The Downing Centre Drug Court Program: A Glowing Success

The NSW Drug Court aims to assist those battling drug addictions by providing rehabilitation programs to break the cycle of crime and help them to get back on their feet.

The Court commenced operation in 1999, following the success of similar initiatives in the United States.

The first drug court was in Parramatta, and a second one opened in Toronto in the Hunter Region in 2011.

In February 2013, a third drug court was opened at the Downing Centre Courthouse in Sydney's CBD; and it has operated every Thursday in Court 4.7 on level four ever since.

The registry for the Drug Court is located on level one, just outside the lifts.

Getting a Referral

Only certain eligible people can be referred to the Drug Court and, due to the high demand for the program, those who receive a referral must then have their name drawn from a ballot.

The ballot for the Downing Centre Drug Court is held every Thursday at 1.00pm.

To be referred to the program, the individual must live within the following Local Government Areas: Auburn, Bankstown, Baulkham Hills, Blacktown, Campbelltown, Cessnock, Fairfield, Hawkesbury, Holroyd, Lake Macquarie, Liverpool, Maitland, Newcastle, Parramatta, Penrith, Port Stephens, The Hills Shire or the City of Sydney.

The Downing Centre Drug Court Program takes referrals from the Local and District Courts at the Downing Centre, Central,

Newtown and Waverley.

Eligible persons must be over the age of 18, must be facing a sentence of full time imprisonment, be drug dependant, and be willing to participate.

However, people charged with violent or sexual offences, and those who suffer from a serious psychiatric condition, are deemed ineligible.

Some people charged with serious drug crimes are also ineligible for the program.

How Does It Work?

Those who are seeking inclusion must first plead guilty.

The Local or District Court will then impose a sentence, but this sentence will be suspended while the person undertakes the Drug Court program.

If the program is completed successfully, the original court can reconsider the sentence that was imposed and will normally decide to set it aside or vary it in some way to take into account the person's participation in the program.

Those who successfully complete the program will generally be rewarded by avoiding time behind bars.

If the program is not completed for whatever reason – for instance, if a person pulls out or are kicked out, they can be sent to prison. However, the court cannot impose a harsher sentence than was originally ordered.

The Three Phases

Unlike typical courts, which generally take a punitive (punishment) approach towards offenders, the Drug Court focuses on treatment.

Participants gradually progress through three phases.

Phase 1 is known as the initiation and stabilisation phase. This phase lasts at least three months and involves a process of detoxification and stabilisation of physical and mental health.

Detoxification takes place in custody at the Silverwater Metropolitan Remand and Reception Centre ('the MRRC') – and all participants must enter custody for detox, even if they are on bail.

A case management plan is developed at this stage in consultation with a community corrections case manager and treatment provider.

Participants must submit to drug testing, attend counselling, refrain from drug use for at least four weeks and undertake psychiatric treatment and medication as directed.

After completing this phase, participants progress to Phase 2, which also lasts for a minimum of three months.

During this phase, participants must remain drug free for significant periods, stay away from crime, develop life skills and maintain their health.

It is during this period that efforts are made to reintegrate the participant into society – for example, by referring them to appropriate accommodation and employment programs.

Again, participants are subject to regular drug testing and must attend appointments with counsellors, case managers and other professionals.

They must also complete the Pathways into Employment, Education and Training Course.

Finally, Phase 3, which lasts for a minimum of 6 months, involves re-integration into the community.

During this stage, participants must remain crime and drug

free and maintain a stable home environment and accommodation. They must also be working, or be ready to commence work, or be otherwise engaged in positive activities or education programs.

Throughout the program, participants must regularly attend reviews at the Drug Court.

A judge heads a panel consisting of people from the DPP, the NSW Police Force, Legal Aid, Corrective Services, Justice Heath, the Department of the Attorney General and Justice, and Area Health Services.

The panel conducts a roundtable discussion prior to court where they discuss each individual's progress through the program, including any outstanding efforts made to engage with the program, as well as any slip ups.

Those who engage positively can be rewarded by reduced restrictions, while those who make mistakes – for example, succumbing to drug use, may have sanctions imposed upon them such as short prison sentences.

Those who complete the three phases will finally graduate from the program.

Does the Drug Court Work?

Initial Drug Court statistics are very promising.

A BOSCAR review found that those who participated were 37% less likely to be convicted of any offence, 64% less likely to be convicted of an offence against a person (such as assault), 35% less likely to be convicted of a property offence, and 58% less likely to be reconvicted of a drug offence, compared to those who had not completed the program.

These success rates have largely been mirrored in other jurisdictions, including similar programs in Queensland and South Australia.

It is hoped that such positive result will pave the way for more Drug Courts to be opened around the country.

