



# So what happens now?

Information for victims of road trauma in South Australia



Government  
of South Australia

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Disclaimer: It is intended that this publication be used as a guide for families of victims of serious and fatal road collisions in South Australia. While care has been taken to ensure the contents are accurate, no responsibility will be accepted for any errors or omissions.

## Introduction

# Commissioner for Victims' Rights

Clearly, road crashes are not unique to our State; or our country. Road traffic injuries are the leading cause of death by injury worldwide and the tenth leading cause of all deaths. Despite the marked decline in the number of people killed on our roads, the number remains too high. Also of concern are the numbers of people who are seriously injured in road crashes.

Road crashes traumatise many people. I deliberately say traumatise because trauma literally means "a powerful shock that may have long-lasting effects". There is no escaping the obvious that road crashes resulting in sudden death or unexpected injury are certainly powerful shocks. It would be unusual for a person to have the opportunity to emotionally and psychologically prepare for what follows a crash.

Families bereaved through road crash deaths, as well as seriously injured victims and their families, can suffer a dramatic decline in their quality of life and standard of living. These people have many and varied needs. Many of them need considerable emotional, practical and legal support, and some need assistance to cope with long-lasting psychological harm. These needs, however, are not always met.

The impact of road crashes and the resultant trauma can be enormous, with far-reaching implications. The impact can also be compounded by deficiencies in our responses to these victims.

If you are reading this booklet, it is likely that you or someone you know is the victim of road trauma. People like you expect family, friends, acquaintances, medical staff and insurance staff, and the Police to help them – however, these people did not always do so.

This booklet has useful information to help you cope, to help you help with others, and to assist you in dealings with those people and services that you might come into contact with should you require assistance. It is common for people affected by road trauma to want actual and factual information about the crash; financial assistance; guidance on court procedure, if a prosecution happens; and emotional support. Being helped to help yourself is important; as is help by family. Government and non-government services are available should you need assistance. This booklet contains much of the information that you might need. For example, it has information about payments for treatment under our compulsory third party insurance scheme as well as information about support organisations, and it outlines your rights as a victim if there is an investigation into the crash and a criminal prosecution.

## How you feel

The loss of a loved one in a road crash is likely to be one of the most difficult experiences you will go through. Road Trauma affects different people in different ways; you may even feel differently from day to day. Some days you may cope, others you may not be able to get on with your day-to-day activities. A memory, sight, sound, smell or event may trigger grief and other emotions. It is important to remember that you are reacting normally to an abnormal situation.

Initially you may feel total shock and think 'this isn't real' or 'it can't be true'. This is a common initial reaction to a traumatic event. You may feel that what happened is remote and nothing to do with you. You may or may not feel the impact immediately, or later (for example on an anniversary or other special days).

Over time you may suffer physical symptoms such as: lack of appetite, high blood pressure, fatigue and problems sleeping.

Depending on your situation, you may also experience a mix of emotions. Some will go away and come back later. These emotions could include:

- Emptiness or numbness
- Fear or anxiety
- Grief
- Sadness or depression
- Guilt
- Anger or irritability
- Loss of privacy and control
- Panic and confusion
- Helpless and deserted
- Feeling that no-one understands what you are going through

These symptoms or feelings usually lessen in time, but it is important to remember that there are no timeframes for grief and no right or wrong way to grieve. For some people the feelings and symptoms persist for an extended period of time. In these cases a person's ongoing health or relationships may be affected. Either way it is important to look after yourself, and to get any support and treatment that you need.





## Children

Like anyone else, children are affected by traumatic events such as road crashes. Like adults, they have both physical and emotional reactions.

Children can not always express these in words in the way that many adults can. Young children who suffer trauma may:

- Have nightmares or problems sleeping
- Wet the bed
- Behave badly
- Be easily upset
- Eat too much or too little
- Cling to adults
- Become withdrawn or fear being alone
- Suffer headaches or stomach aches
- Fight with friends
- Lose concentration
- Start doing badly in school

Children experience the same feelings as adults, but it often comes in bursts. It is not unusual to explain a death to a child and find that they do not seem affected by it, or they want to go out to play. This does not mean they do not feel the pain of the loss. Younger children especially may ask the same questions many times.

You may have to tell the story over and over again. As children get older they may grieve again.

The loss will mean different things to them at different stages.

### What do we tell children?

One of the most difficult situations adults face is telling children that someone they love has died. Adults often worry that children will not understand and it is natural to want to protect children from the pain of losing a loved one. However, children should be told as soon as possible that a person they care about has died, preferably by a parent/guardian or someone close to them. They need to be told the truth and given opportunities to grieve. Children may be more hurt, frightened, confused and resentful if they are excluded.

Things you can do to help your child

- Be honest with your children. Give clear and truthful information to children in a way that they can understand. Explanations such as 'he's gone to sleep' can confuse children as they take things very literally. A child may even start to fear going to sleep

- Express your feelings in front of your child/children
- Allow children time to talk, and ask questions
- Let them know they don't "have to be brave"
- Let them know it is ok to talk about someone who has died
- Accept their feelings and share your own. Sharing feelings can help people feel connected to others
- Explain to your child/children that they do not have to feel sad all the time
- Maintain routines and expectations such as homework and bedtime, this gives children a sense of consistency and security
- Consider letting your child's teacher know there has been a loss in your child's life. Teachers and friends at school can help support your child.

For more information refer to *Parenting SA, Parent Easy Guide No. 6 Grief and Loss*. This is available at [www.parenting.sa.gov.au/pegs/Peg6.pdf](http://www.parenting.sa.gov.au/pegs/Peg6.pdf)

## How you can cope emotionally

There is no single, easy way of dealing with such a loss, but the tips below may be helpful during the early days following your loved one's death.

- Choose someone to help with the practical matters, such as arranging the funeral, and dealing with other immediate issues such as finances, contacting friends and family, liaising with police etc
- Be around as many good friends and family as possible. Keeping your support network close by is crucial at this time
- Get as much sleep as you can. Although this may be difficult, having adequate rest will help you cope emotionally
- Although you may not feel like eating, it is important to continue regularly eating nutritious food
- Friends and relatives may ask if they can do anything to help. Although you may feel concerned about imposing on them, taking up an offer of a cooked meal, child minding or help with the housework may give you extra time to make arrangements
- For major decisions it may be useful to consult a family member or trusted person. Grief can affect concentration, memory and emotion and you may not be in the best state to make important decisions
- Relatives and friends may offer advice about how you should be grieving. Although some advice may be valuable, remember that everyone's experience of grief is different. Try to take on advice that is of use to you and leave behind the advice that is well-meaning but unhelpful
- Talk about your feelings

It can be surprising how useful a helpful listener or a little information can be. Family members and friends can offer some support, but may also need to deal with their own grief as well as other issues in their lives. Sometimes they are not able to provide the help or support you need when you need it. Sometimes it can be helpful to talk to a person who has not been affected by the crash.



## Who can help me?

### Road Trauma Support Team

The Road Trauma Support Team (RTST) conducts adult support group meetings at which a qualified psychologist is present. The meetings are held in a confidential, informal and non-judgmental setting. RTST also offers individuals affected by vehicle trauma referral to a social worker for free private counselling.

