



Fair Trials is a non-governmental organisation that works for the right to a fair trial according to internationally-recognised standards of justice. Our vision is a world where every person's right to a fair trial is respected.

This factsheet covers:

- Definitions of key legal terms;
- Information about criminal proceedings and defence rights in Australia; and
- Useful Links

We have prepared this factsheet with the assistance of local criminal lawyers, who tried to describe how things happen in reality. Even within one country, however, practice can vary greatly from one place to another your own experience could differ from the descriptions below. This document does not constitute legal advice and only provides general information. If you need advice in relation to your specific case, or if you are concerned about a possible violation of your rights, you should discuss this with your local lawyer.

If you think an important question is not covered by this note, please let us know by filling out the sheet attached at the end. We would also appreciate it if you could also take a few moments to give us some feedback about this note. Your comments will help us to improve our services.

*"Fair Trials" comprises Fair Trials International and Fair Trials Europe. Fair Trials International is a registered charity (no. 1134586) and in 2010 was incorporated with limited liability in England Wales (no. 7135273). Fair Trials Europe is a registered public foundation in Belgium (registered number 0552.688.677). We were initially founded in 1992 with the name "Fair Trials Abroad".*

#### **IMPORTANT**

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## **DEFINITIONS OF KEY LEGAL TERMS**

**Appeal:** An opportunity to dispute a decision made at trial by asking a higher court to review it. This can result in the decision being overturned or changed.

**Arrest Warrant:** A document authorising the police to make an arrest, search premises, or carry out some other action relating to the administration of justice.

**Bail:** The temporary release from police custody or prison of a person accused of a crime and awaiting trial.

**Barrister:** A lawyer who is by law or custom limited to advocacy and advisory work, in any field of the law. Barristers are usually engaged to appear in court in complex matters.

**Charge/Indictment:** An official statement accusing a person of committing an offence.

**Consulate:** The section of the embassy whose task is to assist its citizens.

**Court Attendance Notice:** A formal document which contains the charges against you, a brief summary of the facts that form the basis of the charge and requires you to attend court on a specified date.

**Court of Appeal:** The court which hears appeals (i.e. challenges) made to decisions of lower courts.

**Court of Criminal Appeal:** The court which hears appeals for serious offences.

**Defendant:** A person who has been charged with a criminal offence.

**Embassy:** The office of a government official who resides in a foreign country and represents his/her government's interests.

**Indictable Offence:** An offence which can be prosecuted before a judge and jury. Usually, indictable offences are more serious in nature.

**Indictment:** A document that formally sets out the charges against an individual for an Indictable Offence.

**Judge:** A person with authority to hear and decide on cases in a court of law.

**Judgment:** A decision on a case provided by a judge in a court of law.

**Law Society:** A professional association of practicing solicitors and barristers engaged in regulating the legal profession. Law societies exist in each Australian jurisdiction.

**Lawyer:** A person whose profession is to give legal advice and assistance to clients and represent them in court or in other legal matters.

**Legal Aid:** A government legal service which provides legal representation and advice in criminal matters, and provides financial assistance to people who need a lawyer but cannot afford to pay for one.

**Magistrate:** A judicial officer who hears cases in the Local Court.

**Ombudsman:** A statutory office-holder responsible for the investigation of actions taken and decision made by government departments or authorities. Each state has its own Ombudsman.

**Parole:** The release of a prisoner from custody after a minimum period of imprisonment determined by a court so that the prisoner may serve the rest of the sentence on conditional liberty.

**Parole Authority or Parole Board:** An administrative body which deals with the parole of prisoners, including release on parole, conditionals of parole and revocation of parole orders.

**Police Custody:** Detention of a suspect by the police after arrest

**Pre-trial Detention:** Detention in prison during the investigations (and often during the trial itself as well), which happens before the decision on guilt or innocence is made by the court.

**Public Prosecutor:** A person who conducts a case against a person who is accused of a crime.

**Remand:** Sending a person who is accused of a crime into prison until their trial.

**State(s):** There are six states in Australia, each with their own body of laws. The states are New South Wales (NSW), Queensland, Victoria, South Australia, Western Australia and Tasmania.

**Sentence:** The punishment assigned to a person convicted of a crime as fixed by a court of law.

**Summary Offence:** An offence not punishable on indictment or for which no procedure is specified. Summary offences are usually less serious in nature and are dealt with by a Magistrate.

**Territory/Territories:** Australia has two territories, each with their own body of laws. The territories are the Australian Capital Territory (ACT) and the Northern Territory.

**Warrant:** A document issued by a legal or government official authorising the police to make an arrest, search premises, or carry out some other action relating to the administration of justice.

## INFORMATION ON CRIMINAL PROCEEDINGS AND DEFENCE RIGHTS IN AUSTRALIA

### Q1. WHERE DO THE LAWS OF AUSTRALIA APPLY? WHAT KIND OF LEGAL SYSTEM DOES IT HAVE?

There are different sets of laws that apply in Australia. There are laws that apply across the country, which are known as 'Commonwealth' or 'Federal' laws. There are also six States and two self-governing Territories, each with their own laws.

Most cases are tried under State and Territory laws, but several criminal offences exist under Federal law such as terrorism, money laundering, cybercrime, human trafficking and slavery, serious drug offences and defrauding a Commonwealth entity.

Australia has a 'common law' legal system. There is a clear division of roles between the police, the Public Prosecutor and Judges in the criminal process.

The police investigate crime, gather evidence, and refer matters to the Public Prosecutor. It is the Public Prosecutor's role to present the case for the State (or 'Crown') against the accused (the 'Defendant') in court. The Defendant also has the opportunity to present their case. The judge's role is to review the evidence presented by both sides and to make an independent decision. The judge does not investigate the case.

In serious criminal cases, a judge and jury decide the outcome of the case. The role of the judge is to summarise the facts of the case, direct the jury, and make rulings on points of law. For certain minor criminal offences, you have the option of electing for a judge-only trial.

## **Q2. WHAT ARE MY RIGHTS UPON ARREST?**

If you are arrested by the police they can keep you in detention, so long as you are charged with an offence. If the police decide to keep you in detention, depending on the time of day you are arrested, you may be kept in detention overnight before court opens the next day. Before you are brought into court you can get free legal advice and, sometimes, representation from a Legal Aid lawyer on duty. Otherwise, you can arrange a private lawyer, or you can represent yourself.

### **(a) Right to information:**

#### **(i) Will the police inform me of my rights?**

Upon arrest, the police have an obligation to advise you that you have been arrested and the reason for the arrest. At the police station, the custody manager (usually a senior police officer) must inform you of your rights both orally, and in writing. If this is not done, demand it.

Generally, your rights while under arrest include:

- Your right to silence;
- Your right to communicate, or attempt to communicate, with a lawyer of your choice for the purposes of:
  - obtaining advice;
  - asking the lawyer to attend the police station for consultation; and
  - asking the lawyer to be present during any investigative procedures.

You are also entitled to communicate, or attempt to communicate, with a friend, relative, guardian or independent person. The custody manager does not need to inform you of this entitlement, however, if s/he has good reasons to believe that the communication might undermine the investigation of an accomplice, lead to injury of another person, or cannot be done because of the urgency of the investigation.

#### **(ii) Do I have the right to be informed of the allegations / charges against me?**

When you are placed under arrest, a police officer must tell you why you are being arrested, unless the reasons are obvious (i.e. you are caught in the act), or you make it impossible (for example, by resisting arrest). There may be grounds for challenging an arrest if the police have not informed you of the reason for your arrest.

### **(b) The right to inform people:**

#### **(i) Do I have a right to have the consulate informed of the arrest?**

If you are not an Australian citizen or a permanent Australian resident, you may ask the custody manager to allow you to communicate with the consulate or consular official of the country of which you are a citizen. The investigation may commence without your consular official if s/he does not arrive within two hours after communication.

**(ii) Do I have a right to inform my family of the arrest?**

Generally, you are entitled to inform your family of the arrest. This entitlement may be removed if the custody manager has good reasons to believe that the communication might undermine the investigation of an accomplice, lead to injury to another, or cannot be done because of the urgency of the investigation.

**(c) Do I have a right to a lawyer?**

Once you are arrested, the police must tell you that you may contact a lawyer, and give you a reasonable opportunity to contact one. You can either contact Legal Aid or a private lawyer. Unless you are under 18 years of age, there is no absolute right to free legal advice.

The Australian Courts, however, have traditionally taken the view that a lawyer should be given the opportunity to attend if a request is made. The police should also delay the investigation for a reasonable length of time to allow you to speak to a lawyer.

