



LISTINGS CERTIFICATE INFORMATION

SELF-REPRESENTED ACCUSED

If you are going to the District Court because you have been charged with a criminal offence, you are known as the 'accused'. If you do not have a lawyer representing you, or if you have chosen to represent yourself, you are known as a 'self-represented accused'.

NOTE: This information is to be used as a guide only. It is not legal advice. Any information or material you provide to the Court may become part of the Court file, and could be disclosed in an investigation and used in Court. You do not need to tell the Court or prosecution any information about how you plan to defend the charges against you before your trial, except for the answers required when filling out the listing certificate attached to this form.

Legal Advice and Representation

You should obtain legal advice to help you understand the court process and your options, including the allegations made against you and how to prepare for a trial. If you are appearing before the Court, it is your responsibility to arrange legal representation, or to obtain legal advice to help you navigate the process if you are going to represent yourself.

Legal Aid WA

Legal Aid provide eligible applicants with free legal advice and/or legal representation for serious criminal offences. You should attend the Legal Aid WA office to apply for a grant of legal aid, visit their website, or phone 1300 650 579 for more information about making an application and your eligibility.

Aboriginal Legal Service WA

Aboriginal Legal Services provides legal assistance, representation, and legal advice to Aboriginal and Torres Strait Islander people. For more information phone (08) 9265 6666.

Private Representation

You may also choose to seek private legal representation from a lawyer listed with the WA Legal Practice Board.

If you choose to represent yourself at trial, you need to be aware of the following matters:

Preparing for the Trial Listing Hearing

The WA Police Force and/or Australian Federal Police (Police) are responsible for the initial investigation of criminal matters. Materials that the Police collect during their investigations to support the criminal case against you is called the 'brief of evidence'.



The Police must provide all the materials and information in the brief of evidence to the Office of the Director of Public Prosecutions or the Officer of the Commonwealth Director of Public Prosecutions (prosecution). The prosecution represents either the State of Western Australia or the Commonwealth of Australia in criminal cases in the District Court. The prosecution will prepare an official written copy of the charges called an indictment and a statement of material facts about the circumstances of the alleged offences.

Trial Listing Hearing

Once your charges are committed to the District Court you are required to attend a Trial Listing Hearing. The purpose of Trial Listing Hearings is to find a suitable date for the trial to be scheduled. You may need to attend a couple of Trial Listing Hearings before a trial date is confirmed, and your trial may be listed on dates that are a significant period in advance. At the hearing, the judge will confirm with both you and the prosecution that you are ready to proceed to trial, and will suggest some available dates for the trial. Both you and the prosecution will then tell the Court whether these dates suit you – if the dates don't suit you the judge will suggest other dates and will list the trial for the most suitable available dates.

The judge may want to know the following information at the Trial Listing Hearing if you do not have a lawyer representing you:

- If any of your witnesses need an interpreter
- If there is any other information, document, or record that you need from the prosecution that you still have not been given
- If you want to ask the witness who made a report to the police any questions about their evidence (this is called cross-examining the complainant)
- If there are any people or organisations you want to ask to give evidence
- If you are going to use evidence from an expert

At the Trial Listing Hearing you can let the judge know some information about your case. This may include:

- Any further information about the charges and the trial you have not yet received from the prosecution.
- Any issues you need to sort out before the trial with the prosecution and judge.
- If you have an alibi (information or evidence showing you could not have committed the offence because you were away or busy when the offence was allegedly committed).
- If you are going to call evidence from an expert at your trial.
- If you want to rely on asserted fact evidence (a statement about a fact where the person who made the statement cannot give evidence about their statement). An example of asserted fact evidence is where John tells the police he saw Sally steal a car, but by the time Sally goes to trial John is no longer able to attend court and give evidence about what he saw. The Police would need to ask the Court for permission to play the video recording of John's interview. If you think you may have this sort of evidence, you need to tell the Court that you need time to seek legal advice and assistance.
- If you want to apply for bail or change some conditions of your bail.



You can also tell the judge if you have not been given a copy of any of the following material:

- Index to Brief – a table which lists all the items the Police obtained during their investigation and may use at trial.
- Indictment
- Witness Statements – a written record of what people have told the Police that the prosecution can use during the trial.
- Exhibits – pictures, things, diagrams, text messages, medical reports, CCTV footage, etc. that the prosecution could use during the trial.
- Reports or Test Results – e.g. DNA test, blood alcohol reading, drug analysis that the prosecution may use during their case.
- Statement of Material Facts

If you have any questions about lodging this document, please visit the District Court registry or call (08) 9425 2128.

