

CHECKLIST OF ADVICE IN A COMMITTAL MATTER

- ✚ The offence and elements.
- ✚ The maximum penalty for the offence (whether dealt with in the Children's or District Court).
- ✚ Any defences that may be available (eg. duress, claim of right).
- ✚ Is there a standard non parole period for the offence?
- ✚ Is there a guideline judgement applicable to the offence?
- ✚ Is there a guideline judgement applicable to any relevant issues (such as the plea, matters on a Form One)?
- ✚ The contents of the brief of evidence.
- ✚ The nexus between the contents of the brief and the essential elements of the offence that the prosecution are required to establish.
- ✚ The options in respect to the plea: guilty, not guilty, or some form of mental health diversion.
- ✚ Is the client fit to enter a plea?
- ✚ Are there any suitable alternate charges that could be negotiated? Preferably charges that could be disposed of in the Children's Court?
- ✚ Advice in respect to discounts for a plea and the timing of same. The distinction between the discount for the utilitarian value of the plea as opposed to contrition and remorse.
- ✚ Advice in respect to any discount for assisting the police. Is a Letter of Assistance appropriate?
- ✚ What are the potential sentence options and what do the JIRS statistics/ guideline judgements/ standard non parole period legislation suggest is the range of sentence that is available to the court.
- ✚ The usual ratio between the head sentence and non parole period and any circumstances to support a finding of special circumstances to vary this usual ratio.
- ✚ Automatic parole if the head sentence is under 3 years (state offences) and 10 years (Commonwealth offences).
- ✚ The effect of section 19 CCPA and whether there is any material to support a finding of special circumstance to warrant a section 19 order.
- ✚ Any potential defence evidence/ witness that is essential to secure at an early stage.
- ✚ Other ancillary orders such as:
 - Placement on the Sex Offender Register.
 - Disqualification from driving.
 - Automatic AVO.
 - Whether any conviction can be spent.