**(d) Do I have a right to a translator/interpreter?**

You do not have an automatic right to obtain an interpreter. However, it is likely an interpreter will be organised for you if you are not able to communicate well in English. If the custody manager believes it is not reasonably practical to obtain an interpreter, or the urgency of the case would mean that any further delay of the investigation is unreasonable, you might not be given access to an interpreter.

**(e) Do I have to talk to the police or can I remain silent during police interrogation? Will it work against me if I am silent?**

You have the right to remain silent during the police interrogation. You do not have to answer the police's questions.

However, you should seek legal advice before answering or refusing to answer questions posed by the police, as the act of remaining silent may have varying consequences. In the State of New South Wales, for example, the act of remaining silent may harm your defence if you fail to mention something during the investigation that you later rely on in court.

**Q3. WHEN WILL I KNOW ABOUT THE CASE AGAINST ME?**

You will know about the case against you when the police formally lay charges against you. The length of time it takes for a charge to be laid will depend on the complexity of your case. Generally speaking, if the police decide to charge you with a summary offence, they must do so within 6 - 12 months of the alleged offence. This timeframe varies between States and Territories. In relation to indictable offences, the police may charge you at any time for all States and Territories.

Criminal proceedings are started by a formal allegation (charge) which is set out in a Court Attendance Notice. The Court Attendance Notice will usually contain a brief summary of the facts that form the basis of the charge. You must be given a Court Attendance Notice prior to your matter coming before the court. You will not be given a copy of the police brief of evidence in your case unless you plead not guilty.

**Q4. HOW DO I FIND A LAWYER? WHAT IS THE ROLE OF MY LAWYER?**

**(a) How do I find a lawyer?**

To find a lawyer, you can either contact the local Legal Aid office, or the local Law Society. Please refer to the table at the end of this leaflet for relevant contact details.

You can also contact your consulate to ask whether they are able to provide a list of lawyers who speak your language.

**(b) I cannot afford to pay for a private lawyer, what should I do?**

Each State and Territory has a Legal Aid office which may be able to provide you with initial advice and representation, if you qualify for legal aid. As a general rule, the Legal Aid office will take into consideration the following factors when assessing your eligibility for legal aid:

- **Means:** your financial circumstances i.e. your earnings, savings and assets
- **Merit:** does your case have a reasonable prospect of success?

- **Jurisdiction:** is the case of a type that Legal Aid can fund? Criminal cases are usually within Legal Aid's selection criteria.

With the exception of Queensland, each State and Territory allows you to nominate a particular lawyer to represent you when you apply for Legal Aid. However, Legal Aid is not obliged to provide you with the particular lawyer you have requested.

**(c) What is the role of my lawyer? Will s/he investigate the case?**

Your lawyer should provide you with advice about the nature of the accusations against you, what evidence the police may have against you, whether you are likely to be granted bail, and what your options are. Your lawyer may also appear for you in court, or brief a Barrister to appear in your case.

Your lawyer will obtain your version of events, and (if instructed by you) make any reasonable endeavours to obtain evidence that may assist with your case. Your lawyer may also assist you to obtain any relevant documents from the police or Public Prosecutor.

**(d) I am unhappy with my lawyer: How can I change lawyer? How can I complain about my lawyer?**

You have a general right to change your lawyer at any time. This is done by informing your lawyer, in writing, that you no longer wish to engage their services.

If your case has already been brought before the court you should notify the judge and any other relevant parties that you are seeking to change lawyers.

If you are represented by Legal Aid, you cannot ask for a change in lawyer unless there is good reason for the change. Such requests should be made in writing to your Legal Aid office. If a change in lawyer is allowed, you may need to bear the cost of transferring to a new lawyer.

You can complain about your lawyer by submitting a formal complaint to the Legal Services Commission office (or equivalent) in the relevant State or Territory. Please refer to the table at the end of this leaflet for relevant contact details.

Your complaint must:

- be made in writing;
- identify who is making the complaint;
- identify the individual against whom the complaint is made; and
- describe the alleged conduct that is the subject of the complaint.

**Q5. WILL I HAVE TO STAY IN PRISON UNTIL MY TRIAL STARTS? IF SO, FOR HOW LONG?**

The information given below is specific to Australia. For general information and tips about how to obtain your release prior to your trial, please refer to our note of advice on *Applying for Release Pending Trial*.

**(a) Will I have to stay in prison until my trial starts?**

You will not have to stay in prison "on remand" before your trial if you are granted bail. There are two types of bail – 'police' bail and 'court-ordered' bail.

If you are arrested by the police and charged with an offence, the police will decide whether to let you go or keep you in detention. If the police let you go, you are released on "bail." This means you are free to go but must attend court on the court date that is contained in your Court Attendance Notice.

If the police do not release you, you will be brought before a court where you can ask the court to release you instead.

You may be released on certain conditions. The conditions that may be imposed include reporting to police, obeying a curfew, surrendering your passport, providing money as security, abstaining from taking drugs and/or alcohol, not going to certain places or associating with certain people, and providing character references.

**(b) How long can I be kept in prison before my trial starts?**

You will only need to remain in custody before your trial if you have been refused bail. The length of time you spend in custody will vary depending on the State or Territory that you are in, the complexity of your case, and the case load of the court. You may have to spend up to 12 months in custody if your case is complicated, though such a long wait is rare.

Speak to a lawyer about how long you may be in custody, and whether you can make a further bail application.

If you are later convicted and sentenced to a imprisonment, any period which you have already spent in custody while awaiting trial will usually be deducted from your sentence.

**(c) How and when can I apply for release while waiting for trial?**

Once you have been refused bail by the court, you cannot make a further application for bail unless one of the following circumstances exist:

- you did not have a lawyer to help you when you made your application for release, but you have now managed to find legal assistance;
- you have new information relevant to your application for release that was not initially made available to the court;
- there have been changes in circumstances since the previous application was made that affects your application for release; or
- you are a child and the previous application was made on a first appearance for the offence.

**(d) Can I go back to my home country if I have been released pending my trial?**

Yes, provided your passport has not been revoked as a condition of your bail. It is best to speak to lawyer if you intend to return to your home country while you are on bail.

**(e) What will happen if I breach the conditions of my release?**

The consequences of violating the conditions of your release will depend on the seriousness of the violation. If the violation is minor, the police may issue you with a warning. If it is more serious, the police may charge you with the offence of breaching bail and you may have to attend court to face these charges.

If you violate the conditions of your release by not turning up for court, a warrant will be issued for your arrest.

**(f) Do I need a lawyer to apply for release?**

It is possible to represent yourself. Before appearing in court, you can get free legal advice and, you may be able to get representation from a Legal Aid lawyer. You can also arrange for a private lawyer.

If you are not legally represented when you make your first bail application and you are refused bail, you may be able to make a new bail application once you obtain a lawyer.

**Q6. HOW LONG BEFORE MY CASE GOES TO TRIAL?**

This depends on which court you will be appearing in and the nature of the offence. For minor offences (called 'Summary Offences'), the prosecution must generally commence within six months of the date the offence is alleged to have been committed. For more serious offences (called 'Indictable Offences'), there is generally no time limit for when the matter should be prosecuted.

There may be delays in setting down a trial date for your matter if, for example:

- you are unable to obtain legal advice quickly;
- the court has a large case load;
- your trial is complicated and will require many witnesses and trial days; or
- certain witnesses are unable to attend court in a short time frame.

In Australia, there is no right to have a criminal case dealt with in a specific period of time. If you have concerns about the time it is taking for your matter to get to trial, speak to your lawyer.

**(a) There are always delays with my case, does that mean my lawyer is doing a bad job?**

No. There can be a number of reasons for the delay which are beyond your lawyer's control. However, you may have cause for concern if your lawyer does not respond to you in a reasonable time frame, or if your lawyer does not give you reasonable updates on how your matter is progressing. If this occurs, speak to your lawyer about the reasons for the lack of communication.

**Q7. CAN I PLEAD GUILTY? WHAT ARE THE CONSEQUENCES OF PLEADING GUILTY?**

You should only plead guilty after receiving legal advice. If you plead guilty, you will not be able to withdraw or change your plea (except in very exceptional circumstances).

Pleading guilty carries with it the following consequences:

- your case may be dealt with more quickly, because it does not need to be set down for a trial;
- the earlier you plead guilty, the more likely you are to receive a reduction on your sentence; and
- you can put before the court evidence of your remorse, which may impact on your sentence.

**Q8. WHAT HAPPENS AT TRIAL?**

For minor offences, a trial takes place in a Local Court (also called a 'County Court' in some states) before a 'Magistrate'. Both the prosecution and the defendant are allowed to present evidence and call witnesses. The Magistrate decides whether or not a person is guilty, and if appropriate, imposes a penalty.

