



Court Network



A GUIDE TO SUPPORTING VICTIMS OF CRIME THROUGH THE COURT PROCESS



THIS GUIDE

In this guide you will find the information you need to provide support to a victim of crime going through the court process. Victims in the court system are often referred to as witnesses, so we will use the term witness throughout this information book. The guide starts by helping you to decide whether you should be a support person.

It advises you on how to support the witness before, during and after court.

It also provides some tips on confidentiality (which is very important), and on how to make sure the witness is in the right place at the right time, hopefully in the right frame of mind.



You need to read the whole guide, but in case you want to find something quickly, use the index on the next page.

It gives you some hints on how to look after yourself and get help if you need it—for you or the witness.

Finally, it includes some easy references about important, related issues. Read through them so you'll know as much about the court and justice process as possible.

It also includes information on:

- what a support person does
- The Charter of Victim's Rights
- important phone numbers
- special witness status
- victim impact statements
- financial assistance

IMPORTANT - This guide does not address the specific needs of child and/or young person victims or witnesses. If you are asked to support a child/young person victim/witness through the court process refer to the appropriate agencies for guidance *(as listed on page 10 of this guide).*

WHAT DOES A SUPPORT PERSON DO?

Witnesses who are victims of crime, have already suffered trauma, and the court process can be lonely, confusing, stressful and can, in many instances, retraumatise the witness. A support person helps the witness to be calm and informed, and to be as prepared as possible for their appearance in court.

THE SUPPORT PERSON:

- 1** makes sure the witness won't have to wait alone inside or outside intimidating courtrooms
- 2** provides practical support, helping the witness to be on time, ensuring they don't have to worry about where to go, and what to do
- 3** can assist the witness in completing financial assistance forms and victim impact statements (these are explained later)
- 4** may accompany the witness to pre-court conferences (if the prosecutor agrees)
- 5** assists the witness in their dealings with court officials, legal staff and others
- 6** helps the witness to move on after the court process is finished.

If you choose to provide support in this way, you will provide valuable assistance to a vulnerable person.

On their behalf, thank you.

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DECIDING WHETHER TO BE A SUPPORT PERSON

If a witness has asked you to be a support person, it is important to consider what that requires. In the first instance you must be at least 18 years old. Some questions to ask yourself may be: Are you organised? Are you calm and patient? Do you have good listening skills? More questions are included on page 7 for you to consider.

It's important to remember that close family members and friends are not necessarily the best people to support a witness through the court process. As a support person, you may have to listen to details of the crime that you would prefer not to know. As a support person, you may see the

person believed to have committed the crime (the defendant) and you should not show any reaction to them. Those closest to the witness can find it very hard to do this.

Being a support person is about recognising that providing this court support may start to affect you (this is known as vicarious trauma) and may also affect your relationship with the witness.

If you decide that you are not the best person to provide court support you will still be able to help the witness in many other ways. Only you and the witness can decide whether you are the right person to support them through the court process. There's a checklist on page 7 to help you with this.




CAN YOU:

Tick the box beside each item for which your answer is yes.

- help the witness to be organised and on time?
- keep information confidential?
- be patient?
- listen without interrupting or offering your own opinions?
- stay calm in stressful situations?
- provide support and help the witness to stay as calm and relaxed as possible?
- not react in any way in a courtroom (even if the witness is being asked difficult questions)?
- keep calm if you see the defendant?
- listen to difficult facts and information without becoming upset?
- read information on the court process so you know what is likely to happen, and share this information with the witness?

You might like to discuss your answers with the witness.



“It takes time, patience and the ability to stay calm in stressful situations.”

THE RIGHTS OF THE WITNESS

The Charter of Victims' Rights (on page 29) outlines the rights that victims of crime need to know about. In supporting a witness, part of your role will be to monitor whether these rights are honoured. The full charter appears later in this guide, but the main points that the witness should expect to be informed about are as follows.

EXPECT TO BE INFORMED ABOUT:

- how the police investigation is going (unless this may jeopardise the investigation)
- court and trial processes, including dates, how to attend, and what the victim of crime's role will be as a witness
- the name of the accused person (also known as 'the defendant' or 'alleged offender' and referred throughout this guide book as defendant), whether they are being charged and with what, if a warrant is issued for their arrest, and any programs available to them
- any application for bail made by the accused person, outcomes of the application, and arrangements made for release—including any special conditions that may affect the victim of crime's welfare.

The witness also has the right to be told about the defendant's period of imprisonment, and to write to the parole board if a decision is to be made about granting parole to the defendant.



THE WITNESS ALSO HAS A RIGHT TO:

- be protected at court from unnecessary contact with the accused person and their family members or friends
- make a victim impact statement that may be presented to the court at sentencing if the accused is found guilty
- have property that has been held for the investigation or, as evidence, returned as soon as possible.



If the witness believes a Queensland Government agency or non-government organisation has not met their rights, they can complain directly to the agency concerned or to Victim Assist Queensland (on 1300 546 587).



WHERE YOU CAN GO FOR HELP

FOR

For child and young person victims and witnesses going through the court process

Information and services for victims of crime going through the court process

Financial support - information about what is available and how to apply for it

The court system - understanding it

Pre-court courtroom visit

Virtual courtroom visit

Assistance if you're concerned about the physical, mental or emotional health of the witness

CONTACT

Protect All Children Today (PACT)
1800 449 632

Victim Liaison Officer (Office of the Director of Public Prosecutions)
1800 673 428

Victim Assist Queensland (VAQ)
1300 546 587

Victim Support Unit (a group of Court Network volunteers trained to assist victims of crime.)
1800 267 671

Victim Liaison Officer (Office of the Director of Public Prosecutions)
1800 673 428

www.qld.gov.au/law/court/going-to-court/going-to-court

Victim Support Unit
1800 267 671

FOR

Legal questions

Victim impact statement -
help in preparing it

After court - debriefing

Safety and security

Interpreting service

Counselling and support
services (including free
telephone and face to face
counselling)

Victims Register
Adult offender
Young offender

CONTACT

**Office of the Director of Public
Prosecutions**
1800 673 428

Victim Support Unit
1800 267 671

Victim Support Unit
1800 267 671

Court security OR PoliceLink
(for non-urgent enquiries, or
contact 000) 13 14 44

**Call 13 14 50 and ask for Victim
Assist Queensland**

**Victims Counselling and
Support Services**
1300 139 703 (24 hours) **OR Lifeline**
Australia: 13 11 14
(24 hours)

Queensland Corrective Services
1800 098 098

Youth Justice Practice: 13 74 68



CONFIDENTIALITY

You should not share information that the witness tells you about themselves or the crime, or information that you become aware of while supporting the witness, unless you believe the witness, or another person is at risk of harm.

HERE ARE THREE GOOD REASONS WHY:

- 1** it could put the witness in danger, particularly in cases of domestic violence or other crimes of violence.
- 2** it could affect legal proceedings if you share information inappropriately.
- 3** it comes down to trust. The witness needs the peace of mind that comes from knowing you can be trusted not to share any of the information related to them or the case.

This means that you should:

- not ask the witness about details
- not talk or communicate with anyone (in any way) about whatever the witness tells you, or whatever you hear while providing support
- encourage the witness not to talk about details of the case with others who are not directly involved
- make sure that you do not discuss anything about the case or evidence with the witness
- remind the witness that they cannot discuss their evidence or other witnesses' evidence until after the trial is over.

