

# Pathways to Justice

A guide to the Victorian court system for victims and witnesses of serious crime



OFFICE of  
PUBLIC PROSECUTIONS  
VICTORIA

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# Introduction

Victims and witnesses of crime have an important role to play in our justice system.

This role may include reporting a crime to police or giving information to police as part of the investigation. It may also include giving evidence in court as part of the court process.

The court process is often lengthy and most people are not familiar with it.

The Office of Public Prosecutions (OPP) has produced this booklet to give you a better understanding of the court process and your involvement.

## Purpose

This booklet:

- explains how victims of crime should be treated by police, the prosecution and victim service agencies
- tells you about the court process and giving evidence
- explains legal terminology
- tells you how and where to access support
- gives you contact details of relevant legal and support services.

# Victims' Charter

The Victims' Charter aims to improve victims' experiences of the criminal justice process.

It recognises the impact of crime on victims and acknowledges that they should be treated with respect and offered information and support when they need it during the criminal justice process.

The Charter sets out 12 principles which state how victims of crime should be treated by the police, prosecution and victim service agencies.

The Victims' Charter is found in the *Victims' Charter Act 2006*.

## Victims' Charter principles

As a victim of crime you are entitled to:

- 1 Be treated with courtesy, respect and dignity.
- 2 Be given clear, timely and consistent information about your rights and entitlements and be referred to a victim or legal support service, if required.
- 3 Be told by police of key progress in the investigation. If giving you details about the investigation is likely to put it at risk, you should be told this.
- 4 Be told about the prosecution, including charges laid, any substantial changes to charges, details of court hearings, case outcomes and whether an appeal has been lodged.
- 5 Be told (if you request it) about the outcome of any bail application and, where granted, any special conditions of bail which are intended to protect you.

6	Have the court process explained to you, including your entitlement to attend relevant court proceedings, and your role if you are a witness.
7	As far as is practicable, be protected from unnecessary contact with, or intimidation by, the accused person, their family, supporters and defence witnesses, while you are at court.
8	Make a Victim Impact Statement, which will be considered by the judge in sentencing the offender and have access to help when preparing the statement.
9	Not have your personal information, including residential address and telephone number, disclosed to anybody, except in accordance with the <i>Information Privacy Act 2000</i> .
10	Have your property that is held for investigation or evidence stored and handled in a lawful, respectful and secure manner and, in consultation with you, returned as soon as possible.
11	Request that the court order the offender to pay you compensation if you are the victim of a violent crime or apply for financial assistance from the Victims of Crime Assistance Tribunal (VOCAT).
12	Apply to be on the Victims Register if an adult offender is sentenced to prison for a violent crime against you, receive specific information about the release of the offender and have your views taken into account by a parole board when any decision about parole of the offender is being considered.

## Making a complaint under the Victims' Charter

If you feel that any of these principles have not been followed in your case, you are entitled to make a complaint.

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### Victims' Charter Enquiries

To make a complaint, or to get further information, you can contact the Victims' Charter Enquiries and Complaints line on

T: 1800 118 728 (toll free)

### Office of Public Prosecutions (OPP)

If your complaint is about the OPP, you can contact the OPP Community Liaison Officer on:

T: 1800 180 587 (toll free)

E: [communityliaison@opp.vic.gov.au](mailto:communityliaison@opp.vic.gov.au)

M: The Community Liaison Officer  
C/o Office of Public Prosecutions  
565 Lonsdale Street, Melbourne, VIC, 3000

# Information and support

Navigating the criminal justice system can be challenging at times.

The OPP website has information for witnesses and victims which explains the court process and where you can access support. For more information, go to [www.opp.vic.gov.au](http://www.opp.vic.gov.au)

The following agencies can give you information and support if you need it.

## Witness Assistance Service

The Witness Assistance Service (WAS) is part of the Victims Strategy and Services directorate of the OPP Legal Practice.

WAS has a number of experienced social workers who support victims of crime, family members and witnesses through the prosecution process.

In particular, WAS social workers can:

- give you information about the progress of your matter
- give you information about the prosecution process
- support you through pre-court conferences with solicitors and prosecutors
- help you with arrangements for being in court
- refer you to other specialist support services.

WAS social workers are not able to discuss your evidence with you.

### Witness Assistance Service

The Witness Assistance Service is a valuable source of information and support. You can contact the service on

T: 03 9603 7425 or 1800 641 927 (toll free)

W: [www.opp.vic.gov.au](http://www.opp.vic.gov.au)

## Child Witness Service

The Child Witness Service (CWS) is a specialist service for children and young people who are required to give evidence in criminal proceedings. The CWS is a separate organisation and not part of the OPP.

The CWS is staffed by social workers and psychologists who provide information and support to children and their families during the court process. They work closely with police informants and OPP solicitors and can make referrals to specialist support services if required.

### Child Witness Service

You can contact the CWS on:

T: 03 9603 9266 or 1300 790 540

W: [www.justice.vic.gov.au](http://www.justice.vic.gov.au)

## Victims of Crime Helpline

The Victims of Crime Helpline is a free and confidential service which offers information, advice and referral to specialist support services to assist victims to manage and recover from the effects of crime.

The Helpline is staffed by trained victim support officers and operates from 8:00am until 11:00pm Monday to Sunday.

### Victims of Crime Helpline

You can contact the Helpline on:

T: 1800 819 817 (toll free)

# Criminal justice process

When a crime is reported to police, it is their role to investigate.

Where the investigation indicates that a crime has been committed and the evidence points to a particular person or people being responsible, those people may be charged and prosecuted by the State in court.

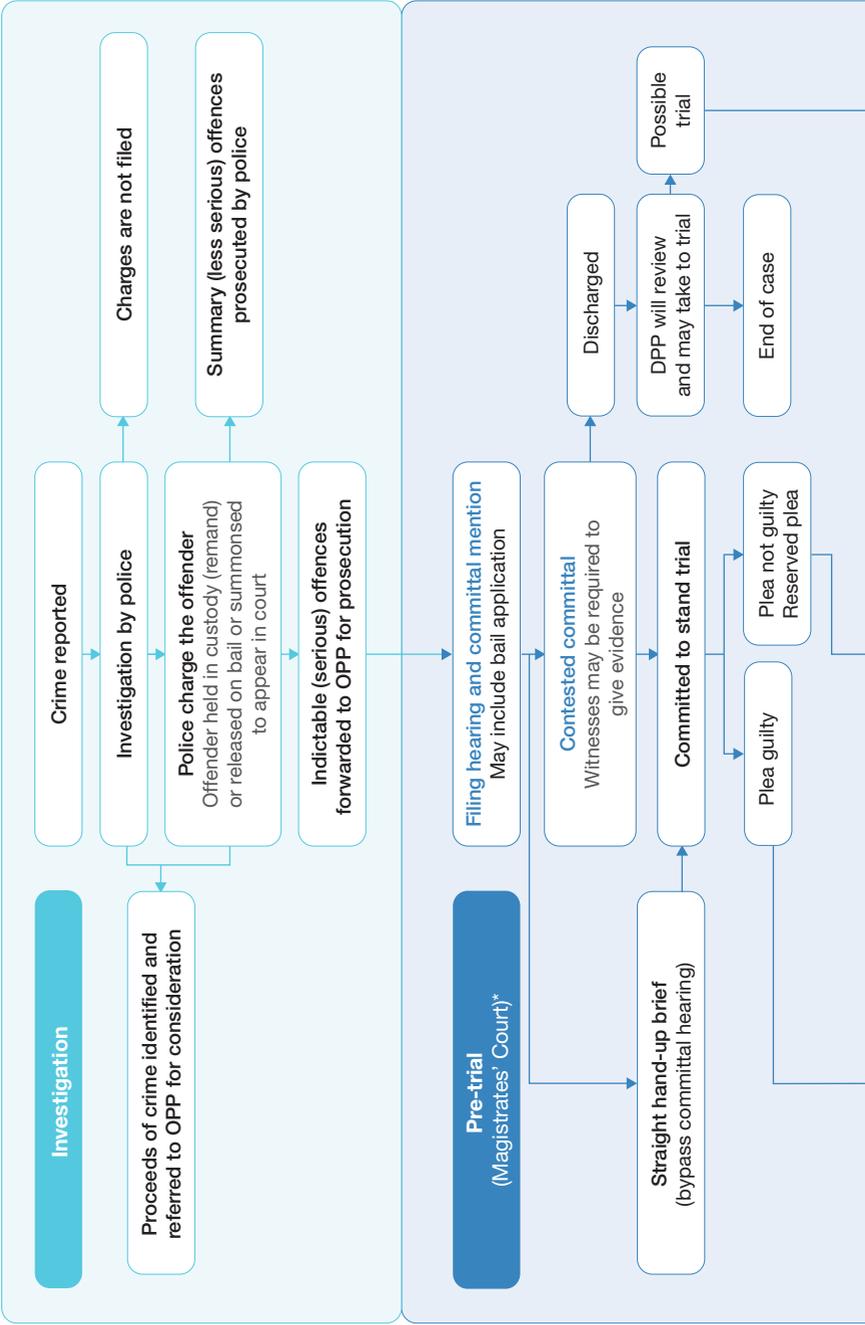
In Victoria, after a person has been charged, the OPP is responsible for prosecuting the crime in court.

