

I have been remanded in custody - What happens now?



You have been remanded. This does not mean that you are guilty. You are entitled to a counsel for the defence. Your counsel for the defence shall take care of your interest only.

You probably have a lot of questions that you would like answers to. Therefore, a number of experienced defence lawyers have made this folder which tells what your counsel can do for you when you have been remanded in custody in a criminal case.

Call your counsel for the defence

When you are in custody awaiting trial, your counsel will visit you on an ongoing basis to tell you what is happening in the case. You can always call your counsel or write to him. What you write to your counsel will not be controlled by anybody. If you would rather call him, you can ask a warder to make a call so you can talk to your counsel or leave a message for him.

Only your interests

The most important task of your counsel is to assist you during the case. Both during the investigation and when the case has to be tried before the court. You are free to choose another counsel for the defence. Whether a counsel for the defence has been assigned to you by the court, or if you have chosen a counsel for the defence yourself, the counsel runs a private law firm which is independent of the police, the prosecutor and the courts.

When you have a counsel for the defence, only he or she is entitled to conduct your case.

Use your counsel for the defence

Your counsel will assist you during the investigation of the police and when you have to appear in court. You can receive help for a vast range of important issues.

You can use your counsel for the defence for the following issues:

- ***Interrogations***

You are entitled to bring your counsel for interrogations conducted at the police station or in court. You decide for yourself if you wish to answer questions. Therefore, you should discuss with your counsel whether you wish to answer ques-

tions and if your counsel is to be present during police interrogations.

- ***Important evidence***

Tell your counsel if there are specific witnesses who should be interviewed. The fact is that your counsel can ask the police to interview specific witnesses. Also tell your counsel if you find that there are technical investigations which should be made.

- ***Police material***

Your counsel receives the police material, and he will visit you so you can discuss the case. You may read the papers of the police when your counsel is present. Your counsel must not hand police papers over to you. Neither must your counsel hand police papers over to anybody else or let others read them.

The police may forbid your counsel to tell you specific details in your case. For example what witnesses or other charged persons have explained to the police. On the other hand, your counsel may tell you if the police have issued such a ban.

- ***Confidential conversation***

Your counsel must not tell the police or others what you talk about. Only if you have agreed, may your counsel tell the police what you have discussed. If there is an interpreter present during your conversation, nor must the interpreter tell others what you have told. You can confidently talk to your counsel as the conversation is confidential.

New counsel

You are free to choose yourself who you wish as your counsel for the defence. If you wish another counsel for the defence, you can write to the counsel you would like to have. Or you can write to the court or the police. You can ask the prison staff to assist you in finding the right address.

The court does not always allow change of counsel for the defence. The reason may be that the counsel you wish to use represents another person in the same case.

The reason may also be that the case would be delayed if, for example, a new counsel for the defence

has to spend a lot of time to get acquainted with the case or because he does not have time to appear in court at a specific date or time.

Payment of counsel for the defence

The court assigns the counsel for the defence to you whether you personally or the court has found the counsel. That means that provisionally the counsel's fee will be paid by the state. If you are acquitted, you do not have to pay the fee yourself. If you are convicted, you have to pay the counsel's fee in full or in part. This also applies to the fee paid to one or more former counsels for the defence.

The fee is determined by the court according to the recommended rates which you may request from your counsel for the defence.

The fee is calculated on the basis of the time your counsel has spent on the case, including participation in interrogations and number of prison visits and court sessions. The court bases the fees on an hourly rate of DKK 2.456,25 (DKK 1.965+ VAT). The payment for court sessions includes preparation time. The counsel for the defence is therefore paid for 1½ hours for each hour the counsel has to appear in court.

The counsel for the defence is not allowed to receive other amounts in addition to what is paid by the state. If you wish a specific counsel for the defence residing outside the judicial district where your case is tried, the court may assign a counsel for the defence with reservations as to travel costs. If so, the counsel for the defence will not be paid by the state for his travel expenses or the time spent on transport.

If the counsel for the defence does not renounce his claim for travel expenses, the counsel may require you to pay them yourself. You must be informed of this in writing so you have the possibility of choosing another counsel for the defence.

Visit and letter control

You are entitled to visits, and you are entitled to receive and send letters. If you have visit and letter control, you only receive visits when the police are present. If the police decide that you must not receive visits, you can require the court to consider the decision of the police.

If you have visit and letter control, the police will read your letters and have the possibility to 'stop' post to you. The same applies to the letters you wish to send out of the prison if you write about the case.

If the police wish to retain a letter to you or from you, the court will automatically decide if that is OK. Both you and your counsel will be informed of this.

Contact to relatives

If you are isolated or have visit and letter control, your counsel must not give messages from you to your family, friends or employer without permission from the police. If the police does not allow such a contact, you may write yourself, but under police review. Nor must your counsel report from closed court hearings or from the case material.

Visiting permit

Even if you do not have visit and letter control, the prison has to approve the persons you would like to have visits from. This takes place by you receiving a visiting permit which is a form you must send to the persons that you would like to have visits from. It takes about a week to have a visit approved.

If you are in isolation or have visit and letter control, you may ask your counsel to tell the police who you would like to have visits from.

Remand custody

When the police are investigating your case, you may be remanded for a maximum of four weeks at a time. When the remand expires, a judge will decide if there are continuous grounds to keep you remanded. This takes place during a short court session where you are entitled to be present.

Your counsel has the possibility to object and argue for your release. On the other hand, the prosecutor will substantiate why, if relevant, the remand custody should continue.

The judge may extend the remand custody several times. For a maximum of four weeks at a time. You are entitled to be present in court every time the issue of continued remand custody is being considered. If the judge does not release you, you may appeal to the high court.

Voluntary extension

When the period of a remand custody is about to expire, you may, together with your counsel, decide if you wish to extend the remand voluntarily for 2 or 4 weeks. If you choose to do so, your counsel will write this to the court. This means that there will be no court appearance, and this limits your expense for your counsel at the same time.

When a final date has been set for trial of your case by the court, the judge may decide that you shall be remanded until this date. Here the 4-week rule does not apply.

Isolation

The judge may decide that you should be isolated from the other inmates of the prison. You may appeal the judge's decision to the high court.

Are you in doubt?

It is not always possible for your counsel to state precisely when you will receive his visit. Therefore, it may be a good idea to write down your questions so you can put them to your counsel for the defence when he visits you.

If you feel uncertain or are in doubt about what happens in your case, you are always entitled to contact your counsel from the prison.

First name and last name of the counsel for the defence: