

# FAQs about Downing Centre Court

The Downing Centre is NSW's busiest courthouse, a bustling metropolis of local and district courtrooms, news crews and reporters trying to get a story from prosecutors, and a wide range of criminal justice services.

Our firm is located just across the road from the Downing Centre, and we represent clients in the courthouse just about every day.

Here are the answers to some of the most frequently asked questions by those who are going to Downing Centre Court.

## **1. Will I Have to Talk in Court?**

Going to court can be extremely stressful, and the thought of having to answer questions by a magistrate or judge in front of a packed courtroom when your future is at stake can send shivers down many a spine.

If you have a lawyer, their job is to do the talking for you.

If you are pleading guilty and being sentenced in the local court, you will normally be asked to stand up at the start of the proceedings so the magistrate can identify you, then again at the end when he or she is imposing the penalty. The lawyer will do all the talking, submitting the factors in your favour and attempting to persuade the magistrate to impose the most lenient penalty possible. The magistrate may ask you a question or two at the end, but you will normally only need to say 'Yes, Your Honour' or 'No, Your Honour'.

If you are pleading not guilty and your case reaches a 'defended hearing' in the local court – which is when the witnesses attend court, are asked questions, and the

magistrate decides your guilt or innocence. The prosecution witnesses will go first, and you cannot be forced to take the witness stand and testify. However, it may be in your interests to do so – especially if the evidence given by the prosecution witnesses is strong.

The same applies in the district court; but some district court judges will look more favourably on those who take the stand and 'give evidence' (testify) during their sentencing proceedings. In either case, your lawyer will prepare you for court and inform you about the questions you are likely to be asked.

## **2. What Are My Chances?**

Clients will often want to know the result in their cases in advance; and why wouldn't they?

Although it is completely understandable to want to know the result, it is impossible to guarantee what any magistrate, judge or jury will decide in any particular case.

Experienced lawyers will advise on likely outcome, but should never give any guarantee.

In fact, if a lawyer says they can guarantee a particular result, our advice is to run as they are probably just after your money and will make excuses if there is an unfavourable outcome.

## **3. Will Other People be in the Courtroom?**

Many people assume they will be the only one in the courtroom apart from the magistrate, prosecutor and their lawyer (if they have one), but this is hardly ever the case.

People are usually walking in and out of courtrooms all the time. Magistrates often have dozens of cases to get through each day, and courtrooms are usually full of people. Indeed, anyone is allowed to come and watch court proceedings – unless

it is a 'closed court'; for example, if a child is testifying or the case is otherwise of a particularly sensitive nature.

That said, experienced lawyers will often employ techniques to ensure that as few people as possible will be in attendance when their client's case is heard; especially if the allegations may be especially damaging.

#### **4. Will My Case Be Publicised?**

This question is sometimes asked outside the [Downing Centre](#) – when clients see camera crews hovering around the entry.

The media is usually there to film and attempt to interview high profile defendants, or those whose 'newsworthy' cases have been leaked to the media by police or court prosecutors.

Unless your case falls into one of these categories, it is unlikely to make the media – and we are of the view that it is a breach of a lawyer's fiduciary duty to a client to ever leak such information to anyone; although not all lawyers share this view.

#### **5. I Want to Plead Guilty but Don't Agree with Everything in the Police Papers. What Should I do?**

A good criminal defence lawyer will often be able to have the police allegations amended so they accord more closely with the client's instructions.

Alternatively, you can enter a plea of guilty and the case can be set down for a 'disputed fact hearing' – where witnesses are asked questions and the facts of the case are determined by the magistrate.

#### **6. Will a Parking or Speeding Ticket Breach my Good Behaviour Bond?**

The answer to this question is generally no.

However, like many areas of criminal law there are exceptions. One of these is when a magistrate imposes a condition on your bond that you are not to have any 'moving traffic violations'. This is sometimes called a '[good behaviour licence](#)' and can be imposed in drink driving cases as a condition of a 'section 10 bond' (now [conditional release order](#) without conviction); which is a good behaviour bond without a criminal conviction, licence disqualification or fine.

Another exception is speeding by over 45km/h where police elect to take the matter to court rather than issue an infringement notice.

A parking fine will never breach a good behaviour bond.