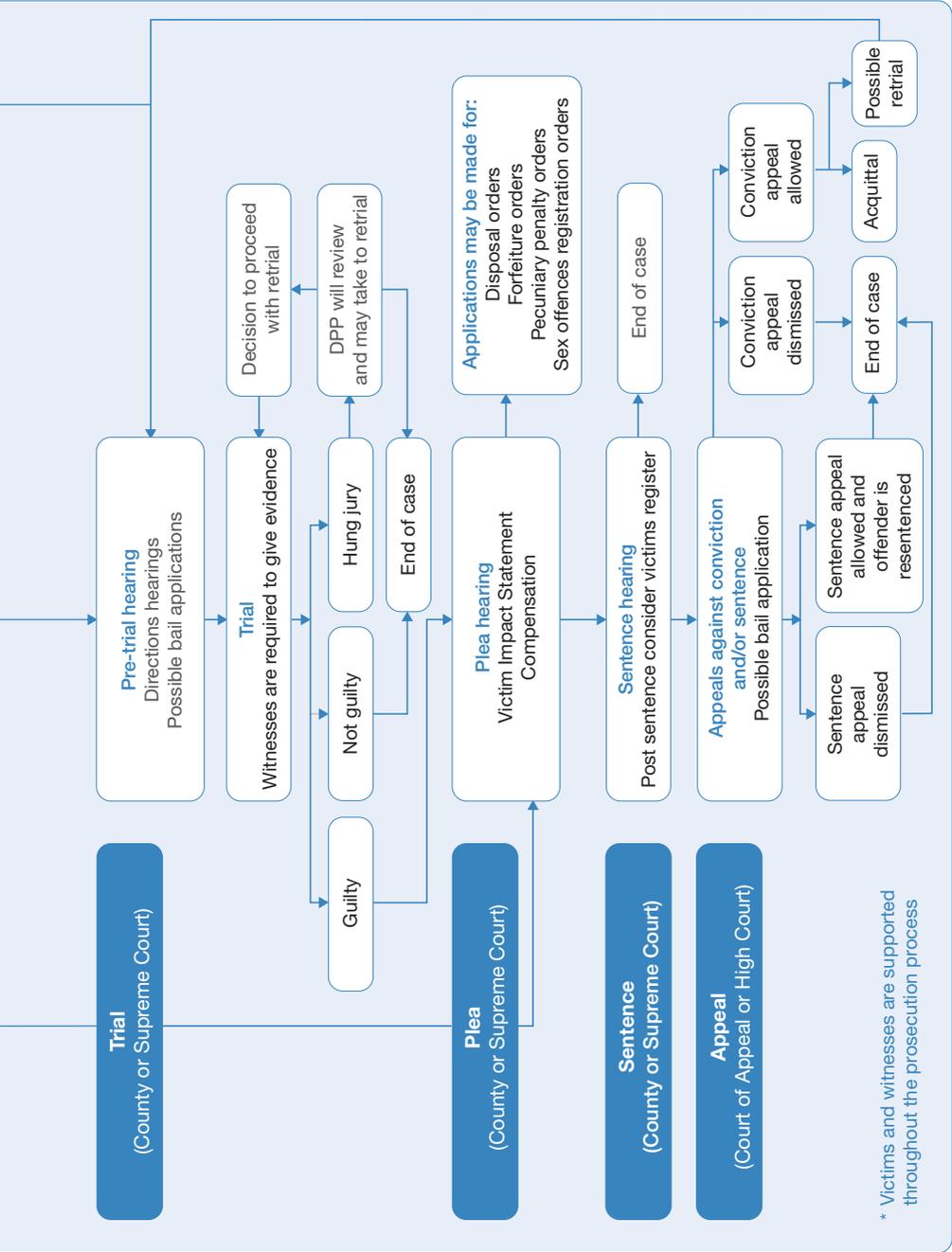
The main stages of the court process are:

- pre-trial (committal hearing)
- trial
- plea
- sentence
- appeal.

The flowchart on page 12 details the various stages of the criminal justice process.

# Summary of court and prosecution process





# Investigating crimes

## Police investigation

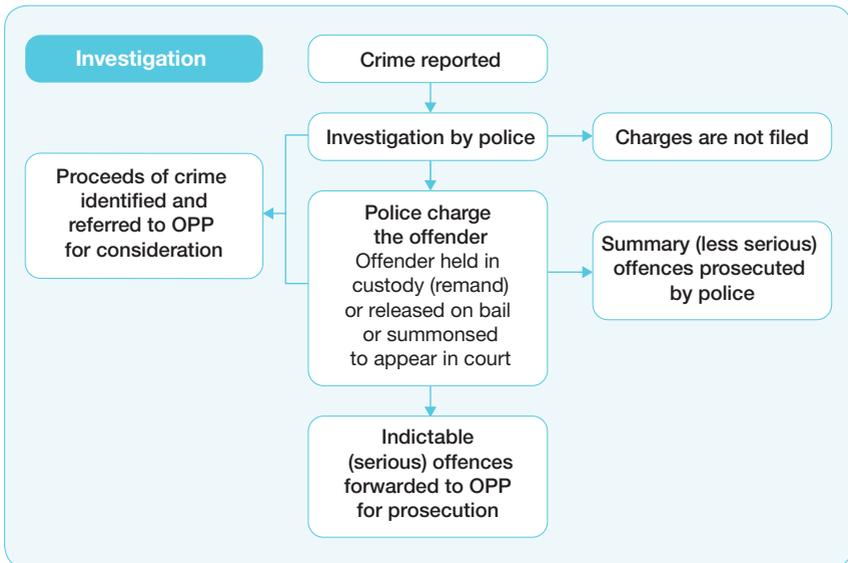
Victoria Police investigate crimes.

During an investigation, the police will generally:

- talk to and take a written statement from any victims or witnesses
- examine the place where the crime occurred, which may involve specialist crime-scene investigators and examiners
- collect evidence for court proceedings, including physical objects, such as clothes or other property, or medical evidence.

Less serious offences are heard in the Magistrates' Court where Police Prosecutors will prosecute the people they have charged with the crime.

Serious offences are generally heard in the County Court or Supreme Court after a preliminary hearing in the Magistrates' Court. A barrister and solicitor, employed by the OPP, will prosecute the case in court on behalf of the Director of Public Prosecutions (DPP).



### Being informed about the investigation

Generally, a police member will be responsible for keeping you informed and answering any questions or concerns you have about the investigation process. This person is known as the investigating officer. Once charges are laid, the investigating officer becomes known as the police informant.

