

# Backpacker Sues NSW Police Over Bashing

A backpacker who was prosecuted for a minor offence after allegedly being bashed by a NSW police officer is now suing the Force, accusing it of an institutional cover-up over the failure to investigate or discipline an off-duty officer involved.

The trouble for Liam Monte started one Friday night in April 2013. He and some mates were eating at McDonalds on George Street in the Sydney CBD, larking around. It is understood the men were throwing French Fries, and that one of the fries landed on the shoulder of Dennis Schafer, who was there with an off-duty police officer named Osvaldo Painemilla, both of whom were intoxicated.

A dispute ensued and the two groups of men left the restaurant. Outside, Officer Painemilla produced his badge, saying he was a police officer and that Monte was under arrest.

Officer Painemilla later [admitted in court](#) to consuming about 16 alcoholic drinks that evening. Also in court, the officer claimed he was trying to calm the situation down, which was completely at odds with Monte and his friends' version of the events, as well as those of independent witnesses, who stated that the officer was highly aggressive, and was yelling threats.

The officer then pulled out his badge, after which Monte said it was fake, before grabbing it, running up the street and getting into a taxi.

Painemilla and his friends caught up with Monte, dragged him out of the taxi, through him to the ground and repeatedly punched and kicked him while he was on the ground.

According to a statement from a bus driver who witnessed the assault, Monte was “punched approximately 10 times to the face as he lay on the ground”.

Monte was taken to hospital by ambulance, suffering severe facial bruising and a suspected fractured eye socket.

### **Monte charged and prosecuted**

Shortly after Monte was discharged from hospital, detectives from The Rocks police station in central Sydney arrived at his backpackers’ hostel, where they arrested and charged him with assaulting Officer Painemilla.

The case proceeded to a defended hearing in 2014, during which the Presiding Magistrate, Michael Barnes, described the prosecution as an abuse of process by police.

The Magistrate noted that police initially charged Monte with “assaulting an officer in execution of his duty”, but that charge was later withdrawn when independent witness statements made it abundantly clear that Monte did not assault anyone, but was the victim of a vicious and sustained assault by the drunk off-duty officer and his mates.

It was only then that police charged Monte with stealing the police badge.

The Magistrate noted that police had brought the prosecution in an attempt to “somehow negate the suggestion that the force applied to Monte was otherwise completely unjustifiable”.

His Honour ultimately found that the facts supported the charge of stealing a badge, but did not convict Monte, instead giving him a [Section 10 bond](#) (now [conditional release order](#) without conviction) which means that he was found guilty but no criminal conviction was recorded against his name.

### **Proceedings against police**

Monte is now [suing the NSW Police Force](#) for damages resulting from assault and battery, misfeasance in public office, unlawful imprisonment and collateral abuse of process.

[His statement of claim](#) argues that the Force is vicariously liable for Officer Painemilla's actions, and that police investigating the incident failed in their duties to fairly investigate the matter and charge those who assaulted him.

NSW Police are yet to file a defence in the case, although last month, lawyers acting for the Force applied to the NSW District Court for security of costs – asking that Monte be ordered to pay \$60,000 upfront to cover police costs in the event that Monte loses the case. That application failed.

A date for the civil trial has not yet been set.

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## Getting Out of Jury Duty

Serving on a jury can be a rewarding experience, but more than that, it's also a chance for any Australian citizen over the age of 18 to directly take part in the legal process.

### **The role of the jury**

The [role of a jury is to hear evidence and then apply the law](#) as directed by the judge, to decide if a person is guilty or not guilty of a particular crime they've been accused of. The jury's decision is called a 'verdict'.

In New South Wales, juries do not participate in the sentencing process.

If you are summoned, you must to attend court at a certain time on a certain date. A summons is a legal document so

unless you have express permission not to partake, you need to attend court when you're required to do so, or you may face a hefty fine.

But even if you do attend court, you might not be chosen as part of a jury. And there are many reasons for this. Only a small portion of people who attend court for jury duty actually end up as part of a jury in a court room.

The most recent statistics released by the Office of the NSW Sheriff are from the year 2014-2015. They suggest that 278,000 citizens were selected throughout the state to be on the jury roll, but only 58,000 were actually required to attend court. Of those, 7050 actually served on a jury.

### **Reasons for asking to be excused**

In the same year, [the following excuses were knocked-back:](#)

- "I need to look after my cat,"
- "I'm allergic to air conditioning" and
- "I'm scared of buses and trains and have no one to drive me to court".