**Phone:** (08) 8152 0600  
or 1800 069 528

**Mobile:** 0400 705 066

**Web:** [www.roadtraumasupportsa.com.au](http://www.roadtraumasupportsa.com.au)

### Anglicare SA Loss and Grief Service

The Loss and Grief Service is a program of Anglicare SA in partnership with the School of Social Work at Flinders University.

The service was established in response to the diverse and ongoing needs of people who have experienced bereavement or other losses. The service provides individual or family counselling, information and resources, referrals, support groups, individual counselling and other programs for children.

**Phone:** (08) 8131 3400

**Email:** [admin@anglicare-sa.org.au](mailto:admin@anglicare-sa.org.au)

**Web:** [www.anglicare-sa.org.au](http://www.anglicare-sa.org.au)

### Solace

Support for older widowed people. Solace provides one to one support for people whose loss is recent, new members and those who are dealing with special anniversaries. Solace also conducts meetings where group discussion is encouraged. These sessions are lead by support workers and topics discussed are relevant to grief and loss and learning to live alone.

**Phone:** (08) 8272 4334  
9am-11pm 7 days

**Web:** [www.solace.org.au](http://www.solace.org.au)

### Child and Youth Health

The Child and Youth Health website provides useful information for children, young people and parents / guardians about grief and loss.

**Parent Helpline Phone:**  
1300 364 100

**Youth Helpline Phone:**  
1300 13 17 19

**Web:** [www.cyh.com](http://www.cyh.com)

### Crisis Care

Crisis Care is the after hours service provided by qualified Families SA social workers. It operates from 4 pm to 9 am on weekdays and 24 hours on weekends and public holidays.

Crisis Care may assist people in crisis, including people who are experiencing personal trauma.

**Phone:** 131 611

**Web:** [www.families.sa.gov.au](http://www.families.sa.gov.au)

### Compassionate Friends

(for bereaved parents)

When a son or daughter dies, no matter what their age or the cause of death, grief lasts for longer than society in general recognises. The death of your child is an unacceptable tragedy and it can take a long time before you regain any sense of normality in your life. "We Need Not Walk Alone."

The Compassionate Friends (SA) Inc. is part of a world-wide organisation offering friendship and understanding to families following the death of a son or daughter, brother or sister. TCF offers support in the grief and trauma which follows the death of a child at any age and from any cause.

Services includes 24 hour grief telephone support and support group meetings.

**Phone:** (08) 8351 0344

**Email:** [tcf@arcom.com.au](mailto:tcf@arcom.com.au) (for enquiries)  
[tcfsachat@bigbutton.com.au](mailto:tcfsachat@bigbutton.com.au)  
(for support and to chat with a volunteer bereaved parent)

**Web:**  
[www.compassionatefriendssa.org.au](http://www.compassionatefriendssa.org.au)

### Kids Helpline

Kids Helpline is a free 24 hour counselling service for Australian kids and young people aged 5-25 years. You can get help over the phone, email or web. If you are 5-25 years old and need someone to talk to, you can call anytime - 24 hours a day, 7 days a week.

The trained counsellors will

- listen to you
- believe you
- help you with your problems
- help you to sort things out in your own way
- talk to you about who else might be able to help

**Phone:** 1800 55 1800

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



## Do I have to do anything?

There are certain processes that you will need to go through after a crash related injury or death.

You need to report any crash related injury or death in accordance with South Australia's Compulsory Third Party Insurance regulations.

### What is Compulsory Third Party insurance (CTP)?

*The Motor Accident Commission (MAC) is South Australia's Compulsory Third Party (CTP) insurer and provides compensation to victims of road crashes.*

While MAC is the CTP insurer, Allianz handles all claims and enquiries. MAC funds a range of road safety, accident prevention and rehabilitation programs, along with advertising campaigns designed to reduce injuries and deaths on our roads. MAC does not make the road safety rules, but it does work closely with the South Australian Police and the Department for Transport, Energy and Infrastructure to develop programs that help reduce road crashes.

CTP Insurance may provide compensation to injured victims of road crashes where the owner, driver or passenger of a South Australian registered vehicle is at fault.

You should report the injury or death as soon as is practicable to Allianz, the claims manager. Allianz will then send you the necessary Accident Report form. Alternatively, you can download the form from the Allianz website: [www.allianz.com.au](http://www.allianz.com.au). Allianz can be contacted on 1300 137 331 from anywhere in Australia for the price of a local call.

Please note that in some circumstances Allianz may conduct an independent investigation into the road crash.

Any enquires related to compulsory third party insurance should be direct to Allianz on 1300 137 331. Additional information is also available at the MAC website [www.mac.sa.gov.au](http://www.mac.sa.gov.au).

### In the event of serious injury or death police will conduct an investigation.

- Road crashes involving serious injury are investigated by the South Australia Police.
- All fatal road crashes in South Australia are investigated by the South Australia Police on behalf of the State Coroner.

### How do I find out about the investigation?

A police officer will be assigned to be in charge of this investigation. The investigating officer is there to keep you informed about the investigation and any subsequent prosecution that may happen.

You should be given this police officer's name and contact phone number. You may wish to record these details in the back of this booklet. If you do not wish to personally deal with the investigators then you can nominate another person to liaise on your behalf.

## Do I have to do anything? *Continued*

Victim Contact Officers may also assist victims and their families. They are police officers and are available during office hours from Monday to Friday. The phone number for the South Australia Police, Major Crash Victim Contact Office is (08) 8207 6525.

At the conclusion of the investigation police prepare a report that includes statements from witnesses along with technical and forensic information. The report may take some months to complete.

You may wish to obtain copies of the vehicle collision report or the full investigation report. You should speak to the investigating officer or the victim contact officer if you wish to do so. There may be a fee involved.

A copy of the vehicle collision report can be applied for at any police station. A fee will apply. A copy of the full report can be obtained by making a Freedom of Information application at any police station. The full report will not be available until the police investigation is finalised. A fee will also apply.

### **How do I get a copy of my statement?**

You are entitled to a copy of your statement if you ask immediately after you have given it to the police. If you want a copy on another occasion, you should talk with the investigating officer; however, it is likely that you will have to apply to the Information Release Section, South Australia.

A person(s) may be charged as a result of the investigation. A range of charges, from minor traffic related charges to more serious criminal offences, may be laid depending upon the circumstances. Sometimes no charges will be laid. See Part 2 of this booklet for more information on the legal process.

### **What happens if a person is seriously injured?**

There is virtually no limit to the nature and extent of injuries that might be sustained in a crash. If you have been injured in a road crash, you may be experiencing physical pain. In spite of your pain, you may also be thankful that you are alive.

You are likely to experience a variety of emotions and thoughts. You may struggle with the memory of the crash, especially if a loved one was killed. Although you do not consciously choose to think about what happened, you may re-live the crash in flashbacks and nightmares.

Alternatively, you may have no memory of the crash. The trauma you have suffered might affect your memory. This might be your body trying to protect you or it might be due to an injury you suffered.

If you are in hospital, a social worker can assist you to contact Disability SA or Centrelink if necessary. In addition, Allianz can undertake hospital visits, if requested, to provide information regarding the claims process. They can also arrange any assistance needed when the person is released from hospital, such as home help.

You may begin to feel in ways that you have not felt before. You may become angry, even enraged with the other driver, rider or pedestrian. You may become frustrated with your family and friends.

