is in the place it is ordinarily kept it must be restrained so as to prevent it from attacking or chasing a person lawfully on the property
- register the dog – which includes microchipping – (if it is not already registered) within seven days of receiving the notice

These restrictions stay in place for 28 days after notice was given or until the authorised officer tells you whether or not your dog has been declared dangerous.

Note that a dog will not be deemed as under effective control if a person has more than 2 dogs (and at least one of them is potentially dangerous) in their control at the same time.

If you fail to comply with these requirements you could get a $5,500 fine. In addition, you could risk your dog being seized if the authorised officer is not satisfied that you are meeting these requirements.

What if I want to contest the order?

If you do wish to object to a dangerous dog order, you must do so in writing, to the authorised officer within seven days of receiving the notice, which states the council is considering declaring your dog dangerous.

Those who make vexatious and frivolous claims against dogs can be penalised.

If you don’t complain within the seven-day time frame, the authorised officer has the right to go ahead and declare your dog dangerous.

But if you do make a complaint, the authorised officer is obliged by law to consider your application.

After your application has been considered, the authorised officer will notify you of their decision. If they find your

dog dangerous, you can appeal that decision, but will need to comply with the requirements in the meantime.

If it is found that your dog has been declared a dangerous dog, you must make sure that you comply with the following requirements:

- The dog must be desexed
- The person in charge of the dog must be at least 18 years old
- When it is on the property where it is usually kept the dog must be in a suitable enclosure
- Children must be prevented from having access to the dog
- It must wear a collar at all times
- When outside the enclosure the dog must be under the control of a competent person and on a chain, cord or leash and be muzzled

If the dog attacks anyone, is lost, kept in a different place or dies, you must notify the council.

A declaration can be revoked, if you apply after 12 months, and if it is appropriate, and if it is necessary, for example if your dog has undergone appropriate behavioural training.

If the revocation is not granted, you can appeal in local court within 28 days of receiving notice from the authorised officer or council. But during this time frame you must still comply with the requirements.

Courts have the power to order your dog to be ‘destroyed’ – or they may authorise measures that will lead to the dog being less of a threat such as de-sexing, behavioural training or other types of training associated with responsibly pet ownership.

If may be ordered to be destroyed if you dog attacks or bites an animal without provocation or if you don’t comply with the requirements of keeping a dangerous or menacing dog.

However a destruction order can only be given if the court is satisfied that permanently removing the dog from its owner would not be enough to protect the public.

Non-compliance with the destruction order could cost you $11,000.

For many of us, our pets are part of the family. If you are in a situation where you are worried about the fate of your pet in relation to a dangerous or menacing dog order, getting advice from a law firm experienced in dangerous dog cases is essential.

Having qualified professionals fighting on your behalf ensures that you will get the best possible outcome for you and your dog.

Downing Centre Local Court List Boasts Unusual and High Profile Visitors

Downing Centre Local Court may just be a humble local courthouse but its magistrates have presided over many cases involving big names, or unlikely characters.

While most of those whose names grace the criminal part of the local court list are there for minor misdemeanours and less serious charges, many an interesting case has been decided, or at least commenced, within its walls.

It was the courthouse where former judge Marcus Einfeld first argued that his speeding ticket was acquired by a friend – and almost got away with it.

Had it not been for two vigilant journalists who followed the case and then researched who Teresa Brennan was to check the spelling of her name, it is very possible that this judge's lie would never have come to light.

After they found out she had died, the case hit the press. Soon everyone in Australia knew that instead of paying a $77 fine and losing three demerit points, Einfeld chose to tell the court first that his US-based (and dead) friend Theresa Brennan was actually driving his car. After he was confronted with the fact that she was dead, he claimed it was another US-based (and unfortunately, also deceased) Teresa Brennan who had been responsible.

His very public trial and two year stint in Silverwater Jail demonstrated once and for all, if nothing else, that if you are going to cover up your own misdemeanours, it is a good idea to check that the person (and especially not two) that you intend on blaming isn't actually dead first.

