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## **THE MAGISTRATES COURT OF WESTERN AUSTRALIA STUDENT RESOURCE**

### **Criminal**

- Presided over by a magistrate.
- Deals with minor (the least serious) criminal offences such as:
  - traffic offences;
  - disorderly conduct;
  - stealing (below \$10,000 in value);
  - minor assaults;
  - criminal damage; and
  - minor drug possession.
- The magistrate decides if the accused is not guilty (innocent) or guilty if s/he pleads not guilty and the matter goes to trial, i.e. there are no juries in the Magistrates Court of Western Australia.
- A police prosecutor usually acts on behalf of the State.
- The magistrate also deals with First Appearances – more serious criminal offences, known as ‘indictable offences’, commence in the Magistrates Court. This is known as the ‘First Appearance’. After the ‘First Appearance’ indictable offences are then sent to either the District or Supreme Court depending on the seriousness of the offence. The seriousness of the offence is determined by the maximum penalty. The Supreme Court hears offences that can have a maximum penalty of life imprisonment and the District Court hears offences that can have a maximum penalty of up to 25 years.

### **Civil**

- Presided over by a magistrate.
- Recovery of debt or damages by an individual or company.
- Amounts less than \$75,000.
- Small debts section for those up to \$10,000.
- Consumer/trader claims of \$75,000 or less and minor case consumer/trader claims of \$10,000 or less.

## People and Terms

Instructions: Write the correct term next to the definition in the following table.

prosecutor, surety, witness, magistrate, bail, orderly, judicial support officer, accused, defence counsel

DEFINITION	TERM
Presides over the court.	
Sits in front of the magistrate and assists in the administration of the court.	
Usually a specially trained police officer, lawyer or representative from the agency initiating the prosecution.	
A lawyer who represents the accused in court.	
A person called to give evidence on behalf of the prosecution or the defence.	
The person charged with committing the offence.	
Assists the magistrate to keep order in the court and calls each case.	
An agreement by the accused to return to the court at a set time and date. It usually involves an undertaking to surrender an amount of money if they do not appear as required. Failure to appear as required is a criminal offence.	
An adult, whose duty it is to ensure the accused appears in the court when required. The person must be approved by the court, have sufficient assets and must agree in writing to pay the amount to the State if the accused does not attend court as required.	

Proceedings in a Magistrates Court Criminal Trial

The accused is called by the orderly to appear before the court and the charge is read to him/her.

The accused is asked if s/he wishes to plead guilty or not guilty.

If the accused pleads **guilty**, the prosecutor (the person who acts on behalf of the State) explains the nature of the offence to the court.

The defence counsel explains the offender's situation at the time of the offence and provides the court with relevant background information on the offender. The defence counsel explains to the court what it says are appropriate sentencing options.

The prosecutor explains to court what it says are the appropriate sentencing options.

The magistrate decides on an appropriate penalty, i.e. sentences the offender.

If the accused pleads **not guilty**, the prosecutor first outlines the State's case against the accused. Then the prosecutor calls and questions his/her first witness who gives evidence about the offence.

The defence counsel, i.e. the lawyer employed by the accused to defend him/her against the charge, cross-examines the witness.

The prosecutor may then re-examine the witness.

The other prosecution witnesses are called and examined, cross-examined and re-examined.

The defence counsel calls his/her witnesses, if required (note: the defence is not required to present any evidence), and they are examined, cross-examined

The prosecutor sums up the State's case and clarifies why the accused should be convicted, i.e. found guilty.

The defence counsel sums up the defence's case and clarifies why the accused should be acquitted, i.e. found not guilty.

The magistrate decides whether the accused is guilty or not guilty. If the accused is found guilty s/he is given an appropriate sentence. If the accused is found not guilty no further action is required.