For more serious offences, trials take place in the District Court or the Supreme Court. The trial may be before a Judge alone, or a Judge and Jury, depending on the nature of the offence. The more serious the offence, the more likely you are to have a jury trial.

Trials in the District and Supreme Court usually run in the following way:

The prosecution presents its case first. This includes the prosecution giving its opening remarks about its case and the prosecution calling each of its witnesses to give evidence. You (or your lawyer) will have an opportunity to cross-examine each witness that is called by the opposition.

Once all prosecution witnesses have been called, you (or your lawyer) will open your case. You can call witnesses, and the prosecution will have the opportunity to cross-examine these witnesses.

After all witnesses on both sides have been called, you (or your lawyer) and the prosecution will summarise the evidence in their case to the jury. This is called a 'closing address'.

The judge will then explain to the jury the laws that apply to the facts of the case and sum up the arguments put forward by both sides.

The jury will then retire to the jury room to consider their verdict. It is difficult to know how long this process may take. Sometimes the jury may have questions for the Judge. If this occurs, the jury will send a note to the Judge's chambers, and all parties will be called back to the court so the jury's questions can be answered.

If the verdict is 'guilty', the Judge will usually set a date for the sentencing. The length of time between the end of the trial and the sentencing date will depend on whether your lawyer needs to compile any medical reports or other support documents on your behalf.

If the verdict is 'not guilty', the Judge will dismiss the charges against you and discharge the jury.

**(a) Do I have to be present?**

Yes. If you are in custody before your trial, the court will organise for you to be transported to the court for your trial. If you do not wish to attend the court in person, you may be able to appear by video link.

If you have been released, it is a condition of your release that you attend court. If you do not turn up to court, your case might be decided without you and a warrant for your arrest could be issued.

**(b) Can I ask for the trial to take place in my home country?**

No.

**(c) Is there a jury?**

A jury is used in trials for more serious criminal offences where a person pleads not guilty. For minor offences, the trial will involve a judge sitting alone.

**(d) Can my lawyer call and cross-examine witnesses?**

Yes. Your lawyer will have the opportunity to call witnesses, including you as a witness (if you want to give evidence). The prosecution will have the opportunity to cross-examine each witness that your lawyer calls, including you. If a witness has been cross-examined, your lawyer will have the opportunity to ask further questions of that witness afterwards. This is known as 're-examination'.

**(e) I don't speak the language of the court, do I have a right to an interpreter? Is it free?**

You should inform both the prosecutor and the court that you require an interpreter for the court proceedings, and an interpreter will be booked for you free of charge. If Legal Aid is representing you, they can also organise an interpreter for you. If the court determines that you can speak and understand English sufficiently, it may not provide you with an interpreter.

If you are unable to obtain an interpreter for the relevant court date, you may seek an adjournment from the court. If the court denies your adjournment request, this may be a denial of procedural fairness and form the basis of an appeal against any verdict.

**(f) Will the written evidence be translated for me?**

No. However, you may ask to have the interpreter read the documents to you in court, or have the matter stood down to read the matter to you outside of court.

**(g) Will the interpreter also help me if I need to talk to my lawyer?**

Yes. If the interpreter has been asked to attend the court for the duration of your proceedings, they will also be able to assist you to communicate with your lawyer.

**(h) Why is the victim taking part in the trial?**

The victim may take part in a trial in a number of ways. Often victims are called to give evidence because they are important witnesses in the prosecution's case. In some cases the victim may be allowed to give evidence remotely, because of the distressing nature of the alleged crime. The victim may also provide a Victim Impact Statement to the court, which describes how the crime has affected the victim. The court will consider this statement when handing down its sentence, if you are convicted.

**(i) Will I be informed of the decision of the court on the day of the trial?**

For minor offences, you will usually receive the verdict and sentence on the same day, especially if the penalty is a fine or a good behaviour bond. However, if the Judge or Magistrate is considering a more serious penalty, such as a prison term, your case may be postponed for several weeks to allow the court to obtain reports into what its options are. During this time, you will have the opportunity to obtain your own reports if you have any medical or other conditions that you would like the court to take into account.

**(j) Can I receive a copy of the judgment in my mother tongue?**

No, the court will deliver and publish its judgment in English. However, you may ask that an interpreter be made available to interpret the judgment to you or you may arrange to have a copy of the decision translated into a language you understand after the proceedings.

**(k) I was tried in my absence and was not informed of this, what can I do?**

If you are convicted of an offence in your absence in the Local Court, you have a certain period of time within which to appeal the conviction. In New South Wales, you have 2 years to appeal the conviction, however this time frame may be different for other States and Territories.

For serious offences, it is unlikely that you will be tried in your absence. If this were to occur, you would have a right to appeal the conviction. The time frame for you to lodge an appeal will depend on which State or Territory you are in.

## **Q9. I AM NOT HAPPY WITH THE DECISION, CAN I APPEAL AGAINST IT? HOW DO I APPEAL?**

Decisions made by criminal courts can be appealed. However, it is best to seek advice from your lawyer about whether you have any grounds to appeal, what time limits may apply and your prospects of success.

If you plead not guilty and you are convicted after a trial, you may have a right to appeal against your conviction.

If you have pleaded guilty, you may appeal against your sentence. You can only appeal against the conviction after pleading guilty in very exceptional circumstances.

To start an appeal, you will need to file a notice of appeal with the relevant court, usually a higher court. In some instances, you may need to seek permission before you can appeal to the higher court.

In most cases, the Court of Criminal Appeal is the highest court for criminal cases. To appeal a decision of the Court of Criminal Appeal to the High Court you must seek special permission.

### **(a) Do I need to pay my lawyer more money if there is an appeal?**

If you are paying for a private solicitor, you will have to pay them additional fees for running the appeal. Make sure your lawyer explains to you clearly how they will calculate their costs for the appeal.

If you are represented by a Legal Aid lawyer, you may be asked to make a further contribution towards the costs of your appeal.

### **(b) What is the timeframe for an appeal to take place?**

The time frame will vary depending on the urgency of the appeal and the court's caseload.

If there are compelling health, personal or other circumstances to have your appeal heard quickly, you should let your lawyer know. Your lawyer may be able to ask the court to shorten the time for your appeal to be heard.

### **(c) Could things get worse during the appeal? If I am acquitted, can the prosecution appeal?**

Yes. If your appeal against a sentence fails, the court may impose a harsher sentence. The court may also impose a harsher sentence if the prosecution has appealed against your sentence.

Generally, the prosecution cannot appeal an acquittal, but there is limited scope for the prosecution to appeal an acquittal on a question of law, if the judge has directed the jury to make a finding of not guilty.

## **Q10. I HAVE EXHAUSTED ALL LEGAL REMEDIES. WHAT OPTIONS DO I HAVE?**

### **(a) Is it possible to get my case reviewed?**

No, not unless you can show there is new evidence.

### **(b) Can I apply for a pardon?**

Yes. If you were convicted of a State or Territory offence, the pardon should be directed to the Governor of the State or Territory. If you have been convicted of a Commonwealth offence, your request for a pardon should be directed to the Governor-General of Australia. A pardon can only be granted by the Governor or Governor-General on the advice of a government minister (usually the Minister for Justice).

There is no formal application to seek a pardon, however the request must be submitted in writing.

## **Q11. WHAT RIGHTS DO I HAVE AS A PRISONER?**

### **(a) Do I have rights as a prisoner? Where can I find out about my rights?**

The rights you have as a prisoner will depend on which prison and the State or Territory in which the prison is located.

When you are processed into a prison, you will hand in your belongings for safe custody at reception, and undergo a physical and mental health assessment. During the reception process you will likely be shown a video which will explain to you what your rights in prison are, including phone and internet access, visitation rights, recreational facilities, educational courses and employment options.

The rights you have in prison will also depend on the classification you receive once you are processed. Classification is the process of determining the level of security you are to be subject to. Decisions about classification are based on sentence length, your support and program needs and vacancies in different prisons.

You can find out about your rights as a prisoner by contacting the Legal Aid service in your particular State or Territory. Please refer to the 'Useful Links' section at the end of this note.

**(b) What can I do if my rights are violated? Where can I get assistance regarding my welfare issues, regarding abuse and mistreatment?**

If you feel that your rights have been violated, you may wish to contact the Legal Aid service in your particular State or Territory to seek legal advice about what you can do. Legal Aid will be able to provide you with some initial advice about whether your rights have been violated and, in some cases, provide you with ongoing assistance with your matter.

Sometimes, the first step to take when you have had your rights violated is to make a complaint through the internal complaints process of the prison.