Party-Goer Sentenced in Downing Centre Local Court

Rebecca Hannibal and her friend Georgina Barttner were two typical teenagers who were planning on attending Sydney's Harbourlife festival last year.

Things changed horribly, when the three ecstasy pills that the girls shared made Georgina sick and she was rushed to hospital. Tragically, she did not survive due to multiple organ failure.

Since then, Rebecca has had to deal with a barrage of public opinion as well as drug charges, all on top of the grief of her friend's death.

Earlier this year, she pleaded guilty to supplying the esctacy that ultimately ended in the death of her friend.

The sentencing had been delayed because she was suffering from acute appendicitis, but she was back before the court just recently.

The sentence

Chief Magistrate Henson sat on the case in Downing Centre Local Court.

He expressed concern that drugs had become part of the everyday party scene for many young adults. He noted that the real blame should lie with drug dealers, especially low-level

ones who sold drugs to their friends and family, knowing the harm they could do.

In the case of Rebecca and Georgina, it was Rebecca who had bought three pills from a drug dealer to share with Georgina.

She paid $60 for her share and each girl took one-and-a-half pills.

Henson acknowledged that Rebecca was not "legally responsible" for her friend's death, but found that the community expected action to be taken for her illegal conduct in supplying the drugs:

"Two young women, close friends, go out to enjoy a music festival. They make a foolish decision to buy and consume drugs. Only one comes home."

Because of this, he imposed a criminal conviction upon Rebecca by placing her on a 'section 9 bond' for 12 months.

This means that if Rebecca offends within the next year, she will be brought back before the court and re-sentenced for supplying Georgina, and could receive a harsher penalty. And the fact that she would be on a bond will make any additional offence more serious.

Although Rebecca avoided prison, she was upset to find out that she would get a criminal record. She had suffered enormously since her best friend's death, including constant hounding by the media. She has moved down to Victoria with her boyfriend to start a new life.

This case shows the potentially tragic consequences of taking drugs, especially when we don't know exactly what's inside them. It also shows how easy it can be to face serious charges over what many see as a fun night with friends.

What are the penalties for drug supply?

The definition of ‘drug supply’ is very broad, and can include buying pills and sharing them with friends – even if you give them away for free.

The penalty for drug supply depends on a number of factors, including the type of drug, the quantity and whether the case remains in the Local Court.

For small quantity, the maximum penalty is two years imprisonment and/or a $5,500 fine if the case remains in the Local Court or 15 years and $220,000 if it goes up to the District Court. A small quantity is defined as not more than 0.25 grams of ecstacy, 30 grams of cannabis, or 1 gram of cocaine, heroin or amphetamines.

If you have been charged with a drug offence, you are certainly not alone. Drug offences are very common in the NSW courts – in fact, drug possession is the fourth most common offence, coming in behind mid-range PCA (drink driving), common assault and low-range PCA (drink driving).

There are a range of defences to drug charges, and an experienced criminal lawyer will be able to advise you about whether they apply in your case.

Alternatively, it may be possible to avoid a criminal record even if you wish to plead guilty.

If you are facing drug charges, the best first step is to contact a specialist criminal lawyer who is experienced in drug cases for advice that is specific to your situation.

There are a number of law firms in Sydney that offer a free first conference, and it might be in your best interest to see several lawyers before making your decision about who will best represent you in court.

Violent Movies Give Offender a "Taste for Blood"

36-year-old Luke Woods appeared in Downing Centre District Courthouse in Sydney this week charged with attempted murder after allegedly attacking a 71-year-old taxi driver, stabbing him 13 times.

The driver, Neal Kent, sustained wounds to his head, shoulders and hands and is fortunate to have survived the attack. He now needs a walking frame to move around. Woods quickly admitted responsibility for the crime, saying that he drank 12 beers and watched six horror movies before getting into the taxi.

He told police that the violent movies "give me the taste for blood", and that films like Texas Chain Massacre make him feel like murdering someone.

The court was shown a video of his police interview on Monday, with Woods stating that "I had the taste for killing, more killing."

Woods is pleading guilty to "wounding with intent to cause grievous bodily harm" but he also faces charges of attempted murder.

Although Woods' trial is still ongoing, it raises the question of whether violent movies and video games lead to the commission of violent crimes.

The purported link

There have been several violent crimes over the years which have been reportedly influenced, at least in part, by events contained in movies, games and books. In the US, violent media

has been linked to the Sandy Hook massacre, and more recently, to the tragic Charleston Church shooting.

One proponent of this view is an American preacher, Rev. Franklin Graham, who has repeatedly spoken out against the "constant stream of violence" that appears in Hollywood movies, believing that they are directly linked to violent attacks.

But is there any evidence to back up such claims?

In-depth studies which have examined the purported link have actually found that despite a large and popular market for violent games and movies, violent crime has gone down.

