

SENTENCE SUBMISSIONS

The defendant has the opportunity make submissions as to sentence. Considerations relevant to the Magistrates sentencing discretion are listed in s9 of the PSA Submissions on these issues may include

- An explanation of the circumstances that caused or led to the illegal behavior.
- Features of mitigation that might exist to properly characterize the nature of the offence.
- The defendant's personal history, family background, education, work record, marital situation, dependants, financial circumstances, any medical condition and prior good character (independent documentary evidence of these matters should be tendered if possible, including references from others or medical psychological psychiatric reports where relevant).
- Explanation of any previous criminal convictions particularly similar offences.
- Expression/evidence of remorse.
- Details of any cooperation with police.
- The plea entered, and if a guilty plea whether it was at the earliest opportunity.
- Any time spent in police custody.
- The impact the proceedings have already had upon the defendant and
- The likely impact upon the defendant of any penalty which may be imposed

Submissions as to the appropriate penalty based on the purpose of the legislation creating the offence, other case law or sentences imposed in similar cases might also usefully be made.

A magistrate has discretion to not record a conviction (s12PSA) taking into account the nature of the offence, the person's character and age and the impact a recorded conviction will have on the person's economic or social wellbeing or chances of finding employment. This issue should be raised with the magistrate, and materials/facts relevant to those matters should be pointed out. The effect of a non-recorded conviction is that a person is entitled to state that they have not been convicted of the offence (although the record remains with police and the courts, and there are some legislative and other incursions upon this entitlement)

In some cases, particularly if a community-based order of probation is being considered the magistrate may order a pre-sentence report to be prepared by Queensland Corrective Services to help in deciding what sentence should be imposed. If so, the court might adjourn the sentence to allow time for preparation of this report. If the defendant is already under the supervision of a community correctional officer, that officer will usually prepare report to assist.

When a sentence is being imposed, the defendant should stand.

*Information taken from **The Queensland Law Handbook (10th Edition)***