

# 1. Understanding the NSW criminal justice system

Coming into contact with the criminal justice system can be traumatic, particularly if it involves the arrest of a family member, partner or friend. If you need support contact Lifeline on **13 11 14** or the Community Restorative Centre (CRC) on **9288 8700**.

## Arrest

If a person is arrested and the police refuse to grant the person bail, depending on the time of day, they can be held overnight before they must appear in court. To find out what is happening, call the police station where you think they were taken and ask to talk to the Custody Manager.

If the person is refused bail by the court, they may remain in the court cell for a longer period (sometimes several days) before being transferred to a remand centre. The court will have a welfare worker who may be able to offer some assistance to the person in prison.

You may be able to visit someone or receive a phone call from them when they are in the court cell. (**See p.16** on how to find out where your family member is being held.)

If you're concerned about how long it's taking for your family member, partner or friend to go before the court, ring LawAccess or a Community Legal Centre for information and advice.

LawAccess is contactable toll-free



on **1300 888 529**.

To find your nearest Community Legal Centre phone **9212 7333** or go to **[www.clcnsw.org.au](http://www.clcnsw.org.au)**

Further details about legal assistance are at the end of this chapter.

## Bail

After the person has been arrested and charged, they may be released on bail. If granted bail:

- > they will be allowed to live in the community until they go back to court;
- > they may be required to report to a police station on a regular basis;

- > the person may have to sign a document saying that they will agree to forfeit some money if they do not attend court;
- > someone may have to deposit security (usually money), known as 'bail money', to assure the court the person will attend court when required. The person who deposits the money is called a 'surety';
- > this bail money is returned when the case finishes provided the person appears at court on the designated date and time;
- > if they don't turn up at court the bail money is forfeited.

As a family member of the accused, you may feel under pressure to put up bail money. However, if you cannot afford to pay this money – and risk losing it – then you should think carefully before agreeing to pay bail money.

Bail may be refused if the court or police find there is an unacceptable risk that the person will:

- > fail to appear at court hearings for the charges;
- > commit a serious offence while on bail;
- > endanger the safety of victims, individuals or the community;
- > interfere with witnesses or evidence.

In cases where the person has been charged with certain serious offences, the person must be bail refused unless they show cause

as to why their detention is not justified.

## Remand

Remand inmates are held in prison before and during their trial because:

- > they did not apply for bail; or
- > they were refused bail; or
- > they could not meet the bail conditions, for example they did not have the money or other security needed for bail.

Time on remand varies widely and depends on circumstances such as which court the matter is to be heard in, whether the person pleads guilty, delays in the court system itself or other factors. For major trials it can be more than 12 months.

You may be able to assist your family member by getting references or support letters from people like their employer. Check with their lawyer to see if this would be helpful. It is worth preparing for the possibility of imprisonment, even if you believe this is an unlikely outcome.

During this time you should think about practical issues like financial commitments and accommodation plans, and ensure that relevant family members can be involved in important decisions.

For assistance with housing and financial matters (e.g. issues with Housing NSW, Centrelink and



debts), the person in prison can seek assistance from the Services and Programs Officer in their prison.

Being on remand may be also a good time to talk about what to tell others, especially children. Talking to children at this stage allows them to have more time to understand and accept that their parent is in prison (**see 'What to tell children' p.45**).

## Trial

Courts can be intimidating places particularly for those attending for the first time. CRC (Community Restorative Centre) has trained volunteers at local courts throughout the Sydney area to provide support for people appearing at court and their families (opposite for list of courts). CRC can provide information and support. CRC does not provide legal advice. If required the person can self-refer to Legal Aid.

Some high profile trials will be covered by the media, especially if the charge is serious. If there is media coverage, this makes it more likely that other people will find out about the person's trial. Consider telling people yourself, rather than having them find out from a news report.



When going to court, be prepared for long waits as there may be a number of matters listed on the day. The solicitor may be able to indicate how long the hearing might take.

Families coming to court from country areas should bring an overnight bag in case the trial is carried over to the following day. Families may also have to make arrangements for accommodation.

## Sentencing

If the person is found guilty, sentencing may take place immediately, but this often happens at a later date to allow the person solicitor to prepare for it.

If the person is given a custodial sentence and are on bail, they will be taken directly into prison.

You will not be able to say goodbye to them before they are taken away. Sentencing can be highly stressful. If there is someone in the family attending court who suffers from a medical or psychiatric condition, they should be accompanied by someone who knows about their condition and what to do in an emergency.