If the prison does not take your complaint seriously, or has treated you unfairly, you may complain to the Ombudsman in your State or Territory. The Ombudsman has the power to investigate your complaint and make recommendations to the prison authority. However, the Ombudsman cannot force the prison authority to comply with its recommendations.

If there are issues affecting your health or welfare, it is best to raise these immediately with health staff or a welfare office in the prison. If there are no health professionals to address your needs immediately, you can ask to call a mental health telephone service. Please refer to the table at the end of this pamphlet.

As a prisoner, you are entitled to enjoy your basic human rights, and to be treated with respect and dignity. If your human rights are breached while you are in custody, or you experience discrimination, you may lodge a complaint with the Australian Human Rights Commission.

**Q12. CAN I GET MY SENTENCE REDUCED?**

You can appeal your sentence, if you feel it is excessive. It is best that you speak to a lawyer first before seeking an appeal.

You may be eligible for early release into the community (or 'parole') if your sentence includes a non-parole period (a minimum term). To be eligible for parole, you must serve out your non-parole period.

Not all sentences include a non-parole period. This depends on the length of the sentence.

You are only eligible for release on parole once you have served your non-parole period. Being released on parole means you are able to serve out the remainder of your sentence in the community on conditional release.

Release on parole is not an automatic. Each State and Territory has a parole authority which decides whether you should be released into the community once you have served your non-parole period. You will usually be notified when you are eligible for parole, so that you can prepare your application. You should seek legal advice before making a parole application, to give you the best opportunity at being granted parole.

**(a) What would help me get an early release?**

To ensure that you are released at the earliest available opportunity, you should ensure that you are of good behaviour while you are in custody, and that you comply with all reasonable and lawful directions. Participation in prison programmes may also help you to secure an early release.

You must also be able to demonstrate that you have stable accommodation once you are released from custody, and that you are able to adapt to life in the community.

**(b) I have been sentenced to pay a fine, what will happen if I don't pay it?**

fine (usually 28 days). If you do not think you can pay the fine off in the specified period, you can apply to the registrar of the court issuing the fine for an extension of time or to pay by instalments.

If you do not pay off the fine after the time for payment has expired, the fine will be referred to the relevant state revenue or debt recovery office in your State or Territory. You will then be issued with a further notice and be given additional time to pay off the fine.

If you still do not pay off your fine, the debt recovery office may add administrative costs to your fine. It may also take civil proceedings against you to recover the fine. The court may, for example, make an order recover the money from your bank account, or to seize your property in order to repay the fine. In very rare cases, the court may order you to undertake community service or even send you to prison for failure to pay a fine.

### **Q13. CAN I GO BACK TO MY HOME COUNTRY?**

#### **(a) Can I serve my prison sentence in my home country?**

If you were convicted of a Commonwealth offence, you can apply to the Commonwealth Attorney-General under the International Transfer of Prisoners (ITP) Scheme. If you were convicted of a State or Territory offence, you must also obtain the consent of the relevant State or Territory Attorney-General before you make a request under the ITP Scheme.

You can only apply for a transfer from Australia to a foreign country if:

- your native country is listed as a transfer country under the *International Transfer of Prisoners Act 1997*;
- you are either:
  - a national of the transfer country, or
  - you have community ties with the transfer country;
- neither your prison sentence nor your conviction is the subject of an appeal;
- the offence for which you are serving a prison sentence is also an offence in the country to which you are being transferred; and
- at least 6 months of your sentence remains to be served (or one year, if you are transferring to Hong Kong, Thailand, Cambodia or Vietnam).

You should seek advice from a lawyer before making a transfer application.

The time that it takes to process a transfer application will vary from case to case. It may take a while for the Australian Government to go through its internal process, but there may also be delays in obtaining the consent of the transfer country.

#### **(b) Can I be expelled instead of serving my sentence?**

Generally, you cannot be expelled instead of serving your sentence in Australia.

#### **(c) Is there a risk that I will be deported after serving my sentence?**

Generally, if your right to stay in Australia has not been revoked or expired, and you have served your sentence, you will not be at risk of deportation.

If you are a permanent resident who is not an Australian citizen and who, within 10 years of entry, is convicted in Australia of any *offence* where you received a prison sentence of one year or longer, your right to remain in Australia may be revoked, and you could be deported.

The Department of Immigration and Border Protection (DIBP) may also cancel a person's permanent visa (no matter how long that person has lived in Australia), if the person has committed certain crimes that carry a prison term. In practice, only those who have committed offences punishable by more than 12 months imprisonment are deported or removed. The minister considers the most serious offences to include crimes of violence, offences involving injury to or corruption of young people, sex offences against children, and *trafficking* in or distribution of drugs.

If you are uncertain about whether you may face deportation after serving your sentence, you should contact the Legal Aid office in your State or Territory or seek advice from an immigration lawyer.

## USEFUL LINKS

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
<b>LAW GOVERNING BODIES</b>			
New South Wales	<b>The Law Society NSW</b>	Regulates and provides professional support to lawyers in NSW.  Can provide you with information about legal services generally in NSW and assist you to find a lawyer.	Website: <a href="http://www.lawsociety.com.au">www.lawsociety.com.au</a> E: <a href="mailto:lawsociety@lawsociety.com.au">lawsociety@lawsociety.com.au</a>  T: +61 (0)2 9926 0333 F: +61 (0)2 9231 5809  170 Phillip Street Sydney NSW 2000
New South Wales	<b>NSW Bar Association</b>	The professional association for barristers in NSW.  Can assist you to find a barrister, including a pro bono barrister.	Website: <a href="http://www.nswbar.asn.au">www.nswbar.asn.au</a> E: <a href="mailto:enquiries@nswbar.asn.au">enquiries@nswbar.asn.au</a>  T: +61 (0)2 9232 4055 F: +61 (0)2 9221 1149  Selborne Chambers, B/174 Phillip Street Sydney NSW 2000
Queensland	<b>Queensland Law Society</b>	Regulates and provides professional support to lawyers in Queensland.  Can provide you with information about legal services generally in Queensland and assist you to find a lawyer.	Website: <a href="http://www.qls.com.au">www.qls.com.au</a> Email: <a href="mailto:info@qls.com.au">info@qls.com.au</a>  T: +61 (0)7 3842 5888 F: +61 (0)7 3842 5999  179 Ann Street Brisbane QLD 4000  GPO Box 1785 Brisbane QLD 4001
Queensland	<b>The Bar Association of Queensland</b>	The professional association for barristers in Queensland.  Can assist you to find a barrister, including a pro bono barrister.	Website: <a href="http://www.qldbar.asn.au">www.qldbar.asn.au</a> E: <a href="mailto:qldbar@qldbar.asn.au">qldbar@qldbar.asn.au</a>  T: +61 (0)7 3238 5100 F: +61 (0) 3236 1180  Ground Floor, Inns of Court 107 North Quay Brisbane QLD 4000
Victoria	<b>Law Institute of Victoria</b>	Regulates and provides professional support to lawyers in Victoria.  Can provide you with information about legal services generally in Victoria and assist you to find a lawyer.	Website: <a href="http://www.liv.asn.au">www.liv.asn.au</a> E: <a href="mailto:lawinst@liv.asn.au">lawinst@liv.asn.au</a>  T: +61 (0)3 9607 9311 F: +61 (0)3 9602 5270  470 Bourke Street Melbourne VIC 3000  PO Box 263 Melbourne VIC 3001
Victoria	<b>Victorian Bar</b>	The professional association for barristers in Victoria.  Can assist you to find a barrister.	Website: <a href="http://www.vicbar.com.au">www.vicbar.com.au</a> E: <a href="mailto:vicbar@vicbar.com.au">vicbar@vicbar.com.au</a>