Besides coping with the injury, you may worry about things such as money to pay for medical expenses, your ability to do things you did before, and your future. You may feel that your life dreams have been shattered.

In the aftermath of a road crash, the hurt is physical and emotional. If someone was killed, you may also be grieving.

### **What happens if a person is killed as a result of a crash?**

When a person dies as a result of a road crash, a positive identification must be made. A family member or friend may accompany the person performing identification. If you have any questions about this process you should speak with the investigating officer.

Due to the nature of some deaths, a visual identification is not always possible. In these situations, other methods of identification may be used.

### **Where will the deceased person be taken?**

Generally a person's body will be taken to Forensic Science SA if they died in Adelaide or, dependent on the circumstances and location, to a regional hospital or funeral home. From there the person may be transported to the city in the coming days.

### **What happens to the deceased's personal property?**

When a person dies in a road crash, police usually remove their valuables and lodge them at a police station for safekeeping. If a death occurs in a hospital, then the valuables are stored there. The next of kin, the executor of the estate, or any person authorised by them may collect the valuables at any time as long as they produce proper identification.

### **Clothing**

If the deceased is taken to Forensic Science SA, the clothing is generally given to the funeral director. If a death occurs in a hospital, the clothing is held there. In some cases the clothing may be destroyed because it is unsuitable to return.

### **What happens to the deceased's estate?**

The answer depends on whether there is a will or not. The Legal Services Commission provides useful information in its Law Handbook online, see [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

## Coroner's Court

In the event of a death, police complete their investigation and then pass the file on to the Coroner. From this time on, the file is called the Coroner's file.

### Why is the Coroner involved?

The Coroner's Court is supported by lawyers, investigators, counsellors and other professionals with skills in legal matters, counselling and administration. These people are required to investigate and document each death that is reported to the Coroner. In country areas, these investigations are carried out by local police officers. The Coroner conducts inquiries into a variety of deaths including those resulting from fatal road crashes. The Coroner is required to determine the cause and circumstances of a death and the identity of the deceased. A final report is then handed to the State Coroner who decides whether a formal inquest is necessary.

### What is a post-mortem?

A post-mortem examination is also called an autopsy. It is a step-by-step medical examination of the body conducted by a pathologist. The examination is carried out at the direction of the State Coroner in order to establish the cause of death. Sometimes organs are removed for examination and may be kept for further analysis to establish the cause of death. If you require more information in relation to the post-mortem examination, please contact the social worker at the Coroner's Court on (08) 8204 0600.

### Am I entitled to a copy of the post-mortem report?

If you are the senior next of kin (nearest relative), you can obtain a copy of the post-mortem report, by writing to the coroner, asking that it be sent to a doctor of your choice. The doctor can then explain the report to you.

If you are the senior next of kin and wish to receive a copy of the report, write to the Manager, Coroner's Court, 302 King William Street, Adelaide, SA, 5000. The letter should state your name and address, the deceased person's full name and date of death, and should say what relation you are to the deceased. Include the name and business address of the doctor to whom you would like the report sent.

### What is a Coronial Inquest?

An Inquest is a court hearing in which the Coroner's Court gathers information to assist in determining the cause and circumstances of death and, if appropriate, to make recommendations that may prevent similar deaths in the future.

The Coroner's Court is less formal and technical than other courts. However, witnesses are still called and evidence is taken down. The hearing is open to the public and can be reported in the media.



An inquest is not a trial. Nobody is accused of anything.

The coroner's findings will not go into whether any crime or civil wrong has been committed but will be findings of fact about how the death occurred. There may be a prosecution in another court if police believe there is evidence of a crime. If a criminal prosecution has already started, the inquest may be delayed until the prosecution is finished. There coroner will not necessarily give his or her findings immediately at the end of the inquest. More likely, he or she will publish them some time later. In certain circumstances, the Coroner may exclude individuals or the public generally, and prohibit the publication of evidence.

### **When is a Coronial inquest held?**

Not all road deaths lead to inquests. An inquest is not necessary if the situation is sufficiently clear from the post-mortem and police investigations

If an Inquest is to be held, the Coroner will send a letter to the next of kin detailing the time and place of the hearing. Certain witnesses will be summonsed to attend the hearing.

The Coroner will also send details of the hearing to anyone who has given written notice of their intention to appear or be represented at the Inquest. If a Coroner decides not to hold an Inquest, the next of kin will be notified.

### **Can I request that a Coronial Inquest be held?**

Relatives or other sufficiently interested parties can send a letter stating their reasons for the request to the State Coroner asking for an Inquest to be held. The State Coroner will consider those reasons when deciding whether or not to hold an Inquest.

### **Do I need to be represented by a solicitor at the Inquest?**

Any person that the Coroner decides has sufficient interest in the Inquest can apply for permission to appear or to be legally represented. They, or their legal representative, seek leave to appear, and may cross-examine any witness on matters relevant to the Inquest.

### **Counselling and support service at the Coroner's Court**

The counselling and support service is provided by an experienced social worker and is available free of charge to family members and friends. This service is available during office hours, either by telephoning (08) 8204 0600 or attending in person. You can also visit the website: [www.courts.sa.gov.au/courts/coroner](http://www.courts.sa.gov.au/courts/coroner)

It includes:

- support if needed, especially during the time immediately after a death;
- information about the coronial system;
- help in preparing for Inquests;
- information about, and contact with, bereavement support groups;
- information on helping children to understand death;
- referral to longer term counselling.

### **How do I obtain a copy of the Death Certificate?**

Copies of the Registration of Death (Death Certificate) can be obtained from the Principal Registrar at the Births, Deaths and Marriages Registration Office. An interim Death Certificate is available prior to a cause of death being reported by the Coroner. The certificate may be used in some instances to assist in finalising matters of the deceased person's estate such as access to bank accounts by a spouse, and for social security purposes.

Once the Coroner has confirmed the cause of death, it is added to the Registrations and a further fee schedule is required to obtain the complete Death Certificate. Before making an application to receive the Death Certificate from the Births, Deaths and Marriages Office, check with your funeral director to ensure that they have not already made an application on your behalf.



## Arranging the funeral

Arranging a funeral can mean making many decisions at a very difficult and emotional time.

You should contact a funeral director as soon as possible. The funeral director will liaise with the Coroner's Court regarding the release of the deceased, which cannot happen until the post-mortem is complete and the body has been formally identified. There may be a delay in certain circumstances but this is usually no longer than 72 hours.

Although arrangements for a funeral may be made, a burial or cremation cannot be carried out until the Coroner has issued the appropriate release of the body order. The Executor of the estate is responsible for making funeral arrangements. In the absence of an Executor, the next of kin or other relatives are responsible.

Funeral directors are there to offer help and guidance during one of life's most difficult times.

When making arrangements:

- Select a funeral director that is licensed and has a good reputation in the community.

The Australian Funeral Directors Association (AFDA) has a listing of funeral directors with AFDA membership ([www.afda.org.au](http://www.afda.org.au)). The Yellow Pages also has a listing of funeral directors.

- Discuss with the funeral director or minister of religion their role in the service to ensure you understand what you need to arrange.
- Do not be reluctant to ask any questions
- Be sure to discuss all the available financial options before making a decision
- The funeral director may ask for a deposit to be paid before the funeral, and for the balance to be paid by an agreed date. Ensure you check the terms and conditions for payment of the funeral before you commit to them.
- Consult the will of the deceased person for any unique funeral arrangements to be made.