## **7. Does a Fine Come with a Criminal Record?**

A court-imposed fine in a criminal case comes with a criminal record.

The only way to avoid a criminal record if you are guilty of a crime is to achieve a '[section 10 dismissal](#) or [conditional release order](#)' – which means no criminal conviction, no fine and – in traffic cases – no licence disqualification.

Unlike in Queensland, defendants in NSW criminal cases cannot get both a fine and a non conviction order – it must be one or the other.

If you are going to court and have questions about court procedure and the likely outcome, it is a good idea to contact a specialist criminal defence firm for a [free first conference](#) and get the information you're after, even if you ultimately intend to [represent yourself in court](#).

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# Jurors Behaving Badly in Downing Centre Court

Not many people are thrilled to be selected for jury duty – but some have their own ways of livening the opportunity; whether it is a seemingly harmless game of Sudoku, the occasional snooze or a flirtation.

Here are some of the ways jurors have been caught misbehaving in trials at [Downing Centre District Court in Sydney](#).

## Solving Sudoku

After sitting through a gruelling three months of trial – including the testimony of 105 witnesses – it came to the Downing Centre District Court judge's attention that [several jurors had been completing Sudoku while in the jury box](#).

It wasn't until one of the defendants in the commercial drug trial saw the jury forewoman doing what appeared to be a Sudoku that the jury's behaviour came under the radar. The conduct was also observed by the co-accused; and on that basis, the defence barristers made a successful application to discharge the jury, and the whole trial had to be started again – with a new jury.

The forewoman admitted in court that she and four other jurors had been solving the numbers puzzles, instead of concentrating on the evidence in the trial. She admitted spending more than half her court time on the puzzles each day. The jurors had been bringing Sudoku sheets with them to court and photocopying them using court facilities, then comparing results during breaks.

The judge was understandably less than impressed, telling the jurors they had let down everyone involved in the trial. But despite the disruption and wasted cost, the jurors had not committed any offence – as there is no law against playing games in the jury box!

## **Flirting with the Defendant**

Another trial was aborted last year when it was discovered that the jury forewoman had been flirting with the defendant.

The case was drawing to a close when the foreperson was observed flicking her hair, raising an eyebrow and nodding in a 'suggestive manner' towards the defendant.

Again, the Presiding judge was unimpressed, stating ['discharging a juror for flirtatious behaviour is fortunately not something that happens all that often.'](#)

## **Independent Investigations**

Back in 2004, jurors in the infamous sexual assault trial of Bilal and Mohammed Skaf decided to conduct their own investigations outside the courtroom.

A few of the jurors got together and scoped out the location and lighting conditions of the alleged crime scene – a move which was specifically against the judge's directions. As a result, [the verdict of 'guilty' was overthrown and a new trial was ordered.](#)

It is against the law for jurors to undertake their own investigations, whether visiting alleged crime scenes, talking to others outside the courtroom or undertaking online research. The [maximum penalty for this offence is 2 years imprisonment and or a fine of \\$5,500.](#)

## **A Little Snooze**

One man used his jury duty as an opportunity to catch up on

some extra Z's.

The assault trial of two bouncers was aborted on the second day, after the judge noticed that the man had been dozing off. Before discharging the jury, His Honour stated 'one of your number has not been paying attention... we are concerned the juror may not be able to give a proper verdict.'

A similar incident occurred in the NSW Supreme Court, where [a juror in a murder trial was discharged after he continued to fall asleep in the juror box](#). The frustrated judge told the man to pack up and go home after he turned up late to court, following days of sleeping on the job. A good way to get out of jury duty, but an enormous waste of court time and resources.

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## Some Drinks Get You Drunk Faster than Others

Drink driving is the most common offence that is heard in NSW courts, including the Downing Centre.

While most of us know it is a crime to drink and drive, trying to assess whether you are below the legal limit is fraught with problems – as there is no accurate formula to calculate how many drinks will push you over.

### Not All Drinks Are the Same

Popular Australian scientist, Dr Karl Kruselnecki, has publicised a fascinating finding about alcohol: [diet mixers can get you drunk faster than full-sugar ones](#).