And just last year, one long-term US study suggested that there is no link at all. It criticised the methodology of previous studies which had suggested a link between violent video games and real-life crimes. The study looked at the correlation of violent films and crimes from 1920 up to 2005. It found that the expansion of the market for violent games and movies coincided with a drop in the levels of societal violence.

Violent crime in NSW has been similarly decreasing over the past several years, despite the fact that a significant portion of adolescents play graphic video games.

Another US study found that when popular films are released, violence decreased around the evening and weekend hours of the film's release, suggesting that those who may otherwise have perpetrated crime are instead watching it on screen at the movies.

More to the story

In the case of Woods, it appears that there was much more at play than watching violent films. He suffers from an intellectual disability, and had set out to commit an offence

on the night in question because he wanted help. Woods told police that he was drunk and angry with the world well before he attacked Neal Kent, and was now “sorry for poor Mr Kent”.

He had struggled with mental illness, homelessness and self-harm before deciding to break the law in order to be put in a mental facility, believing it will be “better for everyone, including myself”.

Despite this, the case of Woods will undoubtedly be used by some to further bolster the argument that violence on the computer or TV fuels real life attacks.

Complainants that Lie in Sexual Assault Trials

What’s the worst thing that could happen to you – or your loved one?

Being falsely accused of a serious crime and facing the prospect of spending years in prison for something that you didn’t commit might rank pretty highly.

In recent years, certain media personalities and news outlets have tried to convince us that those accused of serious crimes should be assumed guilty.

But as I discovered whilst assisting our Senior Criminal Lawyers in a trial at Downing Centre District Court last week, nothing could be further from the truth.

The Case

The case concerned a complaint of aggravated sexual assault which allegedly took place at a Sydney beach in April last year.

Our client, along with a friend, had been having a few drinks at a local pub in the early hours of the morning.

They were approached by a young woman who began chatting to them. Our client and his friend had never met this woman before – but she seemed friendly, so they decided to have a couple of drinks with her.

The three engaged in conversation at the hotel for around an hour and a half, during which they discussed going somewhere more private to take part in sexual activity.

The group eventually left the hotel. The following day, the woman claimed that our client and his friend had committed non-consensual sexual acts on her at a beach.

Our client and friend were charged with sexual assault in 'circumstances of aggravation'.

The 'aggravating circumstances' were that they were in the company of each other at the time of the alleged incident.

The maximum penalty for the offence is life imprisonment.

People Lie About Being Sexual Assaulted

At first glance, this might seem like a terrible act upon a young woman, and some readers might believe that our client and his friend should be sent to prison.

But do a bit of digging and the truth comes to the surface.

A proper analysis of the case, including material that we obtained by way of subpoena, revealed numerous problems with the complainant's version of the events.

For one, she had given conflicting accounts to police and

medical practitioners about the events of the night. This was the first major ‘red flag’.

And the more material we subpoenaed and got our hands on, the more issues we found.

For example, CCTV footage of the group at the bar showed that, contrary to the complainant’s statement, there was touching of a sexual nature prior to the alleged assault.

And while the complainant claimed that she decided to go along with the pair of young men because there were no cabs, footage of the group leaving the bar showed them walking past several empty taxis.

And when the time came for the complainant to give her evidence in court, she gave yet another version of events which conflicted with the statements she had provided to the police and doctors. This put us in an extremely strong position when it came to cross-examination.

With a little pressure under questioning, the complainant finally relented and admitted to consenting to some of the sexual activity on the night.

Significantly, she was put in a position where she was forced to admit lying under oath while giving her previous testimony.

Following this significant development, the court took an adjournment mid-way through her cross examination.

The End Result

Obviously, the complainant’s admission to lying under oath, together with the numerous inconsistencies in her versions of events, put the prosecution in a very difficult position. After some deliberation, the prosecution’s lawyers were forced to withdraw all of the complainant’s evidence.

With no evidence to support the prosecution case, the trial

judge was obliged to follow case law and direct the jury to return a verdict of not guilty, because the evidence was so defective that, even taken at its highest, it could not sustain a verdict of guilty.

Our client was therefore found to be not guilty.

Finally, our client and his family were able to breathe a sigh of relief and focus on getting their lives back on track. But not after they had spent several months worrying about the prospect of going to prison for a crime he did not commit.

A Word of Warning

While the complainant's lies eventually caught up with her in this case, the experience has taught me a somewhat sinister truth – that there are people out there who are prepared to fabricate stories with the potential to destroy the lives of others.

It is for this very reason that we should not be so quick to jump to conclusions when we hear reports that someone has been accused of a criminal offence – no matter how serious the allegations may be.

As the saying goes, in the eyes of the law, all are innocent until proven guilty beyond a reasonable doubt.