Returned service personnel may be entitled to an official war grave. If you think this may be the case, contact the Commonwealth Department of Veterans' Affairs on 133 254 or visit [www.dva.gov.au](http://www.dva.gov.au). Websites such as [www.funeraldirectory.com.au](http://www.funeraldirectory.com.au) may also assist you in planning a funeral.

### **Paying for the funeral**

Some people make a provision in their will for the payment of funeral costs. If you are suffering financial hardship, you may be eligible for the Families SA Funeral Assistance Program, which provides financial assistance for a basic funeral. You can contact Families SA on 1300 762 577.

In certain circumstances, you may be able to claim funeral expenses under Compulsory Third Party (CTP) insurance. For more information, contact the Allianz CTP Personal Injury Helpline on 1300 137 331.

## Dealing with media

This can be a difficult issue. Some people want to tell their story and welcome the publicity. Others prefer to maintain their privacy.

Police release general information to the media relating to the time, place and location of a crash.

Media outlets are entitled to report these facts; however, police will never divulge personal details such as names of deceased people without the consent of relatives.

If you are thinking of giving any information to the media about what has happened, you should consider the following.

- You should not speak to the media about the case if someone has been arrested or if there are any legal proceedings in progress. It could affect the case.

- If police are still investigating, media publicity could affect their enquiries and you should discuss this with police before speaking to the media.

- If in doubt about the legal position, check first before giving any information to the media.

- The media report may be different from what you expect. The media will gather information from many sources. Your case may be presented in a way you do not agree with, and this can be upsetting.

- Once the matter becomes public through the media, you or your family may encounter unwanted attention.

- Remember that you do not have to speak to the media, even if they are persistent. Your first contact with the media might occur while you are feeling confused and disoriented.

- You should not feel pressured or obligated to provide photos to the media. Once you have provided a photo to the media you do not have control over its use. Before providing a photo you may wish to consider how you might feel if/when the photo is used in 2, 5 or 10 years time and the impact this may have on you and your family, especially children.

- If you choose to speak with the media, consider whether you wish to give an interview, read out a statement or simply release a written statement.

- Consider whether you wish to deal with the media yourself, or use someone else, perhaps someone experienced in dealing with the media.

You are entitled to:

- Say “no” to an interview;
- Require anyone who visits your home uninvited to leave, and call the police if they refuse to do so;

- Refuse an interview with a specific reporter even though you may have granted interviews to other reporters;

- Say “no” to an interview even though you have previously granted interviews;

- Choose the time and place for interviews;

- Exclude children from interviews;

- Not answer any question you do not wish to answer;

- Speak with one reporter at a time;

- Request a correction if a report is inaccurate;

- Ask that offensive photographs or visuals not be used;

- Set conditions to protect your privacy or safety. For instance, you could give an interview on condition that your face be obscured, your name not used or your voice altered, or you could stipulate no photographs in a newspaper interview.



## Giving feedback or lodging complaints

If you are unhappy with or wish to compliment a service you have recently received please direct your comments as explained below.

### South Australia Police

You should contact the Victim Contact Officer or a supervising officer at your local police station. Telephone your local police station (see the White Pages).

If you are not satisfied with the response that you receive or you have more than a minor grievance you should contact either:

### The Commissioner of Police

GPO Box 1539 Adelaide SA 5001

**Email:** [sapol.enquiries@police.sa.gov.au](mailto:sapol.enquiries@police.sa.gov.au)

### The Police Complaints Authority

GPO Box 464 Adelaide SA 5001

**Phone:** 8226 8677

**Email:** [pca@agd.sa.gov.au](mailto:pca@agd.sa.gov.au)

**Website:** [www.pca.sa.gov.au](http://www.pca.sa.gov.au)

### Allianz SA CTP

GPO Box 2198

Adelaide SA 5001

**Phone:** 1300 137 331 (from anywhere in Australia for the price of a local call)

**Fax:** 1300 137 431

**Website:** [www.allianz.com.au](http://www.allianz.com.au)

## Notes

# So what happens if there is a criminal investigation?

## Introduction

### Commissioner for Victims' Rights

Although I hope that you are never a victim of crime, the number of road crashes resulting in criminal prosecutions indicate that it could happen to you. If it does, it is important that you know your rights as a victim of crime.

This booklet provides information about victims' rights from the time the police become aware of the offence until the offender is released from prison. It includes information on the legal process, specific information for vulnerable people as witnesses, and information on dealing with Correctional Services and the Parole Board.

If you want to give feedback and make a complaint about your treatment as a victim, information on the relevant person to contact is also covered.

This booklet answers questions that victims, like, you commonly ask. It will not answer all of your questions, however. If you have further questions there are people to help, so please ask the police, the prosecutor, the court-helpline, the correctional staff, or my staff.

#### **What are my rights as a victim of crime?**

The police investigation may have revealed that an offence had been committed by one of the people involved in the crash that resulted in the injury or death of your loved one.

As you too have suffered harm as a consequence of this offence you are considered a victim of crime.

## What are my rights?

### Declaration of Principles Governing Treatment of Victims of Crime

The Parliament for South Australia passed a declaration of principles to govern the way public agencies and officials deal with victims of crime. The principles are not enforceable in criminal or civil proceedings; and do not give rise to any right to damages for breach; and do not affect the conduct of criminal proceedings. Public agencies and officials, however, are authorised and required to have regard, and to give effect, to the principles so far as it is practicable to do so having regard to the other obligations binding on them.

1. A victim should be treated—
  - (a) with courtesy, respect and sympathy; and
  - (b) with due regard to any special need that arises—
    - (i) because of the victim's—
      - age; or
      - sex; or
      - race or ethnicity; or

cultural or linguistic background; or

- (ii) for any other reason.

2. A victim should be informed about health and welfare services that may be available to alleviate the consequences of injury suffered as a result of the offence.
3. A victim should be informed, on request, about:
  - (a) the progress of investigations into the offence;
  - (b) the charge laid and details of the place and date of proceedings on the charge;
  - (c) if a person has been charged with the offence—the name of the alleged offender<sup>1</sup>;
4. A victim should be informed, on request, if an application for bail is made by the alleged offender—the outcome of the application.  
If a police officer or a person representing the Crown in bail proceedings is made aware that the

victim feels a need for protection from the alleged offender—

- (a) the police officer or other person must ensure that the perceived need for protection is brought to the attention of the bail authority<sup>2</sup>; and
  - (b) reasonable efforts must be made to notify the victim of the outcome of the bail proceedings and, in particular, any condition imposed to protect the victim from the alleged offender (unless the victim indicates that he or she does not wish to be so informed).
5. A victim should be informed, on request, if the prosecutor decides not to proceed with the charge, to amend the charge, or to accept a plea to a lesser charge or agrees with the defendant to make or support a recommendation for leniency—the reasons for the prosecutor's decision;

A victim of a serious offence should be consulted before any decision is made—

- (a) to charge the alleged offender with a particular offence; or
  - (b) to amend a charge; or
  - (c) to not proceed with a charge; or
  - (d) to apply for an investigation into the alleged offender's mental competence to commit an offence or mental fitness to stand trial (see page 36).
6. A victim of an offence is entitled to be present in the courtroom during proceedings for the offence unless the court, in accordance with some other Act or law, orders otherwise<sup>3</sup>.

