# State Not Guilty Worksheet

Guideline 1.1 of Part 3 of the VLA Handbook. For traffic matters refer to the Traffic Worksheet.

Before recommending that assistance be granted for a not guilty plea, practitioners MUST form the view that:

1. The client has a [reasonable prospect of acquittal](https://www.handbook.vla.vic.gov.au/legal-terms-definitions-and-meanings#reasonable-prospect-of-acquittal) on one or more charges AND

one or more of the following applies:

* a conviction is [likely to result in](https://www.handbook.vla.vic.gov.au/legal-terms-definitions-and-meanings#likely-to-result-in) a term of immediate imprisonment, or
* the person is an Aboriginal and/or Torres Strait Islander person, or
* the person is a woman and/or a lesbian, gay, bisexual, transgender, intersex, queer or other sexually or gender diverse (LGBTIQ+) person charged with family violence offence(s) as a result of being [misidentified as the predominant aggressor of family violence by police](https://www.handbook.vla.vic.gov.au/notes-guideline-11-not-guilty-plea-magistrates-court#misidentification-as-the-predominant-aggressor-of-family-violence-by-police), or
* an [unjustified, disproportionate or unreasonable use of power by a person in a special position of authority](https://www.handbook.vla.vic.gov.au/notes-guideline-11-not-guilty-plea-magistrates-court#unjustified-disproportionate-or-unreasonable-use-of-power-by-a-person-in-a-special-position-of-authority) (such as a police officer) led to the charge(s) being laid.

### Full details of the charges or [ ]  REFER TO CHARGE SHEETS

Click or tap here to enter text.

For the guideline to be satisfied you must answer Yes to:

one or more of questions 1(a)-1(d)

AND

question 2 (reasonable prospect of acquittal).

### 1(a) Is your client facing a term of immediate imprisonment?

[ ]  Yes

[ ]  No

Notes: Click or tap here to enter text.

OR

### 1(b) Does your client identify as an Aboriginal and/or Torres Strait Islander person?

[ ]  Yes

[ ]  No

Notes: Click or tap here to enter text.

 OR

### 1(c) Is your client a women and/or a lesbian, gay, bisexual, transgender, intersex, queer or other sexually or gender diverse (LGBTIQ+) person charged with family violence offence(s) as a result of being [misidentified as the predominant aggressor of family violence by police](https://www.handbook.vla.vic.gov.au/notes-guideline-11-not-guilty-plea-magistrates-court#misidentification-as-the-predominant-aggressor-of-family-violence-by-police)?

[ ]  Yes

[ ]  No

Please include an explanation of why your client has been misidentified as the predominant aggressor of family violence. Consider whether there are IVOs in place, previous complaints about family violence on LEAP, witness statements about the history of violence, evidence your client would give, involvement with Orange Door or other support workers.

Note: family violence has the same meaning as s 5 [*Family Violence Protection Act 2008* (Vic)](https://www.legislation.vic.gov.au/in-force/acts/family-violence-protection-act-2008/061).

Click or tap here to enter text.

 OR

### 1(d) Did an [unjustified, disproportionate or unreasonable use of power by a person in a special position of authority](https://www.handbook.vla.vic.gov.au/notes-guideline-11-not-guilty-plea-magistrates-court#unjustified-disproportionate-or-unreasonable-use-of-power-by-a-person-in-a-special-position-of-authority) (such as a police officer) lead to the charge(s) being laid?

[ ]  Yes

[ ]  No

Please provide details of why you say that an unjustified, disproportionate or unreasonable use of power led to charge(s) being laid. This should include details of relevant evidence such as: evidence your client would give, CCTV or BWC footage, witness statements, diary entries or police notes, still images, medical records.

Click or tap here to enter text.

### 2. Please provide a justification as to why there is a reasonable prospect of acquittal below:

Note: applications under limbs 1(c) or 1(d) above may have details relevant to a reasonable prospect of acquittal – these do not need to be repeated here.

**Strength or weakness of prosecution case, including admissibility of evidence:**

Please provide details of the strength or weakness of prosecution case, including admissibility of evidence.

Examples of admissibility include: evidence obtained illegally, involuntary admission, unlawful search, accused not informed of the right to silence, police engaged in illegal activity without supervision, likelihood of propensity evidence to be unduly prejudicial to the accused.

Click or tap here to enter text.

**The basis of the defence, and availability and strength of evidence supporting the defence case:**

Include weaknesses in the defence case.

Click or tap here to enter text.