Prosecution Policy

The public should be aware that the general policy of the prosecution in certain types of cases – such as domestic violence and sexual assault cases – is to prosecute even if the evidence is weak – partly for fear of being criticised by the media and public if they fail to do so.

Perhaps it should also be known that the prosecution's general practice is not to prosecute complainants in sexual assault and domestic violence cases even if they are found to have given false evidence – which is gravely unjust considering the

potentially devastating consequences of their lies.

In fact, the complainant in the mentioned case was flown back to Australia from overseas, put up in a hotel and paid a daily witness allowance to participate in the trial – an all expenses paid trip to Australia, funded by the Australian taxpayer. She was then flown back out, again at taxpayer's expense.

Recent Cases in Downing Centre Court

There's never a shortage of interesting and high-profile cases in the Downing Centre courthouse in Sydney.

Let's take a look at a few that have played out in the last few weeks.

Former Socceroo Mark Bosnich

Former Socceroo Mark Bosnich was charged with reckless driving after he collided with a cyclist, but he managed to escape getting a criminal record.

The incident began when Bosnich was driving through Sydney's CBD and a cyclist moved into the middle lane. Bosnich wound down his window and said: "champ, you gotta pull a little to the left, you can't keep in the middle of the road."

The cyclist broke off Bosnich's side mirror before an angry Bosnich turned his steering wheel towards the cyclist. The grill and bumper of his car collided with the bike wheel, causing the cyclist to sustain minor injuries to his ribs and elbows. It was later revealed that the cyclist was three times

over the legal blood alcohol limit.

Bosnich pleaded guilty to reckless driving but was fortunate enough to avoid a conviction and licence disquaification. His lawyer told the court that Bosnich was remorseful and his reputation had already suffered through being shamed by the media.

He was placed on a one-year good behaviour bond under 'section 10 dismissal or conditional release order', which means that he avoids any further consequences as long as he commits no further offences for 12 months.

X-factor Judge

34-year-old X-factor judge Luke Jacobz faced a magistrate himself earlier this month after being charged with mid-range drink driving. His blood alcohol reading was 0.116 – more than double the legal limit of 0.05. Jacobz told the media that he was extremely remorseful for his conduct.

The incident occurred the morning after a big night of drinking with friends, which is a common way for drivers to be caught out drink driving.

The matter has adjourned until July 15, when Jacobz is expected to enter a plea of guilty.

Miguel Silva

In March this year, blaring headlines introduced us to Jessica Silva, a woman who escaped prison after being convicted of manslaughter.

Ms Silva had killed her abusive boyfriend, James Polkinghorne, when Polkinghorne came to her home while high on ice and threatened her. A jury found Silva guilty of manslaughter rather than murder, and she received a two-year suspended sentence.

Now it was Jessica's brother Miguel's turn to face the court, but for a completely separate incident.

Miguel was charged with being an accessory to the murder of a drug dealer who, it is suspected, was murdered by Polkinghorne. The body of the drug dealer in question, Nikolas Argiropoulos, was found in Leichardt Park after having been shot repeatedly in the face.

Earlier this month, Silva was found not guilty by a jury in the Downing Centre District Court.

The juror who flirted with the defendant

A jury trial was just about to end, when a Court Shefiff noticed that the jury foreperson was flirting with the defendant.

The juror, a woman in her 20s, was seen flicking her hair, smiling, raising an eyebrow and nodding in a potentially suggestive manner at the handsome defendant.

As a result of the flirtatious conduct, the Downing Centre District Court Judge discharged the whole jury and listed the case for a fresh trial.

The reason for this drastic move was that His Honour was unsure that the juror could do her job impartially, and that this might affect the ultimate verdict.

He told the court that "discharging a juror for flirtatious behaviour is fortunately not something that happens all that often."

The Dangers of Trusting Others With Your Car

Handing over your keys to a friend might not seem like a big deal, but there can actually be serious legal consequences for lending other people your car.

Although it's not an offence by itself to lend anyone your car, there have been cases that might make you think twice about it.

What happens if your car is involved in a crime?

If your trusted friend is involved in a crime, such as a police pursuit, it is easy to see how you might become a suspect.

Or if they take it upon themselves to use drugs and leave some behind, you could potentially be charged with drug possession.

Fortunately though, in both of those situations you can often avoid a conviction by bringing the true situation to the attention of authorities.

If you are suspected of certain major traffic offences, police are able to demand that you disclose the identity of the driver at the time. Once you disclose the driver's identity, police should then pursue the culprit.

In the case of suspected drug possession, you (or your lawyer) can write to police advising that you did not have "exclusive possession" of the car; in which case you may be able to have the charges withdrawn, or thrown out of court if police go ahead with the case against you anyway.

What happens if I get an infringement notice in the mail?

If your trusted friend runs a red light or gets caught by a

speed camera, the fine will be sent to you.