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
			<p>T: +61 (0)3 9225 7111 F: +61 (0)3 9225 6068</p> <p>Owen Dixon Chambers East Level 5 205 William Street Melbourne VIC 3000</p>
South Australia	<b>Law Society of South Australia</b>	<p>Regulates and provides professional support to lawyers in South Australia.</p> <p>Can provide you with information about legal services generally in South Australia and assist you to find a lawyer.</p>	<p>Website: <a href="http://www.lawsocietysa.asn.au">www.lawsocietysa.asn.au</a></p> <p>E: <a href="mailto:email@lawsocietysa.asn.au">email@lawsocietysa.asn.au</a></p> <p>T: +61 (0)8 8229 0200 F: +61 (0)8 8231 1929</p> <p>178 North Terrace Adelaide SA 5000</p> <p>GPO Box 2066 Adelaide SA 5001</p>
South Australia	<b>South Australian Bar Association</b>	<p>The professional association for barristers in South Australia.</p> <p>Can assist you to find a barrister.</p>	<p>Website: <a href="http://www.sabar.org.au">www.sabar.org.au</a></p> <p>E: <a href="mailto:sabar@sabar.org.au">sabar@sabar.org.au</a></p> <p>T: +61 (0)8 8231 8153</p> <p>GPO Box 2247 Adelaide SA 5001</p>
Western Australia	<b>The Law Society of Western Australia</b>	<p>Regulates and provides professional support to lawyers in Western Australia.</p> <p>Can provide you with information about legal services generally in Western Australia and assist you to find a lawyer.</p>	<p>Website: <a href="http://www.lawsocietywa.asn.au">www.lawsocietywa.asn.au</a></p> <p>Email: <a href="mailto:info@lawsocietywa.asn.au">info@lawsocietywa.asn.au</a></p> <p>T: +61 (0)8 9324 8600 F: +61 (0)8 9324 8699</p> <p>Level 4, 160 St Georges Terrace Perth WA 6000</p> <p>PO Box Z5345 Perth WA 6831</p>
Western Australia	<b>Western Australian Bar Association</b>	<p>The professional association for barristers in Western Australia.</p> <p>Can assist you to find a barrister.</p>	<p>Website : <a href="http://www.wabar.asn.au">www.wabar.asn.au</a></p> <p>E: <a href="mailto:info@wabar.asn.au">info@wabar.asn.au</a></p> <p>T: +61 (0)8 9220 0477 F: +61 (0)8 9221 5781</p> <p>Level 19, Allendale Square, 77 St George's Terrace Perth WA 6000</p> <p>GPO Box C122 Perth WA 6839</p>

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
Tasmania	<b>The Law Society of Tasmania</b>	Regulates and provides professional support to lawyers in Tasmania.  Can provide you with information about legal services generally in Tasmania and assist you to find a lawyer.	Website: <a href="http://lst.org.au">http://lst.org.au</a>  E: <a href="mailto:info@lst.org.au">info@lst.org.au</a>  T: +61 (0)3 6234 4133 F: +61 (0)3 6223 8240  28 Murray Street Hobart TAS 7000  GPO Box 1133 Hobart TAS 7001
Tasmania	<b>The Tasmanian Bar</b>	The professional association for barristers in Tasmania.  Can assist you to find a barrister.	Website: <a href="http://www.tasmanianbar.com.au">www.tasmanianbar.com.au</a>  E: <a href="mailto:tamara@tasmanianbar.com.au">tamara@tasmanianbar.com.au</a>  T: +61 (0)3 6223 3844 F: +61 (0)3 6223 5466  Malthouse Chambers, 119 Hampden Road Battery Point TAS 7004  PO Box 20 Battery Point TAS 7004
Northern Territory	<b>Law Society Northern Territory</b>	Regulates and provides professional support to lawyers in the Northern Territory.  Can provide you with information about legal services generally in the Northern Territory and assist you to find a lawyer.	Website: <a href="http://lawsocietynt.asn.au">http://lawsocietynt.asn.au</a>  E: <a href="mailto:lawsoc@lawsocietynt.asn.au">lawsoc@lawsocietynt.asn.au</a>  T: +61 (0)8 8981 5104 F: +61 (0)8 8941 1623  Suite 2, Ground Floor, 38 Mitchell Street Darwin NT 0800  GPO Box 2388 Darwin NT 0801
Northern Territory	<b>Northern Territory Bar Association</b>	The professional association for barristers in the Northern Territory.  Can assist you to find a barrister.	Website: <a href="http://ntba.asn.au">http://ntba.asn.au</a>  E: <a href="mailto:clerk@williamforster.com">clerk@williamforster.com</a>  T: +61 (0)8 8982 4700 F: +61 (0)8 8941 1541  GPO Box 4369 Darwin NT 0801
Australian Capital Territory	<b>The Law Society of the ACT</b>	Regulates and provides professional support to lawyers in the ACT.  Can provide you with information about legal services generally in the ACT and assist you to find a lawyer.	Website: <a href="http://www.actlawsociety.asn.au">www.actlawsociety.asn.au</a>  Email: <a href="mailto:mail@actlawsociety.asn.au">mail@actlawsociety.asn.au</a>  T: +61 (0)2 6247 5700 F: +61 (0)2 6247 3754  Level 3, 11 London Circuit, City West Canberra

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
			ACT 2601  GPO Box 1562 Canberra ACT 2601
Australian Capital Territory	<b>ACT Bar Association</b>	The professional association for barristers in the ACT.  Can assist you to find a barrister.	Website: <a href="http://www.actbar.com.au">www.actbar.com.au</a>  T: +61 (0)2 6257 1437 F: +61 (0)2 6257 6090  11th Floor AMP Building 1 Hobart Place Canberra ACT 2601  GPO Box 789 Canberra City ACT 2601
<b>LEGAL AID</b>			
New South Wales	<b>Legal Aid NSW</b>	Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).  Legal Aid can also provide you with representation, if you meet their criteria.  There are Legal Aid offices located throughout NSW, but the main office is located in Central Sydney.  To obtain advice, you may need to make an appointment at a Legal Aid office. However, if you are in custody, the Legal Aid solicitor will come to see you if you satisfy Legal Aid's criteria.	Website: <a href="http://www.legalaid.nsw.gov.au">www.legalaid.nsw.gov.au</a>  T: +61 (0)2 9219 5000  You can obtain telephone legal advice by calling <b>Law Access NSW</b> on <b>1300 888 529</b> ,  F: +61 (0)2 9219 5935  <u>Central Sydney Office</u> 323 Castlereagh Street Haymarket NSW 2000
New South Wales	<b>Legal Aid NSW – Youth Hotline</b>	The Hotline provides legal advice and information to young people under 18, and operates 9am to midnight weekdays, with a 24-hour service from Friday 9 am to Sunday midnight and also on public holidays.	Tel: 1800 10 18 10
Victoria	<b>Victoria Legal Aid</b>	Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).  Legal Aid can also provide you with representation, if you meet their criteria.  There are Legal Aid offices located throughout Victoria, but the main office is located in Central Melbourne.  Legal Aid Victoria also has a hotline which you can call for legal advice over the telephone.	Website: <a href="http://www.legalaid.vic.gov.au">www.legalaid.vic.gov.au</a>  Tel: 1300 792 387  You can obtain telephone legal advice by calling <b>1300 792 387</b> , Mon-Fri, 8.45am -5.15 pm  <u>Melbourne Office</u> 350 Queen St Melbourne VIC 3000  GPO Box 4380 Melbourne VIC 3001
Queensland	<b>Legal Aid Queensland</b>	Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).  Legal Aid can also provide you with representation, if you meet their criteria.	Website : <a href="http://www.legalaid.qld.gov.au">www.legalaid.qld.gov.au</a>  E: <a href="mailto:mailbox@legalaid.qld.gov.au">mailbox@legalaid.qld.gov.au</a>  T: 1300 65 11 88 (Legal

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
		There are Legal Aid offices located throughout Queensland, but the main office is located in Central Brisbane.	information and referral only)  You can obtain telephone legal advice by calling 1300 65 11 88, Mon-Fri, 8:30am-5pm.  F: +61 (0)7 3238 3014  <u>Brisbane Office</u> 44 Herschel Street Brisbane QLD 4000  GPO Box 2449 Brisbane QLD 4001
South Australia	<b>Legal Services Commission South Australia</b>	Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).  Legal Aid can also provide you with representation, if you meet their criteria.  Offices are located throughout South Australia, but the main office is located in Central Adelaide.	Website : <a href="http://www.lsc.sa.gov.au">www.lsc.sa.gov.au</a>  T : +61 (0)8 8111 5555  You can obtain telephone legal advice by calling 1300 366 424, Mon-Fri, 9am-4:30pm.  F : +61 (0)8 8111 5599  <u>Adelaide Office</u> 159 Gawler Place Adelaide SA 5000  GPO Box 1718 Adelaide SA 5001
Western Australia	<b>Legal Aid Western Australia</b>	Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).  Legal Aid can also provide you with representation, if you meet their criteria.  There are Legal Aid offices located throughout Western Australia, but the main office is located in Central Perth.	Website : <a href="http://www.legalaid.wa.gov.au">www.legalaid.wa.gov.au</a>  T: +61 (0)8 9261 6222 F: +61 (0)8 9325 5430  You can obtain telephone legal advice by calling <b>1300 650 579</b> , Mon-Fri, 8:30am-4:30pm.  <u>Perth Office</u> 55 St Georges Terrace Perth, WA 6000  PO Box L916, Perth WA 6842
Tasmania	<b>Legal Aid Commission of Tasmania</b>	Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).  Legal Aid can also provide you with representation, if you meet their criteria.  There are Legal Aid offices located throughout Tasmania, but the main office is located in Central Hobart.	Website: <a href="http://www.legalaid.tas.gov.au">www.legalaid.tas.gov.au</a>  T: +61 (0)3 6236 3800  You can obtain telephone legal advice by calling 1300 366 611, Mon-Fri, 9am-5pm.  F: +61 (0)3 6236 3811  <u>Hobart Office</u> 158 Liverpool Street Hobart TAS 7000  GPO Box 1422 Hobart 7001