He uses the example of two hypothetical identical twins who each have the same diet and exercise regime. On a particular night, the twins have three standard drinks over the course of a night. The only difference between the drinks is that one is mixed with a sugary soft drink, while the other has a zero-calorie sweetener.

Kruselneckib says that if both twins are tested, the one who had the full-sugar drink would have blown 0.034, which is well under the legal limit of 0.05, while the other would have come in at 0.053 – resulting in a low range drink driving charge.

## **Research**

The Royal Adelaide Hospital tested a group of volunteers, all of whom drank 30 grams of alcohol (the equivalent to about three standard drinks); but half mixed the alcohol with a zero-calorie mixer, while the other half had full-sugar mixers.

Those who had the full-sugar mixer took longer to process the alcohol, thus delaying its entry into the bloodstream. The sugar (or any calories) essentially meant that the alcohol stayed in the stomach for longer, where some of the extra alcohol was broken down by stomach acid before passing through the small intestine and the bloodstream.

## **Honest and Reasonable Mistake**

In 'strict liability' offences like drink driving, a person will be not guilty if they can establish that they were honestly and reasonably mistaken about being over the limit.

Based on the above scenario, it is easy to see how a person caught driving just over the legal limit could have done so honestly believing they were legally capable of driving.

The harder part is proving that the mistake was "reasonable." With the large-scale public awareness campaigns surrounding



drink driving for decades, it can be much harder to prove that a person's mistake was reasonable.

## Drink Driving Generally

[Drink driving offences in NSW](#) may not be the most serious criminal offence, but it can carry serious penalties. Even those who drive with a low-range concentration of alcohol can find themselves with a criminal record and licence disqualification.

However, there are several steps that a person can take to ensure the best possible result in a drink driving case: including participating in a [Traffic Offender Program](#), collecting character references and writing an apology letter.

Of course, if you have been charged with a drink driving offence, one of the best things you can do is to get legal advice from a criminal lawyer who has a [great track record in drink driving cases](#). Many law firms offer [free first conferences](#), where you can obtain initial advice and a point in the right direction, even if you wish to represent yourself.

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## NRL Players Sentenced at Downing Centre Court

Two NRL players graced the Downing Centre Courts with their presence yesterday, charged with separate offences.

Bulldogs player Jacob Loko pleaded guilty to drug offences, while former Roosters player Willis Meehan narrowly avoided prison time for assault charges.

The men join a long list of NRL players to front Downing Centre Court in recent years.

### **Jacob Loko Sentenced for Drug Possession**

Bulldogs centre Jacob Loko was [sentenced for drug possession](#) after being found with 5 capsules of MDMA at The Star Casino in September 2015.

According to court documents, security guards observed Loko handing a man \$100 in exchange for a small package in a casino lounge at around 6am on September 3. Police were called and conducted a search on Loko, finding the capsules.

The man who apparently supplied Loko with the drugs was arrested and charged with drug supply.

After pleading guilty, NRL star was handed an 18-month good behaviour bond. But perhaps biggest sting is that he will not be re-signed by the Bulldogs this year's season, with the club extinguishing any hopes of his contract being renewed.

This not the first time Loko has been in trouble with the law: in January 2015, he was [charged with high range drink driving](#) after being caught driving with a blood alcohol concentration of 0.189 – nearly four times the legal limit. The offence saw him receive a criminal conviction, 18-month licence disqualification and \$800 fine.

Just two months later, Loko made headlines after being involved in a violent street brawl with fellow NRL player Jorge Taufua.

While he was not charged over the incident, the Bulldogs banned him from playing for four matches, fined him \$10,000 and ordered him to serve 150 hours of community service.

### **Willis Meehan Sentenced for Assault**

Former Roosters player Willis Meehan also fronted the Downing

Centre yesterday to be sentenced for assault and larceny.

Meehan was ultimately sentenced to 150 hours of community service for [threatening a cab driver and stealing](#) in July 2015.

Meehan became enraged when he thought the cab driver had taken him the wrong way. He threatened the driver by asking, 'Do you want to die?' while holding two outstretched fingers to the cabbie's temple.

He then stole a pouch of tobacco as well as \$80 in loose change.

[Deputy Chief Magistrate Christopher O'Brien](#) told Meehan that he narrowly escaped a prison sentence for the offence, which put him in breach of a good behaviour bond imposed last year for a separate assault incident where he head-butted a patron at The Star Casino, before stealing the man's watch.