Once you receive the fine, you should fill out the attached statutory declaration advising that you were not the driver at the time, and identifying the true offender.

Is my insurance void if they crash?

Your insurance company may not cover all of the circumstances whereby another driver has an accident in your car, particularly if they were driving whilst suspended, or driving at high speed, or under the influence of drugs or alcohol.

This could mean that you may not receive an insurance payout, and may even be sued for personal injury if someone was hurt.

Whether or not your insurance company will pay will depend on the policy itself. If they do pay your claim, the company will normally seek to recover the amount from the driver responsible.

What happens if my car is stolen?

Due to the prevalence of car theft and associated crime, the NSW government now expects you to help stop such offences from occurring.

It is therefore an offence under Regulation 213 of the NSW Road Rules 2014 to keep the key in the ignition of your car, or to leave doors or windows unlocked if you are more than 3 metres away and no one aged 16 years or over is inside the vehicle. The maximum penalty is a $2,200 fine.

If the theft of your car was partly caused by your own negligence, the insurance company may refuse to pay out all or part of your claim.

If you are facing criminal charges through no fault of your own, an experienced criminal lawyer will be able to advise you

of your options and the best way forward.

What is ‘Beyond Reasonable Doubt’?

If you have been charged with a criminal offence, it is normally up to the prosecution to prove each ‘element’ (or ingredient) of that offence “beyond reasonable doubt.”

But what exactly do those words mean?

“Beyond reasonable doubt” is the tried and true formula used to determine guilt for centuries. But did you know it has no legal definition at all?

According to the Criminal Trial Courts Bench Book in NSW, the standard “beyond reasonable doubt… [is] an ancient one… and it needs no explanation from trial judges.”

This may seem baffling, as it is arguably one of the most important phrases in criminal law. Not only this, but coming up with a definition has actually been found time and time again to be perilous.

When criminal cases are heard in the District Court in NSW, defendants have the right to a jury trial – and it is a jury’s job to decide whether or not the prosecution has proved the offence “beyond reasonable doubt.”

And even when cases come before magistrates and judges-alone, they too must determine guilt or innocence against that test.

It seems logical, then, that fact-finders such as juries, magistrates and judges would want to know the precise meaning

of the term – especially given that the future of the person on trial depends so heavily upon it.

Attempts to define the phrase

Judges who have tried to explain the phrase have consistently had their judgments overturned.

This happened in the case of Green v The Queen (1971) 126 CLR 28.

In that case, Mr Green appealed his conviction on the basis that the trial judge's explanation of "beyond reasonable doubt" was an error of law.

During Mr Green's trial, the judge gave a lengthy explanation of the term to the jury.

On appeal, the High Court found that this was an error because the 'explanation' may, at best, have led to confusion amongst jurors and, at worst, caused them to convict where they may otherwise have acquitted.

The High Court found that: "a reasonable doubt is a doubt which the particular jury entertain in the circumstances. Jurymen themselves set the standard of what is reasonable in the circumstances."

Because of the error, Mr Green's conviction was overturned and a new trial was ordered.

Looking for a definition

The lack of a concrete definition is unfortunate because it may lead to uncertain jury members doing their own research into the term, which is against the law and lead the trial being "aborted" and a new trial ordered.

Under section 68C of the NSW Jury Act NSW , it is an offence punishable by two years imprisonment and/or a $5,500 fine to

ask anyone a question, use the Internet to research, conduct an experiment or conduct an inquiry about the accused or anything to do with the trial.

But even this hasn't stopped jurors from conducting their own investigations – one juror in Victoria caused a mistrial by looking up the definition of "a reasonable doubt" on the Internet.

Defining the indefinable?

Throughout legal jurisprudence, any attempts to define the phrase, or substitute it with other words, have been doomed to fail and condemned by judges in higher courts.

In fact, one judge described trying to define or rephrase it as "embark[ing] on a dangerous sea."

The phrase has been described as something so commonplace, and such a traditional formula, that it needs no explanation because everyone already knows what it means.

But given the fact that trial judges feel the need to (erroneously) explain it, and jurors continue to seek definitions, it would seem that those assumptions are not quite accurate.

Instead, we have decisions being overturned and jurors facing criminal prosecution – all for wanting to do the right thing.

My Experience Instructing in

My First Trial

As a recent law graduate keen to work in the criminal law field, I was thrilled when I was recently presented with the exciting opportunity of instructing in my very first trial in Downing Centre District Court.

Instructing lawyers have a very important role in trial proceedings. While they usually do not perform any advocacy work in court (this is generally left to the barrister or senior lawyer) they are expected to liaise with the client and the barrister, make sure that the client has an in-depth understanding of what is going on in the trial, take extensive notes of all conferences and court proceedings, and maintain a list of exhibits that are presented during the trial.

