



Police and Criminal Matters

Whether you have been charged with a minor Police matter, such as a traffic offence, or are facing a serious criminal offence our solicitors are able to assist you.

We can advise you about the following:

- What is legally required for the Police to prove the charge.
- Whether you have a defence to the charge.
- Whether the Police are likely to withdraw the charge.
- The penalty you are likely to receive and what steps should be taken to improve your chances of achieving the best result for you.

We can also be present with you when the Police interview you, negotiate with Prosecution for you and appear for you at Court hearings on your behalf.

Whether the offence is dealt with in the Magistrates Court, District Court or Supreme Court you will benefit from legal representation.

What should I bring to an appointment?

Any documents received from the Police i.e. Summons, Complaint, Bail Forms, Property Receipt or other Police documentation.

Can I avoid a conviction on my record?

When a Court hands down a penalty, a conviction for that offence will generally be recorded against your name. Convictions can sometimes affect your future employment, your ability to travel overseas and / or your ability to get certain licences to drive motor vehicles.

In certain circumstances, a Court can deal with your matter without recording a conviction if there is a good reason. Getting early advice on this issue is extremely important if an application is to be made.



What are my rights when being questioned by Police?

It is important that you remain cooperative and polite with Police but we recommend that you exercise your right to remain silent until you have received legal advice. There are some questions that you are required by law to answer otherwise you will be charged with further offences. The information that you must provide to Police is:

- Your full name.
- Your address.

If the Police inquiry relates to your registered motor vehicle then it will be necessary for you to provide the name of the person that was driving your motor vehicle at the date and time nominated by Police.

To other questions simply reply, "I exercise my right to remain silent until I receive legal advice" – or simply say "I don't wish to answer".

Ring Scammell & Co. on 8447 4466 or 8212 6875 (or after hours on 0412 975 081) as soon as the Police give you an opportunity to call a solicitor. We will provide you with further advice over the telephone and can even negotiate with the Police to get bail for you.

What will Scammell & Co. achieve for me?

We can provide a fearless and comprehensive defence to any charges laid against you. Where you concede to a charge we will work to persuade the Prosecution and the Court that a low penalty should be imposed. We provide realistic advice.

What if I need urgent advice?

One of our solicitors is always available to take your call after hours on 0412 975 081.

I have received an expiation notice and want to challenge it. What should I do? If I pay the fine, will I lose my licence?

Do not pay the fine until you have discussed your options with one of our solicitors. There is a section on the notice that you can complete entitled 'Election to be Prosecuted'. Complete that form in a timely fashion and arrange an appointment with one of our solicitors. We can discuss with you whether you have a defence to the charge, and help you make an application for a reduction in demerit points if appropriate.



If the defending of my Police matter is successful, either by winning at trial or by the police withdrawing the charges against me ('dropping the charges'), can I recover any of my legal fees?

It is possible in the Magistrates Court and Youth Court (for summary matters), but not in the District or Supreme Courts, to make an application for costs at the conclusion of the matter. Costs are ordinarily applied for on a court scale rate and are unlikely to cover your full legal costs. Occasionally, and in specific circumstances, your solicitor can apply for what is known as indemnity costs, which provides for more of your costs to be covered. We will advise you if this is possible in your circumstances.

I have just had my first court appearance and the matter has been adjourned (put off to another date). Am I still on Bail?

The short answer is usually "Yes", unless the Court formally withdraws your bail agreement. Assuming you have been arrested (not summonsed to court) you may have entered into a police bail agreement. Once you go to court and adjourn the matter, most Magistrates will say that Bail is to continue, which means you are placed on court bail for the duration of your court case.

If you are on bail, it is very important that you follow all of your bail conditions including attending every court hearing in your matter. Breaching your bail conditions is a criminal offence punishable by imprisonment. If you wish to have anything altered on the bail agreement – for example, you want to move house and change your bail address – you will need a solicitor to make a formal application to the court to vary your bail. We can explain your bail conditions to you.

I have recently been arrested and placed on police bail to appear in court at a later date. I need to get my bail conditions varied to travel interstate for work. What should I do?