Meehan was fined \$1500 for the breach of the bond and ordered to enter into a further 18 month bond.

### **Other NRL Stars at Downing Centre Court**

The Downing Centre has welcomed many NRL player through its doors over the years – some of whom have been charged with serious crimes.

In 2009, Gold Coast Titans player Greg Bird appeared charged with glassing his girlfriend Katie Milligan and making a false accusation to police after he blamed a friend for the incident.

Magistrate Roger Clisdell sentenced him to a maximum of 16 months imprisonment, with a non-parole period of eight months – but the conviction was [overturned on appeal after his partner admitted instigating the argument and causing Bird to act in self-defence.](#)

Bird found himself back before the courts last year, this time charged with possession of cocaine along with a number of his teammates. The charges were thrown out of court in October after police determined there was insufficient evidence to proceed.

And, in 2010, Manly Sea Eagles fullback Brett Stewart [stood trial at the Downing Centre District Court](#) after it was alleged that he sexually and indecently assaulted a 17-year-old girl.

The girl claimed that she had been smoking outside Mr Stewart's home when he was dropped off in a cab after a late night, televised event. She claimed that he approached her and attempted to kiss her, before digitally penetrating her.

Stewart vehemently denied the allegations, contending that the girl had in fact made advances towards him after he arrived from the event.

After a two-week trial, the jury returned a verdict of not guilty, clearing Stewart's name and allowing him to continue playing football with the Sea Eagles.

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## Most Expensive Criminal Cases in History

Going to court isn't cheap, especially if your case is listed for a lengthy District or Supreme Court trial. And while the rich can afford a good criminal defence team, many struggle to secure a competent defence even when pitted against a well-

resourced prosecution.

Large commercial cases can often be the priciest; but perhaps surprisingly, bitter divorce lawsuits involving the ultra-rich are also at the top of the list. In both situations, lawyers are often the only real winners – sapping enormous resources out of their wealthy clients.

Here are some of the most expensive criminal cases from the UK, US and Australia.

### **UK's Most Expensive Criminal Case: NewsCorp Phone Hacking Scandal**

The 2014 NewsCorp phone hacking scandal not only made international headline, but is believed to have [cost a whopping £95 million to run](#), making it the most expensive criminal case in Britain. This figure included court costs, legal fees and the resources ploughed in to the extensive police investigation. The [barrister fees](#) for the trial certainly didn't come cheap, costing £20,000 per day.

The £95 million figure didn't include all costs associated with the scandal. The U.S Securities and Exchange Commission revealed that the investigation had cost Rupert Murdoch's News Corporation a total of £315 million. This included payments to the 718 hacking victims, as well as the legal costs associated with multiple civil and criminal cases. The grand total is estimated to have reached £600 when the cost of redundancy pay-outs and lost revenue were taken into account.

### **US's Most Expensive Criminal Trial: McMartin Childcare Sexual Assault Case**

This disturbing case started when mother Judy Johnson suspected that her three-year-old son had been sexually abused by one of his teachers at the McMartin family's day care centre, and reported the matter to police. Soon after, other parents came forward to report their own suspicions.

The allegations included forcing children to perform in pornographic films, and even the performance of “satanic ritualistic acts” of slaughtering animals in front of the kids before sexually abusing them. Five teachers at the centre were arrested and charged with multiple offences.

The proceedings would become the most expensive in US history, running from 1983 to 1990. But after all that time, the case didn't even reach finality – as [all charges against the defendants were ultimately dropped](#) due to insufficient evidence.

### **Australia's Most Expensive Criminal Investigation: Claremont Killings**

Three young women disappeared from Western Australia almost 20 years ago, sparking the largest and [most expensive criminal investigation in our nation's history](#). Two of the three bodies turned up in bushland, while a third was never found.

Experts were flown in from overseas to assist, and even NASA was called upon to analyse video evidence. The leading investigator, Detective Superintendent Paul Ferguson, took perhaps an even stranger approach: speaking with a convicted serial killer for ideas about how to uncover what happened to the missing women.

But despite the pricey investigation and several promising leads– the mystery remains unsolved to this day.