“ Please note that if you believe the witness is contemplating self-harm or harm to others, you have a duty of care to report it.

If you have any questions about this, speak to the witness's Victim Liaison Officer (the witness will have a name and number for the Victim Liaison Officer allocated to them) or contact the **Victim Support Unit** on **1800 267 671**.



EMOTIONAL SUPPORT

Going through the court process is stressful, and most witnesses find the experience very difficult. As a support person, part of your role will be to try and help the witness to remain as calm as possible and to empower them in a situation where they may feel disempowered.

The witness may already be suffering some emotional and physical reactions to the trauma they've experienced and these may last for some time.

The reactions may include:

- shock and disbelief
- feelings of anxiety, depression and isolation
- feelings of anger, irritation and panic
- feelings of shame and guilt
- difficulty in concentrating/remembering
- wanting to avoid anything to do with what happened
- exhaustion and tiredness
- health issues like body pain, stomach problems, changes in appetite, sweating and increased likelihood of catching colds and illnesses
- nightmares and trouble sleeping.



If you know the witness, you may understand what will help them to relax and remain calm. If you are not sure, ask! Below are some ideas to suggest to help the witness relax and remain calm, encourage them to:

- have a drink of water or something to eat
- take some time to just sit quietly
- go for a walk (but not when they could be called into a meeting or court)
- talk about whatever is concerning them
- talk to a counsellor
- talk to the prosecutor
- take some deep breaths (from the bottom of the lungs, holding the breath for a count of three, then letting it out for a count of three)
- read for a while
- write in a journal
- talk about what they'll do after the court case is over.



Be aware that if you are close to the witness, some of their trauma may start to affect you. If this starts to affect your health or your ability to be calm and supportive, ask the Victim Support Unit for help on 1800 267 671.

Be guided by the witness, and always ask them what they want. Some witnesses, for example, don't want to be touched.

“Ask for help if you need it.

Know your limits. You are not expected to be able to do everything. If you are feeling stressed or tense, try some of the above techniques yourself, or contact the **Victim Support Unit** on **1800 267 671**.

WHEN YOU SHOULD ASK FOR HELP FOR THE WITNESS OR REFER THEM TO SOMEONE ELSE

If the witness is:

- becoming, or appears to be becoming, ill from the experience
- not sleeping at all
- behaving in a way that concerns you
- or you think it is becoming too difficult for them, don't try to fix it yourself. Speak to the **Victim Liaison Officer** (allocated to them) or contact the **Victim Support Unit on 1800 267 671**.



The Victim Liaison Officer or Victim Support Unit will be able to help, either with support or with referral to a counsellor or health professional.

FINANCIAL ASSISTANCE

If you believe the witness needs financial assistance, and they have not already applied for it, contact **Victim Assist Queensland (on 1300 546 587)** about making an application.

The Queensland Government provides financial assistance through Victim Assist Queensland to eligible victims of crime. The type and amount of help available depends on the victim's circumstances. The

assistance is to help pay for the costs associated with physical or psychological injuries incurred as a result of violent crime committed in Queensland.

If the crime occurred on or after 1 December 2009, victims of crime can apply for financial assistance before going through the court process.





WHEN YOU WILL BE NEEDED

There are many different stages in a court case. These are explained in The Justice System section on page 38 of this guide. Attending court can be a daunting process, so it is important to prepare for it.

GETTING READY BEFORE THE COURT DATE

WHAT SUPPORT DOES THE WITNESS WANT?

Start by talking to the witness about what sorts of support they think they'll need. This could include you:

- being available when they need to talk
- accompanying them to all pre-court and court appearances
- helping them to organise themselves
- filling in forms
- helping them to write their victim impact statement.

GET TO KNOW THE COURTROOM

It often helps the witness to familiarise themselves with the courtroom, so things seem more familiar on the day.

PRE-COURT TOURS

Pre-court tours are available at several courthouses. These tours enable witnesses to see the inside of a courtroom before they have to attend court. You can arrange a tour through your Victim Liaison Officer (who will be able to give you

a phone number for the bailiff of the particular court).

Alternatively, you can take a virtual court tour online at www.qld.gov.au/law/court/going-to-court/going-to-court/

READ ABOUT THE COURT PROTOCOLS

Read through Court Protocols on page 46 with the witness to make sure they feel comfortable about how to behave in court.

REVIEW THE EVIDENCE

Encourage the witness to re-read the statement they gave to the police, to familiarise themselves with the evidence they provided.

ATTENDING THE PRE-COURT CONFERENCE

The prosecutor will usually schedule a pre-court conference in which he or she will meet with the witness to go over their statement and give them some idea of what is likely to occur in the courtroom. The witness can use this opportunity to ask any questions they may have about the process and what to expect.

You can attend the pre-court conference with the agreement of the witness and the prosecutor.

At this point you can ask if you can be present in court and (if necessary) whether you can sit near the witness while they give evidence.

This pre-court conference may happen the day before court, and in a different location. It is often scheduled at around 8.30 am but, if that is not suitable, you can let the organisers know. The prosecutor will let the witness know if, when and where it is being held.

PLANNING FOR THE DAY IN COURT

Develop a plan for the witness's day in court covering things such as:

- knowing what court to go to, where it is, and what time you should be there. (Plan to arrive early.)
- childcare
- pet care
- transport to and from court
- determining what time and where to meet
- deciding and preparing what to wear. (It is best to dress comfortably and conservatively.)
- knowing if, where and when they need to meet the police or prosecutor
- finding out whether they will be in the general waiting area or a separate room
- deciding what to do while waiting to give evidence. (For example, it might be worthwhile taking a book to read.)

If in doubt, speak to the Victim Support Unit (1800 267 671).

“If they (or you) feel threatened or intimidated, please report it.”



DECIDING WHAT TO TAKE

- some food and water, and games/activities as you can end up waiting for some time. (No glass bottles please.)
- a jumper, wrap or coat (Courtrooms can be cool.)
- tissues and any medication the witness may need
- the witness's statement, so he/she can review it before giving evidence. (The witness cannot have it with them when giving their evidence).

PLANNING FOR SAFETY

If the court case relates to domestic or family violence or to other violent crime, the police and/or the prosecutor may have made arrangements to protect the safety of the witness, particularly if they have been given special witness status. Ensure the witness complies

with these arrangements and doesn't take any unnecessary risks.

If you have any concerns or questions about this, speak to the Victim Liaison Officer, the Victim Support Unit or the Queensland Police Service.

ATTENDING COURT

ON ARRIVAL

Meet the witness at your pre-arranged location. On entering the courthouse, you'll need to go through a security screening. You can't bring glass bottles, scissors, weapons or anything that could be perceived as a weapon.



The courtroom number for the hearing will be located on the court list board. If you can't find it, ask at the register.

Once you have arrived, ensure the prosecutor is informed that the witness has arrived (the Victim Liaison Officer will have given you a phone number for this) and then go to the area where you will be waiting. If a separate, safe place has been arranged, you may need to ask for the bailiff to open the door for you. If no pre-arranged meeting or location has been arranged, go to the courtroom.

The prosecutor will do their best to keep the witness updated with the progress of the case and about when they will probably be called to give their evidence.



WAITING TO GIVE EVIDENCE

Unfortunately, the court process can involve long periods of waiting.

Although the case may start on the scheduled day, this does not mean the witness will give evidence on that day. Sometimes they will need to return to court for two or more days, or on different occasions.

“A witness cannot be present in the court before giving their evidence.”

BEFORE THEY ARE CALLED IN TO THE COURTROOM

Remind the witness that, when giving evidence, they should:

- listen carefully to the questions, making sure they understand what is asked before they answer
- ask for the question to be repeated if they don't understand it or if they didn't hear it properly
- never guess an answer to a question. If they don't know the answer or can't remember, they should say so
- remain calm and speak clearly
- not feel pressured to answer a question quickly. They should take their time thinking and answering
- remember that the same (or similar) questions may be asked more than once
- address the magistrate or judge as 'Your Honour' (or, if they forget, 'sir' or 'madam')
- if they feel upset or distressed, pause, take some deep breaths, or have a drink of water. They should continue only when they are ready
- ask for a break if they need to go to the bathroom or if their anxiety is unmanageable.



Often a good place for you to sit is in the public gallery on the side of the courtroom on which the prosecutor is sitting.

If the witness is giving their evidence from the courtroom, check with the prosecutor that you are allowed into the courtroom and determine the best place to sit so that the witness can see you easily. Ensure you are not close to the accused person. If there is a good reason for you to sit closer to the witness, discuss this with the prosecutor beforehand so they can seek permission from the magistrate or judge.

Keep in mind that you cannot react while the witness is giving evidence. You need to maintain a neutral facial expression and not make any gestures to the witness or anyone else. Make sure the witness knows this, so they don't expect you to smile or nod or anything else of that nature.

REMIND THE WITNESS WHO WILL BE PRESENT IN THE COURTROOM

- the defendant
- the magistrate or judge and their staff
- the prosecutor
- the defence counsel (lawyer)
- the court reporter
- the court officer
- the jury (in the case of District and Supreme Courts)
- you - ideally somewhere where they will be able to see you.

WHAT HAPPENS WHEN THE WITNESS IS CALLED TO GIVE EVIDENCE?

The witness's name will be called and, if they are giving evidence in a courtroom, they will be shown to the witness box at the front of the courtroom. (If they are giving evidence elsewhere, they should follow the instructions of the bailiff.) A court officer will ask the witness to swear an oath or affirmation to tell the truth.

Generally, a prosecution witness gives their evidence to the court with the prosecutor asking questions first.

The witness will then be cross-examined by the defence lawyer. The prosecutor can then ask more questions if they need to (which is called re-examination). The magistrate or judge may also ask the witness questions.

Once the questioning is finished, the magistrate or judge will excuse the witness. This means they have finished giving their evidence and they are free to leave the witness box.

THE LOCATION FROM WHICH THE WITNESS WILL GIVE EVIDENCE

When a witness gives evidence, they may be in the courtroom, or in some specific cases, in a separate room where they give evidence via closed circuit television.

AFTER GIVING EVIDENCE

After a witness has finished giving their evidence, they may choose to sit in the public gallery and listen to the remainder of the proceedings. You may sit with them. Alternatively, they may choose to leave. If this happens, the prosecutor will keep them informed about the progress and outcome of the hearing. (The witness may also ask you to sit in on the proceedings to let them know what happens.)

The witness may be distressed after giving evidence and may be angry

or upset after seeing the defendant. Remember, at any time you can ask for assistance from the **Victim Support Unit (call 1800 267 671)**.

The witness may also choose to attend court for the sentencing if the defendant is found guilty. Read The Justice System section of this guide (page 38) for more information on this. Normal court protocols apply, and the witness should not discuss their evidence, or the evidence given by other witnesses.

AFTER THE DAY IN COURT

Regardless of what happened in court or the outcome of the case, it is important to still provide support to the witness after court.

Sometimes, the fact that it's over will be a huge relief for a witness who is a victim of a crime. For others, however, it can be a let-down, because the purpose that has been driving them for some time has now gone.

It may not be appropriate to celebrate the end of their involvement in the

court case. That said, it is worth acknowledging that it is over and that the witness did the best they could.

Ask them how they'd like to mark the occasion. Do they want to just go home and sleep, or would they like to go out, to a movie, for a meal, or just for a walk?

Be guided by them.

If anything in their behaviour or general demeanour causes you concern, contact the **Victim Support Unit on 1800 267 671**.

SPECIAL WITNESS STATUS

Arrangements can be made for special witnesses in court to reduce the trauma associated with giving evidence.

A 'SPECIAL WITNESS' IS:

- a person giving evidence about a domestic violence offence committed against them
- a person giving evidence about a sexual offence committed against them
- a person giving evidence about a serious criminal offence by a member of a criminal organisation
- a person who the court thinks would be disadvantaged as a witness if required to give evidence in the usual way because of a mental or physical impairment
- a person who the court thinks would likely be disadvantaged as a witness if required to give evidence in the usual way because of intimidation

Source: Office of the Director of Public Prosecutions, n.d., Giving evidence as a special witness.



THE SPECIAL ARRANGEMENTS CAN INCLUDE:

- pre-recording the evidence on video before the trial or hearing date
- giving evidence from a remote witness room so the witness is unable to see the defendant
- putting up a screen in the courtroom so the witness is not able to see the defendant
- having a support person with the witness in the courtroom or the special witness room
- closing the court to the public and the media so the witness only gives evidence in front of the people required to be in the courtroom.



If you or the witness think they will require assistance with giving evidence, speak to the Victim Liaison Officer (allocated to them) well before the court date.

The prosecutor must apply for special witness provisions, and the final decision is up to the magistrate or judge. Once approved as a special witness the judge/magistrate may approve a support person to provide emotional support while the witness gives evidence. However, the support person cannot be a witness in the court proceedings.

If you are supporting a special witness, follow the directions of the judge/prosecutor/bailiff while in the special witness room (which will be remote to the courtroom).

EASY REFERENCES INDEX

You should read the following sections and make sure the witness knows what their rights and responsibilities are and what to expect of the court process.

SECTIONS:

- 1** The charter of victim's rights
This explains the rights of a victim of crime in terms of how they are to be treated by government and non-government organisations in the justice process, and if a defendant is found guilty.
- 2** Queensland courts
This provides information about the different Queensland courts.
- 3** The justice system
This explains the journey through the system, from when the crime is committed through to the appeal stage.
- 4** The role of a witness
This outlines what the witness can expect in the court process.
- 5** Court protocols
This outlines appropriate behaviour in court.
- 6** Victim impact statements
This provides details on what victim impact statements are and how to complete them.
- 7** Victims register
This details the information available to victims of crime after the offenders have been sentenced.
- 8** Glossary of terms
This explains some of the more common terms used in the Queensland courts and justice system.



1 THE CHARTER OF VICTIM'S RIGHTS

Victims of crime have rights that government and non-government agencies need to uphold. The Charter of Victims' Rights, set out in the *Victims of Crime Assistance Act 2009 (Qld)*, describes the treatment victims can expect to receive from Queensland Government agencies, their officers and funded non-government agencies that provide services to victims of crime.

YOU SHOULD BE TREATED APPROPRIATELY BY GOVERNMENT AND NON-GOVERNMENT AGENCIES.

- You should be treated with respect, courtesy, compassion and dignity, taking into account your needs.
- You have a right to privacy. Your personal information cannot be shared unless the law allows it.
- You should be given information as soon as possible about services that can help you recover.



If you have suffered harm as a result of a crime, including domestic and family violence, you have rights.

YOU HAVE RIGHTS IN THE CRIMINAL JUSTICE SYSTEM.

You can expect to be told about:

- the progress of the police investigation, unless this may jeopardise the investigation
- major decisions about the prosecution of the accused person. This includes the charges brought against the accused person, a decision to not bring charges, substantial changes to the charges, or acceptance of a plea of guilty to a lesser or different charge
- the name of the person charged with the crime
- the issue of a warrant for the arrest of the accused person
- court processes, including hearing dates and how you can attend court
- any diversionary programs available to the accused person. (Diversionary programs provide (mainly first-time) offenders with the opportunity to avoid a criminal record by undertaking conditions that benefit the offender, victim and community.)
- the result of the criminal court proceeding against the accused person, including the sentence imposed and outcome of an appeal
- an application for bail made by the accused person, outcome of the bail application, and any arrangements made for the release of the accused person, including any special conditions that may impact on your safety or welfare
- the trial process and your role as a witness (if you are one).

YOU HAVE A RIGHT TO:

- be protected at court from unnecessary contact with, or violence or intimidation by, the accused person and defence witnesses, family members or friends
- make a victim impact statement at the sentencing of the person found guilty, which expresses how the crime has harmed you
- have your property (held for an investigation or as evidence) returned as soon as possible.



YOU MAY HAVE RIGHTS WHEN THE OFFENDER GOES TO PRISON.

Many victims are eligible to register on the **Queensland Corrective Services Victims Register** once an offender has been sentenced to prison. You can call **1800 098 098** to find out if you are eligible (or **13 74 68** if the offender is under 18 years old).

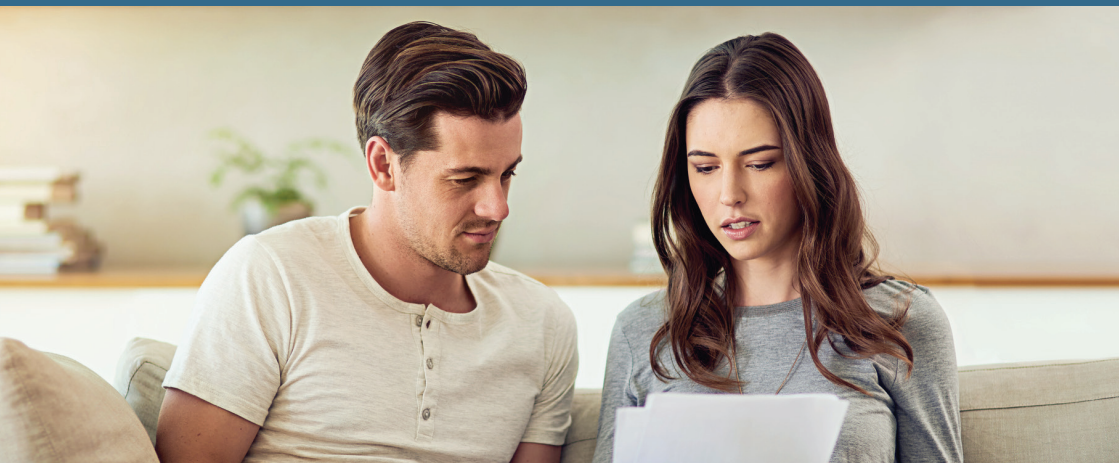
IF YOU ARE ON THE VICTIMS REGISTER YOU WILL BE:

- informed about the defendant's period of imprisonment
- notified if the defendant is transferred to another prison, dies, or escapes from prison
- given the opportunity to write to the parole board about granting parole to the defendant.

YOU HAVE THE RIGHT TO COMPLAIN.

You can make a complaint if you believe a Queensland Government agency or non-government organisation has not met your rights. A friend or family member may also make the complaint for you, with your permission. Contact **Victim Assist Queensland on 1300 546 587**.

Source: Department of Justice and Attorney-General, 2010, A guide for victims of crime in Queensland.



2 QUEENSLAND COURTS

There are three main courts in Queensland that deal with criminal matters. They are the Magistrates, District and Supreme Courts.

THE MAGISTRATES COURT

The Magistrates Court is the entry level court in Queensland. Most criminal cases are first heard here. The Magistrates Court hears 95% of court cases. They deal with:

- less serious offences (called summary offences) including assault, theft and minor traffic offences
- committal hearings for more serious crimes.

THE DISTRICT COURT

The District Court is the second tier of the court system after the Magistrates Court. It's the first stage that can involve a jury. The District Court deals with:

- serious crimes, including armed robbery, rape and dangerous driving. Serious criminal offences such as these will be committed by the Magistrates Court to the District Court for trial or sentencing
- most appeals against decisions made in the Magistrates Court.

WHAT THIS MEANS FOR THE WITNESS

The witness may need to attend court several times or may not be needed to attend at all. The prosecutor will keep them informed about what is happening with the case and if they need to attend.



THE SUPREME COURT

The Supreme Court is the highest level of court in Queensland. It is made up of the Trial Division and the Court of Appeal.

The Trial Division deals with the most serious criminal offences, such as major drug offences, attempted murder, manslaughter and murder. Serious criminal offences such as these will be

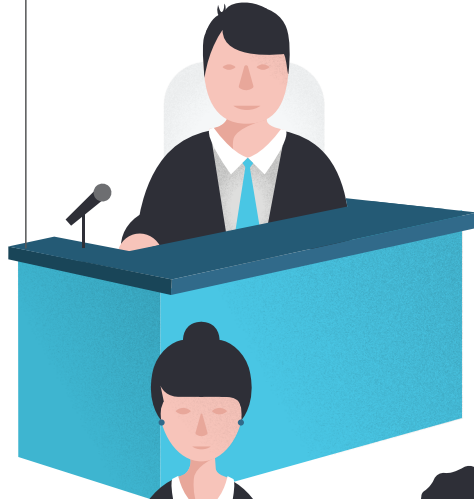
committed by the Magistrates Court to the Supreme Court for trial or sentencing.

The Court of Appeal hears appeals from the Trial Division and the District and Supreme courts. It is headed by a panel of judges. Appeals are normally lodged within one calendar month from the end of the trial.

INSIDE THE MAGISTRATES COURTROOM

WITNESSES

People whom the prosecution or defence call to give evidence. Both the prosecutor and the defence lawyer will ask the witness questions.



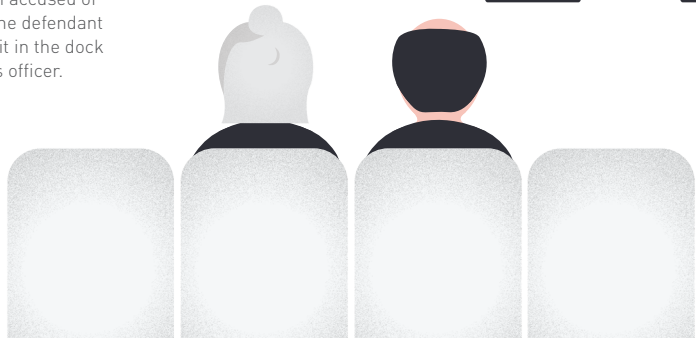
DEFENCE LAWYER

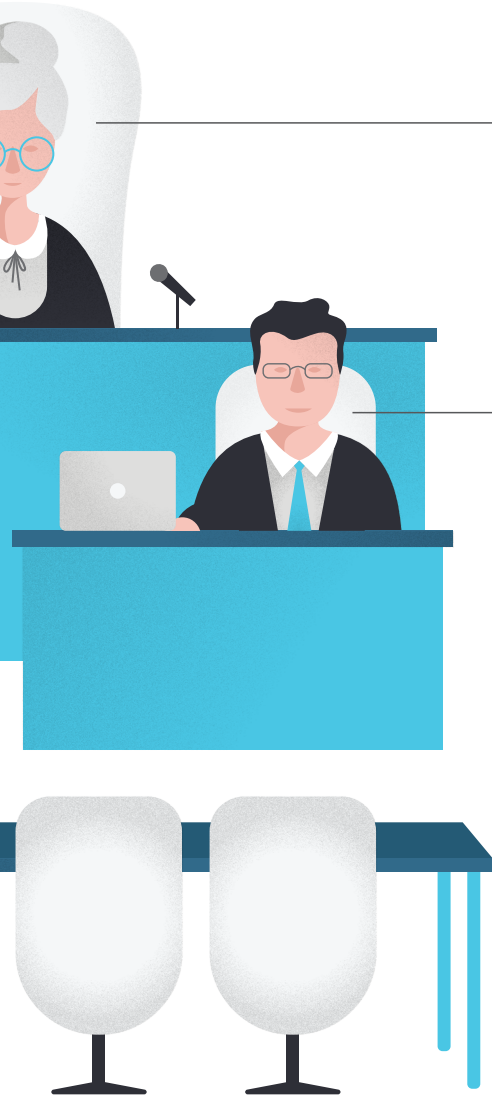
A lawyer who speaks on behalf of the defendant. This may be a duty lawyer who is supplied by Legal Aid Queensland or from private practice.



DEFENDANT

The defendant is the person accused of committing the offence. If the defendant is still in custody they will sit in the dock next to a corrective services officer.





MAGISTRATE

The magistrate can make decisions on simple offences and some indictable offences. For indictable offences the magistrate determines if there is enough evidence to refer the case for trial in the Supreme Court or District Court. They are addressed as 'Your Honour' and usually wear a plain black robe.

DEPOSITIONS CLERK

The depositions clerk calls defendants when the magistrate is ready, records proceedings and calls each witness to give evidence.

PROSECUTOR

The prosecutor presents the case against the defendant. For simple offences a police officer usually prosecutes the case. For indictable offences the prosecutor may be a lawyer from the Office of the Director of Public Prosecutions.

THE PUBLIC

The public and media can sit in the public gallery to watch, unless the magistrate orders a closed court.

INSIDE THE DISTRICT AND SUPREME COURTROOM

JUDGE

The judge controls the courtroom and ensures evidence is relevant. If the defendant pleads guilty or the jury finds the defendant guilty, the judge will decide the sentence. The judge is addressed as 'Your Honour' and usually wears a wig and a robe.



JUDGE'S ASSOCIATE

The judge's associate wear a plain back robe and no wig and sits below the judge. The associate assists the judge by reading out the charges, taking the defendant's plea and asking the jury for its verdict.



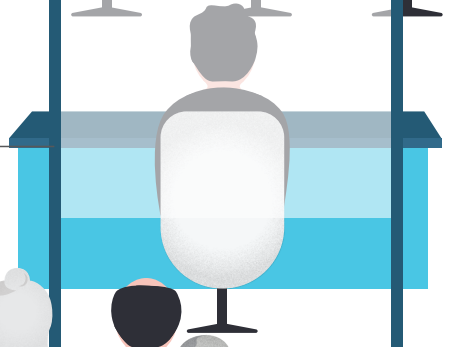
DEFENCE LAWYERS

The defendant is usually represented by a barrister and a solicitor. The barrister speaks on behalf of the defendant. The solicitor gives instructions to the barrister on behalf of the defendant. The barrister will wear robes and a wig, but the solicitor usually does not.



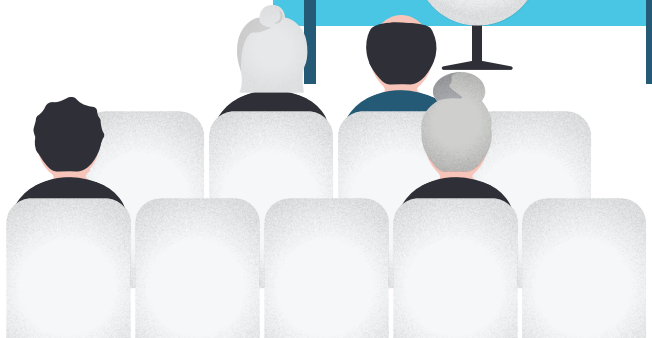
DEFENDANT

The person who is accused of committing the offence. The defendant sits on the dock near a corrective services officer who is present at all times.



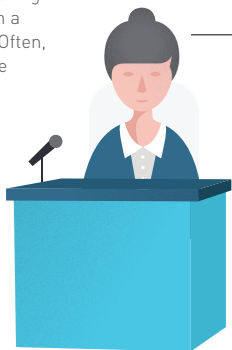
THE PUBLIC

The public and media are able to sit in the public gallery to watch events unless the judge has ordered that the court should be closed.



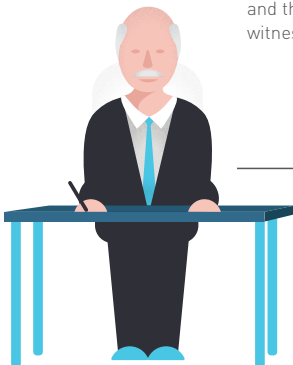
COURT REPORTERS

Occasionally court reporters record what is said during the trial on tape or on a shorthand machine. Often, court proceedings are recorded remotely.



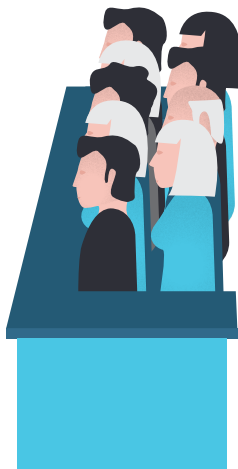
WITNESS

People whom the prosecution or defence call to give evidence. Both the prosecutor and the defence lawyer will ask the witness questions.



THE BAILIFF

Bailiffs sit or stand near the jury. They call defendants when the judge is ready, announce the beginning and end of sessions, look after the jury and call witnesses to give evidence and administer the oath or affirmation.