However, the legal system can be understanding if you have a pressing reason, such as you own your own business and are indispensable to its day-to-day operations, or if you work in the system itself (lawyers, judges, police and politicians are not permitted to serve on juries).

If you attend court and realise you know the judge, one of the lawyers, the defendant, complainant or one of the witnesses, this is normally a valid reason for being excused.

People who are ineligible for jury duty include anyone who:

- has served time in prison in the previous 10 years,
- has been detained in a detention centre or other juvenile facility (excluding for a failure to pay a fine), or

- is currently bound by a court order that relates to a criminal charge or conviction; such as bail, a good behaviour bond, parole order, community service order, apprehended violence order or disqualification from driving.

If you fall into one of those categories, you can write to the Sheriffs department asking to be excused from jury duty even before attending court.

Otherwise, you can inform the Sheriff at court about your reasons for requesting to be excused – which may be decided in court by the judge.

### **‘Exemption’ versus ‘excused’**

Some people can apply for exemptions from jury duty. If you work in emergency services or are a full-time carer, a member of the clergy or live a very long way from any courthouse, you may apply for an exemption, which, if granted, means you will not be chosen for jury duty for a specified period of time.

However, if you are chosen you will need to apply [to be ‘excused’](#). This is different altogether, but illness, disability and work commitments, as well as pre-booked and paid for holidays may be valid reasons for being excused, so long as you can provide suitable evidence. Again, you may write to the Sheriffs department advising them of your reasons before attending court, or wait until you get to court to apply.

A change of address may also be a valid reason, especially if you are no longer in the state where you are required for jury duty. However, if you don’t keep your address details up to date and therefore don’t receive the summons, you may nevertheless be fined.

### **Jurors get paid**

It's worth noting that jurors [get paid for their services](#), and there are travel allowances in some circumstances, and meals provided too.

The average trial in New South Wales is about 7 days long. If you're summoned, then remember how important it is to partake in this civic duty, especially for the ongoing benefit of the system itself.

Besides, it could be one of the most interesting experiences you'll ever have.

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## **To Walk, or Not to Walk – When is Jaywalking an Offence in NSW?**

In recent years, police have carried out several operations targeting jaywalking, including the ongoing '[Operation Franklin](#)' in the Sydney CBD, which have resulted in [over 10,000 infringement notices](#) being issued to alleged jaywalkers and netted hundreds of thousands of dollars.

For those going to [Downing Centre Court](#), police can often be seen on bicycles near the court complex waiting to nab unsuspecting pedestrians.

But what does the law say about crossing the road in NSW? And how can you avoid being fined?

Here's a summary of the main rules:

**Crossing a road at pedestrian lights**

[Regulation 231](#) of the NSW Road Rules 2014 says you can only start crossing at pedestrian lights (eg the red or green man) if the light is green.

If the light turns red, or flashing red, while you are already on the road, you must “not stay on the road for longer than necessary”.

The fine for disobeying this rule is [currently \\$72](#), or a maximum of \$2,200 if you choose to fight the case in court and lose.

### **Crossing a road at traffic lights**

[Regulation 232](#) says you can only start crossing the road at traffic lights – where there are no pedestrian lights – if the traffic lights are green or flashing yellow, or there is no red light showing.

If the traffic lights turn red or yellow while you are already on the road, you must not stay on the road for longer than necessary.

Crossing the road when the traffic light is red or yellow comes with a fine of \$72, or up to \$2,200 if you challenge the case in court and are unsuccessful.

### **Crossing the road on or near a crossing**

[Regulation 234](#) makes it an offence to cross a road within 20 metres of a crossing (eg 20 metres of where there are traffic or pedestrian lights) unless you are:

- (a) crossing, or helping another pedestrian to cross, an area of the road between tram tracks and the far left side of the road to get on, or after getting off, a tram or public bus, or
- (b) crossing to or from a safety zone, or
- (c) crossing at an intersection with traffic lights and a

pedestrians may cross diagonally sign, or

(d) crossing in a shared zone, or

(e) crossing a road, or a part of a road, from which vehicles are excluded, either permanently or temporarily.

If you are more than 20 metres from a crossing, you must not stay on the road longer than necessary.

Again, the offence comes with a fine of \$72, or up to \$2,200 if contested in court.

