

Advocacy in Action: Sentencing and Courtroom Skills for Criminal Lawyers

THE HON. JUSTICE TAYLOR

THE HON. CHIEF MAGISTRATE WALKER

THE HON. MAGISTRATE STEWART

THE HON. MAGISTRATE BEGLEY

WEDNESDAY 25 MARCH 2026



Advocacy in the Magistrates Court

BAIL

- Be prepared
- Assume nothing
- Be flexible
- Assist the decision-maker
 - Summarise
 - Draft
 - Working solutions
- Deal with the elephant in the room

Be prepared

- Within your means
- To an acceptable level
 - the Bench understands the challenge on first appearances; different expectations thereafter
- Have a process
 - What is the formula/standard evidence for this particular application
- **IN SHORT: WHAT (is to be decided), WHERE (the power lies), WHY (your position should be preferred)**
- Speak to the opponent
- If necessary, request time/facility

Assume nothing

- The Bench has generally seen nothing before the matter is called, even on pre-listed matters
- Why in the matter before the court
- What must be determined
- What sections/presumptions apply
- What is your position
- What evidence you will rely on

Be flexible

- The Bench is obliged to form its own view
- all involved should be looking to “add value’ at every touch of the file
- You need to anticipate this and, within capacity, be prepared to assist
- You need to understand the history of the matter and where it goes next – ‘point in time’ thinking is unhelpful
- Be prepared to catch the judicial curve ball – even if you cannot immediately return it

Assist the decision-maker

- Identify the issue – not yours, the decision-maker's!
- Identify your position
- Documents, if required, in order
- Only those documents that go to the issue
- Objections identified at the time of tender
- Summarise the evidence
- Chronology where helpful/known
- Be succinct

There are elephants in the room

- Spot them
- Identify them
- Deal with them



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Law Society of the Australian Capital Territory

Phone 02 6274 0333 | memberconnect@actlawsociety.asn.au

actlawsociety.asn.au