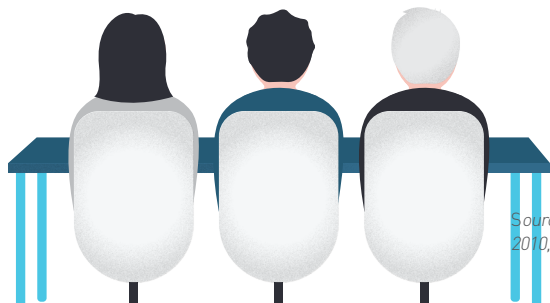


THE JURY

The jury is present if the defendant pleads not guilty. The jury is made up of 12 people selected at random from the community. They decide if the defendant is guilty or not guilty. The decision must be unanimous. The jury remains in court unless the judge is discussing a point of law with the lawyers.

CROWN PROSECUTOR

A Crown prosecutor is a barrister or solicitor who works in the Office of the Director of Public Prosecutions and presents the case against the defendant.





3 THE JUSTICE SYSTEM

It can take months and sometimes years from the time a crime is committed until the matter is heard in court. There are many stages in the court process and the legal process can feel confusing. This journey through the justice system should make it easier to understand.

1 THE CRIME IS REPORTED, INVESTIGATED AND THE ALLEGED OFFENDER IS CHARGED

When a crime is reported, the police investigate by taking statements from victims and witnesses and by collecting evidence. When they have collected enough information, they arrest and charge the person they believe committed the crime. The person is then required to appear in court (where they will be known as the defendant).

The defendant may be granted bail. If this is the case, they will be able to stay out of prison until their case is heard, subject to some conditions. One of these may be that they are not allowed to contact the witnesses.

2 THE CASE GOES TO COURT

All criminal cases start in the Magistrates Court. It is the role of the magistrate to decide which court the case should be heard in. This depends on the nature of the charges.

IF A SUMMARY HEARING IS HELD

For summary hearings, if the defendant pleads not guilty, a trial will begin in the Magistrates Court. Witnesses can be called. The steps are as follows:

- The prosecution will present evidence and witnesses to demonstrate their case.
- If the magistrate believes there is a charge to answer, the defence will present its case.

After hearing all evidence, the magistrate will find the defendant either:

- guilty - and decide on a penalty or set a sentence date
- not guilty - and dismiss the charges.

3 FIRST APPEARANCE - CHARGES ARE LAID

The magistrate will read out the charges and ask the defendant to enter a plea. If the defendant pleads guilty, the magistrate will decide a penalty or set a date for sentencing. If the plea is not guilty, the magistrate will either:

- set a summary hearing date (for matters that are to be tried in the Magistrates Court)
- set a date for a committal hearing (to decide if the case is to be tried in the District or Supreme Court).

4 COMMITTAL HEARING

The prosecution must prove that it has enough evidence for a trial to be held for the case to go to a District or Supreme Court jury trial. The prosecution and defence each present their cases—prosecution first, followed by the defence.

Based on the evidence and case details provided, the magistrate will determine whether the case should go to trial. If the magistrate believes there is insufficient evidence, the case will be dismissed. If the magistrate believes there is sufficient evidence, the defendant will be committed for trial at the District or Supreme Court.

IF A DISTRICT OR SUPREME COURT TRIAL IS HELD

In the District or Supreme Court there is a judge and a twelve-person jury. The defendant will be required to attend. At the start of the court proceedings, the defendant will again be asked to plead guilty or not guilty.

If they plead guilty, they will be sentenced in the District or Supreme Court. If they plead not guilty or make no plea, a trial date will be set.

The trial will be held. The prosecution will go first and present evidence and witnesses to demonstrate their case. (Affected child witnesses will have their evidence pre-recorded.)

The defence will then present evidence and witnesses. Both sides will have the opportunity to provide a summary of their case prior to the jury retiring to make their decision.

The outcomes of the trial can include:

- a mis-trial or hung jury (where the jury is unable to make a decision). The Office of the Director of Public Prosecutions will decide what happens next
- a guilty verdict. The defendant will then be sentenced
- a not guilty verdict. The charges will be dismissed
- a possible appeal to the Court of Appeal on the conviction and/or sentence
- a possible appeal to the High Court of Australia on the conviction and/or sentence.

5 SENTENCING

If the accused pleads guilty or is found guilty, the magistrate or judge will decide on the penalty (hand down a sentence).

This may happen on the same day, or another date may set for the sentencing. Sentences are delivered in the same court (Magistrates, District or Supreme) in which the matter was heard.

The victim of crime/witness can attend the sentence hearing but does not have to.



WHAT DOES THE COURT CONSIDER WHEN DECIDING SENTENCING?

When deciding on a sentence, the magistrate or judge considers many factors including:

- the seriousness of the crime
- the effect on the victim, which is usually identified through a victim impact statement
- the extent to which the defendant is responsible for the offence
- the personal circumstances and criminal history of the defendant
- the defendant's willingness to cooperate with police
- the defendant's willingness to participate in counselling to address any issues that contributed to the offence
- submissions from the prosecution and defence lawyers
- the laws that guide sentences
- sentences handed down in similar cases.

The court must provide reasons for the sentence. These are called 'sentencing remarks'. Sentencing remarks for specific cases are available at www.sclqld.org.au/caselaw/sentencing-remarks/



WHAT CAN BE INCLUDED IN A SENTENCE?

Courts can issue custodial sentences and non-custodial sentences. Non-custodial sentences are penalties that do not include time in prison. A custodial sentence involves going to prison. The court can also set a parole eligibility or release date, depending on the offence. These penalties are explained in more detail below.

CUSTODIAL SENTENCES CAN INCLUDE:

Imprisonment	This is time in prison with a conviction recorded. The maximum term depends on the offence.
Intensive correction order	This is a term of imprisonment that is served in the community under the intensive supervision of a corrective services officer. 'The order provides conditions such as reporting, not committing further offences, completing community service and undergoing counselling.' <i>Source: Office of the Director of Public Prosecutions, n.d., Penalties and sentences for adult offenders.</i>
Suspended sentence	'A term of imprisonment may be suspended after an offender has served part of it or none of it.' The remainder of any sentence handed down will hang over the defendant's head for a period of time that is set by the court. <i>Source: Office of the Director of Public Prosecutions, n.d., Penalties and sentences for adult offenders.</i>
Indefinite prison sentence	This is a sentence for an indefinite period, usually for serious, violent offences and sexual offences. The court may impose this sentence if it believes there is a danger to the community because of the offender's history, character, age, health or mental condition; the offence's severity; and any other circumstances. If the court finds that the offender is no longer a serious danger, it can remove the indefinite sentence and impose a finite (time-limited) sentence.

NON-CUSTODIAL SENTENCES CAN INCLUDE:

Absolute release	This is release without a recorded conviction or any further penalty.
Good behaviour bonds	This is a promise of good behaviour for a set period, which may include a surety (a guarantee or amount of money) and other conditions.
Restitution or compensation orders	This is an order to pay for property taken or damaged, or compensation for injury. This order can be added to another sentencing order.
Non-contact or banning orders	This is a ban on contacting the victim of the offence or another person or going to particular places for a set time. This order can be added to another sentencing order.
Fine	This is an order to pay a fine as a penalty for the offence. The amount of the fine depends on the type of offence and the court hearing the case. A court can order a fine instead of, or as well as, another sentence.
Community service order	This is an order to do unpaid community service for 40–240 hours (usually in one year) and to comply with reporting and other conditions.
Probation	This allows the offender to remain in the community, reporting regularly to a probation officer.