Though I've spent the past 6 and a half years studying the ins and outs of law at university, there is only so much that you can learn out of a textbook, and there is simply no substitute for practical experience.

Sadly, most law graduates enter the field with few practical skills, and some law firms are hesitant to let new lawyers gain courtroom experience. This effectively means that they are thrown in the deep end when they start representing clients in court.

I was lucky enough to be given the opportunity to get a grasp on courtroom procedures early on, and this first experience has taught me valuable skills and knowledge which will no doubt prove useful in my legal career.

I have shared some of the things that I have learned from this experience below.

1. Be Prepared

As an instructing criminal defence lawyer, you are expected to

have a thorough knowledge of all the evidence in the case because the barrister could ask you important questions at a moment's notice inside the courtroom.

All the evidence in the case will be compiled in a brief, and as an instructing lawyer you are responsible for organising the brief for both yourself and the barrister. It's important to organise and index the brief properly so that you can quickly navigate it to pull out any documents in the middle of the trial or in conference.

Instructing lawyers will also be responsible for chasing up any missing witness statements or documents. My experience taught me that the police and DPP often take their time in getting back to you with documents, so you must keep at them to make sure that all evidence is received in advance of the trial.

You'll need to read the brief several times over and make notes of any key points in witness statements and other evidence.

I found that this serves two purposes – firstly, it really helps you familiarise yourself with the evidence at hand, and secondly – and most importantly – it can help you flag any issues which should be raised with the barrister.

An in-depth knowledge of the brief allows you to identify any possible defences or factors that may support your case at an early stage – and conversely, it will help you predict how the prosecution is going to run their case, and any arguments that they will raise.

2. Do Your Research

Trials involve a lot of research, both legal and other – you may be required to look up relevant case law, statistics or other information which might help you prove a particular point. You may need to research a particular profession or

trade, or make enquiries with bodies like the bureau of meteorology about weather, or attend the scene of the alleged crime to photograph and videotape, or attend to urgent subpoenas, or a range of other matters. Usually, the senior lawyers and barrister will let you know of the research and preparatory work which they require.

In my particular case, the barrister asked me to research therapeutic massage practices. I spent time accessing medical journals to try to find any information that could help our case, and communicated my findings to the barrister.

Our case also involved an application to exclude tendency evidence, which is evidence about a person's character, reputation or conduct that can be used to prove that they had a tendency to act in a particular way or have a particular state of mind.

Usually, this kind of evidence is not allowed to be admitted, however in our case the prosecution made an application to have this evidence admitted, arguing that there were striking similarities which could help prove that our client had a particular state of mind in the present case. The prosecution also argued that admitting the evidence would not unfairly prejudice our client and prevent him from having a fair trial.

I had the invaluable benefit of being able to consult highly experienced lawyers at the practice for advice and insight throughout my involvement with the case.

We naturally opposed the application in our case, and the barrister handed up some previous judgments which supported our case. I took the time to read these judgments to make sure that I understood what the law said. It was a steep learning curve.

For new lawyers, instructing is a great learning experience – doing this type of research can help you the intricacies of certain areas of criminal and evidence law.

3. Make Sure the Client Understands What is Going On

It's no secret that lawyers can get caught up in difficult to understand legal jargon when explaining matters to clients.

After all, lawyers are used to dealing with other legal professionals in a variety of situations. They may therefore make the mistake of assuming that a layperson fully understands basic legal terms and procedures.

Of course, the danger in making these assumptions is that clients may be left in the dark about what is going on in their case. The likelihood of this occurring is increased where a client has limited English skills, or where they have mental health issues or drug and alcohol problems.

In very serious cases, a client may even end up unintentionally breaking the law, which can give rise to serious consequences. For instance, if a lawyer does not fully explain that a client is required to attend court on a particular day, the court may issue a warrant for their arrest.

Or, if a lawyer does not ensure that a client understands all of their bail conditions, the client may end up breaching their bail. If this occurs, the court may decide whether it wants to take no action for the breach, vary the bail conditions, impose more conditions, or, in serious cases, refuse bail altogether and order that the person be placed in custody.

While this did not happen in the case I was working on, this example illustrates the importance of making sure that a client understands everything that is going on in the courtroom. It is vitally important to make sure that the client understand every aspect of the case, and gives informed instructions and makes informed decisions.

In the trial that I was instructing on, our client was from a

non-English speaking background, and even with the assistance of an interpreter it was sometimes apparent that things that the barrister was saying were going over his head.

For instance, when the barrister was trying to explain complicated laws about evidence and sentencing procedures, our client was visibly confused and would ask questions about things which had just been explained to him. I learnt that part of my role was to pull up the barrister when this was occurring.

I quickly realised the value of explaining legal terminology in plain English, which made our client more responsive and willing to answer our questions. I also made sure to ask whether he understood what had been said, to explain to me what had been said just to make sure, and encouraged him to ask us any questions if he was unsure about anything.