7. A victim should only be asked to attend proceedings related to the offence if the victim's attendance is genuinely necessary.
8. A victim who is to be a witness for the prosecution at the trial of the offence should be informed by the prosecution about the trial process and the victim's rights and responsibilities as a witness for the prosecution.

**The information should be given (if practicable) so as to allow the victim sufficient time to obtain independent advice, and arrange independent support, in relation to the exercise of those rights or the discharge of those responsibilities.**

<sup>1</sup> Section 64 of the Young Offenders Act 1993 provides a mechanism for exercising this right in relation to a young offender.

<sup>2</sup> Section 10(4) of the Bail Act 1985 requires that where there is a victim of an offence, the bail authority must, in determining whether an applicant for bail should be released on bail, give primary consideration to the need that the victim may have, or perceive, for physical protection from the applicant.

<sup>3</sup> See also section 29A of the Evidence Act 1929 (which requires that, where a victim of an offence is a witness in the proceedings, the court can only order the victim to leave the courtroom until required to give evidence if the court 10 considers it appropriate to do so) and section 24 of the Youth Court Act 1993 (which allows a victim and a person chosen by the victim to provide support for the victim to be present during Youth Court proceedings for the relevant offence).

9. A victim should be protected as far as practicable from unnecessary contact with the alleged offender and defence witnesses during the course of the trial and in proceedings under this Act<sup>4</sup>.
10. There should be no unnecessary intrusion on a victim's privacy. In particular, a victim's residential address should not be disclosed unless it is material to the prosecution or defence.
11. If a victim's property is taken for investigation or for use as evidence, the property should, if practicable, be returned to the victim as soon as it appears that it is no longer required for the purposes for which it was taken.
12. A victim is entitled to have any injury, loss or damage suffered as a result of the offence considered by the sentencing court before it passes sentence<sup>5</sup>.
13. A victim should have access to information about how to obtain compensation or restitution for harm suffered as a result of the offence.

If the prosecutor is empowered to make an application for restitution or compensation on behalf of a victim in criminal proceedings—

- (a) the prosecutor should bring that fact to the attention of the victim; and
  - (b) should, if asked to do so by the victim—
    - (i) make the application on the victim's behalf; and
    - (ii) bring to the attention of the court any relevant information provided by the victim in connection with the application.
14. A victim should be informed, on request, about:
- (a) the outcome of the proceedings based on the charge and of any appeal from those proceedings;
  - (b) details of any sentence imposed on the offender for the offence.

15. A victim who is dissatisfied with a determination (for example the sentence) made in relation to the relevant criminal proceedings (being a determination against which the prosecution is entitled to appeal) may request the prosecution to consider an appeal against the determination. A victim must make this request within 10 days after the making of the determination. The prosecution must then give due consideration to that request.
16. A victim should be informed, on request
  - (a) if the release of the offender into the community is imminent— details of when the offender is to be released.
  - (b) if the offender was ordered to undertake community service — whether the offender completed the community service; and
  - (c) if the offender was subject to a bond—whether the conditions of the bond were complied with.

17. A victim of an offence is entitled to make written submissions to the Parole Board on questions affecting the parole of a person imprisoned for the offence<sup>6</sup>.
18. A victim should be informed, on request:
  - (a) if the offender is sentenced to imprisonment and later makes an application for release on parole—the outcome of the proceedings and, in particular, any condition imposed to protect the victim from the offender.
  - (b) if the offender is subject to a supervision order under the law that applies to mentally incompetent offenders (see page 36) and the offender, or any other person, later makes an application for variation or revocation of the 20 order or an application for review of the supervision order is made — the outcome of the proceedings and, in particular, if the offender is released on licence, any conditions imposed on the licence.

19. A victim should be informed, on request:
  - (a) if the alleged offender absconds before trial—the fact that he or she has absconded;
  - (b) if the offender escapes from custody—the fact that he or she has escaped;
  - (c) if the offender, having escaped from custody, is returned to custody—the fact that he or she has been returned to custody.
20. A victim should be informed, on request, about procedures that may be available to deal with a grievance the victim may have for non-recognition or inadequate recognition of the victim's rights under this Declaration.

**Please note that a victim is not entitled to information that might jeopardise the investigation of an offence.**

<sup>4</sup>Section 13 of the Evidence Act 1929 contains special provisions for the protection of a person who is a "vulnerable witness" within the meaning of that section.

<sup>5</sup>Sections 7 & 7A of the Criminal Law (Sentencing) Act 1988 provide ways for exercising this right. Section 7 of that Act places an obligation on the prosecutor to present the court with details of injury, loss or damage resulting from the offence before sentencing.

<sup>6</sup>See section 77(2)(ba) of the Correctional Services Act 1982.

## Legal process

### Do I have to contact a solicitor?

You do not have to contact a solicitor, but they can provide useful advice on wills, estates, claims of property damage, injury claims and criminal compensation claims. The Law Society of South Australia can refer you to a lawyer, phone 08 8229 0222 during office hours.

The Legal Services Commission provide a free and confidential legal advice by telephone and by appointment, phone 1300 366 424 9am–4:30pm Monday to Friday.

Please note that pursuant to section 17(5)(c) of the Victims of Crime Act 2001 a person cannot claim statutory compensation as a victim of crime if they have a CTP claim.

### Laying the charge

The police are responsible initially for charging the person with an offence. In more serious matters, the police may obtain advice from the Office of the Director of Public Prosecutions (DPP) before laying the initial charge.

In all cases, the charge may be reviewed subsequently by the police prosecutor, in the case of less serious offences, or the DPP in the case of more serious offences.

### Bail

When a person is arrested and charged with an offence, he or she is eligible to apply for **bail**.

If granted **bail**, the person has to promise to appear in court when required. The person may also be required to abide by a number of other conditions such as:

- reporting to police
- residing at a particular location
- abiding by home detention conditions
- not approaching or contacting witnesses
- providing one or more guarantors.

In deciding whether to grant bail, a number of factors are taken into account including:

- the seriousness of the offending
- the likelihood of the accused absconding, re-offending or interfering with evidence and/or witnesses

- the safety of the victim
- any previous occasions on which the accused may have breached a bail agreement
- any other relevant factors

### The decision to prosecute

After a person has been charged with an offence, the conduct of the prosecution is passed to either a **police prosecutor** or a **prosecutor from the DPP** depending on the alleged offence. It is the responsibility of the prosecutor to decide whether to continue with the prosecution.

In criminal cases, the prosecution must prove beyond reasonable doubt that the **accused** person committed the crime with which he or she is charged.

The decision to prosecute is based on an assessment as to whether there is a reasonable prospect of conviction.

This involves deciding how strong the case is likely to be when presented in court. There must be admissible, substantial and reliable evidence that the criminal offence has been committed by the **accused**.

In making this decision, in addition to assessing the strength of the evidence, the prosecutor will consider the following factors:

- Your wishes and concerns
- The public interest in bringing a prosecution.

Less serious offences are prosecuted by the Police Criminal Justice Sections. These offences are prosecuted by **police prosecutors** in the Magistrates Court, or where the accused is a youth, in the Youth Court (see the Juvenile Justice System).