APPEALS

In certain circumstances, the prosecution or guilty party may appeal against decisions or sentences. They cannot appeal just because they didn't like the magistrate's or judge's decision. They can only appeal if new evidence has come to light or they believe that the magistrate or judge made an error of law that affected the outcome of the trial. An appeal is not a chance to retry the whole case.



4 THE ROLE OF A WITNESS

In criminal court cases, it is the state (not the victim) that prosecutes the accused in court.

When the crime occurred, the victim will have given a witness statement to police. This statement may be used as evidence in court (and the victim will be referred to as a witness).

The witness may be called to appear in court to give their evidence. They will receive either:

a summons - if they are needed as a witness in the Magistrates Court

OR

a subpoena - if they are called as a witness in the District or Supreme Court

IF SOMEONE IS SUMMONSED OR SUBPOENAED, THEY MUST ATTEND.

In court, questions asked of the witness may include:

- what they saw
- what they heard
- what they did.

These questions may be asked by both the defence and prosecution lawyers. This is to:

- confirm the version of events in the witness's police statement
- ensure the facts presented about the crime are correct
- help the court come to a fair decision.

There may be more than one hearing, and the witness may need to go to court on more than one occasion. The prosecutor will advise them when they are required at court. Prosecutors will do their best to inform witnesses if a hearing has been adjourned (postponed); however, adjournments can sometimes happen at short notice.

It is important to remember that the witness always has the right to have court processes (and their role in those processes) explained to them, including when they need to attend court and what to expect when they are there. The Victim Liaison Officer will help with this.

“It’s not unusual to feel nervous, frightened or worried about giving evidence in a courtroom.

Witnesses should inform the prosecutor if they are feeling afraid or need support when giving evidence.

5 COURT PROTOCOLS



The magistrate or judge is in charge of the court. It is important to display respect.

Courts are formal places with protocols that must be observed. If people fail to do so, they may be told to leave the court or be found in contempt of court.

In extreme cases (such as disrupting the trial), this may result in a fine or imprisonment.

RESPECT IS DISPLAYED BY:

- standing whenever the magistrate or judge enters or leaves the courtroom—the depositions clerk or bailiff will call 'all rise'
- bowing your head to acknowledge the magistrate or judge every time they or you enter or leave the courtroom
- referring to the magistrate or judge as 'Your Honour'.

IN THE COURTROOM

- Turn off your mobile phone.
- Refrain from eating, drinking or chewing gum.
- Remove hats and sunglasses.
- Sit quietly—don't talk, comment or make noise if you are watching from the public gallery.
- Don't make an audio, take photos or make visual recording of proceedings.
- Don't broadcast the trial in any way.
- Don't speak to jurors if it is a jury trial.



6 VICTIM IMPACT STATEMENTS

When a defendant pleads guilty or is found guilty of committing a crime, the victim of the crime has a right to tell the court how the crime has affected them. This is done through a victim impact statement.

A victim impact statement is not compulsory; however, it allows the victim/witness to have their say and to share the impact of the crime on their lives in the court. Many victims of crime welcome the opportunity to detail this with the magistrate or judge.

WHAT IS A VICTIM IMPACT STATEMENT?

It is a written document or verbal statement used to inform the sentencing magistrate or judge about the impact of the crime upon the victim. This impact is one of several elements a magistrate or judge considers when determining an appropriate sentence.



Relatives, carers, guardians and partner of the victim can also provide a victim impact statement.



THE STATEMENT SHOULD BE IN THE VICTIM'S OWN WORDS AND MAY INCLUDE:

- any physical injury sustained and the effect that this has had on their life
- details of the emotional impact of the crime on the victim and their family
- details of the financial impact of the crime
- a comparison of life before the crime and life now
- where a crime has resulted in the death of a loved one, words about the life of their loved one
- any other information that is important and relevant.

THE STATEMENT SHOULD NOT INCLUDE:

- details of the crime itself
- the victim's opinion of the defendant or any information about any other crimes they believe, or know, the defendant to have been involved in or accused of
- any information that is not factually correct. (For example, any medical diagnosis needs to be supported by documents from the victim's doctor)
- any offensive or inappropriate language. (It should be written in simple, descriptive words.)

HOW DOES THE WITNESS MAKE A VICTIM IMPACT STATEMENT?

There are three ways to do this.

- 1** The prosecutor can speak to the court on behalf of the victim.
- 2** The prosecutor can call the victim to share their verbal statement with the court.
- 3** The victim can make a written victim impact statement which may be handed to the judge. The victim may then have a chance to read this out to the court.

For help with the statement, contact the Victim Support Unit (on 1300 267 671).



7 THE VICTIMS REGISTER

If the defendant is convicted and given a custodial (prison) sentence, the witness of the crime may have the right to certain information. This information is accessible by registering with the victims register. There are two victims registers—one for adult offenders and one for juvenile offenders.

VICTIMS OF ADULT OFFENDERS

The Victims Register, part of Queensland Corrective Services, informs eligible persons about important events in the sentences of those who they have registered against.

Those eligible to be placed on the Victims Register include:

- the actual victim of a violent or sexual offence for which an offender has been sentenced to a period of imprisonment (unless it is a wholly suspended sentence) or who is a supervised dangerous prisoner (sexual offender)
- if the victim is deceased, an immediate family member of the deceased victim
- if the victim of a violent or sexual offence is under 18 years or has a legal incapacity, the victim's parent or guardian
- a person who has been subject to domestic violence and the offender has been sentenced to a period of imprisonment for any offence.

Information that must be provided to an eligible person includes:

- the prisoner's eligibility or actual date for discharge or release
- the death or escape of the prisoner
- the fact and date of any other circumstances relating to the prisoner that may endanger the eligible person's life or physical safety.

For more information on this victims register, call Queensland Corrective Services Victims Register on free call 1800 098 098.

Information that may be provided to an eligible person includes:

- the prisoner's location
- the prisoner's security classification
- the prisoner's transfer between corrective services facilities, interstate or overseas
- the length of the term of imprisonment and any further cumulative terms of imprisonment imposed while in custody
- the outcome of parole applications or other exceptional events relating to the prisoner.

VICTIMS OF YOUNG OFFENDERS

This victim register provides current information to eligible persons about the young person who committed a violent or sexual offence against them if they are in detention.

The eligible person may be kept informed of the following matters relating to the young offender:

- if they are transferred to a corrective services facility (adult prison)
- how long their period of detention is
- when they are eligible for, or due for, discharge or release (including under a supervised release order)
- if any further cumulative periods of detention are imposed on them while they are held for the offence
- if they are given permission to engage in activities outside of the detention centre
- if they are unlawfully at large
- if they die.

For more information on this victim register call 13 74 68.

8

GLOSSARY OF TERMS

Source: Department of Justice and Attorney-General, 2010, *A guide for victims of crime in Queensland*.

Accused	This is a term used for a person accused of committing a crime—also known as the defendant or alleged offender.
Act of violence/violent crime	Under the <i>Victims of Crime Assistance Act 2009 (Qld)</i> , an act of violence is a crime or series of related crimes, whether committed by one or more persons, that has occurred in Queensland and has directly resulted in the death or injury to one or more persons.
Acquitted	This is when the defendant is found not guilty.
Adjourned	This means put off to a later date. If a court case cannot proceed when it comes before the court, it may be adjourned.
Affected child witness	This is a child witness who is entitled to special provisions in court.
Affirmation	This is a declaration made to the court that you will tell the truth instead of swearing under oath (on a Bible).