4. Consult Your Superiors

If any questions arise while instructing, it's also important to consult your more experienced colleagues for their advice and opinion about the best way forward.

Unfortunately, many law firms do not have an open-door policy and may criticise young lawyers for asking questions early on in their career. I am very grateful to work in an environment where discussion and learning is encouraged, and it is always good to know that I can raise any concerns or questions with any of the lawyers on our team.

During this case, I worked closely with our Principal Ugur Nedim, as well as our experienced Senior Lawyer Jimmy Singh, both of whom have a wealth of experience representing clients in extremely complex and serious criminal trials.

I was able to ask their advice about issues such as the admissibility of tendency evidence, procedural matters, and the best ways to communicate with our client.

Their support helped me effectively assist our client and the barrister during the trial.

5. Understanding, Explaining and Respecting a Client's Options

Besides making sure that your client understands complex legal principles and procedures, I learned that it's very important to make sure that he or she is fully informed of all their options and the case against them before they make any decisions – particularly when they are deciding whether to plead guilty or not guilty.

I also learned the importance of feeling comfortable to consult the senior lawyers at the firm for advice about complex law and procedure, and that a team environment is by far the most conducive to providing clients with the best advice and strongest legal representation.

At the end of the day, your client has a right to choose whether they want to plead guilty or not guilty, and as their legal representative, you must respect that decision. This means that even if there is a strong case against them, you should continue fighting for them until the very end if they maintain their innocence and wish to plead not guilty.

This is not to say that you shouldn't advise your client of the risks of proceeding to trial. Rather, I learned that your job as their lawyer is to make sure that they understand the strengths and weaknesses of the case against them, any legal arguments that can be put forth to win their case and the prospects of succeeding based on these arguments. You should also identify and explain grounds on which their evidence can be challenged.

As your client's legal representative, you should also carefully explain any rulings that the court has made and how those rulings may affect the case. For instance, the judge may decide to have certain evidence admitted which may damage your

case, or alternatively they may rule that certain evidence will not be heard by the jury, which can give you an upper hand in winning the case.

Before your client decides upon a plea, whether guilty or not guilty, you should explain all of their options so that they can make a fully informed decision.

For instance, in some cases you can negotiate with the prosecution to have one or more of the charges downgraded provided that you enter a plea of guilty to the lesser charge. If there are multiple charges, you can try to have several charges 'attached' to the main charge, so that the sentencing judge will take the other charges into account when sentencing your client for the most serious ('principal') offence. This can help your client achieve a more lenient penalty.

Your client should also be made aware of their right to appeal, the prospects of success on appeal, and the fact that they will normally lose their right to appeal against any conviction if they plead guilty to the charges.

Finally, you should make sure that your client is aware of the impact that an adverse finding may have on their future life.

While it may sometimes appear that there is a strong case against your client, I learned that it's important that your client understands that you have not lost hope for them, and that you will fight until the very end if they wish to proceed with the trial. This, sadly, is a point that is forgotten by many lawyers who may encourage or coerce a person to plead guilty based on the evidence against them.

Instructing in a trial is an incredibly interesting and enjoyable experience which can teach you so much about the law, court procedures, evidence and client (and colleague) communication.

It challenges you to think outside the box, to develop a

relationship of trust and confidence with your client, and to do everything possible to secure the best possible outcome for your client.

Most importantly, it gives you a fantastic insight into life as a criminal defence lawyer and the kind of workload to expect in practice.

Teen in Court after Nudie Run for Free Kebab

The Downing Centre is the busiest court complex in Sydney.

It has heard the cases of many high-profile figures over the years; from Justice Marcus Einfield, to Matthew Newton, Jodhi Meares and Freya Newman.

Cases in the Downing Centre are as varied as the thousands of defendants who find themselves within its walls each year.

So the case of an unknown teenager doing a nudie run wouldn't seem to rank amongst the Centre's most illustrious moments – but just such a case has hit the news headlines.

Eighteen-year-old Victorian Jack Mascitelli recently appeared in Downing Centre Court for stripping naked and running through the streets of Byron Bay for a free kebab.

Police located the teenager hiding in, where else but a kebab shop. He was arrested and slapped with a $500 fine, making the 'free' kebab anything but.

However, Mascitelli didn't want the fine to tarnish his reputation, so he took the matter to court, hoping to receive

a better outcome.

Mascitelli had to travel from Victoria to the Downing Centre to answer the charges.

And the Presiding Magistrate certainly didn't see the funny side of the dare, calling Mascitelli a "goose" and sternly lecturing him about the inappropriateness of his conduct.

Mascitelli was also rhetorically questioned about why anyone would want a kebab at 8:45 in the morning, saying that he thought kebabs were something eaten at night (perhaps His Honour has never worked up an appetite after partying all night).