### **Causing a hazard or obstruction**

[Regulation 236](#) makes it an offence to “cause a traffic hazard by moving into the path of a driver’ or “unreasonably obstruct[ing] the path or any driver or another pedestrian”.

The penalties are the same as the previous offences.

So, the bottom line is:

- You can only start crossing a road at a pedestrian light if the ‘man’ is green,
- You can only start crossing a road at traffic lights (where there are no pedestrian lights) if the lights are green or flashing yellow,
- You are allowed to cross a road if you are more than 20 metres away from lights,
- You must get to the other side of the road in a timely manner, and
- You must not cause a hazard or obstruction to drivers or other pedestrians.



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# Police Perjury Trial Continues in Downing Centre Court

The perjury trial over the shooting of Sydney man [Adam Salter](#) continued this week, with the barrister for police officer Sergeant Sheree Bissett telling the court his client did not lie to the Police Integrity Commission.

Adam Salter was living in Lakemba, NSW in 2009 when police were called to the home by his father, who reported that his 36-year-old mentally ill son was stabbing himself.

Present at the scene were four police officers who, it is alleged, later collaborated in [fabricating a lie](#) that would exonerate the shooter, Sergeant Bissett, for her deadly act.

The court heard that when Adam walked towards the sink which had a knife, Bissett drew her gun and fired at his back, causing his death.

The court previously heard that the [four officers](#) – Sergeant Bissett, Constable Aaron Abela, Sergeant Emily Metcalfe and Senior Constable Leah Wilson – deliberately gave false evidence to the Police Integrity Commission (PIC) over the events at the Salter home.

## Police Coverup

The officers were seen smoking and talking outside the Salters' home [after the shooting](#), when they allegedly concocted their story.

During the PIC inquiry, the officers gave statements

which were significantly different to the consistent accounts given by the ambulance officers and Mr Salter's father.

Sergeant Bissett claimed Constable Abela was "struggling" with Adam who had lunged towards him.

Constable Abela's version was different – that there was some contact with Adam, but it was "just an instantaneous reaction where my arm just came out to stop him". He then proceeded to state that he grabbed the Adam's left arm in two places – just above the elbow with his right hand and just below the elbow with his left.

Officer Wilson's testimony was different again – that officer Abela placed his right hand on Adam's shoulder before Bissett fired the fatal shot.

Officer Metcalfe's evidence was different once again – that Abela was holding Adam around his upper torso when the shot was fired.

Due to these and other inconsistencies, the officers were charged with lying to the PIC.

### **Police Mishandle Mental Illness**

This is not the first time Sydney police have been accused of mishandling a situation involving the imminent danger of a mentally ill person.

Other [New South Wales police shootings](#) include the killing of Elijah Holcombe, who was shot dead in Armidale the same year.

[Mr Holcombe](#) was only 24 and a student at university when he was tracked down by plainclothes police officers who attempted to apprehend him because of reports that he was suffering a mental health breakdown. He fled to an alleyway where he was killed by the officers, who later claimed they were acting in self-defence.

Nor is this the first time police have been charged with perjury for [lying about their behaviour](#) on the job, or other forms of misconduct. In fact, 50 NSW police officers are currently [facing serious criminal charges](#) including sexual assault, child rape and domestic assault.

The trial over the shooting of Adam Salter continues.

### **Mental Health Clinicians Now On Call in WA**

Last year, the Western Australian police force announced a plan to “decriminalise” mental health by diverting those suffering from mental health conditions away from the criminal justice system.

Traditionally, police have been expected to deal with the complex issues surrounding mental health while carrying out their duty to protect the public and enforce the law. Police can face difficult situations with minimal training on how to deal with mentally ill people, and have been quick to resort to heavy-handed tactics – even deadly force.

With the number of call outs related to mental health doubling between 2007 to 2014, it is now more important than ever that the police receive the proper training and assistance required to de-escalate potentially dangerous situations.

The WA initiative has seen \$6.5 million diverted from existing budgets to provide mental health clinicians to work alongside police on the beat and on call-outs.

Police Commissioner Karl O’Callaghan said the program would allow for people to be clinically assessed and properly dealt with at the scene, hopefully keeping them away from the back of police vans.

Last year the Victorian Government pledged to establish a similar program, targeted at providing [urgent mental health support](#) in the community while reducing pressure on the police

force. The program aims to provide emergency care to those in a critical state due to mental illness.