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
Northern Territory	<b>Northern Territory Legal Aid Commission</b>	<p>Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).</p> <p>Legal Aid can also provide you with representation, if you meet their criteria.</p> <p>There are Legal Aid offices located throughout the Northern Territory, but the main office is located in Central Darwin.</p>	<p>Website: <a href="http://www.ntlac.nt.gov.au">www.ntlac.nt.gov.au</a></p> <p>You can obtain telephone legal advice by calling <b>1800 019 343</b>, Mon-Fri, 8am-4:30pm</p> <p>F: +61 (0)8 8999 3099</p> <p><u>Darwin Office</u> 6<sup>th</sup> Floor, 9-11 Cavenagh Street Darwin NT 0800</p> <p>Locked Bag 11 Darwin NT 0801</p>
Australian Capital Territory	<b>Legal Aid ACT</b>	<p>Can provide assistance with bail applications and give advice on criminal law, family law and civil law matters (including immigration law).</p> <p>Legal Aid can also provide you with representation, if you meet their criteria.</p> <p>Legal Aid's main office is located in Canberra City. Legal Aid ACT also runs a separate Youth Law Centre, which can provide information, advice and referrals for people aged between 12 and 25.</p>	<p>Website: <a href="http://www.legalaidact.org.au">www.legalaidact.org.au</a></p> <p>E: <a href="mailto:legalaid@legalaidact.org.au">legalaid@legalaidact.org.au</a></p> <p>T: +61 (0)2 6243 3411</p> <p>F: +61 (0)2 6243 3435</p> <p>You can obtain telephone legal advice by calling <b>1300 654 314</b>, Mon-Fri, 8:30am-5pm.</p> <p><u>Canberra Office</u> 2 Allsop Street Canberra City ACT 2601</p> <p>GPO Box 512 Canberra ACT 2601</p> <p><u>Youth Law Centre:</u> T: +61 (0)2 6173 5410 (for information and appointments)</p> <p>Level 1, 14 Childers Square Canberra City ACT 2601</p>
<b>OMBUDSMEN and COMPLAINTS COMMITTEES</b>			
New South Wales	<b>New South Wales Ombudsman</b>	The NSW Ombudsman is an independent and impartial watchdog that investigates complaints against state agencies (including police and prison authorities), local council and public universities.	<p>Website: <a href="http://www.ombo.nsw.gov.au">www.ombo.nsw.gov.au</a></p> <p>E: <a href="mailto:nswombo@ombo.nsw.gov.au">nswombo@ombo.nsw.gov.au</a></p> <p>T: +61 (0)2 9286 1000 or 1800 451 524</p> <p>F: +61 (02) 9283 2911</p> <p>Level 24, 580 George Street Sydney NSW 2000</p>
New South Wales	<b>Office of the Legal Services Commissioner -</b>	The OLSC receives all complaints against solicitors and barristers in New South Wales.	<p>Website: <a href="http://www.justice.nsw.gov.au">www.justice.nsw.gov.au</a></p>

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
	<b>NSW Government</b>	It also oversees the investigation of complaints and attempts to resolve consumer disputes relating to services provided by solicitors and barristers.	T: +61 (0)2 8688 7777 F: +61 (0)2 8688 7980  Department of Justice Parramatta Justice Precinct 160 Marsden Street Parramatta NSW 2124  Locked Bag 5111 Parramatta NSW 2124
Queensland	<b>Queensland Ombudsman</b>	Investigates complaints against state agencies (including police and prison authorities), local council and public universities.	Website: <a href="http://www.ombudsman.qld.gov.au">www.ombudsman.qld.gov.au</a>  E: <a href="mailto:ombudsman@ombudsmanqld.gov.au">ombudsman@ombudsmanqld.gov.au</a>  T: +61 (0)7 3005 7000 or freecall 1800 068 908 F: +61 (0)7 3005 7067  Level 17, 53 Albert Street Brisbane QLD 4000  GPO Box 3314 Brisbane QLD 4001
Queensland	<b>Legal Services Commission Queensland</b>	Receives and can investigate complaints against solicitors and barristers in Queensland.	Website: <a href="http://www.lsc.qld.gov.au">www.lsc.qld.gov.au</a>  E: <a href="mailto:lsc@lsc.qld.gov.au">lsc@lsc.qld.gov.au</a>  T: +61 (0)7 3406 7737 F: +61 (0)7 3406 7749  Level 30, 400 George Street Brisbane QLD 4000  PO Box 10310 Brisbane Adelaide Street QLD 4000
Victoria	<b>Victorian Ombudsman</b>	Investigates complaints against state agencies (including police and prison authorities), local council and public universities.	Website: <a href="http://www.ombudsman.vic.gov.au">www.ombudsman.vic.gov.au</a>  Email: <a href="mailto:ombudvic@ombudsman.vic.gov.au">ombudvic@ombudsman.vic.gov.au</a>  T: +61 (0)3 9613 6222 F: +61 (0)3 9614 0246  Level 1 North Tower, 459 Collins Street Melbourne VIC 3000
Victorian	<b>Victorian Legal Services Commissioner</b>	Receives and can investigate complaints against solicitors and barristers in Victoria.	Website: <a href="http://www.lsbv.vic.gov.au">www.lsbv.vic.gov.au</a>  E: <a href="mailto:admin@lsbc.vic.gov.au">admin@lsbc.vic.gov.au</a>  T: +61 (0)3 9679 8001 F: +61 (0)3 9679 8101  Level 5,

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
			555 Bourke Street Melbourne NSW 3000  GPO Box 492 Melbourne NSW 3001
South Australia	<b>Ombudsman South Australia</b>	Investigates complaints against state agencies (including police and prison authorities), local council and public universities.	Website: <a href="http://www.ombudsman.sa.gov.au">www.ombudsman.sa.gov.au</a>  Email: <a href="mailto:ombudsman@ombudsman.sa.gov.au">ombudsman@ombudsman.sa.gov.au</a>  T: +61 (0)8 8226 8699 F: +61 (0)8 8226 8602  Level 5, East Wing 50, Grenfell Street Adelaide SA 5000  PO Box 3651 Rundle Mall SA 5000
South Australia	<b>Legal Profession Conduct Commissioner</b>	Receives and can investigate complaints against solicitors and barristers in South Australia.	Website: <a href="http://www.lpcc.sa.gov.au">www.lpcc.sa.gov.au</a>  T: +61 (0)8 8212 7924 or 1800 337 570 (toll free) F: +61 (0)8 8231 0747  Level 3, 33 Franklin Street Adelaide SA 5000  GPO Box 230 Adelaide SA 5001
Western Australia	<b>Ombudsman WA</b>	Investigates complaints against state agencies (including police and prison authorities), local council and public universities.	Website : <a href="http://www.ombudsman.wa.gov.au">www.ombudsman.wa.gov.au</a>  E: <a href="mailto:mail@ombudsman.wa.gov.au">mail@ombudsman.wa.gov.au</a>  T: +61 (0)8 9220 7555 F: +61 (0)8 9220 7500  Level 2, Albert Facey House, 469 Wellington Street Perth WA 6000  PO Box Z5386 St Georges Terrace Perth WA 6831
Western Australia	<b>Legal Practice Board of Western Australia</b>	Receives and can investigate complaints against solicitors and barristers in Western Australia.	Website: <a href="http://www.lpbwa.org.au">www.lpbwa.org.au</a> E: <a href="mailto:general@lpbwa.com">general@lpbwa.com</a>  T: +61 (0)8 6211 3600 F: +61 (0)8 9325 2743  5th Floor, Kings Building, 533 Hay Street Perth WA 6000  PO Box 5720 St Georges Tce