Appeal	This is a hearing where a court decision such as a conviction or a sentence is reviewed by a higher court.
Bail	A person who has been arrested may be granted bail, which means that they are released from custody subject to certain conditions. A condition of bail might be that the defendant has no contact with a witness.
Beyond reasonable doubt and burden of proof (or onus of proof)	For criminal cases, all decisions in the court are based on the burden of proof. This means that, to find a defendant guilty, the magistrate, judge or jury must be convinced of the defendant's guilt beyond reasonable doubt. (There must be no doubt that the offence happened.) If the prosecution does not meet the burden of proof, the defendant must be acquitted of the charges against them.
Closed court	This is a courtroom that is closed to members of the public, including the media, such as a hearing for a domestic violence protection order application, or cases involving children.
Committal hearing	This is a hearing in a Magistrates Court to determine whether there is enough evidence to commit the case for trial to the District or Supreme Court.
Committal mention	This occurs in the Magistrates Court before a matter has a committal hearing date set. <i>(Source: Office of the Director of Public Prosecutions, The Court Process, Commonly Used Terms)</i>
Conviction or convicted	This is when a person pleads guilty or is found guilty of an offence in court.
Criminal intent	This is a pre-planned intention to commit a criminal offence.
Criminal justice system	The network of courts and tribunals that deal with criminal law and its enforcement.
Cross-examination	This is when the witness is asked questions by the defendant's legal team.

Crown Prosecutor	The Crown Prosecutor is a lawyer who acts on behalf of Queensland to prosecute criminal cases. (In the Magistrates Court, a Police Prosecutor usually presents the case).
Defence lawyer/counsel	This is the lawyer who speaks on behalf of the defendant.
Defendant	This is a term used for a person accused of committing a crime—also known as the accused or the alleged offender.
District Court	This court handles more serious criminal and civil cases than the Magistrates Court and involves a jury and a judge.
Dock	This is the area of the court where the defendant may sit. It is often a secured area.
(Domestic Violence) Aggrieved	The aggrieved is a person in need of protection, and for whose benefit a domestic violence order is made.
Domestic Violence Protection Order	This is a court order that forbids one person (the respondent) from committing an act of domestic violence towards another (the aggrieved).
(Domestic Violence) Respondent	This is a person against whom a domestic violence protection order (or police protection notice) is made.
Exhibit	This is an item/object or document that is presented in court as evidence. It is always given an identification number and will be referred to by this number after it is presented.
Guilty plea	This is when the defendant admits guilt to either the offences they are charged with, or related offences. An offer of a guilty plea by a defendant must be accepted by the prosecution prior to being accepted by the court. If the court accepts the plea of guilt, the matter proceeds to sentencing without trial.
Guilty verdict	This is a when, at the end of the trial or hearing, the court determines that the prosecution has met its burden of proof and a judge or jury finds the defendant guilty. The matter then proceeds to sentencing.

Hearing	This is when the evidence is heard in court.
Indictable offence	This is a more serious crime, which is most often heard before the District or Supreme Courts.
Inquest	This is an inquiry made by a coroner to decide the facts relating to the cause of a reportable death.
Judge	This is a person in charge of a District or Supreme courtroom.
Jury	A jury consists of 12 adults selected from the community to decide (after hearing all the evidence) if a person accused of a crime is guilty or not guilty.
Magistrate	This is the person who is in charge of a Magistrate's courtroom and makes the decisions in this court.
Magistrates Court	This is the first level of court in the Queensland justice system. There is no jury.
Mention	This is the method used by courts to ensure a matter is proceeding in a timely way, and that it is moving towards a resolution. A matter may be mentioned and adjourned several times without being set down for trial or sentence for many reasons. There is no limit to the number of times a matter may be mentioned. <i>Source: Office of the Director of Public Prosecutions, The court process, commonly used terms</i>
Mis-trial	This is a trial that is terminated by the judge before a verdict is returned. For example, a judge might declare a mis-trial if the jury cannot reach a decision or if there has been a fundamental error with the court process. If there is a mis-trial, the Office of the Director of Public Prosecutions will decide whether it is in the public's interest to have a re-trial (set another trial date).
Oath	This is when a person giving evidence to the court swears on the Bible that they will tell the truth. If someone has a valid reason not to swear on the Bible, they may make an affirmation instead.

Offender	This is a person who has been convicted of committing a crime.
Office of the Director of Public Prosecutions (ODPP)	The ODPP is a Queensland Government agency that represents the community in criminal cases. The main function of the ODPP is to prosecute criminal matters in the Magistrates, Children's, District, Supreme, and Mental Health courts, the Court of Appeal and the High Court of Australia. Crown Prosecutors act on behalf of the state to prosecute criminal cases for the ODPP. There are three aspects to the work of the ODPP: legal preparation, court appearances, and victim liaison work.
Police prosecutor	This is a police officer who presents the case against the defendant in a Magistrates Court. The police prosecutor is specially trained in matters of law and court procedure. Police prosecutors also conduct bail applications.
Reportable death (in Queensland)	This refers to cases where: <ul style="list-style-type: none"> • the person's identity is unknown • the death was violent or unnatural • the death happened in suspicious circumstances • a 'cause of death' certificate hasn't been issued and isn't likely to be • the death was related to health care • the death occurred in care, custody or as the result of police operations.
Sentence and sentence hearing	If the defendant pleads guilty, or is found guilty by a jury, magistrate or judge, the magistrate or judge will pass sentence (decide what penalty should be given) at a sentence hearing. Types of sentence can include prison, community-based orders like probation and community service, fines and good behaviour orders.
Special witness	A special witness can be: a child under 16 years; a person with a mental, intellectual or physical disability or one likely to suffer severe emotional trauma or intimidation at a hearing; witnesses to organised crime; or victims of, and witnesses to, domestic and family violence.

Statement	This is a witness's written explanation of what they saw and heard. The witness usually gives a statement to the police officer investigating the crime.
Summary hearing	This is a hearing in a Magistrates Court where evidence is heard, and a final decision is made by a magistrate.
Summary offence	A summary offence is a less serious offence and will be heard in the Magistrates Court.
Summons/Subpoena	This is a written legal order requiring a person to attend court.
Supreme Court	This is the highest court in Queensland, where trials and sentences are held for the most serious criminal and civil cases.
Surety	This is a person who agrees in writing to pay an amount of money to the court if the accused (the person charged) fails to meet their bail conditions.
Suspended sentence	A prison sentence where the offender has served part or none of it, but the remainder of the sentence hangs over the offender's head for a period of time as set by the court. <i>Source: Office of the Director of Public Prosecutions, Penalties and sentences for adult offenders</i>
Trial	A trial is a hearing before a jury, judge or magistrate to establish beyond reasonable doubt if the defendant is guilty.
Victim liaison officer (VLO)	Victim liaison officers from the ODPP provide information and referral services to victims of crime during the court process. A VLO does not provide legal advice.
Witness	A witness is someone who may be asked to provide evidence to the court about a crime. Sometimes the witness will also be the victim of the crime.

Court Network



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