



# A guide to Queensland's criminal justice system

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The criminal justice system can be a complex and overwhelming system to navigate – irrespective of your role in it. Whether you are involved as a victim, a witness, a juror, or a defendant, it is important to understand the basics of the court system, as well as 'who's who in the zoo'; including prosecutors, magistrates, judges, juries and lawyers.

This blog serves as an overview of the central participants in Queensland's criminal justice system and in turn, explains the varying roles and responsibilities of those who underpin the system.

## Pre-commencement of criminal proceedings

Before a [criminal matter](#) commences in court, a person must first be charged with a criminal offence. The Queensland Police Service ('QPS') is central in that regard, as the police are responsible for investigating criminal complaints, gathering evidence, and then charging the alleged offender.

### Victims in criminal proceedings

If you are a victim of a crime, your first point of contact will be the police. The police will speak to you about your complaint, and if you wish to proceed, they may take a statement from you.

### Witnesses in criminal proceedings

Once a criminal complaint has been made, usually, in the course of investigating that complaint, police identify witnesses who may be able to give evidence in relation to the alleged offending. If you are identified as a witness, the police will likely contact you with a view to taking a witness statement from you. You may later be required to give oral evidence in court.

## Alleged offenders in criminal proceedings

Where you are the alleged offender for a criminal complaint, often the police will not contact you until their investigations (or at least their initial investigations) are complete.

Ordinarily, the police officer who contacts the alleged offender is referred to as the 'arresting officer'. The arresting officer is responsible for arresting and formally charging the alleged offender. Sometimes, the arresting officer will invite the alleged offender to participate in a record of interview. You should never accept that invitation before speaking to a criminal lawyer.

[Speak with a criminal lawyer: 07 3361 0222 \(24/7\)](tel:0733610222)

Once a person has been criminally charged, the arresting officer is responsible for preparing and supplying the 'QP9', which is also referred to as the 'court brief'. Put simply, this document contains a list of the offences for which a person has been charged, along with a description and summary of the allegations.

## Magistrates Court proceedings in Queensland

Once a person has been charged, the matter proceeds to court, and the alleged offender is referred to as the 'defendant'. All criminal matters commence in the Magistrates Court.

Structurally, the Magistrates Court comprises of courtrooms, a registry, and at times, prisoner cells. The registry is particularly important for defendants because that is where you attend to sign court paperwork.

The Magistrates Court hears sentences and summary hearings for some criminal matters. Other criminal matters, usually the more serious matters, must proceed to the higher courts via the committal process. You can read more about this in our previous article, ["What is a committal hearing?"](#)

## The prosecutor in the Magistrates Court

Regardless of whether the matter is to proceed to sentence or to a contested hearing, ordinarily, a police prosecutor appears for the prosecution (in the Magistrates Court).

Police prosecutors are members of the Police Prosecution Corps ('PPC') – a branch of the Queensland Police Service ('QPS'). There are two types of PPC prosecutors:

- civilian prosecutors; and
- police prosecutors.

Civilian prosecutors are lawyers employed by the QPS. Police prosecutors are police officers who are employed by the QPS and who have completed a police prosecutor training course.

## The defence lawyers

Every person charged with a criminal offence is entitled to be represented in court by a lawyer. Therefore, in addition to a person who appears on behalf of the prosecution, there may be a lawyer who appears for the defendant.

A defendant can privately engage a lawyer or, subject to a means and merits test, apply for a Legal Aid lawyer.

For simple matters, Legal Aid lawyers can appear in court for any defendant as a 'duty lawyer' – a free service provided to the public and one which may not require a legal aid application.

**Note:** Gilshenan &Luton do not act in matters funded by legal aid. For any enquiry regarding duty lawyers and/or Legal Aid, please contact [Legal Aid Queensland via this link](#).

## The magistrate

The magistrate is the person who presides over a matter in the Magistrates Court. A magistrate is similar to a judge in that they oversee the court proceedings.

The magistrate sits at an elevated bench at the front of the courtroom. Often, a magistrate will have a clerk to assist them.

As there are no juries in Magistrates Court matters, a magistrate is responsible for deciding whether a person is guilty or not guilty, and if there is a finding of guilty (or a plea of guilty), the magistrate imposes the penalty.

## District and Supreme Court proceedings in Queensland

Criminal matters that cannot be finalised in the Magistrates Court, will be heard in either the District or Supreme Court (depending on the seriousness of the charge).

In most locations, the District and Supreme Courts are in the same building. The only difference will be whether a judge or justice presides. Like the Magistrates Court, the District and Supreme courts have courtrooms and a registry.

## The judge or justice

In the District Court, a judge presides, whereas in the Supreme Court, a justice presides. Despite the differing titles, the roles and responsibilities of a judge and a justice are the same. Their job is to oversee the proceedings, including ensuring that the proceedings are conducted lawfully and fairly.

Like a magistrate, the judge/justice sits at an elevated bench at the front of the courtroom. They have an associate (known as a 'judge's associate') who assists them. A judge/justice is also responsible for imposing the penalty when a person is convicted of an offence.

The difference between magistrates and judges/justices is that, unlike magistrates, if a matter proceeds to a contested hearing (i.e a trial), it is not the role of the judge/justice to determine whether the defendant is guilty or not guilty – that is the role of the jury.

## The jury

A jury comprises 12 people – members of the public who have been selected for jury service. Juries are used in trials only.

The role of the jury is to hear the evidence and the cases presented by the prosecution and the defence and decide whether the defendant is guilty or not guilty.

## The crown prosecutor

In a District or Supreme Court trial, police prosecutors do not appear for the prosecution. Instead, a representative from the Office of the Director of Public Prosecutions ('DPP') appears. That person is usually referred to as a 'crown prosecutor'. A crown prosecutor is either a lawyer employed at the DPP or a barrister who has been engaged by the DPP.

## The defence lawyers

To represent a defendant in the District or Supreme Court, a defence barrister will often appear (commonly referred to as 'defence counsel'). A barrister is self-employed and is 'briefed' (or engaged) by a solicitor.

In a trial, you will see people sitting next to the barrister and prosecutor. Those people are usually solicitors who are 'instructing' the barrister and prosecutor.

People charged with criminal offences mostly have contact with their solicitor throughout the course of their matter. A barrister is usually not briefed until the later stage of the proceedings.

## Get help from a criminal lawyer

If you find yourself involved in the criminal justice system as a witness, a victim, or a defendant, or if there exists a prospect of your future involvement, it is advisable to contact an experienced criminal lawyer who can assist you on your journey.

Gilshenan &Luton is well-versed in that regard. We have a long and successful history of acting for victims, witnesses, and defendants.

## Contacting Gilshenan &Luton

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