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# 5 Downing Centre Court Cases to Watch in 2016

There's always something interesting happening behind the walls of the Downing Centre Court complex in the Sydney CBD.

Here are 5 interesting cases to look-out for in 2016.

## 1. Selim Mehajer Faces Voter Fraud Charges

Deputy Mayor of Auburn, Selim Mehajer, hit the papers in 2015 for his extravagant and controversial wedding, which saw an entire street closed down for the occasion, resulting in traffic chaos.

After his wedding date, Mehajer was once again in the media spotlight, this time facing allegations of forging ballot papers back in 2012. Mehajer, along with seven others, are facing charges of voter fraud, which carries a maximum penalty of ten years imprisonment.

Mehajer [adamantly denies the charges](#), saying it is "all a political game... full of hidden agendas to make me step down". Together with his seven associates, Mehajer is set to face the Downing Centre in February.

## 2. Man Accused of Spreading HIV

Telling a partner that you've contracted an STI isn't the easiest conversation to have – but it [is against the law to knowingly withhold this information and then have sex with another person](#).

Last year, a [28-year-old man](#) who passed HIV to his partner was stopped at the airport by Australian Federal Police. He has since been charged with recklessly infecting grievous bodily harm, and is due to face Downing Centre Local Court in coming weeks.

### **3. UK Diamond Thief**

A jewellery store in Sydney's iconic Queen Victoria Building was the location of choice for diamond lover, UK citizen Matthew Osborne, who is alleged to have stolen a \$145,000 diamond from the store in 2013.

[Mr Osborne was recently extradited from Queensland](#) – where he was convicted of stealing a rare pink diamond worth \$250,000, although the ring has never been found since.

Osborne's latest case will be heard in Downing Centre Court later this year.

### **4. Partner of Man Haron Monis on Trial for Murder**

Before the Sydney Siege took place, Mr Monis and his partner Amira Droudis were already facing extremely serious charges – including the murder of Monis' former wife, who was stabbed a total of 18 times before being set on fire in the stairwell of her Sydney home.

Late last year, Ms Droudis pleaded not guilty to the charges, and will be facing trial later this year. [The Crown reportedly alleges](#) that while Monis was the mastermind behind the plan, Ms Droudis carried out the murder.

An application for a judge-only trial was successful, meaning that no jury will decide the guilt or innocence of Ms Droudis. The trial is expected to take place in mid-2016.

### **5. 91-year-old Drug Mule**

A 91-year-old Sydney man was [charged with drug importation after returning to Australia with 4.5kg of cocaine hidden in his luggage](#).

The retired oral surgeon is one of the oldest alleged drug mules in the world. He declared his innocence to the media—saying he was unaware that the soap he carried for someone



else contained \$1 million worth of drugs.

The case will continue through the [courts at Downing Centre](#) in 2016.

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## More 2015 Drama at Downing Centre Court

As discussed in [last week's blog](#), 2015 was a big year at the Downing Centre!

From an escaping defendant to a father who attacked the man convicted of sexually assaulting his daughter, the year has been packed full of drama.

Here are more the year's highlights, challenges and changes.

### **Inquest into the Martin Place Siege**

The Martin Place Siege shocked Sydney and the world, leading to an inquest into the police response to the incident.

The inquest has already revealed the incompetence of the DPP solicitor who opposed Monis' bail application, the [failure of the DPP make any application to revoke Monis' bail under the New Bail Act](#) (even after he made social media threats in the days leading up to the siege) and the questionable police and ASIO response to the incident itself.

The inquest began January and is ongoing, with the results to be determined sometime in the middle of this year.

### **Police allowed guns in court**

Security in courthouses is the domain of the Office of the

Sheriff of New South Wales – not the police, who are merely witnesses in court.

But despite opposition from lawyers and many judges, the powerful Police Association [succeeded in obtaining authorisation](#) for officers to routinely take their guns into the courtroom with them; even have them on the witness stand while being cross-examined.

Prior to 10 August, like everyone else, police were not allowed to take weapons into court with them, unless they had sought and received permission to do so.

### **Famous faces in the Downing Centre**

Retired Socceroos star, [Mark Bosnich](#), faced court after being charged with driving recklessly when he crashed his car with more than three times the legal amount of alcohol in his system. Fortunately for the star, his case was dealt with leniently and he did not receive a criminal conviction.