Although the bar association struck him off as not a 'fit and proper person' this former judge, once dubbed a 'national living treasure' can retire on the comfortable tax-payer funded pension to the tune of $184,000 – apparently no one setting up the scheme had thought that a judge would end up a common criminal.

Einfeld is, however, not the first judge to appear on the other side of the bench in the Downing Centre courthouse – back in the late 1990s, New South Wales District Court judge came before the court on child sex charges but the case was later dropped.

A more unlikely suspect appearing on the Downing centre's local court list last year, and on a decidedly more trivial charge, was Garry, a goat.

The case hit the papers, and the charge was as follows: eating flowers in central Sydney's Museum of Contemporary Art.

Garry came dressed in his finest for his day in court, sporting a colourful stripy hat and a black bow tie.

The magistrate showed clemency and dismissed the $440 fine, as she couldn't find the requisite intention of vandalising vegetation.

Gary's lawyer said that the police issued the wrong infringement notice, because it didn't relate to goats, but people, and there was no way it could be proved that his owner had put him up to it.

More recently to hit the news is the star of TV show Hey Dad! Robert Hughes who appeared before the Downing Centre court earlier this year and was convicted of nine counts of sexual and indecent assault that took place back in the 1980s.

After the 29-day trial ended, Hughes was found guilty. The 65 year-old actor has been sentenced to jail for 10 years and nine months full term with a 6 year non-parole period. The non-parole period is the time Hughes must spend in prison before being eligible to apply to get out on conditions (parole). Contrary to popular views, there is certainly no guarantee that parole will be granted after 6 years.

And nor is the court reserved just for dealing with the aftermath of crimes – it has seen some action one spectator likened to a 'football match.' One recent case to hit the local court list ended in an out and out brawl between police and a family, three of whom featured on the Downing Centre Local Court list that day, accused (and convicted) of brawling with police outside their Bankstown home.

The Downing Centre is definitely not a local court that could be called 'boring'!

Defending an AVO Against Police

If you have been served with an application for an Apprehended Violence Order (AVO) it can be stressful and you may not be sure what to do next.

AVOs can be made by police (called a 'police application'), or by the person who wants the protection of an AVO (called a 'private application').

AVOs are supposed to protect people who have a fear of assault, harassment, threats and interference. But sometimes they are misused for all kinds of inappropriate purposes like revenge, a strategy to strengthen other proceedings, extend or gain visas, gain advantages against former landlords or tenants or other vexatious or frivolous purposes.

According to the law, the court cannot impose an AVO for any reason except to the extent that it is necessary for the safety and protection of the protected person and any child affected by the conduct of the defendant.

This means that if you intend on defending an AVO, the police or applicant will have to prove that on the balance of probabilities that the applicant has reasonable grounds to fear that the other person will intimidate, stalk or commit a violent offence against them.

This fear must be reasonable in the circumstances and the conduct must be serious enough to warrant the issuing of an AVO.

You should consider whether the applicant can prove there is a

need for an AVO to be made.

Also keep in mind that a child of the protected person is usually automatically included as a protected person, so consider if this could affect your children.

Depending on how you are planning to respond (whether you agree with the application or not) will depend on your course of action.

If you intend on defending an AVO against police or a private applicant, you have the following options:

- Go to the mention (the first hearing of the case)
- Ask for an adjournment (in order to get more time to prepare your case)
- Ask for a change of venue (if the court where the mention is held is far away)
- Make a cross application (if you also have fears about the person who lodged the application)

The NSW LawAssist website contains detailed information on what to do in each of these situations.

When the court is making an order they will consider the safety and protection of any person seeking the order as well as any child who might be affected by the defendant in the application. The court will look at:

- If the order would prohibit or restrict access to the defendant's residence – the effects and consequences on the safety of the protected person and any children living at the residence;
- Any hardship that may be caused by making or not making the order especially to the protected person and any children;
- The accommodation needs of all parties but particularly the protected person and any children; or
- Anything else the court considers relevant

The court can refer an applicant to mediation in some circumstances but not when:

- There is a history of physical violence by the defendant to the applicant;
- The protected person has been subject to conduct of the defendant constituting a personal violence offence;
- The protected person has been subject to conduct by the defendant constituting stalking or intimidation with intent to cause fear or physical harm;
- The defendant has behaved in a way that constitutes harassment to the applicant's race, religion, homosexuality, transgender status, HIV/AIDS infection or disability; or
- There has been a previous attempt at mediation in relation to the same matter and it was unsuccessful.

