



Pleas: Guilty or Not Guilty...

It is up to YOU.



www.atsils.org.au



ATSILS is committed to protecting your legal rights.

- **IMPORTANT:** *Never allow yourself to be pressured into pleading guilty.*

ATSILS provides 24/7 access to professional and culturally competent legal assistance so you can be supported and protected from any undue pressure to plead guilty when faced with stressful situations such as police questioning and court proceedings. It's one of the fundamental reasons why we were established.

We always recommend that you DO NOT make a statement to police or indicate to a court an intention to plead guilty, until:

- You have received legal advice from ATSILS
- You fully understand the police version of events
- You fully understand the charges brought against you
- You fully understand your legal options

With legal assistance you are better able to consider all the implications before making a plea either way.

Remember: YOUR PLEA is YOUR CHOICE.

A person's choice whether or not to plead guilty is theirs alone. It's important you listen to what your legal representative has to say and consider all the facts - but remember that **NO** person, including a police officer or a lawyer, should put any pressure on your choice.

ATSILS is a non-profit, Aboriginal and Torres Strait Islander community based organisation. We provide innovative and culturally competent legal services covering criminal, civil and family law.



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When should you plead NOT GUILTY?

After considering of all the facts (including the legal advice from your lawyer), make sure that you do **NOT** plead guilty to a charge if you firmly believe that you have a legitimate defence.

Advantages of pleading not guilty are:

- You have a chance of acquittal – and if you are acquitted, you are then clear of the charge and no conviction is recorded.
- For criminal matters, the onus is on the prosecution to prove your guilt beyond reasonable doubt.

Disadvantages of pleading not guilty are:

- There might be a hearing with witnesses giving evidence against you; in some cases a hearing might be long and stressful (but that is **not** a reason to plead guilty).
- You will need to prepare and take 'time out' for what might be a prolonged court proceeding.
- If you are not eligible for free legal assistance or legal aid, it can cost you considerable time in preparation and expense (to pay a private lawyer). We can only assist you at a hearing when we consider there is 'merit' (reasonable prospects of an acquittal). Your lawyer will give you their advice on this consideration.

When might you want to plead GUILTY?

After consideration of all of the facts and listening to your lawyer's advice on the law: if it is clear that you are **GUILTY** and that the evidence against you is strong enough for the prosecution to prove such - then it is usually advisable to plead **GUILTY**.

Advantages of pleading guilty are:

- A magistrate or judge is obliged by law to give you credit for a timely guilty plea.
- You should receive a reduced penalty for pleading guilty early.
- You can still have your say (either directly or through your lawyer) and raise mitigating circumstances that might reduce your penalty.
- Less time in court and possibly less stress.
- You might qualify for access to the Murri Court.
- You might qualify for other specialist courts such as the Drug Court.
- You might qualify for access to diversionary options such as Youth Justice Conferencing.

Disadvantages of pleading guilty are:

- It is very hard to change your plea later (so make the right decision from the start).
- You might pass up a chance of acquittal.
- You might have a conviction recorded against you – that is, a police record.
- It might make it more difficult to substantiate complaints about any mistreatment you might have received in the course of your arrest (but not necessarily).

The most important thing to remember though is: your plea (of guilty or not guilty) is for you to decide – never allow yourself to be pressured into entering a plea that you do not agree with. We are here to help you make the correct decision.



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