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# “Major Inconsistencies” in Police Accounts of Fatal Shooting

On 18th November 2009, 36-year-old mentally ill man Adam Salter was [shot in the back by NSW Police Sergeant Sheree Bissett](#) at his Lakemba home, dying as a result.

Four police officers had responded a short time earlier to a triple-zero call by Adam’s father, Adrian Salter, who reported that his son had been threatening to stab himself with a knife.

The four officers – Sergeant Bissett, Sergeant Emily Metcalfe, Senior Constable Leah Wilson, and Constable Aaron Abela – are currently on trial before a Judge-alone in [Downing Centre District Court](#) for allegedly giving false evidence to the 2012 Police Integrity Commission (PIC) inquiry into Adam’s death.

The District Court has heard evidence from Adrian Salter that at the time of the incident, his son was being treated by ambulance officer on the floor of the kitchen when he got to his feet and moved towards the sink where there was a knife.

“When Adam got to his feet, nobody stopped him. I didn’t understand why there was a room full of trained people and nobody stopped him,” Mr Salter said.

The concerned father rushed into the kitchen in order to stop

his son from grabbing the knife.

“I did try to put my arms around him but he fended me off. I couldn’t grab hold of him.”

The father became tangled in cords and fell to the kitchen floor, before police shot his son in the back.

“I heard ‘taser, taser’ – I heard the words twice – and then I heard the bang”, he testified.

That evidence was consistent with his initial statement to police and the statements of the treating paramedics – but police gave different versions of the events.

Immediately after the shooting, officers Bissett and Metcalfe were seen talking to one another and smoking on the footpath opposite the Salters’ home, while officers Abela and Wilson were also talking to each other on the front porch.

### **Police Integrity Commission**

During the PIC inquiry, the officers gave versions of events that were significantly different to the consistent accounts given by the ambulance officers and Mr Salter’s father.

Sergeant Bissett claimed Constable Abela was “struggling” with Adam who had lunged towards him.

Constable Abela’s version was different – that there was some contact with Adam, but it was “just an instantaneous reaction where my arm just came out to stop him”. He then proceeded to state that he grabbed the Adam’s left arm in two places – just above the elbow with his right hand and just below the elbow with his left.

Officer Wilson’s testimony was different again – that officer Abela placed his right hand on Adam’s shoulder before Bissett fired the fatal shot.

Officer Metcalfe's evidence was different once again – that Abela was holding Adam around his upper torso when the shot was fired.

Due to these and other inconsistencies, the officers were charged with lying to the PIC.

### **Police Cover-Up**

The PIC was highly critical of the police investigation which followed, finding that the evidence of the ambulance officers was excluded or ignored in an attempt to prevent embarrassment to the police force and conceal Sergeant Bissett's conduct.

The PIC recommended that veteran Homicide Detective Inspector Russell Oxford face disciplinary action over the way he handled the investigation, and that Inspector Matthew Hanlon and Detective Inspector Stephen Tedder also face action for their involvement in preparing misleading reports and documentation.

The Coroner described the police response as [an 'utter failure'](#), finding that "Police killed the person they were supposed to be helping,"

### **At Trial**

In Court, Crown Prosecutor Nannette Williams highlighted the fact that the officers' versions were both inconsistent with one another, and with the evidence of the other eye-witnesses at the scene.

She pointed out that the accused are all experienced police officers, that "[i]t is their job, their profession, to get evidence right," that they were all in close proximity to the incident and yet "in this important matter their accounts do not align."

She said it was obvious the officers "got their heads together" immediately after the incident and agreed to lie by

saying the fatal shot was fired because Adam was a threat to officer Abela – although they did not get a chance to sort out the finer details of their lie.

She described Metcalfe's "deliberately vague" testimony as an attempt to avoid locking herself "into a version which may quickly be exposed as a lie".

"For a trained and experienced police officer, those words don't ring true," she told the Court.

Ms Williams also highlighted the "consistency of omi[tting]" any reference to Adam's father's presence inside the kitchen.

"Not one police officer put Mr Adrian Salter in the room because to do so would expose the lie within their evidence to the Police Integrity Commission that it was Constable Abela who had attempted to restrain Adam," she said.

She stressed the fact that the father's account was consistent with the ambulance officers who were present and witnessed the incident.

"The combination of that evidence clearly gives the lie to the police accounts," she submitted.

### **Who You Gonna Call?**

The accused are each represented by experienced criminal defence barristers, including [Raymond Hood](#) who attempted to counter the prosecution case by saying the incident was very quick, and that the officers cannot be expected to observe every detail.