If you have been served with a copy of an application of an AVO against you, and the police are the applicants, they may want to talk to you about what you want to do before the case is heard in court.

You should be very careful in what you say to the police officer (or Domestic Violence Liaison Officer) because anything that you tell them may become evidence in court and could be used against you. It is best to only tell them whether or not you agree to the AVO being made, without discussing other details about what happened, or your side of the story.

An AVO lasts for 12 months or as determined by the court, but it may be withdrawn or varied by the applicant. Remember that if you knowingly contravene an order, is an offence and carries the penalty of up to 2 years in jail and/or a large fine.

It is possible to represent yourself when defending an AVO against police or another applicant, but you may like to speak

with an experienced lawyer who can go through your options with you because of the serious consequences that an AVO can have.

Police on the Wrong Side of the Law in Downing Centre Local Court

In March this year, the tables were turned at the Downing Centre Local Court. This time, it was a former policeman who had to appear before a magistrate on charges of giving false evidence.

Former Northern Rivers senior police officer Shane Diehm was charged with giving false evidence during private hearings in 2011, along with several other officers.

After 10 adjournments, his case was heard on March 24. Footage was played in the courtroom, showing a motel party for the retirement of former Detective Superintendent John Alt. The police partied unaware that they were being filmed.

The Police Integrity Commission, which had its suspicions, had already arranged for the Queensland Crime and Misconduct Commission to put video surveillance video cameras in two Gold Coast hotel rooms before the party took place. There were suspicions that drugs were being obtained for the party.

This footage was central to the undercover investigation of drug use amongst Northern NSW police.

One of these rooms had been paid for by Diehm, a former Tweed/Byron inspector and other guests were police and former

police, according to phone taps.

While his defence team admit he was at the party, they deny he was the one heard saying, in an alleged discussion about drugs "it takes three f***king months to get out of your system."

In the initial hearing, Diehm arrived at the Court supported by his family. During the hearing, he was seen taking notes and shaking his head repeatedly as excerpts of the video from the night in question were played.

Another Tweed police officer was cleared of offences relating to the night in question. He was found not guilty of five counts of giving false or misleading information.

Diehm had a separate hearing and is expected to return in June.

For Diehm who was once one of the most senior police officers on the Northern Rivers, this was not the first run-in he has had with the law: he was discharged from the police force in 2012 following an alleged positive result to cocaine at a party in Sydney and was investigated during a targeted investigation of drug use in police ranks.

To read more about Diehm's March trial, click here.

He is not the only police to be hitting the news for misbehaviour related to Downing Centre.

In April, level four of the Downing Centre actually saw a commotion described by one witness as 'a football match,' as dozens of police were involved in a public brawl with a family who were themselves on trial for brawling with police.

After three of the Mehanna family members were convicted of affray, resisting arrest and assaulting police during a fight outside their Bankstown home, the case was adjourned for sentencing.

The fight broke out as the family left the courtroom. One police officer was smacked in the face as one of the family members kept screaming, “this is police brutality!”

The riot squad was called and one member of the Mehanna family was taken into custody.

Police misbehaviour is not just confined to the Downing Centre.

Earlier this year the Daily Telegraph reported the surprising statistic that one in every 40 serving police officers in the state has committed an offence (which equates to about 2.5%, or 437 officers in total).

This is up 230% over the past 5 years, although one police expert said that this is probably due to Police Commissioner Andrew Scipione cracking down on police misbehaviour and a focus on the police force prosecuting their own, rather than an actual increase of bad behaviour.

And while some NSW police chiefs may let their officers quietly resign when they were facing the courts, Scipione leaves any officers under him charged with an offence to face the criminal justice system.