### Investigation outcomes

The police investigation may end in one of the following ways:

- The evidence shows that a crime has been committed and points to a particular person or people being responsible. In this situation, they will be charged and a prosecution commenced.
- The evidence shows that a crime has been committed and points to a particular person or people being responsible but they are either considered unfit to stand trial or are found to have a defence of mental impairment. These cases, which are prosecuted by the OPP, are subject to a separate process under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. A copy of the OPP's *Prosecuting Mental Impairment Matters: A Guide to the court system where a person who is cognitively impaired is prosecuted for a serious offence* is available on the OPP website [www.opp.vic.gov.au](http://www.opp.vic.gov.au) or by contacting the Witness Assistance Service on 03 9603 7425.
- The evidence shows that a crime has been committed but it is not clear who is responsible or there is not enough evidence to charge a particular person or people with the crime. In this situation the police file will be kept open. If any new information becomes available, the police investigation may recommence.

### Bail

A person who has been charged with a serious crime and taken into custody is referred to as being on remand. Any person on remand can apply for bail.

Not all people who are charged with a serious crime are taken into custody. Some people are able to remain in the community while they wait for the charges to be heard by the court.

### **What is bail?**

If an accused person is granted bail, they are able to remain in the community as long as they agree to appear in court when required and obey the conditions of bail set by the court. These conditions may include paying a financial surety, regularly reporting to police, staying at a particular address and not having any contact with the victim of the crime and/or witnesses.

### **When can an accused person apply for bail?**

An accused person can apply for bail at any stage. They may apply for bail more than once, even if bail has been refused before. If a person has been refused bail and then makes another application, they must show that there are new facts or circumstances that support their application.

### **Decision to grant bail**

In most cases the accused is likely to be granted bail, unless the court decides that they may endanger members of the public, interfere with witnesses, commit crimes or not come to court when required.

The victim's views will be taken into account by the court in deciding whether to grant bail. If you have particular concerns about the accused person being granted bail you should contact the police informant as soon as possible after they are charged.

### **Notifying victims about bail**

You can ask the police informant to tell you about the outcome of a bail application, including any conditions of bail that are intended to protect you.

If you are contacted by the accused person or believe that the accused person has breached any conditions of their bail you should tell the police informant immediately.

# Prosecuting crimes

In Victoria, the Director of Public Prosecutions (DPP) acts on behalf of the community to prosecute people who are charged with committing serious crimes.

## Role of the OPP

Serious crimes, also referred to as indictable crimes, are prosecuted by the OPP on behalf of the DPP. The trial of these matters generally takes place before a judge and jury in the County Court or the Supreme Court.

OPP solicitors prepare the case against the accused person. Barristers, known as Crown Prosecutors, and private barristers engaged by the OPP present the case in court. These solicitors and barristers represent the DPP and are not your lawyers. They act on behalf of the State and are required to be independent.

## Witness Assistance Service

The Witness Assistance Service (WAS) is a specialist service that supports victims of crime, family members and witnesses involved in matters being prosecuted by the OPP.

### Witness Assistance Service

You can contact the Witness Assistance Service on

T: 03 9603 7425 or 1800 641 927 (toll free)

W: [www.opp.vic.gov.au](http://www.opp.vic.gov.au)

## Deciding what charges will be prosecuted

Once the OPP has received the brief of evidence from Victoria Police, it will be allocated to a solicitor and continuously reviewed before the trial.

The DPP files a statement of charges against the accused person. This is called an indictment.

## *Prosecuting crimes*

At any stage, the DPP may decide:

- not to proceed with the matter
- to only proceed with certain charges
- to alter the charges against the accused person.

These decisions depend on a number of things, including the strength of the evidence.

The accused person may offer to plead guilty to a lesser charge rather than face a trial. The DPP has to decide, in each matter, whether or not the proposed plea is appropriate.

While the views of any victim/s will be sought, it is ultimately the DPP's decision whether to accept or reject such an offer, whether or not to proceed with a matter, or whether to proceed with certain charges.

The accused person may plead guilty at any stage of the prosecution. If this happens there will not be a trial. Instead there will be a plea hearing followed by a sentencing hearing (see court process flow chart on page 12).

## **Prosecuting the matter in court**

In Australia we have an adversarial court system. There are two sides:

- the prosecution, which represents the interests of the State
- the defence, which represents the interests of the accused person.

The judge or magistrate acts as an impartial third party who controls the proceedings to ensure they are fair.

### **Legal principles governing criminal proceedings**

Because the adversarial system involves the State prosecuting an accused person, a number of legal principles have been developed to make sure the accused person gets a fair trial. These principles form the basis of criminal trials:

#### *Presumption of innocence*

Any person charged with a criminal offence is presumed innocent until proven guilty. The prosecution has to prove a person's guilt. The accused person does not have to prove their innocence.

#### *Standard of proof*

This principle relates to the level of proof required to convict the accused person. The standard of proof in criminal cases is beyond reasonable doubt. This means that, on the basis of all the relevant evidence, the jury is satisfied beyond reasonable doubt that the accused person committed the crime. This is the highest standard in our legal system.

#### *Right to silence*

The accused person has the right to silence. They do not have to give evidence in court or be questioned by the prosecutor or the judge.

# The court process

The main stages of the court process are:

- pre-trial hearings
- trial
- plea hearing
- sentencing hearing
- appeal.

## Pre-trial hearings

### Committal mention

At the committal mention, a date may be set for the committal hearing. There is generally no need for victims or witnesses to attend this hearing.

### Committal hearing

The committal hearing is the first hearing when witnesses may be called to give evidence. It is held in the Magistrates' Court.

At the end of the committal hearing, the magistrate will decide if there is enough evidence for the case to go to trial before a judge and jury.

Prosecution witnesses may be required to give evidence at the committal hearing and be cross-examined by the defence barrister.

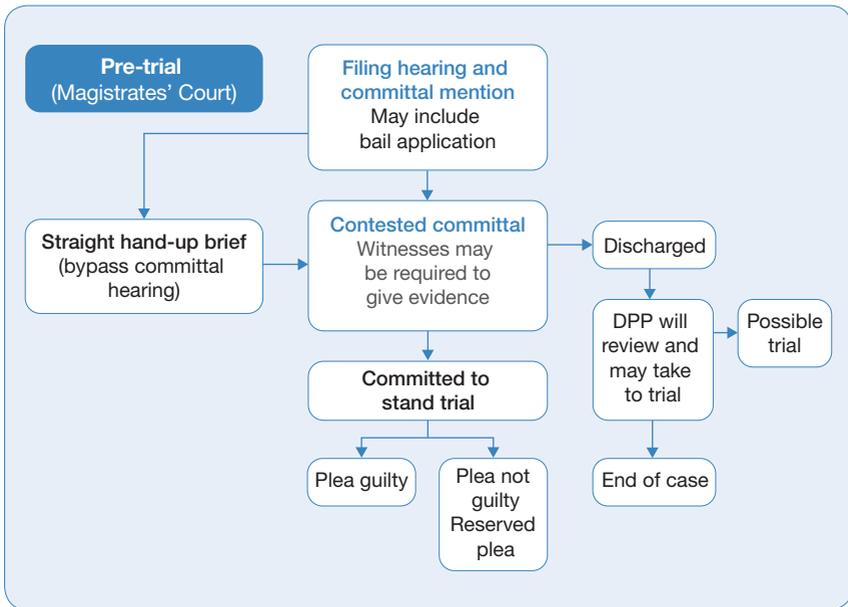
Not all witnesses who make a statement are required to give evidence at the committal hearing. If you are not required to give evidence, your statement may be included in the brief-of-evidence, which is given to the magistrate. You may still be required to give evidence at any future trial.

Once the magistrate has considered the evidence, they will decide if there is enough evidence to send the accused person to trial. If so, the matter will be heard in the County Court or Supreme Court.

The magistrate may decide that there is not enough evidence for the matter to go to trial and the charges against the accused person may not go ahead.

The OPP will review all of these matters and in some instances, the DPP may decide to proceed to a trial if it is believed that there is a reasonable prospect of conviction. This is called a direct indictment and is rare.

The DPP may decide, after an accused person has been committed for trial, not to proceed with the matter or with certain charges against that person. For more information, see page 17.



## The trial

The trial is held in either the County Court or the Supreme Court in front of a judge and jury.