Serious offences are prosecuted by the **DPP**, which is an independent prosecution authority. Offences prosecuted by the **DPP** can sometimes be dealt with in the Magistrates Court, but will usually only start in the Magistrates Court, and be finalised in the District Court or the Supreme Court.

### The criminal justice system for adult offenders

If the **charge** is a less serious one that can be handled by police, the Police Criminal Justice Sections handle the conduct of the case in the Magistrates Court (see page XX).

### Less serious offences

The **police prosecutor** is responsible for assessing whether or not there is enough evidence in support of the charge and may suggest some further investigations be carried out.

The prosecutor is responsible for deciding:

- whether to proceed to trial
- whether to charge the accused with a different offence
- whether to accept a plea to a lesser offence from the accused
- whether to drop the case.

There may be several appearances in the Magistrates Court.

Once it is clear that there is sufficient evidence against the **accused** to proceed and he or she is not going to plead guilty, the matter will be given a date for trial—usually several months away.

As a victim, you should be kept informed of the progress of your matter by the **prosecutor** (or another police officer) and the reasons for any important decision.

### More serious offences

If the **charge** is classified as more serious, the prosecution is handled by the **DPP**. Initially, the **DPP** handles the prosecution at Magistrates Court level through its Committal Unit.

The **DPP** has a Witness Assistance Service which provides information, assistance and counselling to witnesses, both adults and children throughout the court process. The Witness Assistance Service is only involved where the Director of Public Prosecutions has involvement in the case. You can contact the Witness Assistance Service during office hours by phoning 8207 1529.

In serious cases, there is a **committal** (ie a preliminary examination) in the Magistrates Court. The prosecution is required to provide all witness statements to both the lawyer representing the **accused** and to the court.

The court decides on the basis of the written evidence whether the case should go to trial.

This process may involve several Magistrates Court appearances by the **accused**. You may attend court if you wish to, but you are not normally required to.

Occasionally, the lawyer for the **accused** is successful in gaining the court's permission to ask witnesses questions orally in the Magistrates Court. If this is the case, you will be warned in advance by the prosecution.

If the Magistrate finds a case to answer, the **accused** is committed for **trial** to the District Court or Supreme Court (see page XX).

A different **prosecutor** from the **DPP** is assigned to handle the matter from here on, except in the case of homicide. The **prosecutor** from the **DPP** will reassess the evidence and may suggest further investigations be undertaken by police.

The **DPP prosecutor** is responsible for deciding:

- whether to proceed to trial with the prosecution

If the **charge** is a less serious one that can be handled by police, the Police Criminal Justice Sections handle the conduct of the case in the Magistrates Court (see page XX).

### Less serious offences

The police **prosecutor** is responsible for assessing whether or not there is enough evidence in support of the charge and may suggest some further investigations be carried out.

The prosecutor is responsible for deciding:

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The **DPP prosecutor** is responsible for deciding:

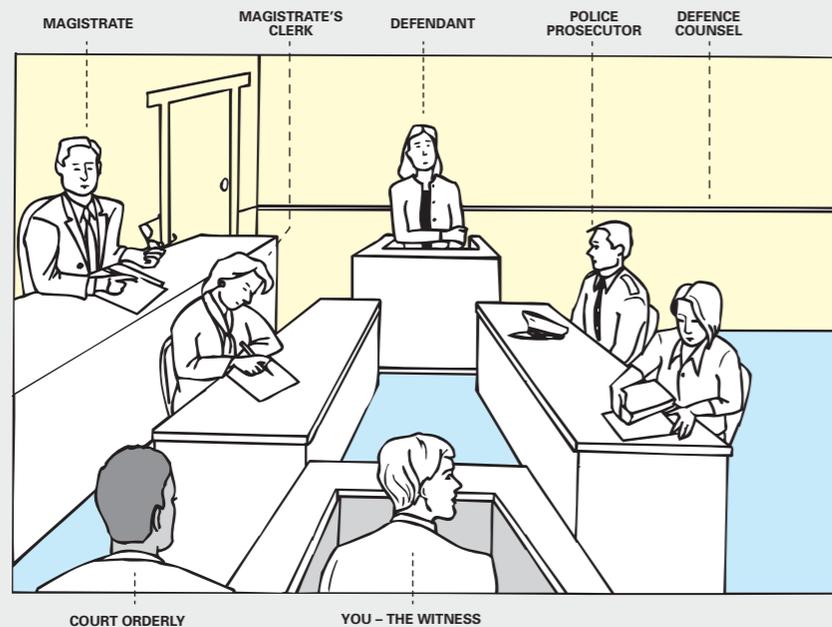
- whether to proceed to trial with the prosecution
- whether to charge the accused with a different offence
- whether to accept a plea to a lesser offence from the accused
- whether to drop the case.

You will be consulted by the **DPP** before any important decisions are made.

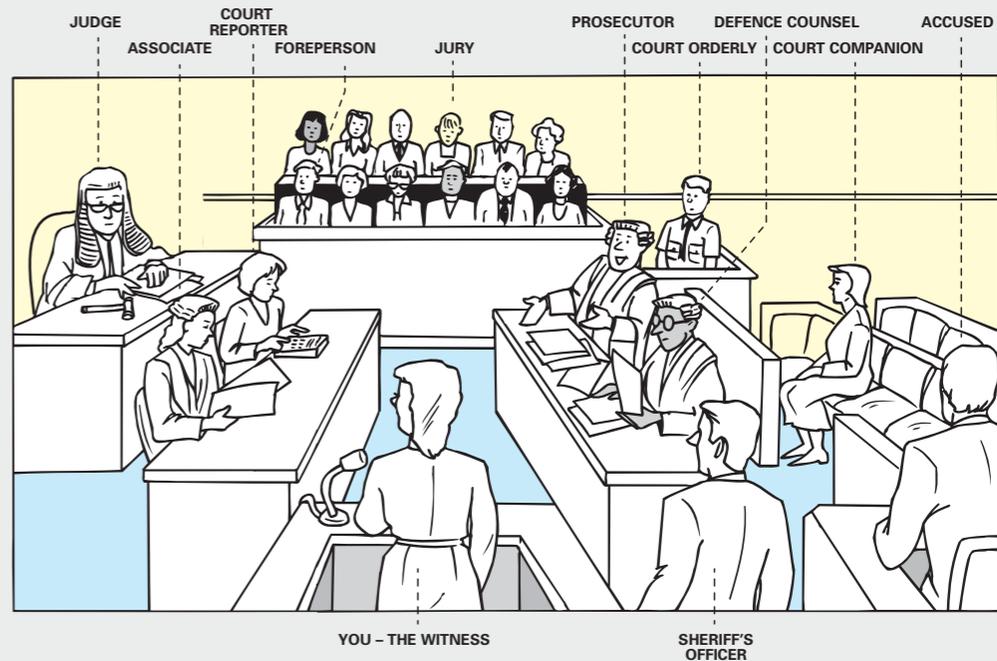
There may be several appearances in the District Court or Supreme Court. Unless the **accused** pleads guilty, the matter will be given a date for trial – usually several months away.

You will be informed of the trial date.

### The Magistrate's Court



### The Supreme Court



### Trial

Where the **accused** is charged with a less serious offence, the trial will take place before a Magistrate in the Magistrates Court. Where the **accused** is charged with a more serious offence, the trial will take place before a judge and jury or, if the **accused** so decides, before a judge alone. The purpose of the **trial** is to have all relevant and admissible evidence put before the court.