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
			Perth WA 6831
Tasmania	<b>Ombudsman Tasmania</b>	Investigates complaints against state agencies (including police and prison authorities), local council and public universities.	Website: <a href="http://www.ombudsman.tas.gov.au">www.ombudsman.tas.gov.au</a> Email: <a href="mailto:ombudsman@ombudsman.tas.gov.au">ombudsman@ombudsman.tas.gov.au</a> T: 1800 001 170 Ground Floor, 99 Bathurst Street Hobart TAS 7000 GPO Box 960 Hobart TAS 7001
Tasmania	<b>Legal Profession Board of Tasmania</b>	Receives and can investigate complaints against solicitors and barristers in Tasmania.	Website : <a href="http://www.lpbt.com.au">www.lpbt.com.au</a> E : <a href="mailto:enquiry@lpbt.com.au">enquiry@lpbt.com.au</a> T: +81 (0)3 6226 3000 F: +81 (0)3 6223 6055 Level 3, 147 Macquarie Street Hobart TAS 7000 GPO Box 2335 Hobart TAS 7001
Northern Territory	<b>Ombudsman NT</b>	Investigates complaints against state agencies (including police and prison authorities), local council and public universities.	Website : <a href="http://www.ombudsman.nt.gov.au">www.ombudsman.nt.gov.au</a> E: <a href="mailto:nt.ombudsman@nt.gov.au">nt.ombudsman@nt.gov.au</a> T: +61 (0)8 8999 1818 or 1800 806 380 ( <i>toll free</i> ) F: +61 (0)8 8999 1828 12th Floor, NT House, 22 Mitchell Street, Darwin NT 0800 PO Box 1344 Darwin NT 0801
Northern Territory	<b>Law Society Northern Territory – Legal Practitioners Complaints Committee</b>	The Legal Practitioners Complaints Committee is a division of the Law Society of NT, and can receive and investigate complaints against solicitors and barristers in the Northern Territory.	Website : <a href="http://www.lawsocietynt.asn.au">www.lawsocietynt.asn.au</a> T: +61 (0)8 8981 5104 Suite 2, Ground Floor, Beagle House, 38 Mitchell Street Darwin NT 0800 GPO Box 3946 Darwin NT 0800
Australian	<b>Australian Capital</b>	Investigates complaints against state agencies	Website :

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
Capital Territory	<b>Territory Ombudsman</b>	(including police and prison authorities), local council and public universities.	<a href="mailto:ombudsman@act.gov.au">ombudsman@act.gov.au</a>  E: <a href="mailto:ombudsman@ombudsman.gov.au">ombudsman@ombudsman.gov.au</a>  T:1300 362 072 F: +61 (0)2 6276 0123  Level 5 Childers Square, 14 Childers Street Canberra City ACT 2601  GPO Box 442 Canberra ACT 2601
Australian Capital Territory	<b>The ACT Law Society – Complaints</b>	It is the ACT Law Society's role to also receive and investigate complaints against solicitors and barristers in the Northern Territory.	Website: <a href="http://www.actlawsociety.asn.au">www.actlawsociety.asn.au</a>  E: <a href="mailto:mail@actlawsociety.asna.au">mail@actlawsociety.asna.au</a>  T: +61 (0)2 6247 5700 F: +61 (0)2 6247 3754  Level 3, 11 London Circuit City West  GPO Box 1562, Canberra ACT 2601
Any State or Territory	<b>The Australian Human Rights Commission</b>	<p>The AHRC is an independent body which investigates and resolves complaints about discrimination and breaches of human rights.</p> <p>The AHRC can only deal with complaints about breaches of human rights where they are against the Commonwealth Government (or one of its agencies) and they alleged a breach of specific international human rights instruments.</p>	Website: <a href="http://www.humanrights.gov.au/complaints_information">www.humanrights.gov.au/complaints_information</a>  Email: <a href="mailto:complaintsinfo@humanrights.gov.au">complaintsinfo@humanrights.gov.au</a>  T: +61 (0)2 3284 9888 or 1300 656 419  Level 3, 175 Pitt Street Sydney NSW 2000  GPO Box 5218 Sydney NSW 2001
<b>INTERPRETERS</b>			
Any State or Territory	<b>Translating &amp; Interpreting Service (TIS National)</b>	<p>The Translating and Interpreting Service (TIS National) provides access to phone and on-site interpreting services in over 160 languages and dialects.</p> <p>This is a pay-per-use service, and is not free.</p> <p>If you require an interpreter to access a service, such as Legal Aid, the service provider will usually organise an interpreter for you at no cost to you.</p>	Website: <a href="http://www.tisnational.gov.au">www.tisnational.gov.au</a>  T: 131 450 (24 hours, every day of the year for immediate telephone interpretation)  GPO Box 241 Melbourne VIC 3001
Any State or Territory	<b>National Accreditation Authority for Translators and Interpreters Ltd</b>	<p>NAATI is a national body that provides training and accreditation to interpreters and translators.</p> <p>NAATI does NOT provide translating or interpreting services. However, you can visit NAATI's website to access their Online Directory to find interpreters and translators in any State or Territory.</p>	Website: <a href="http://www.naati.com.au">www.naati.com.au</a>  E: <a href="mailto:info@naati.com.au">info@naati.com.au</a>

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
New South Wales	<b>Community Relations Commission - Language Services</b>	The Community Relations Commission's language services provides comprehensive interpreting and translation services to NSW Government agencies, as well as members of the public.	E: <a href="mailto:languageservices@crc.nsw.gov.au">languageservices@crc.nsw.gov.au</a> T: 1300 651 500 F: +61 (0)2 8255 6711  PO Box A2618 Sydney South NSW 1235  <u>Sydney Office (Main office)</u>  T: +61 (0)2 8255 6767 F: +61 (0)2 8255 6868  Level 8, 175 Castlereagh Street Sydney NSW 2000  PO Box A2618 Sydney South NSW 1235
<b>NGOs</b>			
<b>HUMAN RIGHTS</b>			
Any State or Territory	<b>Amnesty International</b>	You can contact Amnesty International to find out more information about human rights, and what to do if you think your human rights have been breached.  Amnesty international has offices that cover each State and Territory.	Website: <a href="http://www.amnesty.org.au">www.amnesty.org.au</a> T:1300 300 920 F: +61 (0)2 8396 7663  Locked bag 23 Broadway NSW 2007
Any State or Territory	<b>Australian Human Rights Centre</b>	The AHR Centre aims to promote public awareness and academic scholarship about domestic and international human rights standards, laws and procedures through research projects, education programs and publications.  The Centre also publishes the <i>Australian Journal of Human Rights</i> and the <i>Human Rights Defender</i> and hosts a number of seminars and events each year.	Website: <a href="http://www.ahrcentre.org">www.ahrcentre.org</a> E: <a href="mailto:diane.macdonald@unsw.edu.au">diane.macdonald@unsw.edu.au</a> T: +61 (0)2 9385 1803  Level 1, Law Faculty, University of New South Wales, Sydney NSW 2052
<b>GENERAL ADVICE FOR PRISONERS</b>			
NSW	<b>Prisoners Legal Service - Legal Aid NSW</b>	The Prisoner's Legal Service is the division of Legal Aid that provides legal advice and, in some cases, representation to prisoners who are in NSW prisons.  They can provide independent advice and assistance in matters such as bail, appeals, accessing legal aid, parole, classification and other prison issues.  They also give advice and assistance in other areas of prisoners' lives such as family law and civil law (fines, debt, housing) to help them rehabilitate after release.  The Prisoners Legal Service can provide telephone advice and, in some cases, face-to-face advice in	T: +61 (0)2 8688 3888 F: +61 (0)2 8688 3895  Parramatta Justice Precinct, 160 Marsden Street Parramatta NSW 2124  PO Box 695 Parramatta NSW 2124