At the trial the judge:

- makes sure the case for both sides is presented in accordance with the rules of evidence
- makes sure the trial process is fair to the accused person
- answers questions from the jury
- instructs the jury on the meaning of the law and how it should be applied.

The prosecution and defence barristers present all of the relevant evidence to the jury. The jury is made up of 12 people randomly selected from the community. The jury decides, on the basis of the evidence, whether or not the accused person is guilty or not guilty of the crime.

### Rules of evidence

According to the principle of a fair trial there are rules about what evidence can be seen and heard by the jury. Not every piece of evidence collected by police will be used at the trial, some of it may not be allowed by the judge and some may not be relevant according to the law. For example, the jury is unlikely to be told about any previous crimes committed by the accused person which are not considered to be relevant to the hearing of the matter.

If the accused person is found guilty, the judge will take into account any previous convictions when deciding on the sentence.

### What happens at the trial?

#### *Legal argument*

Before the jury is selected the barristers and the judge may discuss legal issues that affect what evidence can be presented to the jury and the way the trial is run. These discussions may go on for some time.

### Jury empanelment

The barristers are involved in selecting the jury in accordance with specific rules. This is referred to as empanelment. Empanelling the jury can take several hours and usually happens within the first few days of the trial.

### Trial

The trial begins with the judge telling the court what the matter is about. The prosecutor will then outline the case to the jury, which is known as the opening address. The defence barrister will usually give a short reply. The prosecution presents its case first by calling witnesses to give evidence. The defence will then present its case.

### Final address and charge

After all the witnesses have finished giving evidence, the prosecutor and defence barrister will make their closing comments to the jury. This is called the final address. The judge will then summarise the evidence and arguments from both sides and explain legal issues for the jury. This is called the Judge's Charge.

The jury will then leave the courtroom to consider its verdict.



## **Verdict**

In serious criminal matters all members of the jury are required to agree on the verdict of guilty or not guilty – this is referred to as a unanimous verdict. A judge may accept a majority verdict, in certain cases, if 11 of the 12 jurors agree, but only after the jury has been deliberating for a significant period of time.

The jury needs to reach a verdict in relation to **each charge** against the accused person.

The verdict may be:

- Guilty – the accused person has been found guilty of the crime and will be sentenced by the judge.
- Not guilty – the prosecution has been unable to prove, beyond reasonable doubt, that the accused person committed the crime. This is called an acquittal and the accused person is free to go. The prosecution cannot appeal against an acquittal.
- A mixed verdict – the accused person is found guilty in relation to some of the charges and not guilty in relation to others.
- A majority verdict – where all but one of the jurors agree on a verdict.

If the jury cannot agree on a verdict, this is referred to as a hung jury. The jurors will be discharged and the trial will be scheduled for hearing before a new jury at a later date. This is called a re-trial.

Generally, once a person has been found not guilty they cannot be tried again for the same crime.

## *Waiting for the verdict*

There is no set time for the jury to consider its verdict. In some cases it can take days. If you want to be present for the verdict or have any concerns during this time, you can speak with the police informant, OPP solicitor or WAS worker. One of these people will contact you as soon as they know the verdict.

## Giving evidence

Generally, all witnesses for the prosecution including the victim are required to give evidence in person before the court.

In sexual assault matters and some family violence matters, victims are able to make use of alternative arrangements for giving evidence. For more information, see page 27.

In sexual assault matters, if victims are under 18 years of age or have a cognitive impairment they are able to give evidence at a Special Hearing. For more information, see page 28.

Giving evidence may take a few minutes or several hours, depending on your level of involvement in the matter.

You will usually have to wait outside the courtroom before giving evidence. You may wish to use this time to read over your police statement. This will help you remember what you told police at the time you made your statement. If you do not have a copy of your statement, ask the police informant or OPP solicitor for one.

Your address will not be read out in court but in most cases you will be asked to provide your occupation.

### Oath or affirmation?

In court, you will be called when it is your turn to give evidence and shown to the witness box at the front of the courtroom. You will be asked to either take an oath on a religious text or make an affirmation that you will tell the truth when giving your evidence. You must choose one or the other. Whether you take the oath or make an affirmation you are swearing that your evidence will be the truth. You may be prosecuted if you do not tell the truth.

### Taking an oath

'I swear (or promise) by Almighty God (or a god recognised by your religion) that the evidence I shall give will be the truth, the whole truth and nothing but the truth.' You can swear on the Bible, Koran, or other holy book of your choosing.

### *Making an affirmation*

'I solemnly and sincerely declare and affirm that the evidence I shall give will be the truth, the whole truth and nothing but the truth.'

### *Answering questions*

When you give evidence you will be asked questions first by the prosecutor – this is called examination-in-chief. The prosecutor will generally ask you about what is in your police statement. It is important that you are familiar with your police statement as you are not able to look at it while you are giving evidence. You may also have to identify pieces of evidence or look at photographs while giving evidence.

The defence barrister will then ask you questions – this is called cross-examination. Once the defence barrister has finished asking questions, the prosecutor may ask you more questions to clarify some of the answers you have given – this is called re-examination.

Answering questions, particularly those being asked by the defence barrister, may be difficult or upsetting. All you are required to do is answer the question as accurately and truthfully as possible. If you cannot remember something, you should say so. If you need to have a break, all you need to do is ask the judge.

As a witness you can give evidence of what you saw, did or heard first hand. Information you received from other people, such as something you were told about but did not see yourself, generally cannot be used in court. This is called hearsay.

Once you have finished giving evidence you can leave the courtroom. If you wish to stay in the courtroom and listen to the evidence you should discuss this with the OPP solicitor or prosecutor. There are a number of reasons why the prosecutor would recommend that you do not stay in the courtroom.

If you have small children, it is not appropriate for them to be in the courtroom, even if they are supervised by someone else. You should organise for someone to look after your children before you go to court.

### Special arrangements for giving evidence in sexual assault and family violence matters

If you are a victim of sexual assault, you can make use of special arrangements for giving evidence. These arrangements have been put in place to assist complainants to give evidence and are also available to child witnesses and witnesses with a cognitive impairment.

This means that:

- you have the right to give evidence from another location via video-link in a remote witness facility
- if you choose to give evidence in the courtroom, screens can be set up so that you do not have to see the accused person
- you can have a support person with you when you give evidence
- the courtroom may be closed to the general public so that only the judge, their staff, the accused person and the prosecution and defence lawyers are in the courtroom when you give evidence.

If you are a victim of family violence you may also be able to make use of one or more of these special arrangements for giving evidence. The prosecutor will make an application to the judge for any or all of these arrangements to be made. The judge will decide whether or not to grant the application.

If you want to make use of any of these arrangements, you should speak with the OPP solicitor or prosecutor who is handling your matter before the court hearing.

## Special hearings

As well as the special arrangements for giving evidence, child victims and victims with a cognitive impairment in sexual assault matters can give evidence at a special hearing.

At a special hearing, they are able to give evidence from outside the courtroom and only those people specifically authorised by the court may be in the courtroom while they are giving evidence. The accused and their lawyer are entitled to be in court and the witness will be asked questions by the defence barrister.

Giving evidence at a special hearing means that their evidence is recorded for use in the court hearing.

A special hearing can be either before or during the trial, depending on what the court directs. The court has to take into account a number of things, including their preference, when it makes a decision about when the special hearing will take place.

If the special hearing is during the trial, the jury will be in court while they give evidence.

## Plea hearing

If the accused person pleads guilty, or is found guilty by a jury, there will be a plea hearing before a judge.

At the plea hearing, the prosecution and the defence will present information for the judge to take into account when deciding on the sentence.



### **Making a Victim Impact Statement**

If you have suffered physical injury, emotional trauma or financial or property loss as a result of the crime and the offender has pleaded or been found guilty, you are able to make a Victim Impact Statement.

Making a Victim Impact Statement gives you the opportunity to tell the court about the impact of the crime on you.

It is your choice whether or not to make a Victim Impact Statement. If you do, your Victim Impact Statement is one of a number of factors the judge is required to take into account when sentencing the offender for the crime.

You do not have to be the person the crime was committed against to make a statement to the court. For example, family members of a victim or the parents of a child who has been sexually assaulted can make a statement.