It is then for the Magistrate to decide, in less serious matters, whether the **accused** is guilty or not guilty. Or, in more serious matters, for the jury to decide, after being directed by the Judge, whether the **accused** is guilty or not guilty.

You may need to give oral evidence before the court. This will involve telling the court what happened in response to questions from the **prosecutor**. The lawyer for the **accused** will then be given an opportunity to ask further questions of you.

The prosecutor will speak to you before the trial to go through your written statement with you and discuss giving evidence in court.

Prior to trial, if the matter is being dealt with by the **DPP**, a Witness Assistance Officer is available to discuss the court process with you and to take you on a guided court tour if you wish. A Child Witness Assistance Officer, from the **DPP**, is also available to inform and support **child** witnesses.

### Special arrangements for witnesses

Special arrangements may be made for witnesses giving evidence. In particular, the laws of evidence provide for the way in which evidence is taken from vulnerable witnesses, including children and victims of serious offences, the way witnesses may be questioned and the manner in which judges warn or direct juries about the evidence of children. It also restricts access to sensitive material that is to be used as evidence in proceedings.

The law does not permit an order for special arrangements to be made if this would relieve a witness from the obligation to give sworn evidence or to submit to cross-examination, or to prevent a judge or jury from seeing or hearing the witness while giving evidence.

The law does however, state that such sight or hearing of a witness giving evidence may be indirect – for example, by live television transmission or replay of a recording of the witness's voice and image – so long as the indirect method of transmission also shows any person who may be accompanying the witness to provide the witness with emotional support.

It states further that a special arrangement must not be made if it would prevent a defendant from seeing or hearing the witness while giving evidence.

An example of a special arrangement is the taking of an electronic recording of a witness's evidence outside the courtroom to be replayed in the courtroom. Another example is allowing disabled witnesses to give evidence by unconventional means if that would facilitate the taking of that evidence or minimise the witness's embarrassment or distress.

### Vulnerable Witnesses

Special provisions are made for certain witnesses, often called vulnerable witnesses. If you are under the age of 16 years, suffer from an intellectual disability, the victim of a sexual offence and other serious offences (such as abduction, blackmail, stalking, unlawful threats to kill or endanger life, causing serious harm, and attempted murder or attempted manslaughter), or a person at a special disadvantage:

- you may not be cross-examined in person by an unrepresented **defendant** in criminal or civil proceedings;

- a criminal court may take an audio visual record of your evidence and, must do so, if you are a child of 16 years or less and have not already had that evidence pre-recorded;
- a criminal or civil court may admit an official audio visual or written record of your evidence given in an earlier criminal proceeding and relieve you of the obligation to give oral evidence in the current proceedings.
- The court may also make one or more orders that:
  - your evidence be given outside the trial court and transmitted to the trial court by means of closed circuit television;
  - your evidence be taken outside the trial court;
  - an audio visual record of your evidence be made and replayed in the trial court;
  - a screen, partition or one-way glass be placed to obscure the view of a party to whom the evidence relates or some other person;

- the defendant be excluded from the place where your evidence is taken, or otherwise be prevented from directly seeing and hearing you while giving evidence;

- you be accompanied by a relative or friend for the purpose of providing emotional support, or a court companion.

The court may also order that the court be closed to the public.

You can ask the witness assistance officer or the **prosecutor** about the special arrangements and provisions for vulnerable witnesses. The prosecutor can apply on your behalf, for an order but it is up to the **judge** or **magistrate** what order, if any, is made.

Even if you are not in any of these categories, you can ask to use these measures, but it is up to the court to decide.

### Guilty plea and sentence

The **accused** is able, at any stage, to change his or her plea from not guilty to guilty, even on the morning of the trial. If the accused decides to plead guilty before trial, you will not be required to give evidence in court.

If the **accused** pleads guilty or is found guilty after trial, he or she then needs to be sentenced by the court. The defendant will receive some discount in his or her sentence for pleading guilty to the offence, as opposed to being found guilty at trial.

The **prosecutor** will provide the sentencing judge, in the case of more serious offences, with the following to assist the court in deciding on sentence:

- all written **Victim Impact Statements** (see page ) prepared by the victim, and the victim's family and friends;
- in some cases, you or someone for you can read your **Victim Impact Statement** to the court; and
- the Antecedent Report—this is the record (if any) of the **accused's** previous offences and sentences.

After hearing submissions from both the **defence counsel** and the **prosecutor**, the judge will then sentence the accused. See the Commissioner for Victims' Rights website [www.voc.sa.gov.au](http://www.voc.sa.gov.au) and the Courts website [www.courts.sa.gov.au](http://www.courts.sa.gov.au) for more information on sentencing.

### Mentally impaired defendants

The law aims to protect the rights of persons with a **mental impairment** as well as the safety of victims and the community in general.

If the **defendant** was suffering from a mental illness or cognitive impairment at the time of the offence one issue that may be raised is whether the **defendant** was **mentally incompetent** to commit the offence or is mentally unfit to stand trial. If this is established, then:

- the **defendant** may be released unconditionally; or
- the **defendant** may be released on licence, for a period of time decided by the court. The court can impose conditions as to treatment, place of residence, or the non-use of and testing for illicit drugs and alcohol; or
- the **defendant** may be committed to a psychiatric institution for treatment.

The period of time set for any conditions imposed on a **defendant** will be similar to the sentence they would have received for the offence had they not been **mentally impaired**.

In deciding what order to make, the court will consider:

- the nature of the **defendant's mental impairment**
- whether the **defendant** is, or would if released be, likely to endanger another person, or other persons generally
- whether there are adequate resources available for the treatment and support for the **defendant** in the community
- whether the **defendant** is likely to comply with the conditions of a licence
- any other matters that the court thinks relevant.

The court considers psychiatric evidence and also the views of the victims, as well as the **accused's** family.

### Information on the attitudes of victims is usually prepared by staff from the Forensic Mental Health Service, Court Assessment Service.

You can read and download more information about your rights and mentally impaired defendants on the website of the Commissioner for Victims' Rights [www.voc.sa.gov.au](http://www.voc.sa.gov.au)

### The youth justice system

If the person who is accused of committing the crime was less than 18 years old at the time of the **offence**, he or she will usually be dealt with through the youth justice system. This system recognises that some young people do hurt other people and their property, and should do something to make up for this.

However, they do not have the full legal responsibilities of an adult, and may still be in the process of learning about these responsibilities and how to exercise them. In South Australia, youths who abide by the law, but made mistakes in growing up, are encouraged to start life without being limited by youthful errors.

However, the principle of restoration is an important one. This can be demonstrated through the Family Conference system.

Under the Young Offenders Act 1993, Family Conferences are held, in certain circumstances, as a way of diverting young offenders from court where the offence is minor.

Family Conferences provide an opportunity for the young person, the victim of the **offence**, family, supporters and a police officer to discuss what has happened, how it has affected each person and how the **offence** will be dealt with.

The conference is chaired by a Youth Justice Coordinator who encourages all participants to arrive, by consensus, at an appropriate outcome.

An outcome may include agreement by the youth to pay compensation, apologise either in person or in writing, perform community service, participate in various programs or anything else that is considered appropriate under the circumstances. Victims are encouraged to contribute to discussion regarding suitable restitution for the harm caused, or how the harm should be made good.