The barristers [cross-examined Adrian Salter at length](#), attempting to elicit inconsistencies in his evidence – but the best they could get was that Mr Salter was unsure of how many times the word "taser" was used or whether his son had been shot or tasered.

The trial continues before Justice Greg Woods

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# Police Ordered to Pay Protester's Legal Costs

It's taken a year, but a Magistrate in [Downing Centre Local Court](#) has found in favour of protester Simone White, who was manhandled, arrested and falsely charged by Sydney police officers.

The Magistrate also ordered police to pay Ms White's legal costs, due to the improper nature of her arrest, the investigation and subsequent prosecution.

The Court heard that officers grabbed Ms White's breasts and neck, then covered up their actions by deleting evidence, making up a false charge against her, lying under oath and attacking her in court.

## The Incident

Simone White was one of hundreds of [protesters](#) rallying at an anti-Reclaim Australia protest in Martin Place last July. She said an officer groped her breasts in a jostle with the crowd and another grabbed her neck as they walked behind her, resulting in bruising.

Ms White turned to take a photo of the officer who had grasped her breasts, and as she was doing so, she was manhandled and arrested by that officer, Senior Constable John Wasko.

White was taken to a mobile police station where a female officer confiscated her phone, saying it was necessary to identify her, despite the fact she had already produced a bank



card as identification.

When her phone was eventually returned, the photos of the officer who groped her breasts had been deleted.

The arresting officer, Senior Constable Wasko, claimed Ms White assaulted him in the execution of his duty. He alleged that, as a line of police were shepherding protesters through Martin Place, Ms White turned back at him with her elbow up.

The police case against Ms White relied entirely on Senior Constable Wasko's claim, and was not supported by footage from CCTV cameras in Martin Place or the many police officers who were filming the rally.

### **CCTV tells a different story**

White's legal team subpoenaed footage from the police, which showed her being pushed and shoved by Senior Constable Wasko as the protesters walked through Martin Place, but did not show her assaulting or attempting to assault him at all.

Ms White can also be seen holding a water bottle in one hand, which the Magistrate found made the allegation of raising her elbow at Senior Constable Wasko "inconsistent".

The footage also showed Ms White taking a photo of the officer on her phone, suggesting evidence was indeed deleted by police.

The Magistrate found that the "evidence strongly indicates" Ms White was indecently assaulted as she alleged. Medical records also showed bruising on Ms White's breasts.

Despite the evidence, the police prosecutor repeatedly accused Ms White of lying.

Her [barrister, Phillip Boulten, SC, told the court](#) on Tuesday that police had "escaped any form of investigation for perverting the course of justice".

*"The only reason why [the photo] would be deleted would be to make it more difficult for the complainant to say something in court," he said.*

In handing down his judgement, Magistrate Geoffrey Bradd [let police know of his dissatisfaction](#), finding they had investigated the case in "an unreasonable and improper manner," and awarding Ms White \$13,400 in legal costs.

Outside court, Ms White said she was relieved her legal battle was over.

Her solicitor, Lydia Shelly, said: *"This decision sends a very clear message to the police. It is not a criminal offence to protest nor is it an offence to film police if you are not hindering their duties. The NSW public expect more from NSW Police."*

The NSW Police Force says it will review the circumstances surrounding the incident. The officers involved are yet to be reprimanded, and if the Force's track record is anything to go by, it is unlikely they will be.

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## **Man Plans to Sue NSW Police After Kings Cross Brawl**

One of the men allegedly involved in a recent Kings Cross brawl during which six people were arrested says he will fight the charges against him and take [legal action against](#) NSW Police, whose tactics left him on crutches and unable to work.

Nari Rossi-Murray was one of those arrested, although he is not the only one who believes police acted with 'overwhelming

force’.

Police were patrolling the area, which, until the government’s ‘lock out laws’ came into effect, was notorious for drunken behaviour, when a fight broke out.

Officers initially used capsicum spray to subdue the altercation, but bystanders who captured the incident on their mobile phones say police then began assaulting those involved.

[Witnesses captured](#) Mr Murray being kned to the head at least three times just after saying “I haven’t done nothing”.

Murray says he will be using mobile phone video, photos and CCTV footage as evidence to defend charges brought against him, and to support his case against police.

He says while he understands and respects that police have a job to do, their actions were ‘extreme’ in this instance.