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
		prisons.	
Queensland	<b>Prisoners' Legal Service, Inc.</b>	<p>Prisoners Legal Service Inc. is a community legal centre that provides free legal advice to prisoners and their families on matters relating to imprisonment.</p> <p>They operate a general telephone advice service, a "Safe Way Home" parole advice line and a financial counselling service.</p>	<p>Website: <a href="http://www.plsqld.com">www.plsqld.com</a></p> <p>E: <a href="mailto:pls@plsqld.com">pls@plsqld.com</a></p> <p>T: Queensland prisoners can call the service through the internal Arunta Phone System from their prison. Telephone Advice (service available Tue and Thu, 9:00am-1:00pm; parole advice on Wed, 9:00am-1:00pm).</p> <p>PO Box 5162 West End QLD 4101</p>
Australian Capital Territory	<b>Prisoners Aid ACT</b>	<p>Prisoners Aid offers support to prisoners and their families.</p> <p>Prisoners Aid also runs a Court Assistance and Referral Service at the ACT Magistrates' Court, to provide a contact point for people at Court, and who may be facing a prison term.</p> <p>They also provide a pre-release and post-release service to assist prisoners to re-integrate into the community.</p>	<p>Website: <a href="http://www.paact.org.au">www.paact.org.au</a></p> <p>T: +61 (0)4 50 96 08 96 or +61 (0)2 6257 4866</p> <p><u>Court Assistance and Referral Service</u> Ground Floor, ACT Magistrates Court, Knowles Place Canberra ACT 2601</p> <p>GPO Box 112 Canberra ACT 2601</p>
<b>SUPPORT AND REINTEGRATION SERVICES</b>			
NSW	<b>The Women in Prison Advocacy Network</b>	<p>WIPAN is a grassroots community charity governed by women, including reformed ex-prisoners, dedicated to advancing the prospects and wellbeing of women and female youth affected by the criminal justice system.</p> <p>WIPAN offers mentoring and support to women who have left prison or are close to being released to adjust to life in community. The WIPAN mentoring programme matches women being released from prison with volunteer mentors.</p>	<p>Website: <a href="http://www.wipan.net.au">www.wipan.net.au</a></p> <p>E: <a href="mailto:info@wipan.net.au">info@wipan.net.au</a></p> <p>T: +61 (0)2 8011 0699 F: +61 (0)2 8011 0690</p> <p>Suite 4, Level 6, 377-383 Sussex Street Sydney NSW 2000</p> <p>PO Box 345 Broadway NSW 2007</p>
Victoria	<b>Victorian Association for the Care &amp; Resettlement of offenders (VACRO)</b>	<p>VACRO provides a range of services to people who are affected by incarceration. Their services include:</p> <ul style="list-style-type: none"> <li>• providing support programs for children and young people with a loved one in prison;</li> <li>• providing information and referral services for prisoners' families; and</li> <li>• assisting men and women who are leaving prison to reintegrate into the community</li> </ul>	<p>Website: <a href="http://www.vacro.org.au">www.vacro.org.au</a></p> <p>E: <a href="mailto:info@vacro.org.au">info@vacro.org.au</a></p> <p>T: +61 (0)3 9605 1900 or 1800 049 871 (toll free) F: +61 (0)3 9602 2355</p> <p>Level 1, 116 Hardware Street Melbourne VIC 3000</p> <p>PO Box 14093 Melbourne VIC 8001</p>
South Australia	<b>Offenders Aid and Rehabilitation Services (OARS) Community</b>	<p>OARS provides a range of support services to prisoners and their families, including:</p> <ul style="list-style-type: none"> <li>• a bus service to assist loved ones to visit</li> </ul>	<p>Website: <a href="http://www.oars.org.au">www.oars.org.au</a></p> <p>Email: <a href="mailto:oars@oars.org.au">oars@oars.org.au</a> or <a href="mailto:services@oars.org.au">services@oars.org.au</a></p>

STATE OR TERRITORY	ORGANISATION	MANDATE	CONTACT DETAILS
	<b>Transitions</b>	<p>prisoners who are incarcerated in remote areas;</p> <ul style="list-style-type: none"> <li>• an employment service to assist ex-prisoners to find employment;</li> <li>• a Supportive Accommodation Service, a service to assist prisoners leaving prison to find appropriate housing and to prevent them from becoming homeless; and</li> <li>• a financial counselling service.</li> </ul>	<p>T: +61 (0)8 8218 0700 F: +61 (0)8 8212 5515</p> <p>234 Sturt Street Adelaide SA 5000</p>
Tasmania	<b>Tasmanian Association of Prisoner Support Service Inc</b>	This service provides support for newly sentenced prisoners and their families. It provides information and visiting assistance to families, and reintegration and support services to prisoners who are to be or have been released into the community.	<p>Email: <a href="mailto:tapssinc@bigpond.com">tapssinc@bigpond.com</a></p> <p>T: +61 (0)3 6225 5042</p> <p>PO Box 147 Glenorchy TAS 7010</p>
Western Australia	<b>Outcare</b>	<p>Outcare is a specialist non-governmental organisation providing crime prevention services and programs in Western Australia.</p> <p>Their broad range of education, intervention and reform programmes are aimed at reducing the rate of re-offending of people in conflict with the justice system and support their successful rehabilitation and reintegration into the community.</p>	<p>Website: <a href="http://www.outcare.com.au">www.outcare.com.au</a></p> <p>E: <a href="mailto:outcare@outcare.com.au">outcare@outcare.com.au</a></p> <p>T: +61(0)8 6263 8622 F: +61 (0)8 6263 8611</p> <p>27 Moore Street East Perth WA 6004</p>
<b>MENTAL HEALTH AND COUNSELLING</b>			
Any State or Territory	<b>Lifeline</b>	Lifeline is a national crisis support and suicide prevention hotline that can be accessed at any time.	<p>Website: <a href="http://www.lifeline.org.au">www.lifeline.org.au</a></p> <p>T: 13 11 14 (24 hours a day, 7 days a week)</p>
Tasmania	<b>The Red Cross - Prisoner Support Program</b>	The Prisoner Support Program is a peer support program for new prisoners and prisoners in need of support in prison. It is currently operating in Tasmania only.	<p>Website: <a href="http://www.redcross.org.au">www.redcross.org.au</a></p> <p>E: <a href="mailto:tas@redcross.org.au">tas@redcross.org.au</a></p> <p>T: +61 (0)3 6235 6077 F: +61 (0)3 6231 1250</p> <p>40 Melville Street Hobart TAS 7000</p> <p>GPO Box 211 Hobart TAS 7001</p>

Fair Trials would like to thank the law firms and individual practitioners, including the legal practitioners at **Clayton Lutz**, Sydney, who have generously given their time and expertise to help produce these legal guidance notes.

For a full list of our funders see [www.fairtrials.org/get-involved/supporters/](http://www.fairtrials.org/get-involved/supporters/)



Fair Trials aims to help people accused of crimes to understand and exercise their fair trial rights by providing information and where appropriate, by referring them to local sources of support. We do not charge for any of our assistance.

If you complete this form, we may be able to:

- Send you general information, including advice about the local legal system that could be helpful to you;
- Provide answers to any specific questions you might have; and
- Refer you to local sources of support (for example, referrals to local lawyers, if appropriate).

**We cannot provide any legal advice or representation that is specific to your case, and we are also unable to provide any welfare support or financial assistance.**

Please fill out this form and send it back to:

By Post: Fair Trials, Temple Chambers, 3/7 Temple Avenue, London, EC4Y 0HP, United Kingdom  
By Fax: +44 (0)20 7822 2371

All information will be treated confidentially, and in accordance with our privacy notice set out overleaf.

### A) Personal Information

Full Name	
Nationality	
Your current address (your prison address, if you are in custody)	
Prisoner Number (if applicable)	

### B) Legal Representation

Would you like referrals to local lawyers?    Yes                       No

Are you able to pay for a lawyer?                      Yes                       No

Depending on the country, you may not be able to choose your own specific lawyer, if you cannot pay for one.

### C) Fair Trials

How did you hear about us?	
How did you receive this form?	
If you have already seen any of our materials (e.g. 'Arrested – Practical Guidance'), please let us know, and tell us which you have seen.	

**D) Further Information / Questions**

We have printed materials on a range of topics where we are most often asked for help. Please tick on any of the following topics on which you would like further information.

- |  |                          |   |                          |
|--|--------------------------|---|--------------------------|
| <i>Applying for Release Pending Trial</i>  | <input type="checkbox"/> | <i>Prisoner Transfers</i>                     | <input type="checkbox"/> |
| <i>The European Arrest Warrant ('EAW')</i> | <input type="checkbox"/> | <i>Criminal Records in the European Union</i> | <input type="checkbox"/> |
| <i>INTERPOL Red Notices</i>                | <input type="checkbox"/> |   |                          |

Use the space below to:

- Request clarifications on any information from us that you have already seen;
- Highlight any specific information, or referrals that you believe could be helpful to you; and
- Give us feedback or comments

Please be specific with any questions or requests you have.

**E) Nominated Contact**

It can sometimes be difficult for Fair Trials get in touch directly with people in prison. In such cases, it can be helpful if we are provided with the name and contact of a family member or a friend whom you are happy to nominate as Fair Trials' point of contact. Please provide their details below:

Full Name: ..... Relationship to you: .....

Address: .....

Telephone: ..... Email: .....

**F) Privacy Notice**

We collect information about you when you complete and return this form. We use this information to assist you and otherwise provide support in relation to your case. Fair Trials will retain your information for up to six years after: 1) if we are notified about the end of your legal proceedings, from the date of notification; or 2) if we are not notified, the date of the last correspondence with you about your case.. For more information about how we handle your personal information, please see the privacy policy on our website ([www.fairtrials.org/privacy-policy](http://www.fairtrials.org/privacy-policy)). Please sign here to confirm that you have read and agree to the Privacy Notice in this form.

Full Name: ..... Signature: .....