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## CHARACTER REFERENCES

Where a Defendant is either going to plead guilty to an offence, or where there is a possibility that they may ultimately be found guilty of an offence, it is recommended that we be prepared to make submissions in respect of sentencing prior to attending Court. Sometimes after a matter is heard at trial it is remanded for a further hearing date to enable the Defendant to make submissions in relation to the appropriate sentence, however, this is not always the case and some Magistrates/Judges will hand down their sentence on the date the trial is concluded.

For this reason we recommend that character references be obtained in support of any submission that may need to be made on your behalf at any sentencing hearing. The paragraphs below indicate why character references are important, when they will be used, and the sort of details that should be included.

1. When will a character reference be useful?
  - 1.1 A character reference helps to show that people in your daily life think highly of you and that you are a person of good character. Character references are generally used at the sentencing hearing, that is, after you have either pleaded guilty or been found guilty of the offence. **They will generally not be submitted in evidence at trial.**
  - 1.2 If you have pleaded not guilty and are proceeding to trial, a character reference will not help to convince the Magistrate/Judge that you are innocent and/ or your evidence should be believed. Often it is extremely unwise to present evidence of your good character at trial as it permits the Prosecution to cross-examine you on this point and lead evidence to discredit your good character. However, if you are found guilty after the trial, a character reference can help the Magistrate/Judge to decide what sort of penalty is appropriate in your circumstances.
  - 1.3 Character references can also be useful where you are trying to achieve a specific result in sentencing (for example, when you seek to request a spent conviction order, a suspended sentence of imprisonment or a community based order).

2. Who should write a character reference?

- 2.1 Ideally a character reference should be written by a person who has known you for some time, and who is a respected, upstanding member of society that the Court would regard as credible on your behalf. Good character referees might include police officers, Justices of the Peace, politicians, community leaders, teachers, academics, past or present employers, professionals, your family doctor, your local priest, committee members of organizations like Rotary or the Salvation Army and any other public official or person of good standing in society. **Character references from such persons are more highly regarded generally, than references from friends and family because of their independence.**
- 2.2 In some circumstances a letter from a family member can also be very useful where that person knows about the trouble you have been in and can openly discuss the difficulties both you and other members of your family may be facing. A family member may also be able to point out to the Court something which gives them hope about your future prospects, your likelihood to re-offend again and your potential to stay out of trouble in the future. **However, we recommend that you obtain other references and confine yourself to only one referee who is either a friend or family member.**

3. What is the form of the character reference?

- 3.1 Where possible, the reference should be typed on A4 paper. (A neat handwritten reference is acceptable if the Defendant's referee does not have access to a computer or typewriter).
- 3.2 The reference should be date, signed and addressed to the presiding Magistrate/Judge. Unless there are exceptional circumstances, the reference should be no longer than one page.
- 3.3 The reference should also state that person's name, their title or position (ie, Doctor, Justice of the Peace, Company Director, Clergyman or Councillor, etc), and their address in the event that they need to be contacted.

4. What should the character reference say?

- 4.1 Where possible the character reference should:
- (a) be written specifically for the Court appearance. A reference written for some other purpose (such as a job application) or one which was not written recently is not as useful; and
  - (b) that the writer is aware of the charges before the Court; and
  - (c) state why the writer thinks you are a person of good character or why they believe that your behaviour in committing the offence was out of character for you (it is a serious criminal offence for a referee to mislead the Court or for you to encourage the referee to mislead the Court).

- 4.2 The character reference should not:
- (a) attempt to discuss legal matters; nor
  - (b) state that you did not commit the offence; nor
  - (c) speculate about whether you intended to commit the offence.
- 4.3 In some circumstances it may be appropriate for a referee to ask the Court to show leniency in sentencing. If you are unsure about this you should contact the undersigned.
5. Proof of employment
- 5.1 Sometimes it is useful to bring written confirmation of employment to Court, in addition to any character reference. **If your current employer can write a character reference, this should be done in the one letter.**
- 5.2 A letter from an employer which does not refer to the Court matter is less useful but is still worth handing up to show that you are actually working.
6. Medical references
- 6.1 If you are currently under medical care, or were under medical care at the time of the offence, or may require medical care if taken into custody, a letter from your doctor may be taken into account by the Magistrate/Judge in sentencing. **If your doctor can write a character reference, this should be done in the one letter.** If you are unsure about this you should contact the undersigned.
- 6.2 If you believe that any element of your medical condition should be taken into account by the Magistrate/Judge, you should make an appointment with your doctor to discuss obtaining such a letter (and if your doctor requests a letter from us we shall provide one, though you should understand that you will be liable for any cost).
- 6.3 Where possible such a letter from your doctor should:
- (a) be dated and state that the doctor is aware of the charges before the Court;
  - (b) state how long the doctor has known you, and has been treating you;
  - (c) specify what your medical condition is, and why the Court should take account of it in sentencing;
  - (d) provide details of any medication or prescribe treatment you require (if any);
  - (e) provide details of any other matter your doctor feels is relevant.
7. Court Counsellor references

- 7.1 If you are already on a formal Court program with either a Court Diversion Service, a Community Based Order, or an Intensive Supervision Order, a report will usually be required to be presented to the Magistrate/Judge before you are sentenced.
- 7.2 If you are undergoing some other form of counselling not administered by the Court (eg, for drug or alcohol addiction, violence or sexual abuse, gambling etc), or you are on any other form of program (eg, the Methadone program, the Naltrexone program, residential rehabilitation etc) it may be useful for the Magistrate/Judge to be aware of this, and of any progress you have made in these programs prior to being sentenced. **If any counsellor can write a character reference, this should be done in the one letter.** If you are unsure about this you should contact the undersigned.
- 7.3 Where possible such a letter from your counsellor should:
- (a) be dated and state that the counsellor is aware of the charges before the Court;
  - (b) state why you are receiving counselling, and how long you have been attending;
  - (c) state how you are responding to counselling and whether, in their view, you should continue with counselling;

Kindly make arrangements to obtain character references in the format suggested above (approximately three would be ideal), together with any medical or counselling references as discussed. **If your nominated character references are uncertain about what to say we suggest that you provide them with copies of this letter.** We reiterate that character references will only be used in support of submissions for sentencing. The character references will not be submitted in evidence at trial without express consultation with you.