You will be contacted by the police informant, OPP solicitor or WAS worker about whether you would like to make a Victim Impact Statement.

### **What can be included in a Victim Impact Statement?**

Your Victim Impact Statement should include information about the impact of the crime on you, for example information about physical injuries, emotional trauma, or financial or property loss. You may be able to include pictures, poems, paintings or DVDs in your Victim Impact Statement, or attach copies of medical or counselling reports.

Your Victim Impact Statement is an evidentiary document and there are rules about what evidence is admissible in court. If material in your Victim Impact Statement is not about the impact of the crime on you it may be excluded by the court.

A Victim Impact Statement is made in writing and may be read out in court.

## *The court process*

A *Guide to Victim Impact Statements* has been produced to help you prepare your Victim Impact Statement. There is also a guide for children and young people called *Victim Impact Statements Made Easy*.

For assistance with making a Victim Impact Statement or for a copy of either guide, contact the Witness Assistance Service on 03 9603 7425 or the Victims of Crime Helpline on 1800 819 817.

### **What happens in court**

You have the right to read your Victim Impact Statement to the judge. Alternatively, you can get the prosecutor, a family member or another representative to read it out on your behalf. You may also be able to make use of special arrangements for reading out your statement. These arrangements are listed on page 27 and include reading out your statement from a remote witness facility. You should speak to the OPP solicitor or WAS social worker in advance if you would like to use these alternative arrangements.

It is important to know that the defence barrister will read your Victim Impact Statement before or during the plea hearing and it may also be shown to the offender.

### **Defence information**

After the prosecution has addressed the judge, and any Victim Impact Statements have been read out or given to the judge, the defence barrister will present information to the judge. This can include details of the offender's childhood, family life, education, work history and medical history.

The defence barrister may call people to give character evidence and/or psychological evidence about the offender. Some of this information may be difficult for you to hear.

The judge has to consider all of the relevant material before deciding on the sentence.

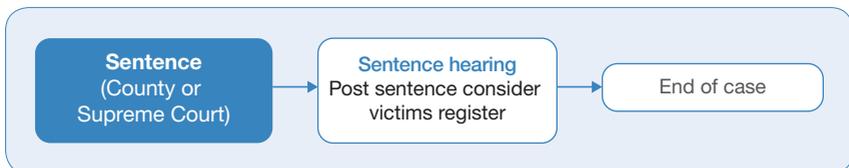
## Sentencing hearing

The sentencing hearing may happen on the same day as the plea hearing or at a later date decided by the judge. At this hearing the judge will tell the offender what their sentence is. There are a number of sentencing options open to the judge. These include a sentence of imprisonment, a fine or an order that the offender perform community work or attend counselling.

Factors that must be taken into account by the judge in deciding on the sentence include:

- the nature and seriousness of the crime
- the impact of the crime on the victim
- the circumstances of the offender
- the offender's past criminal history
- whether the offender pleaded guilty and when they pleaded guilty
- the maximum penalty for the offence
- other sentences for comparable crimes.

In cases where the offender is sentenced to imprisonment, the judge will usually impose a maximum sentence and a minimum sentence. The maximum sentence is called the total effective sentence. The minimum sentence is called the non-parole period, which is the time served in prison before the offender is eligible to apply for parole. Any sentence will take into account time already served by the offender in prison. This is known as pre-sentence detention.



## Appeals

### Defence appeal

The offender has the right to appeal against their conviction (guilty verdict) and/or the length of the sentence.

They have 28 days from the date they are sentenced to lodge an appeal. In certain circumstances they may be able to get an extension of time to lodge an appeal.

### Director of Public Prosecutions appeal against sentence

If the DPP believes a sentence is too low, the DPP may appeal against the sentence. The sentence needs to be considered by the DPP to be manifestly inadequate.

The DPP is not able to appeal against a not-guilty verdict.

### Court of Appeal hearings

An appeal from the County or Supreme Court will be heard in the Court of Appeal, which is the highest court in Victoria.

While you are entitled to go to any appeal hearing, they are very different to the trial and involve technical discussions about the law.

An appeal is not a retrial. The purpose of an appeal is to determine whether the law has been properly applied or whether there is some legal error at the trial which resulted in a miscarriage of justice.

The possible results of an appeal by the offender against their conviction are:

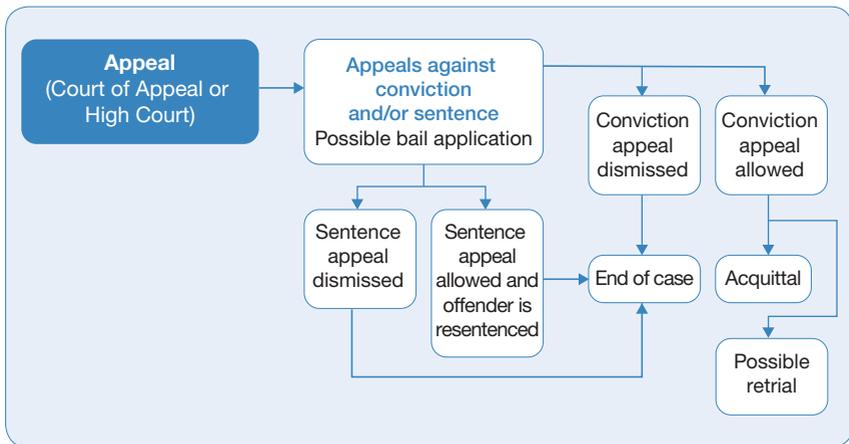
- the appeal is dismissed and the original guilty verdict stands
- the appeal is allowed and a retrial is ordered
- the appeal is allowed, the conviction is set aside and the offender goes free – there has to be a substantial miscarriage of justice for this to happen.

The possible results of an appeal by the offender against their sentence are:

- the appeal is dismissed and the sentence is unchanged
- the appeal is dismissed and the sentence is increased
- the appeal is allowed and the sentence is reduced.

When the DPP appeals against a sentence, the court may either allow the appeal and increase or decrease the sentence or leave the sentence as it is.

The police informant, OPP solicitor or WAS worker will let you know if an appeal is lodged, the arguments relating to the appeal and the outcome of the appeal.



# Going to court

If you have made a statement to the police and the matter goes to court, you may be required to go to court to give evidence about what happened.

There may be more than one hearing and you may be required to go to court more than once.

## Finding out about court hearings

If you are required as a witness you will receive a court order – a summons in the Magistrates' Court or a subpoena in the County or Supreme Court. This document tells you when and where the matter is going to be heard by the court. You should check with the police informant or OPP solicitor about when you are actually required to go to court to give evidence as you may not be required on the first day of the hearing.

Because summonses and subpoenas are court orders, there are serious implications if you do not comply.

You may also be told about upcoming court hearings by the police informant, OPP solicitor or WAS social worker.

It is possible that a hearing may be delayed (adjourned) to another day. This can happen for a range of reasons and at short notice. The police informant or OPP solicitor will do their best to let you know if a hearing has been adjourned.

## Court locations

Court hearings in Melbourne will either be in the Magistrates' Court, the County Court or the Supreme Court of Victoria. These courts are located in the legal precinct on opposite corners of Lonsdale and William Streets. Committal hearings may also be held in suburban Magistrates' Courts.

If your matter is going to be heard in a regional court, you will be told when and where it will be heard.

The courts hear matters from 10:00 am until 4:15 pm with a lunch break between 1:00 pm and 2:00 pm. Occasionally the court may sit outside these hours. The Magistrates' Court generally starts at 9:30 am.

## The media

You may find that the media are interested in your matter and want to talk to you about your experience.

Any comments you make to the media early on in the process, particularly relating to the accused person, may have an impact on any upcoming court hearing. You should speak with the police informant or the OPP solicitor before dealing with the media.

## On the day you go to court

The police informant or OPP solicitor may have made arrangements with you about where and when to meet at court.

If not, you will need to do the following:

- go through court security at the court entrance so you can access the courtroom – you should allow time for this
- check the Daily Court List on the notice board in the foyer of the court
- find the name of the accused (on the front of the subpoena) on the court list and make a note of the courtroom number
- go to the courtroom and wait outside for the police informant, OPP solicitor or WAS worker to meet you.