X-factor [Judge Luke Jacobz was found guilty of his second drink-driving offence](#) – which earned him the title of “serial offender” from the Magistrate.

Mr Jacobz lost his licence for one year and received a \$700 fine – which automatically carries a criminal record. And Jacobz wasn't the only former Home and Away star to come before the court – Johnny Ruffo also faced court charged with several driving offences. His case has been adjourned until late this month.

### **Unusual cases:**

All kinds of cases make their way before magistrates – including the one involving a teen who did a [nudie run for a free kebab.](#)

Unfortunately for the hungry young man, he was caught by police and given a \$500 criminal infringement notice for

offensive conduct. He then took the matter to court and was fortunate enough to receive a 'section 10' (now [section 10 dismissal](#) or [conditional release order](#)) in court, meaning he did not receive a criminal record, fine or other penalty.

In another case, a jury trial had to be aborted after the Judge noticed a female juror winking and making suggestive gestures to the defendant.

### **Uber versus Taxis:**

The long-standing battle between Uber and the taxi industry continued throughout the year.

Shortly after vigilante [Russel Howarth was ordered to stop performing citizens' arrests](#) on Uber drivers, Uber itself was prosecuted by the RMS.

But the [Magistrate found that the RMS didn't have the authority to prosecute](#), forcing them to drop the 24 charges laid against Uber drivers.

Finally, at midnight on 18 December, the NSW state government declared the ride-sharing business legal, ending the dispute surrounding Uber's legality – at least for the time-being.

With 2015 now behind us, we look forward to what this year holds for Sydney's busiest courthouse.

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## **Downing Centre: A Year in**

# Review

As 2015 draws to a close, it's time to reflect on the year that was in Downing Centre Court.

## 1. Riot Squad Halts Court Case

Back in February, a jury trial in Downing Centre District Court ground to a halt after police [received information about a plan to disrupt the proceedings.](#)

The trial concerned an armed robbery allegedly carried out by two men outside Broadway Shopping Centre in 2013. One of the men was charged with stealing a car, aggravated break and enter, shooting at a home, larceny and participating in a criminal group.

The NSW Police Riot Squad responded with scores of heavily armed specialist officers descending upon the courthouse.

Several black Riot Squad vehicles were seen outside the courts, and a police helicopter circled overhead.

Despite the commotion, the building was not evacuated. The trial in question was adjourned until the following week.

## 2. Man Escapes Custody at Downing Centre Courts

You might recall our earlier blog about Ali Hussain Chahine, the 33-year-old man who escaped from the dock in courtroom 3.1 of Downing Centre District Court in September this year, in the presence of one of our very own criminal lawyers.

Mr Chahine was in court for the purpose of a bail application – but he made a run for it at around 4pm after his application was refused by Judge Scotting.

Upon escaping the dock, Chahine ran out a fire escape and boarded a bus on Castlereagh Street, reportedly disembarking

near Central station.

He was [arrested at a unit in Alexandria the following week](#), and charged with 'escaping lawful custody' and 'assault occasioning actual bodily harm' for supposedly assaulting two corrective services officers.

### **3. Drug Charges Dominate Court Lists**

As usual, drug charges featured heavily in Downing Centre court lists.

The year kicked off with [214 people arrested and charged for drug offences](#) at the Field Day music festival, held in Sydney's Domain on New Year's Day. The majority of those charged appeared in Downing Centre Court in January and February.

High-profile drug cases included those of Rebecca Hannibal and Matthew Forti, both charged with supplying ecstasy to Georgina Bartter, who tragically died of a drug overdose at Harbourlife Music Festival in 2014.

Ms Hannibal was sentenced on 26 June to a 12 month section 9 good behaviour bond. [Matthew Forti](#) received a 22 month prison sentence, with a 12 month non-parole period on 29 August

In an unrelated case, high-profile DPP lawyer Lisa Munro fronted the Court on 28 September charged with the possession of cocaine, after police observed her carrying out a drug deal in Potts Point in July. She pleaded guilty was handed a 12 month section 10 bond (now [conditional release order](#) without conviction), without criminal conviction.