## **Police Brutality**

The incident has bought the issue of [police brutality](#) into the spotlight once again, particularly the question of reasonable force when it comes to making an arrest.

There are laws and guidelines police must follow when making an arrest; for example, [section 231](#) of the Law Enforcement (Powers and Responsibilities) Act 2002 says:

“A police officer or other person who exercises a power to arrest another person may use such force as is reasonably necessary to make the arrest or to prevent the escape of the person after arrest.”

The use of excessive force constitutes assault, whether exercised by police officers or anyone else. Heavy-handed tactics can also cause an incident to escalate, causing those being man-handled to use self-defensive actions in an attempt to repel the attack.

All six of those involved were arrested and taken to Kings Cross police station, where they were charged with various offences including resisting arrest, assaulting police, offensive language, offensive conduct and hindering police.

### **Action Against Police**

Anyone who believes they have been wrongfully arrested, mistreated or assaulted by police can lodge a [formal complaint](#) through the [Customer Assistance Office](#), providing as much information as possible.

However, police are notorious for clearing their own of misconduct during internal 'investigations'. Another option is to make a complaint to the [NSW Ombudsman](#), however, he receives in excess of 3,000 complaints against police every year and is powerless to discipline, let alone prosecute police officers.

This leaves the option of civil proceedings against police, which can be expensive and time-consuming; but those who have exhausted all other avenues may feel this is their only viable option.

Mr Murray and his alleged co-offenders are due to appear in [Downing Centre Court](#) on May 31.

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## **What Happened During the Downing Centre Machete Scare?**

Sydney's Downing Centre Court complex was [placed in lockdown late last month](#), after a man walked inside carrying a large black machete.

The man in his 20s, was seen walking over from nearby Hyde

Park, where it is believed he was involved in an altercation, before entering the court at around 10am and allegedly yelling at people to “get on the ground”.

A few minutes later, he was lying in the ground, surrounded by police officers. During the incident, a police officer drew her gun and pointed it at the man.

“That’s when I decided I was going down on to the floor,” a staff member told AAP.

During the incident, those in the building were told to stay on the ground, with some choosing to hide under their desks for added safety.

Moments later three police arrived, handcuffed the young man and marched him from the building, putting him in the back of a police wagon and driving off.

A police spokeswoman yesterday said Sheriff’s officers, who are responsible for court security, had called for backup when the man, 20, began yelling and ordering people to the ground.

The lockdown meant that all doors to the court were locked, but police did not start evacuating the building because the situation was quickly brought under control. The doors were reopened shortly after the arrest, and hearings had resumed as normal by 11am.

Police told the [Daily Telegraph](#) the man would undergo a mental health assessment before they considered laying charges.

### **Increased Security at the Downing Centre**

This is not the first time security has become an issue at the Downing Centre. The courthouse has been a target in the past, due to the heated nature of many cases.

Last year, the court was swarmed by members of the New South Wales riot squad and tactical officer units, following a tip-

off that that a [“disruption” was going to occur at a trial](#). The proceedings concerned an armed robbery that allegedly occurred outside Broadway Shopping Centre in 2013. According to the tip, the defendant’s associates were planning to perform a drive-by shooting outside the court.

Currently, everyone coming into the courthouse is required to walk through a metal detector, and have their bags x-rayed, before being allowed entry into the complex. Last year, the New South Wales Government [beefed-up security at the Downing Centre](#) by providing it with additional Sheriff’s Officers as part of their counterterrorism measures.

The Sheriffs are responsible for court security, scanning those entering the complex and confiscating prohibited items, requesting identification, and [arresting anyone who commits violent or contemptuous acts](#).

Sheriff’s Officers were given greater powers of arrest last year, after [Ali Hussein Chahine jumped the dock](#) at the Downing Centre in October and assaulted two corrective services officers before escaping barefoot on a bus.

New South Wales Attorney-General Gabrielle Upton said that change “will assist security officers to perform their role of protecting court personnel and court users more effectively.”

However, the Opposition has questioned the effectiveness of the new powers, as budget cuts have left courts across the state with a massive shortfall in the number of sheriffs.

As of December last year, the Government only employed 230 Sheriffs to cover its 154 local courts, which require two officers per court per sitting day. According to Shadow Attorney-General Paul Lynch, some regional courts are being left without Sheriffs on duty, leaving them vulnerable to attack.

**Things to Keep in Mind if Going to Court**

Security officers have the [power to confiscate](#) anything they believe is a restricted item or offensive implement. 'Offensive implement' covers a very broad category, including anything that could be used to cause damage or injury to a person.