Prior to your first court date the police (not the court) have control over your bail and bail conditions. To change your conditions or to seek permission to leave the state you will need to go to the nearest police station, speak to the bail sergeant and make that request to vary your bail conditions. We are able to assist you in conducting these negotiations with the police. If the police will not alter your bail, you will need to wait until your first court hearing before you can apply to the court to vary your bail.

Mouth swab / DNA tests – should I agree?

You should speak to a solicitor before agreeing to either of these procedures.



I understand that the police may have CCTV footage of my alleged offending. Can my solicitor view this footage?

You are entitled to see the evidence that makes up the case against you. Your solicitor will obtain any CCTV footage from the police prosecution unit should this be in their possession. However, this may not be available until your matter has been before the court for some time. Sometimes, we may be able to attend at hotel, shop or other locations where the CCTV footage is held and independently view the CCTV footage. If you believe there is CCTV footage which may shed light on your case, you should inform your solicitor and discuss the possibility of obtaining the footage.

I have been charged and asked if I would like to provide a statement. Should I do this?

The safest option is usually not give a statement to police. Providing a statement is unlikely to help your case, even if you think that you can “explain everything”, and even if you believe that you are guilty of the offence and just want to “give a confession”. Do not feel pressured to provide a statement – remaining silent cannot be held against you in court. Sometimes your statement is the strongest evidence that the police have against you. Providing a statement to police may affect our ability to persuade police to drop their charges.

We are able to obtain statements, notes, CCTV footage, forensic test results and other evidence from prosecution in relation to your matter. It is important we review that material prior to obtaining your final instructions.

Should I involve the media in my case?

It is almost always not advisable to involve the media in your matter. Although this is always your decision, we ask you to bear in mind that your statement and the media’s interpretation of it may impact negatively on our ability to successfully negotiate with Prosecution regarding your matter. Further, your statements to the media can be used as evidence at any trial that may take place in your matter. Finally, the media will not always report things in the way that you want them to report. For all of these reasons, giving a statement to the media could have a negative impact on the outcome of your matter.

I have a trial at the Magistrates Court, will there be a jury?

You do not have the option of a jury trial in the Magistrates Court. A Magistrate will hear the trial and decide whether you are guilty or not guilty of the offence(s). However, if you are charged with a minor indictable offence such as assault or manufacturing a controlled drug, you can elect to have a trial by jury, in which case your matter will be transferred to the District Court.



I would like a suppression order because I am worried about the embarrassment that my case will cause my family. What should I do?

It is very difficult to secure a suppression order. The chances are that any suppression application will be refused by the Court. Embarrassment to yourself or to your family is not a sufficient ground for the Court to order the suppression of your name. It is also very important to bear in mind that if you make an application for a suppression order, you may well attract attention from the media. However, in some cases it may be possible to make a successful application for a suppression order. Our experienced criminal lawyers can advise you on whether you have the grounds to make a successful application for a suspension order.

My son is 16 years old and has been charged. What are the penalties available for youth offenders?

There are many different penalty options for youth offenders. Often youths in criminal matters are ordered to attend a Family Conference. This will involve the youth's family, the police and possibly the victim(s) of the offence(s) who meet to discuss what penalty, should be imposed. Officially all that will be recorded on your son's record would be Family Conference. There are other options such as a formal caution, or "without conviction" that we can discuss with you. In more serious matters an obligation to be of good behaviour or a period of detention is possible – even though your child is under the age of 18 years.

The final decision on penalty is up to the Magistrate. However, if your solicitor has negotiated with Prosecution regarding the desired outcome, any agreement can be helpful in persuading the Magistrate as to what should be imposed as a penalty. Therefore, we suggest that you obtain advice from one of our solicitors at the earliest possible opportunity.

Other Offences where Scammell & Co. can assist with your defence:

- Drug Offences.
- Sexual Assault.
- Social Security / Taxation matters.
- Property Damage.

Contact Us Today

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Mon-Fri

Adelaide
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