If your matter is being heard in a regional court, you can go to the registrar's counter for help.

You may find it useful to visit the court before the hearing, so you feel more comfortable in the court surroundings.

## *Going to court*

### **Inside the courtroom**

#### *Magistrates' Court*

Courtrooms in the Magistrates' Courts are less formal than those in the higher courts. Neither the magistrate nor the barristers wear wigs and gowns. The magistrate sits at the front of the courtroom and their clerk sits in front of or next to them. The accused person sits behind their barrister in the public area of the courtroom. The witness box is on the opposite side of the courtroom next to the prosecutor.

#### *County Court and Supreme Court*

There is a high level of formality inside the County and Supreme Courts. Court staff and barristers usually wear wigs and gowns. Court staff have particular names which describe their position. For example, the associate and tipstaff are the staff who assist the judge in court. The judge sits at the front of the court and the barristers sit at the bar table in the middle of the courtroom. The witness box is on the opposite side of the courtroom to the jury box.

Be prepared to see the accused person, their family and friends inside and outside the courtroom.

### **Court support**

It is normal to feel nervous about going to court and giving evidence. If you have a friend or family member who can support you during the time you are at court, you may find it useful to bring them with you, provided they are not a witness in the matter.

The Witness Assistance Service (WAS) can arrange support for you during court hearings, particularly if you have specific concerns about being in court. For more information, contact WAS on 03 9603 7425.

### Court Network

Court Network provides information and support to people who are required to give evidence in court or from a remote witness facility.

Court Network operates out of the Magistrates', County and Supreme Courts. Trained volunteers can sit with you while you are waiting to give evidence or when you are inside the courtroom giving evidence.

For more information contact Court Network on 1800 681 614 (toll free) or at [www.courtnetwork.com.au](http://www.courtnetwork.com.au)

### Witness expenses

If you have been served with a summons or subpoena requiring you to go to court to give evidence you can make a claim to reimburse you for some of the cost of going to court.

You can make a claim for a range of expenses, including:

- lost wages (this is a capped amount)
- travel expenses (generally only public transport costs are covered)
- meal allowances
- overnight accommodation (for witnesses who live interstate).

Childcare expenses, and parking fees or fines, cannot be reimbursed.

There are different processes for claiming expenses depending on which court you have been to.

### Magistrates' Court

If you have been to the Magistrates' Court, the police informant will give you a Witness Expense Form. Complete your form then give it to the police informant who will arrange for the magistrate to sign it. You should then take the form to the cashier's office at the Magistrates' Court to receive your payment.

## *Going to court*

### **County Court or Supreme Court**

If you have been to the County Court or the Supreme Court, the OPP solicitor will give you a Witness Expense Claim Form. Complete the form and then give it to the OPP solicitor or police informant.

If you are claiming lost wages your employer will need to sign your form or, if you are self-employed, you will need to sign a statutory declaration stating that you have lost wages as a result of having to attend court.

Payment will be made by electronic funds transfer to a nominated bank account in most cases.

Completed Witness Expense Claim Forms should be taken or posted to:

Witness Payments  
Office of Public Prosecutions  
Ground floor, 565 Lonsdale Street  
MELBOURNE VIC 3000

# After court

## Victims Register

If an offender has been found guilty of a crime committed against you, you may be eligible to be placed on the Victims Register.

Being on the Victims Register means you will be given certain information about the offender while they are in prison or on parole. This includes:

- the offender's earliest possible release date
- the offender's possible release on parole
- information about making a submission to the Adult Parole Board
- the offender's actual release date and the reason for releasing them.

The Victims Register cannot give details about the location of the offender.

The Victims Register can only give details about adult offenders. If your matter involves an offender in a Youth Training Centre you can contact the Youth Parole Board on 03 9096 7534 or email [YouthJustice@dhs.vic.gov.au](mailto:YouthJustice@dhs.vic.gov.au)

Registration is voluntary. If you would like to be on the Victims Register you will need to fill out an application form. For more information or a copy of the application form contact the Victims Register via the Victims of Crime Helpline on 1800 819 817 or email [VictimsRegister@justice.vic.gov.au](mailto:VictimsRegister@justice.vic.gov.au)

## The Parole Board

Members of the Adult Parole Board – or the Youth Parole Board if the prisoner is under 18 years old – decide whether and when to release prisoners back into the community and are responsible for managing this process.

Before making any decision about parole, the board is required to take into account the views of any victims of the crime. They will also take

## After court

into account any concerns about the prisoner being released or the conditions on which they are released.

You can make your views known to the board by making a submission. Submissions need to be in writing and can be made by a victim of a crime, a person related to the victim or other person with an interest in the case. The submission will not be given to the prisoner without your consent.

If you are on the Victims Register you will be told about any parole hearings and the opportunity to make a submission. If not, you will need to contact the relevant parole board.

### Adult Parole Board

T: 03 9094 2111

E: [apb.enquiries@justice.vic.gov.au](mailto:apb.enquiries@justice.vic.gov.au)

### Youth Parole Board

T: 03 9096 7534

E: [YouthJustice@dhs.vic.gov.au](mailto:YouthJustice@dhs.vic.gov.au)

## Financial assistance and compensation

### Victims of Crime Assistance Tribunal

As a victim of crime you may be entitled to compensation and financial assistance. In cases of violent crime, you can apply to the Victims of Crime Assistance Tribunal (VOCAT).

Payments of financial assistance or compensation may be made for:

- pain and suffering, including physical injury or emotional distress
- medical expenses
- counselling
- loss of earnings.

Compensation is not available for property loss or damage.

For more information and assistance making an application, you can contact the Victims Assistance and Counselling Program (VACP). The VACP can give you information, support and help you make an application for financial assistance.

### VACP

To contact your local VACP, call the Victims of Crime Helpline on  
T: 1800 819 817

### VOCAT

You may also want to contact VOCAT directly on

T: 03 9628 7855

W: [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au)

T: 1800 882 752 (toll free)

E: [help@vocat.vic.gov.au](mailto:help@vocat.vic.gov.au)

### Compensation and civil action

In certain circumstances you may be able to apply for compensation from the offender, through the sentencing court, after they are found guilty.

You have the right to take civil legal action for compensation against the offender whether or not they are found guilty.

Both options involve complex legal processes. Important questions to consider are:

- will the offender be able to pay the compensation?
- if the offender refuses to pay compensation, how much will it cost to enforce the order?
- what are the costs involved in taking civil legal action?

## *After court*

The following organisations can assist you to get information about your entitlement to financial assistance and compensation.

### **Victims Assistance and Counselling Program (VACP)**

The VACP can give you information, support and assistance with applications for financial assistance. VACP workers may also refer you to a local lawyer for further advice or assistance.

T: 1800 819 817 (via the Victims of Crime Helpline)

### **Federation of Community Legal Centres (CLCs)**

The Federation can give you details of your local Community Legal Centre, which provides free legal advice to the public.

#### **Federation of Community Legal Centres**

T: 03 9652 1500

W: [www.communitylaw.org.au](http://www.communitylaw.org.au)

E: [administration@fclc.org.au](mailto:administration@fclc.org.au)

### **Law Institute Referral Service**

The 'Find a Lawyer and Legal Referral Service' gives you access to 30 minutes free legal advice from a local law firm.