## Need help?

If you need help, contact one of the following as soon as possible.

Note that 1800 numbers are free for calls from a landline but may only be available in certain locations, e.g. outside Sydney. Some may charge for calls from mobile phones, so check this if you need to call from a mobile. Visit your local library for free internet access.

### Courts with CRC support

The following courts have CRC volunteers who can offer you support:

- > Bankstown
- > Blacktown
- > Burwood
- > Downing Centre
- > Gosford
- > Hornsby
- > Manly
- > Mt Druitt
- > Newcastle
- > Newtown
- > Parramatta
- > Penrith
- > Sutherland
- > Waverley
- > Wollongong
- > Wyong



## Law Access

If you're not sure of the type of legal help you need or for information about the legal system contact LawAccess NSW.

**1300 888 529 (1300 888 LAW)**

[www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

## Community Legal Centres NSW

Community  
Legal Centres  
NSW

There are around 40 Community Legal Centres throughout NSW. Some may provide legal advice and assistance with understanding the legal system, debt, tenancy, parole and family law. To locate a local CLC contact the State Office.

**9212 7333**

[www.clcnsw.org.au](http://www.clcnsw.org.au)

## Legal Aid NSW



Provides free legal advice, and in some cases, representation in court, to people in NSW. If a person is appearing in court for the first time they should get legal advice.

There are duty lawyers in most Local Courts. However in some courts they need to apply before the court date for a grant of legal aid for a lawyer to represent them. To do this, you should phone the Legal Aid office closest to the court they will be appearing in, and ask for an appointment to get legal advice.

The lawyer will tell them if Legal Aid NSW can represent them, if they

will need to arrange for a private lawyer to help them, or if they can represent themselves.

To find a Legal Aid NSW office call **1300 888 529** or look under 'Get legal help' at [www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)

For the Legal Aid NSW Under 18s Hotline call **1800 10 18 10**

### Prisoners Legal Service

Prisoners Legal Service (PLS) is a specialist section of Legal Aid NSW for inmates.

Solicitors from the PLS visit prisons around NSW and see inmates by appointment.

PLS solicitors can help with criminal, civil and family law matters.

**9219 5888**

**1800 806 913**

[www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)

### Wurringa Baiya Aboriginal

#### Women's Legal Centre

Free legal advice for Aboriginal women for issues relating to domestic violence and victim's compensation, sexual assault and child sexual assault.

**9569 3847**

**1800 686 587 (outside Sydney)**

[www.wurringabaiya.org.au](http://www.wurringabaiya.org.au)



### Aboriginal Legal Service (ALS)



ALS is an Aboriginal community organisation giving information and referral, and legal advice and court representation to Aboriginal and Torres Strait Islander men, women and children across NSW and ACT.

[www.alsnswact.org.au](http://www.alsnswact.org.au)

Head Office Parramatta . **8842 8000**

Armidale ..... **6772 5770**

Bathurst..... **6331 1255**

Bourke ..... **6872 2200**

Broken Hill ..... **8087 3233**

Canberra..... **6249 8488**

Dubbo..... **6882 6880**

Grafton ..... **6640 1400**

Griffith..... **6962 7675**

Kempsey ..... **6562 5990**

Lismore..... **6622 7088**

Moree ..... **6752 5700**

Moruya ..... **4474 2400**

Newcastle..... **4926 1571**

Nowra ..... **4422 3255**

Parramatta..... **8842 8000**

Redfern..... **8303 6600**

Tamworth..... **6761 3766**

Taree ..... **6551 3928**

Wagga Wagga ..... **6921 9230**

Wollongong ..... **4225 7977**

## Law Society

If you need to help your family member find a lawyer, you can contact the referral service at the Law Society during business hours.

**9926 0300**

**1800 422 713**

When you find a solicitor, always ask about fees before you arrange a meeting with them. If someone is arrested outside business hours it can be hard to find a solicitor. If you have internet access, check the 'Find a Lawyer' section of the Law Society's website:

**[www.lawsociety.com.au](http://www.lawsociety.com.au)**



## Women's Legal Services NSW

WLSNSW provides free legal advice, information and referral on all matters of the law for women.

**8745 6988**

**1800 801 501 (outside Sydney)**

**[www.wlsnsw.org.au](http://www.wlsnsw.org.au)**

## Indigenous Women's Legal Contact Line

**8745 6977**

**1800 639 784**