Finally, Olympic kayaker Nathan Baggailey appeared alongside his younger brother Dru on the 18 December for charges of drug manufacturing and conspiracy. Both men are alleged to have played a role in the production of 18,000 tablets of 2CB and were planning to manufacture ice. Both were sentenced to a

non-parole period of two years and three months imprisonment.

#### **4. Police Officers Facing Court**

Although they are entrusted with enforcing the law, a number of NSW Police Officers fronted the Downing Centre Court this year.

46-year-old Senior Detective Andrew John Clarke pleaded guilty to high-range drink driving after blowing a reading of .170 during a random breath test on the 10th of July.

Subsequent investigations revealed that he had been driving unlicensed for over 20 years.

Mr Clarke was sentenced in October to a fine of \$2,000 and an order preventing him from applying for a licence for nine months.

Another former police constable, Allan Robert Simon, was sentenced in September after [helping his drug dealing girlfriend evade police detection](#). He received a sentence of 1 year and 10 months imprisonment, but was ultimately released on an intensive corrections order.

#### **5. Father Attacks Child Sex Offender**

In an emotionally charged incident in August this year, the father of a young girl who was sexually assaulted by a former serviceman [bashed the man after he was sentenced to 6 years imprisonment](#).

The 64-year-old South Coast man, who remains unnamed for legal reasons, was convicted of two charges of aggravated sexual assault on a child under the age of 10.

According to eyewitnesses, it took five people to restrain the father.

It is unknown whether he has been charged for the attack.

The Downing Centre Court is sure to once again be the centre of high drama and controversy in 2016.

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## What Items Can't be Taken into Downing Centre Court?

If you are going to court, it's important to check what can and cannot be taken inside the courthouses to ensure your day in court runs as smoothly as possible.

While not all smaller courthouses are fitted with scanners in the entry way, the Downing Centre Courthouse is.

In fact, on particularly busy mornings in the Downing Centre – which is the larger of the two [court houses on Liverpool Street, Sydney](#) – the queue to enter the building and go through the scanners can be all the way out the doors of the building.

Some items are not allowed to be taken in to court, and may be confiscated on the spot. Other items are handed back to you on your way out. You will be given a receipt for those.

### Prohibited Items

There are four broad categories of items that can be confiscated from you:

1. Anything reasonably believed to be a restricted item or offensive implement;
2. Anything reasonably believed to be capable of concealing a restricted or offensive implement;

3. Alcohol, unless you have the permission of a Magistrate, Judge or Registrar; or
4. Any other thing that the security officer believes on reasonable grounds is of a class [prescribed by the regulations](#)

There are probably no surprises here in terms of the first category. Security officers can confiscate:

- Guns
- Knives
- Grenades
- Bombs
- Missiles
- Spear gun
- Crossbow
- Sling shot
- Mace
- Taser guns
- Nunchucks

But while it may seem obvious not to bring items from the above list, this isn't necessarily clear to everyone.

One [Newcastle man attempted to bring a crossbow into court](#) earlier this year, and court staff are regularly called upon to confiscate of knives and mace (pepper spray).

Being found attempting to take these items in to court can even result in criminal charges.

One notable, and controversial, exception to this rule is the recent agreement between courts and police for [police officers to bring their guns to court, and even inside the courtroom](#). Previously, police were required to leave guns outside the courthouse like everyone else unless they have permission to bring them inside.

Aside from weapons, there are a range of objects that you are



not allowed to take into court. These include:

- Scissors
- Glass water bottles or other glass containers
- Sporting bats capable of being used as a weapon
- Hammers and screwdrivers capable of being used as a weapon
- Scooters, skateboards and other personal transport items
- Spray cans
- Marker pens
- Unlike weapons, or devices used to hide weapons, if these items are confiscated, you can get them back on your way out.

You will have to leave your name and phone number and get a receipt on your way in, so that you can collect your items when leaving.

While selfie sticks are allowed in to court, they can set off alerts in the scanner, and those bringing them into court should be aware that it is against the law to take photos, videos or record sound while inside a courthouse without permission.

One busy journalist found herself in trouble after accidentally taking in a key ring with a small knife she used to chop food, and a capsicum spray canister that she had bought in Western Australia, where it is legal.