The Trial

You need to be aware of the following matters relevant to your trial:

- On the morning of the first day of trial, if you are on bail and your trial is in Perth, you need to surrender to custody located on basement level 2 of the District Court building by 9:00am. If your trial is in a regional location and you are on bail you need to surrender to the police station by 9:00am or as directed.
- Subject to you being granted trial bail by the trial judge, you will be released from custody at the end of each day.
- Trial bail heavily restricts your movements. You are effectively confined to your residential address when not in court.
- When the trial starts, at the appropriate time, you may address the jury in an opening address. You can only talk about what your case is during an opening address. You are not obliged to make an opening address.
- You may cross-examine witnesses called by the prosecution.
- You may not cross-examine witnesses that are children or victims of sexual offences. If you want to ask one of these witnesses a question the Court will get someone to ask on your behalf.
- At the close of the prosecution case, you will be asked if you want to give evidence or call any witnesses. No person on trial has to give evidence. It is entirely your decision.
- At the close of the evidence you may deliver a closing address. This is when you make submissions to the jury as to why you should be found not guilty of the charge(s).
- If a verdict(s) of guilty is/are returned by the jury, you may apply for bail pending sentencing. However, a judge has the discretion to refuse bail and remand you in custody. You should attend to all personal matters prior to trial.



Information Sheet - District Court of WA

The District Court hears charges involving indictable offences which require a trial by judge and jury. The Office of the Director of Public Prosecutions (DPP) prosecutes all District Court offences. Please note, the matter will initially be listed in the Magistrates Court.

First Hearing

Please refer to Information Sheet – Magistrates Court of WA.

Mention

Please refer to Information Sheet – Magistrates Court of WA.

Police Committal Mention

The Magistrate will confirm that WA Police Force have provided all of the evidence they have in relation to a charge, this is called disclosure. The matter will then be transferred to the Perth Magistrates Court for a Committal Mention. In regional courts the matter will be transferred to the nearest Magistrates Court that has a District Court Circuit.

Committal Mention

At a Committal Mention the DPP will have taken carriage of the prosecution from the police. The Magistrate will find out if all parties are ready for the matter to proceed to the District Court.

At a Committal Mention, the accused will also advise the court of how they intend to plead. If the accused pleads not guilty, the case will be adjourned to the District Court for a Trial Listing Hearing. If the accused pleads guilty then the matter will be adjourned to the District Court for a Sentence Mention Date.

Sentence Mention

The Sentence Mention is the first court appearance in the District Court following the accused entering a plea of guilty. The Court ensures that the defence has all the relevant material from the DPP and that the matter is ready to go before a judge for the accused to be sentenced. This often involves making orders that sentencing reports are completed and provided to the Court. If there are matters that are still outstanding the case will be adjourned for a further Sentencing Mention date.

Trial Listing Hearing

At a Trial Listing Hearing the prosecutor and the defence lawyer are asked questions about the progress of the case by the judge. If there are some matters outstanding then there may be more than one Trial List Hearing.

At the final Trial Listing Hearing a Trial date is set. After the trial date has been set the DPP and the defence will decide who needs to be called to give evidence as a witness in the case. The Court will then issue a summons for each witness.

Trial Callover (Regional District Court only)

In regional District Courts a trial begins with a Trial Callover and multiple dates are provided. The Trial Callover is given a priority number, indicating the likelihood of the trial proceeding on that date. At the commencement of the District Court sitting, a decision will be made on whether or not the trial will proceed or be adjourned to a further Trial Callover date or Trial Listing Hearing.

Trial

A trial may be before a jury or before a judge alone. For a jury trial, a jury is usually selected at the start of the trial. Once the jury is sworn in the trial will usually proceed straight away.

The DPP prosecutor makes an opening statement followed by defence counsel if they choose. Witnesses are then called. The prosecutor questions the prosecution witnesses in order to obtain their evidence (known as evidence in chief). If the witness visually recorded their interview with the police it may be shown at this stage. The defence lawyer will then ask the prosecution witnesses questions (known as cross-examination). If necessary, the prosecutor may then ask further questions to clarify information (known as re-examination).

The accused person's case is then presented to the court. If there are witnesses for the defence they will provide their evidence by firstly responding to questions from the defence lawyer and then being cross examined by the prosecutor. The defence lawyer may then re-examine the witnesses if they feel this is necessary. There is no requirement upon the accused person to give evidence or to call witnesses to give evidence.

At the completion of all the evidence, the prosecutor and defence lawyer will give their closing address.

If there is a jury, the judge summarises the case that the jury is to decide and gives directions to the jury on legal aspects of the case. The jury consider all of the facts and decide if the offence(s) has been proven beyond reasonable doubt. This is called the verdict. The jury can take as long as necessary to reach a verdict. In a judge alone trial, the judge is responsible for making the decision about the verdict.