#### **Law Institute Referral Service**

T: 03 9607 9311

W: [www.liv.asn.au](http://www.liv.asn.au)

E: [referrals@liv.asn.au](mailto:referrals@liv.asn.au)

# Glossary

LEGAL TERM	DEFINITION
<b>Accused</b>	A person charged with a crime.
<b>Adjournment</b>	When a case is postponed to a future date.
<b>Affirmation</b>	A non-religious promise made by a witness to tell the truth in court.
<b>Appeal</b>	A challenge to a decision made by a judge, jury or magistrate, which is heard by a higher court.
<b>Arraignment</b>	When an accused appears before a judge and pleads guilty or not guilty to the charges.
<b>Bail</b>	Where an accused person is to appear at court when required and comply with any conditions on what they can or cannot do while on bail.
<b>Barrister</b>	A lawyer who appears in court representing either the prosecution or defence.
<b>Brief of evidence</b>	A document compiled by the police officer who has investigated a crime. It includes details of the allegations, the name and address of the accused, the charges against them and evidence being relied on by the prosecution.
<b>Charge</b>	A formal description of a crime an accused person is alleged to have committed.
<b>Committal hearing</b>	A court hearing in the Magistrates' Court before a magistrate to establish whether there is enough evidence for a trial to proceed before a judge and jury.
<b>Committal mention</b>	A short administrative hearing before a committal hearing where the parties tell the magistrate about the future direction of a case.
<b>Compensation</b>	Money given to a victim of crime, usually after conviction, to compensate them for pain and suffering and pay for expenses incurred (including medical) arising from an offence.
<b>Complainant</b>	A victim in a criminal prosecution.
<b>Conviction</b>	When an accused is found guilty by a jury or pleads guilty before a judge or magistrate and the judge or magistrate orders that they be convicted.
<b>County Court</b>	The court that hears serious (indictable) matters and appeals from the Magistrates' Court.
<b>Court Network</b>	A volunteer service that provides assistance to witnesses, victims of crime and their families or friends, or the accused when they go to court.

LEGAL TERM	DEFINITION
<b>Cross-examination</b>	Asking a witness questions about their evidence-in-chief. The defence barrister cross-examines prosecution witnesses and the prosecutor cross-examines defence witnesses.
<b>Crown Prosecutor</b>	A prosecutor who works solely for the Director of Public Prosecutions.
<b>Defence</b>	a) The lawyer/s acting on behalf of an accused person. b) Arguments used by an accused and their lawyers defending them in court.
<b>Directions hearing</b>	A court hearing to determine the possibility of resolving a matter or to address issues that may affect a trial.
<b>Double jeopardy</b>	The principle that a person may not be tried or sentenced twice for the same offence.
<b>Director of Public Prosecutions (DPP)</b>	An independent statutory officer responsible for conducting committal proceedings in the Magistrates' Court; prosecuting serious crime in the County and Supreme Courts; and conducting criminal appeals in the County Court, the Court of Appeal and the High Court.
<b>Dock</b>	An enclosed place in the courtroom where the accused person stands or sits during a court hearing.
<b>Evidence</b>	Information presented in court that is relevant to the charges. This includes evidence given by witnesses, documents or physical exhibits.
<b>Examination-in-chief</b>	Questions asked of a witness when they are giving evidence.
<b>Guilty</b>	A person is guilty if he or she is found guilty by a jury or pleads guilty before a judge or magistrate.
<b>Indictable offences</b>	Crimes that are generally determined by a jury.
<b>Indictment</b>	A statement of the charges against an accused person.
<b>Judge</b>	A person who hears matters in the County Court or Supreme Court. The judge has the power to interpret the law and apply it.
<b>Judge's associate</b>	A person who works for a judge.
<b>Judgment</b>	The final order/s made by a judge after a court hearing.
<b>Jury</b>	A group of 12 people who are chosen randomly from the community to decide whether an accused person is guilty or not guilty in a County Court or Supreme Court trial.

LEGAL TERM	DEFINITION
<b>Magistrate</b>	A person who hears matters in the Magistrates' Court. Part of a magistrate's role is to decide whether matters are serious enough to be passed onto higher courts.
<b>Magistrates' Court</b>	The lowest court in the Victorian judicial system where cases are heard by magistrates and there are no juries.
<b>Not guilty</b>	A jury verdict which means the prosecution has not proved its case beyond reasonable doubt.
<b>Oath</b>	A promise to tell the truth in court. Oaths can be given by swearing on a religious text such as the Bible or the Koran.
<b>Offender</b>	A person who has been found guilty of a crime.
<b>Office of Public Prosecutions (OPP)</b>	The office consisting of solicitors, support staff and Witness Assistance Service staff who work on behalf of the Director of Public Prosecutions.
<b>Parole</b>	The release of a prisoner into the community, under supervision, prior to completion of their sentence. The release is subject to restrictions and/or conditions for a specified period.
<b>Parole Board</b>	The Parole Board decides whether and when to release a prisoner back into the community and under what conditions.
<b>Plea</b>	An accused person's statement to the court about whether they are guilty or not guilty of charges.
<b>Plea hearing</b>	A hearing before a judge or magistrate, either after an accused has been found guilty or after they have pleaded guilty. It is the hearing at which submissions relating to sentence are made and where Victim Impact Statements are read out or given to the court.
<b>Police informant</b>	The police officer in charge of the investigation and the main contact between police and the victim of crime.
<b>Prosecutor</b>	A Crown Prosecutor, Barrister or Solicitor Advocate who appears on behalf of the DPP in court.
<b>Re-examination</b>	Asking a witness questions which arise out of cross-examination.
<b>Remote witness facility</b>	A room, separate from the courtroom, where vulnerable witnesses can give evidence, which is relayed to the court via closed-circuit television (CCTV).
<b>Sentencing hearing</b>	A hearing where a judge tells the offender what their sentence will be.
<b>Solicitor</b>	A lawyer who prepares a matter for court.

LEGAL TERM	DEFINITION
<b>Statement</b>	A written document made and signed by a witness, telling the police what they know about a crime.
<b>Subpoena</b>	A document informing a person they must go to a court to give evidence as a witness in the County Court or Supreme Court.
<b>Summons</b>	A document informing a person they must go to a court to give evidence as a witness in the Magistrates' Court.
<b>Supreme Court</b>	The superior court in Victoria that hears serious (indictable) matters. A judge presides over the court and a jury decides the case.
<b>Surety</b>	When a person agrees in writing to pay a specific amount of money if an accused does not come to court when required, in accordance with their bail conditions.
<b>Tipstaff</b>	An officer of the County and Supreme Courts who keeps order in a courtroom.
<b>Trial</b>	A hearing in the County or Supreme Court before a judge and jury, where the jury determines whether an accused person is guilty or not guilty of offences, after considering the evidence.
<b>Verdict</b>	A decision given by a jury which tells the court whether a person is guilty or not guilty of charges.
<b>Victim Impact Statement</b>	A statement made by a victim of crime about how a crime has affected them. This is taken into account by the court in sentencing an offender.
<b>Witness Assistance Service (WAS)</b>	A service within the OPP staffed by experienced social workers to provide ongoing information and support to witnesses and victims of crime.
<b>Witness</b>	A person who appears in a court to tell what he or she knows about a crime or other event.
<b>Witness box</b>	The place where people stand or sit when they are giving evidence in court.

# Useful contacts

## Compensation and financial assistance

### Victims of Crime Assistance Tribunal

Level 1, 233 William Street MELBOURNE VIC 3000

T 03 9628 7855

T 1800 882 752 (toll free for country callers)

E [help@vocat.vic.gov.au](mailto:help@vocat.vic.gov.au)

W [www.vocat.vic.gov.au](http://www.vocat.vic.gov.au)

## Legal services

### Federation of Community Legal Centres

Level 3, 225 Bourke Street MELBOURNE VIC 3000

T 03 9652 1500

E [administration@fclc.org.au](mailto:administration@fclc.org.au)

W [www.communitylaw.org.au](http://www.communitylaw.org.au)

### Law Institute of Victoria Referral Service

470 Bourke Street MELBOURNE VIC 3000

T 03 9607 9311

F 03 9602 5270

E [referrals@liv.asn.au](mailto:referrals@liv.asn.au)

W [www.liv.asn.au/Referral](http://www.liv.asn.au/Referral)

### Victorian Aboriginal Legal Service

273 High Street PRESTON VIC 3072

T 03 9418 5999

T 1800 064 865 (toll free for country callers)

W [www.vals.org.au](http://www.vals.org.au)

### Victoria Legal Aid

350 Queen Street MELBOURNE VIC 3000

T 03 9269 0120

T 1800 677 402 (toll free for country callers)