But Mascitelli was fortunate when it came to the penalty; he was given a "non conviction order" after His Honour noted his remorse and acceptance of responsibility. This meant that no criminal conviction was recorded against Mascitelli's name, and the fine of $500 was wiped ways.

As a law and commerce student, Mascitelli was relieved about the outcome. But the Magistrate warned the youngster that his actions could have jeopardised his legal career.

The nudie footy runner

Not all those found guilty of public nudity get off so easily.

In fact, one man, Wati Holmwood, was sent to prison after he streaked through a rugby match held at ANZ Stadium in Sydney. This wasn't a first offence for Holmwood, who had already breached two good behaviour bonds.

What does the NSW law say on nudie runs?

Although nudie runs are often seen as a bit of fun, this is not how the law perceives such behaviour. Nudie runs amount to 'obscene exposure' – an offence under section 5 of the NSW Summary Offences Act which carries a maximum fine of $1,100

and / or imprisonment for up to six months.

But it looks like Mascitelli will avoid any future temptation or penalty, after declaring on Twitter that his days of nudie runs are over for good.

If you have been charged with a criminal offence and have to appear in Downing Centre Court, it is a good idea to speak with a criminal lawyer to find out your options and the best way forward.

Sydney Criminal Lawyers® is located across the road from the Downing Centre and offers a free conference to those who are going to court.

Guns Inside Downing Centre Court

Law enforcement agencies are constantly demanding greater powers, despite dramatic recent increases in their powers of investigation and arrest, and even immunities from prosecution for criminal offences in certain situations.

The Police Association is now demanding that officers have the right to take their guns inside courtrooms, and mass meetings are reportedly about to commence in a bid to force the change.

But is this really necessary, or even desirable?

Let’s take a look at the current law in NSW.

What is the current law?

When it comes to court security, there are rules about what items can be take into courthouses – and this applies to police too!

Under section 8 of the Court Security Act 2005, it is an offence to carry a restricted item into a courthouse. This includes any firearm, imitation firearm, knife, bomb, grenade, crossbow, spear gun, slingshot, baton, knuckle dusters, handcuffs, body armour vests.

Body-scanners at courthouses like the Downing Centre Court check each person who enters the courthouse to ensure that no one brings in a prohibited item.

The rules currently say that police must take off their guns – but they are still allowed to carry their extendable batons, handcuffs and pepper spray.

Police can also seek permission from the court to carry firearms in high-risk cases.

Police Association

The NSW Police Association President Scott Weber claims that police of all ranks need access to firearms in all locations to protect themselves and the community.

He says that the current restrictions are "ludicrous" and that "the safety of both police officers and the community is at risk… It is a tragedy waiting to happen."

One police officer said "it makes sense, that's where all the bad guys are." Of course, not everyone in court is a 'bad guy' – in fact, the most likely defendant you will come across is a drink-driver or a young drug possessor.

In fact, those who are suspected of more serious offences will normally be in custody refused bail, and Corrections Officers and Court Sherrifs have done a good job preventing any incidents to date.

So are police using fear-mongering in order to demand more power, or is there a genuine need for more police power?

Despite the security scans, Weber argues that even at a place like the Downing Centre, it would be possible to take in a ceramic 3D gun or knife which would not be detected by the scanners.

Police argue that courts are becoming increasingly dangerous, and could even be the site for terrorist attacks.

While there have been allegations that terror plots have targeted courthouses, there is no actual evidence that this has ever occurred.

Views of the judiciary and lawyers

Judges and criminal lawyers are not convinced that police taking firearms into court is necessary, or desirable.

The Chief Magistrate has so far refused to allow police to bring firearms into court, and perhaps for good reason.

Like many other experienced criminal lawyers, I have personally cross-examined hundreds of police officers on the witness stand – causing many of them to become visibly frustrated, red-faced and angry; especially when their untruths are exposed. The last thing I would want is a furious police officer with a gun on the witness stand.

The mere fact of police having guns in court would, in my view, give them an aura of great authority and power – where any such authority should rest with magistrates, judges and court sheriffs. And for criminal lawyers, having to question someone who has possession of a gun has obvious psychological implications; especially when the cross-examination is lengthy and involves credibility. Such a situation would, in my view, be contrary to the interests of justice.

Police having body armour, batons, handcuffs and pepper spray

in an environment where others are unarmed is enough. Guns are simply unnecessary.

Negotiations ongoing

The debate about guns in the courtroom has been going on for months, with police even threatening to black-ban giving evidence in court unless their demands are met. This is despite the lack of any evidence being put forward that police need to have guns inside court.

Negotiations are still going on between the judiciary, police and the NSW government.

One spokesperson from the NSW Department of Justice said that court security was being reviewed to ensure that “all users” are being protected.