Although it might seem a bit over-the-top, this means they can confiscate many things that you might not consider to be a threat. Examples include keychain pocket knives and scissors.

It is an offence to film or take photos inside a courthouse without permission. Security officers are permitted to [confiscate any recording device](#), including its film, along with anything else that's been used to unlawfully record. This is to protect the safety and identity of those involved in cases.

Sheriff's Officers may ask for your name and address, if this is unknown and if they believe on reasonable grounds that you are carrying a restricted item or have committed an offence. They are required to show their identification before exercising powers of confiscation. They're also required to provide the reasons for exercising power, and a warning that refusal to comply may be an offence.

Any confiscated items must either be returned to you when you leave the courthouse, unless they are deemed illegal and required as evidence.

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## **Another Police Brutality Case**

# Before Downing Centre Court

Police brutality is a serious issue around Australia, with cases of vicious and dangerous assaults by members of police forces being regularly captured on smartphones and reported in social and mainstream media.

Just last week, a senior police officer appeared before Sydney's Downing Centre Local Court charged with Assault Occasioning Actual Bodily harm – an offence which carries a maximum penalty of 5 years imprisonment, or 2 years in the Local Court.

Leading Senior Constable Shaun Moylan from Dee Why police station on Sydney's Northern Beaches, is alleged to have [brutally assaulted a man in police custody in April 2015](#).

32-year-old Mark Adamski was arrested on Anzac Day for an alleged domestic assault at Narrabeen. He was taken to Dee Why police station, where it is alleged he was assaulted by LSC Moylan in the charge room.

It is alleged the Constable became verbally abusive towards Mr Adamski, then violently pushed him backwards twice, causing him to hit his head on a concrete wall. During the second push, Moylan also grabbed Adamski around the throat.

Mr Adamski suffered injuries to his head and neck as a result of the assault. He repeatedly pleaded with police to call an ambulance, but no medical help was offered. Mr Adamski instead had to catch a bus to Manly Hospital following his release.

CCTV footage played in court captured the incident – and Mr Adamski's version of events was supported by other police officers who witnessed the attack.

One of the officers, Senior Constable Daniel Gill, testified that Moylan had 'cupped his hand' around Adamski's throat when



pushing him the second time. He described the force used by the officer as 'significant,' and conceded that Adamski had requested medical attention.

Another officer, Constable Brendon Kitchener, told the court that he was so concerned with the force used that he reported it to other colleagues.

Yet Constable Moylan maintains his innocence, with his lawyer suggesting to Mr Adamski in cross-examination that he 'downplayed [his] role significantly' and 'exaggerated [Moylan's] role' – statements which Mr Adamski has strenuously denied.

The hearing has been adjourned to a later date, where Mr Moylan's fate will ultimately be determined by Local Court Magistrate Susan McIntyre. In the meantime, he has been suspended from duty on full pay.

Mr Adamski, on the other hand, has been found not guilty of all charges brought against him.

### **Other Police Brutality Cases at Downing Centre Court**

The Downing Centre has heard several cases in recent times involving allegations of [police brutality and misconduct](#).

In 2014, Magistrate Michael Barko determined that police had used [excessive force in apprehending 18-year-old Jamie Jackson Reed](#) during the annual Mardi Gras parade.

Mr Reed made headlines after video went viral of a Sydney police officer slamming his head into the concrete pavement and stepping on his back.

But it was Mr Reed – rather than the officer behind the brutal attack – who was charged with assault.

In dismissing the charges against Mr Reed and awarding him \$40,000 in costs, Magistrate Barko noted that he had been

'brutalised' by police.

And, just days ago, another police officer, who cannot be named for legal reasons, [appeared before the Downing Centre court charged with numerous assaults and stalk/intimidate](#) for incidents involving his now ex-wife.

The officer is alleged to have repeatedly abused and threatened his former partner – a domestic violence liaison officer – over several years, telling her that she would not be believed if she reported her concerns to police.

That hearing has been adjourned until May.

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## **School Excursions to the Downing Centre: Which Courts Are the Most Exciting?**

Lawyers, defendants and their families are not the only ones who attend the Downing Centre – it is also a popular destination for school excursions.

Since courts are open for anyone to enter and watch, students are free to wander in and out of courtrooms – with the exception of the Children's Court and 'closed courts', which will have a sign on the door.