She had completely forgotten the items were in her bag, and was shocked to find herself [facing criminal charges which carry a maximum penalty of 14 years imprisonment.](#)

Fortunately, the Magistrate was sympathetic and dismissed the case against her. But it's far better to plan ahead than to face an unpleasant and stressful situation, particularly if you are already at court in relation to other criminal proceedings.

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# Who Does What in the Criminal Justice System

[Professor Kathleen Daly](#) describes the Australian criminal justice system as a 'collection of interdependent agencies' that enact, enforce and administer criminal laws.

The system certainly has its flaws, and the public perception appears to be that its outcomes are seldom just.

## **Wheels of 'Justice'**

Criminal laws, processes and procedures are embodied in countless pieces of legislation, cases, bench books, practice directions, policy manuals and the like – but 'the criminal law does not enforce itself' – it needs people with specific roles and responsibilities to facilitate outcomes.

That's where the agents of the system come into play – performing their duties interdependently to keep the wheels of 'justice' rolling.

Some of the main agents are:

### **Police**

Police are public servants tasked with preventing crime, protecting members of the community and maintaining public order.

They are required to investigate crime – liaising with the complainant and witnesses, and gathering evidence. Where they

suspect on reasonable grounds that there is sufficient evidence against a suspect, they are able to arrest, detain, charge and prosecute.

Police are responsible for preparing the 'Court Attendance Notice' which contains the allegations against a defendant. They also take witness statements and prepare the evidence.

There are many different 'departments' in the police force – from General Duties Officers, to more specific departments such as the Highway Patrol and Public Order and Riot Squad.

## **Prosecutors**

Prosecutors run cases in court. They include police prosecutors – who prosecute matters in the Local Court – and DPP solicitors – who are qualified lawyers that prosecute more serious cases. They are supposed to present all of the admissible evidence fairly in order to assist the court in arriving at the truth, rather than to secure a conviction at all costs.

Some prosecutors also prepare case for court – which can involve liaising with defence lawyers, police and witnesses. DPP lawyers may also be called on to decide whether cases go ahead or are discontinued.

## **The Judiciary**

The Judiciary is comprised of Magistrates in the [Local Court](#), [Judges in the District Court](#), and [Justices in the Supreme and High Courts](#).

Members of the judiciary preside over all types of court cases – from short court dates called 'mentions', to bail applications, defended hearings and jury trials.

They are required to act fairly and apply the law impartially, and ensure that court processes are conducted in a timely and efficient manner.

Magistrates decide whether a defendant is guilty or not guilty in the Local Court, while District and Supreme Court Judges and Justices assist juries to decide guilt or innocence by directing them about the law.

The judiciary is also responsible for imposing penalties upon those who are guilty.

## **Prison Staff**

Prison staff are responsible for supervising and controlling those in custody. They deal with people whose cases are yet to be finalised, as well as sentenced prisoners.

Prison staff are required to maintain appropriate custodial conditions whilst maintaining discipline and order within prisons. They are also meant to assist in preparing inmates for release into the wider community.

## **Criminal Defence Lawyers**

[Criminal defence lawyers](#) represent those who are suspected or accused of crimes, ensuring that their rights and interests are protected. Their role includes advising clients about the strength of the case against them, the applicable law, the options, best way forward and the likely outcome.

Unlike police prosecutors who often receive cases on the day of court, criminal defence lawyers will be experienced at conducting cases from start to finish – including preparing and issuing subpoenas for evidence, preparing ‘representations’ for the withdrawal of charges, fighting for withdrawal, scrutinising briefs of evidence, engaging medical and forensic experts, preparing cases for court and, of course, defending criminal charges inside the courtroom.

The courtroom work of a defence lawyer is broad and varied – from short court mention dates, to bail applications, sentencing hearings, defended hearings and the independent

conduct of jury trials for more experienced advocates.

Defence lawyers need to be familiar with a wide range of counselling and rehabilitation programs which can assist their clients. Where a client wishes to plead guilty, undertaking rehabilitation can serve a dual role of reducing the likelihood of reoffending – which benefits the community – and demonstrating to the court that the client has taken responsibility and taken steps to overcome any issues, such as drug or gambling addiction, anger management issues and so on.

So there you have it – a thumbnail sketch of some of the main agents in our criminal justice system.