W [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

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## Useful contacts

### Youth Law

At Frontyard, 19 King Street MELBOURNE VIC 3000

T 03 9611 2412

F 03 9620 3622

E [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au)

W [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

### Victims Register and parole

#### Victims Register

T 1800 819 817 (toll free for country callers)

T 03 8684 6700 (interstate callers)

E [VictimsRegister@justice.vic.gov.au](mailto:VictimsRegister@justice.vic.gov.au)

W [www.justice.vic.gov.au/victimsofcrime](http://www.justice.vic.gov.au/victimsofcrime)

#### Adult Parole Board

T 03 9094 2111

F 03 9094 2125

E [apb.enquiries@justice.vic.gov.au](mailto:apb.enquiries@justice.vic.gov.au)

W [www.justice.vic.gov.au/paroleboard](http://www.justice.vic.gov.au/paroleboard)

#### Youth Parole Board

T 03 9096 7534

E [YouthJustice@dhs.vic.gov.au](mailto:YouthJustice@dhs.vic.gov.au)

### Victim, witness and court support services

#### Child Witness Service

T 03 9603 9266

T 1300 790 540 (country callers)

E [childwitnessservice@justice.vic.gov.au](mailto:childwitnessservice@justice.vic.gov.au)

#### Court Network

T 03 9603 7433

T 1800 681 614 (toll free for country callers)

F 03 9670 8804

E [admin@courtnetwork.com.au](mailto:admin@courtnetwork.com.au)

W [www.courtnetwork.com.au](http://www.courtnetwork.com.au)

### Victims of Crime Helpline

T 03 8684 6700  
T 1800 819 817 (toll free for country callers)  
F 03 8684 6777  
T 133 677 (hearing impaired)  
E [vsa@justice.vic.gov.au](mailto:vsa@justice.vic.gov.au)  
W [www.justice.vic.gov.au/victimsofcrime](http://www.justice.vic.gov.au/victimsofcrime)

### Witness Assistance Service

Office of Public Prosecutions, Ground floor,  
565 Lonsdale Street MELBOURNE VIC 3000  
T 03 9603 7425  
T 1800 641 927 (toll free for country callers)  
T 133 677 (hearing impaired)  
W [www.opp.vic.gov.au](http://www.opp.vic.gov.au)

### Other support services

#### Aboriginal Family Violence Prevention and Legal Service

Level 3, 70 – 80 Wellington Street, COLLINGWOOD, VIC 3066  
T 9244 3333  
T 1800 105 303  
E [information@fvpls.org](mailto:information@fvpls.org)  
W [www.fvpls.org](http://www.fvpls.org)

#### Centre Against Sexual Assault (CASA)

T 1800 806 292  
E [ahcasa@thewomens.org.au](mailto:ahcasa@thewomens.org.au)  
W [www.casa.org.au](http://www.casa.org.au)

#### Domestic Violence Resource Centre Victoria

292 Wellington Street COLLINGWOOD VIC 3066  
T 03 9486 9866  
F 03 9486 9744  
W [www.dvrcv.org.au](http://www.dvrcv.org.au)

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## *Useful contacts*

### **Immigrant Women's Domestic Violence Service**

GPO Box 2905 MELBOURNE VIC 3001

T 8413 6800

T 1800 755 988

F 9898 1049

E [iwdvs@infoxchange.net.au](mailto:iwdvs@infoxchange.net.au)

W [www.iwdvs.org.au](http://www.iwdvs.org.au)

### **Kids Helpline**

T 1800 551 800

W [www.kidshelp.com.au](http://www.kidshelp.com.au)

### **Women's Domestic Violence Crisis Service**

T 03 9322 3555

T 1800 015 188 (toll free for country callers)

W [www.wdvcs.org.au](http://www.wdvcs.org.au)

### **Women's Information and Referral Exchange**

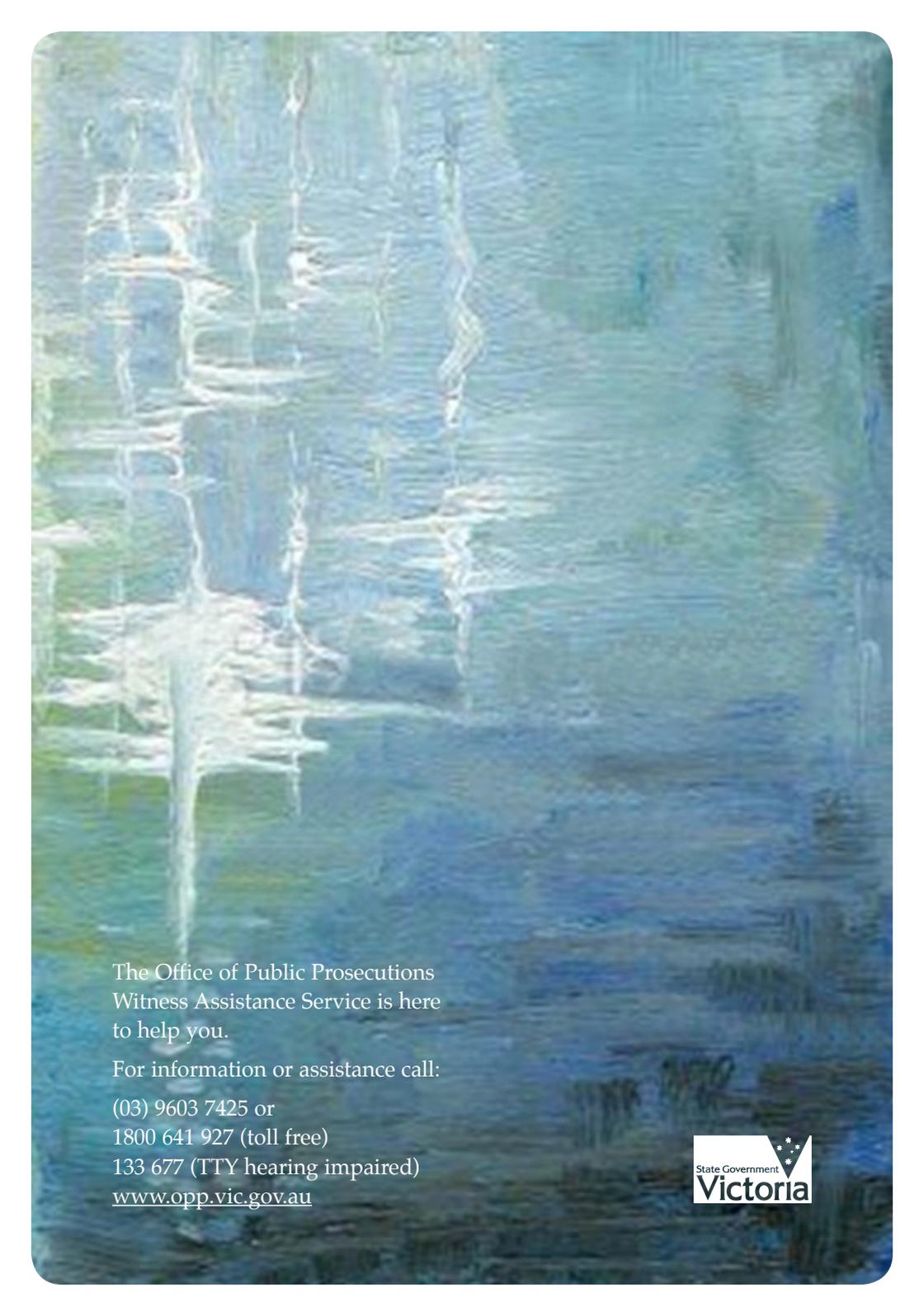
M 372 Spencer Street WEST MELBOURNE VIC 3003

T 1300 134 130

E [inforequests@wire.org.au](mailto:inforequests@wire.org.au)

W [www.wire.org.au](http://www.wire.org.au)





The Office of Public Prosecutions  
Witness Assistance Service is here  
to help you.

For information or assistance call:

(03) 9603 7425 or

1800 641 927 (toll free)

133 677 (TTY hearing impaired)

[www.opp.vic.gov.au](http://www.opp.vic.gov.au)