The Downing Centre is the busiest courthouse in NSW, so there's usually something interesting going on inside at least one of the courtrooms.

Visiting the Downing Centre is a great chance to see how our criminal justice system works – but some courtrooms aren't

generally as exciting as others.

Some interesting cases are reported in the media – and you will often see film crews set up outside the entrance of the Downing Centre, eager to film famous or notorious defendants as they enter and leave. If there is a particular case you want to see, noticeboards are on display which list the names of defendants in alphabetical order.

The main District Court noticeboard is on ground level directly ahead after you enter the courthouse, and the main Local Court noticeboard is on level 4, outside the lifts.

### **In the District Court**

If you want to see a trial with a jury, this is the place to go. You may get to see a jury deliver a verdict, witnesses being cross-examined or other fascinating parts of a trial.

Many serious cases are heard in the District court, and if a person is pleading 'not guilty' a jury will ordinarily determine their innocence or guilt. This court is generally more formal than the Local Court, so you will see Judges and Barristers in their wigs and robes. Unlike Local Court Magistrates who wear black robes and no wigs, Judges wear wigs and robes with red on them.

The District courtrooms are located on five levels, from lower ground to level 3. Courtroom 3.1 (on level 3) is probably best avoided, especially in the morning. It is often packed and many short procedural matters are heard there. The courtroom is frequently so busy in the morning that you may have a hard time squeezing in, let alone taking in what is happening!

Trials may be held in any of the courtrooms from lower ground to level 2; but be warned, jury trials are not like on TV – they often take weeks or even months to complete and you may only get a snippet of the proceedings, and may not have enough information to understand what is going on.

So perhaps the best bet is to look for a courtroom without a jury, as you may get to see a defendant's sentencing proceeding from start to finish. A sentencing is where a person pleads guilty or is found guilty and the Judge decides their penalty.

### **In the Local Court**

Less serious cases are generally heard and finalised in the Local Court. Unlike District Court trials, Local Court cases are finished within a day; in fact, many sentencing proceedings take just 10 or 15 minutes.

Courtroom 4.4 is a Registrar's court, which means it is presided over by an administrative officer rather than a Magistrate. It is where adjournments and other procedural matters occur, so you are more likely to see an interesting case in another courtroom.

Courtroom 4.5 gets plenty of action – it is where many short sentencing cases and mental health applications are heard, so you will be able to quickly get an idea of what the case is about, and can observe several defendants receiving penalties for their offences.

On Tuesdays and Thursdays, courtroom 5.2 hears relatively serious Local Court cases, which have been taken over from the police by the Office of the Director of Public Prosecutions (or 'DPP'). Although the courtroom is often busy with short procedural matters in the mornings, you may be able to see people being sentenced later in the day.

If you would like to see witnesses being asked questions on the witness stand, your best bet is to head into one of the many hearing courts; such as 4.1, 4.2, 4.7 and 4.8. The questioning of witnesses occurs during 'defended hearings', which is where a defendant pleads not guilty and the Magistrate must decide their guilt or innocence.

If you want to hear about cases involving domestic violence, courtroom 5.2 hears those types of cases on Wednesdays.

Commonwealth cases, such as Centrelink fraud and tax evasion, are heard in courtroom 5.5.

### **Court Opening Hours**

The [Downing Centre opening hours](#) are 8:30 to 4:30pm, Monday to Friday. However, Judges and Magistrates do not sit the whole time. Most court proceedings start at 9:30 or 10am. There is a break for morning tea between 11.40am and 12noon, and for lunch between 1pm and 2pm. The final sitting period for the day is 2pm to 4pm.

### **Tips on Court Etiquette**

Court is a formal place, and there are rules which everyone must follow when entering or leaving a courtroom. These include:

- Making sure your phone is switched off before entering the courtroom,
- Bowing your head when you enter or leave the courtroom if a Registrar, Magistrate or Judge is sitting,
- Standing when a Registrar, Magistrate or Judge enters or leaves,
- Not taking photos or using recording devices while inside a courthouse (in fact, this is a criminal offence). However, you are permitted to take notes or draw pictures,
- Not taking drinks or food inside the courtroom, and
- Not talking or making noise when inside the courtroom. If you must talk, keep it to a minimum and whisper.

Learning some of the legal jargon used inside the courtroom may help you to understand what the lawyers, Magistrates and Judges are talking about. [Click here](#) to learn the basics.

We hope you enjoy your visit to the Downing Centre!