If the verdict is guilty the judge may sentence the accused immediately, or may adjourn the matter to a later date for sentencing. It is up to the judge whether the accused, once convicted as an offender, is returned on bail or remanded in custody of the conviction by jury verdict. If the verdict is not guilty, the accused is acquitted and the court matter is finished.

Sentencing

If an accused has pleaded guilty or been found guilty by a jury or a judge, the matter will progress to sentencing. Both the DPP prosecutor and defence lawyer will make submissions to the judge as to their positions regarding an appropriate sentence.

A victim impact statement can be submitted to the judge before sentencing. The judge may be required to make orders such as a violence restraining order. Sentencing can occur on the day of the trial but is often adjourned to a later date.

LISTING CERTIFICATE – SELF-REPRESENTED ACCUSED

	District Court of Western Australia At: Number:
Parties	THE STATE OF WESTERN AUSTRALIA / THE KING -and-

1. CONTACT DETAILS

FIRST NAME:	
MIDDLE NAME(S):	
LAST NAME:	
PHONE NUMBER:	
EMAIL:	
POSTAL ADDRESS:	

2. STATUS OF ACCUSED

(a) Are you currently on bail? Yes No

(b) Are you aware that:

(i) A person gets a discount on their sentence (up to a maximum of 25%) if they plead guilty; and Yes No

(ii) The sentencing judge decides how much discount to give a person for pleading guilty. The maximum discount can only be given if a plea of guilty is made at the first reasonable opportunity. The amount of discount given will generally be less the later a person pleads guilty. Yes No

(c) Do you intend to:

- Plead guilty?
- Plead not guilty?
- Enter another plea? *(Please specify)* _____

(d) Do you intend to apply for Legal Aid? Yes No

If 'yes', specify the current status of your Legal Aid application:

(e) Do you intend to have a lawyer represent you at trial? Yes No

(i) If 'yes', have you met with them? Yes No

(ii) Has this lawyer agreed to act for you? Yes No

(iii) Have you met this lawyer's terms of engagement? Yes No

(iv) If not, has the lawyer lodged an application for Legal Aid for you?
Yes No

3. COMMUNICATION WITH THE PROSECUTION

If you wish to enter a guilty plea, it is not necessary to complete Parts 3 to 5.

(a) Has the prosecution given you all the information or disclosure that you have asked for? Yes No

If 'no', what are you waiting for and when did you ask for it?

(b) Has the prosecution asked you to admit to certain facts in your trial? (If a fact is agreed/admitted the prosecution does not have to prove that fact by evidence.)

Yes No

If 'yes', do you admit to those facts? If so, which facts do you admit?

4. TRIAL LISTING

- (a) Estimated trial length (in days): _____
- (b) How many witnesses do you plan to call? _____
- (c) Do you need any of your witnesses to give evidence from another location (for example from another town or state)? If yes, you will need to make an application for them to give evidence by video-link. Yes No

List the dates that any of your witnesses are not available and say why the witness is not available on those dates:

5. PRE - TRIAL HEARINGS

- (a) Are there any alleged facts you say the prosecution cannot prove? What are they?

- (b) Will you argue that any prosecution evidence is inadmissible? Yes No

If 'yes', what evidence do you say is inadmissible and why?

(c) Do you intend to give evidence at trial? Yes No

- You are not required to answer this question if you do not want to.
- This is an indication only. You can change your mind at any time until the judge asks you if you elect to give evidence after the prosecution has presented all its evidence.

(d) Do you intend to call expert evidence at trial? Yes No

If 'yes', have you given the prosecution a copy of the expert's statement or report, or the name and address of the expert and a written description of what the expert may say in evidence? Yes No

If you have not, when will it be ready?

(e) Do you intend to rely on alibi evidence? Yes No

- Alibi evidence is information or evidence showing you could not have committed the offence because you were away or busy when the offence was allegedly committed.

If 'yes', set out the details of the evidence and the names and contact details of each person who you intend to call to give alibi evidence:

6. SPECIAL REQUIREMENTS

(a) Do you require an interpreter? Yes No

If 'yes', which language?

(b) Do any of your witnesses require an interpreter? Yes No

If 'yes', which language?

If you or one of your witnesses needs an interpreter, you must ask the Court to organise an interpreter by lodging an Interpreter Booking Request Form. You must do this at least 28 days before the trial is due to start.

7. CERTIFICATION

I certify that:

- (a) I have read the information in this certificate or had the information in this certificate read to me;
- (b) the answers in this certificate are correct to the best of my knowledge; and
- (c) I do not expect to change my plea(s) of not guilty.

I agree to inform the Court as soon as possible if I need to change any of my answers on this Listing Certificate.

SIGNATURE

DATE