

Sentencing

The sentencing hearing

- You don't have to attend court for the sentencing hearing unless you want to.
- Both the prosecutor and defence lawyer will present information to the court for the Judge or Magistrate to consider in the sentencing process.
- Some information may be given to the Judge or Magistrate in writing before the hearing in what is called '**written submissions**'. If you don't hear certain information in the submissions at court, it is possible that it has already been given to the court in written form.
- Some of the things the prosecutor will tell the court about are:
 - ➔ The details of the crime.
 - ➔ The criminal history of the offender.
 - ➔ Previous cases which are similar and the penalties which were imposed in those cases.
 - ➔ Statistics on which penalties are most commonly given for the offence.
 - ➔ Which penalties are legally available for the Judge or Magistrate to give.
- In some cases the victim can write a statement that tells the court about the impact the crime had on them. This is called a **Victim Impact Statement** and it is given to the Judge or Magistrate by the prosecutor. The victim can read it aloud to the court if they want to or a representative can read the **Victim Impact Statement** on behalf of the victim.
- Some of the things the defence lawyer will tell the Judge or Magistrate about are:
 - ➔ The offender's history or circumstances which they say contributed to committing the offence.
 - ➔ Things the offender may have done to improve themselves or their circumstances since the offence (like courses or counselling).
 - ➔ Previous cases to show what penalties might be appropriate.
 - ➔ Evidence or references regarding the character of the offender.
 - ➔ Reasons why they think the offender should get a lesser sentence.
- There are rules about what information can be given to the court at the hearing and what cannot.
- The Judge or Magistrate may request a **Pre-Sentence Report** on the offender. This helps the court to decide what sentence they should give the offender.
- Sometimes the offender will be sentenced on the same day as the sentencing hearing, but often the case will be adjourned to another date for the Judge or Magistrate to give their judgement on the sentence.



Ranges of sentences

Sentences that can be imposed by the court can include:

- a fine
- a good behaviour bond
- a community service order
- home detention
- imprisonment.

The sentence imposed will depend on the circumstances of the offender and what happened in the case.

Appeals

After the sentence is given, the offender can appeal to a higher court against their conviction or the sentence they received.

The Office of the Director of Public Prosecutions (ODPP) can appeal against a sentence if they feel it is 'manifestly inadequate', that is, so lenient that it does not adequately reflect the seriousness of the crime. The ODPP cannot appeal against a not guilty verdict.

If the court upholds the appeal, the court can make a number of decisions. These decisions include:

- Changing the sentence.
- Ordering a re-trial.
- Acquitting the offender. This means they are free to go and the charges are dropped.

Victims Registers

There are registers available for victims of crime, so that they can be provided with information about an offender who goes to gaol. The information given can range from possible release dates, to information about parole hearings. After the sentencing, if the offender is imprisoned, or becomes a forensic patient, you can contact **Victims Services** on **1800 633 063** for more information about how to apply to go on a register.

Victims Services' **Victims Access Line** provides a single entry point for victims of crime in NSW to assist them in accessing services.

Phone	1800 633 063
Hours	8am to 6pm, Monday to Friday (exc public holidays)
Email	vs@justice.nsw.gov.au
Website	www.victimsservices.justice.nsw.gov.au
Address	Level 1, Justice Precinct Offices 160 Marsden Street, Parramatta
Post	The Commissioner of Victims Rights Victims Services Locked Bag 5118 Parramatta NSW 2124