Compliance with undertakings is monitored by the Youth Justice Coordinator, and you will be informed of the outcome at the conclusion of the case.

Having you present at a conference can significantly affect a young person's understanding of the consequences of his or her offending behaviour. The process therefore encourages a young offender to take responsibility for that behaviour and participate in a process that is both restorative and healing for all participants.

Young offenders are also prosecuted in the Youth Court. Although the Youth Court deals with serious offences, there is no jury. It operates under similar law to other criminal courts but is required to act in ways to secure for youths who offend against the criminal law the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential.

The Youth Court is also a closed court - which means it is not open to the public - however, an exception is made for the victims of crime.

As a victim of crime allegedly committed by a young person, you should be treated in accordance with the declaration that governs treatment of victims and you should receive the rights to which you are entitled.

You will find the phone numbers for these agencies listed in the help section of this booklet (see pages XX).

Either the Witness Assistance Service (Office of the Director of Public Prosecutions), or the Victim Support Service (Court Companion Service), can take you to the court. They can show you a courtroom, and talk to you and your family about who will be where in the courtroom when the court sits, and what will happen. They can tell you about your rights, or help you get the services you need. They can help you prepare a **Victim Impact Statement** (see page XX).

The Witness Assistance Officer can also provide information specially prepared for child witnesses. They will be offered information and support by a Child Witness Assistance Officer.

Both the Witness Assistance Service (Office of the Director of Public Prosecutions) and the Victim Support Service can refer you to appropriate agencies for ongoing counselling.

If you need assistance or you have concerns when you attend the court, you can speak to the Sheriff's Officer in the court.

Sheriff's Officers are trained to assist persons attending the courts, and can help with the special needs of victims and witnesses.

Some courts have a special waiting room for witnesses who may feel vulnerable when waiting to go into the courtroom. The Sheriff's Officer can assist you to access the room, or, if it is not available, find you a safe place to wait.

The court may allow some witnesses to give their evidence by closed circuit television or videoconferencing from outside the courtroom in some circumstances. Alternatively, a screen can be put between the accused and the witness in the courtroom. Tell the prosecutor if you want him or her to make an application to the court for either of these arrangements to be made.

The **magistrate** or **judge** will make a decision on what special protection arrangements can be made. You will be told the decision as soon as it is made. If you want information about this, you can ask the **prosecutor**, Witness Assistance Officer or Sheriff's Officer.

### Court Companions

If you want you can have someone come to court and be with you (as a court companion) when you give evidence. You can arrange this through the Witness Assistance Service (Office of the Director of Public Prosecutions) or the (non-government) Victim Support Service. You can also arrange for a friend to do this by talking to the **prosecutor** or the Sheriff's Officer. (A person who is going to give evidence in the case cannot normally be a court companion.)

Volunteer court companions are trained by the Victim Support Service to offer information and support to crime victims, their families and friends and to prosecution witnesses. Contact the Victim Support Service if you require a volunteer court companion (see page ).

If you do not have a companion, you may ask for the Sheriff's Officer to sit near you when you are giving evidence. Tell the Sheriff's Officer before court starts if this is what you want.

### Victim Impact Statements

The **Victim Impact Statement** is your opportunity to tell the court about the impact the crime has had on you. It is a factor that the court will take into account in **sentencing**. It may help the **defendant** realise the effects of what he or she has done. The decision to make or not make a Statement is yours.

If you make a Statement it should tell what the crime did to you. It should include the effects the crime has had on your physical, emotional and social well being, and any monetary costs of the crime.

However, you cannot tell the Judge what to do, and you should not use the **Victim Impact Statement** to describe the crime or to abuse the offender (or anyone else).

You will need to provide details of any loss of income or of ability to earn. The **prosecutor** can ask the sentencing court at this stage for compensation from the offender for damage or loss.

You can fill out the **Victim Impact Statement** form or ask the police to do this for you. You can also decide not to fill it out. The Investigating Officer or police Victim Contact Officer can help you complete your victim impact statement. The form is available from the police, other justice agencies, victim support organisations or see [www.voc.sa.gov.au](http://www.voc.sa.gov.au). If you are a member of a community in which whatever happens to one person affects many people equally, you should discuss this with the person who helps you to prepare the Statement.

You may update your **Victim Impact Statement** at any time before it is presented in court. You may prepare a **Victim Impact Statement** without using the actual form, by writing your own statement.

If you do fill out the form, or if you write your own statement, the police will pass it on to the **prosecutor**. The judge and the lawyer representing the accused will get copies. The accused person will have a chance to read it.

You can ask for it to be read out in court for you or, if you are a victim of one of a certain group of crimes, you can read it out yourself.

You may be questioned about the truth of the Statement, although this is unusual.

The fact that you may choose not to read the **Victim Impact Statement** out in court does not affect how seriously the Judge treats it.

### The Victim Register

The Victim Service Unit in the Department for Correctional Services maintains a Victim Register. Registered victims are entitled to information about the offender if he or she is in prison, if he or she is serving a Community Service Order or a Bond.

In order to register as a victim of crime and be placed on the Victim Register, you need to show that:

- you are a victim of a criminal offence; and
- the offender you wish to register against is under the supervision of the Department for Correctional Services; or
- the offender you wish to register against is in prison in relation to the offence, or offences, for which that person is a victim.

See the end of this spread for information on how to register.

### Offender is serving a Community Service Order or Bond

If you are the victim of crime and the offender is serving a Community Service Order or Bond, you are eligible to apply for information about the order or bond.

You should be told, on request, if the offender was ordered to undertake community service – whether the offender completed the community service; and, if the offender was subject to a bond – whether the conditions of the bond were complied with.

To register as a victims of crime and receive this information, you must be the victim of the offence for which the offender has received the order or bond.

### Offender is in prison

If the offender is in prison, a registered victim is entitled to the following information:

- the name of the prison in which the offender is currently imprisoned
- sentence details
- security classifications
- details of any transfer of the offender from one prison to another
- date and circumstances under which the offender will be released (for example, on bail, leave of absence, home detention or parole)
- escape from custody and return to custody.

When a prisoner is reclassified to Low Security, he or she will become eligible for certain programs.

A prisoner on a leave program could be in the community, either accompanied or unaccompanied, for a limited time, under certain conditions. Leave could be granted for **home detention**, education, employment or other programs in preparation for returning to society.

Before a prisoner is able to participate in any of these pre-release programs, staff from the Department for Correctional Services will contact you. They will tell you what is involved in the proposed program(s). They will also discuss with you any conditions or restrictions that need to be made to the prisoner's leave. Your comments are very important in helping the Department for Correctional Services to decide the conditions under which a prisoner may have leave to go into the community. **However, you do need to be on the Victim Register if you want the opportunity to have this information, and to comment on the Department's plans for the offender.**

Certain emergency leaves may be granted to a prisoner at any security classification. For example, a prisoner may be granted leave under supervision to attend the funeral of a close relative. It may not always be possible to contact persons on the Register before such leave is granted.

### How to register

You can have your name placed on the Register by approaching the Victim Services Unit in the Department for Correctional Services (phone 8226 9067). The application form is also downloadable, see: [www.voc.sa.gov.au](http://www.voc.sa.gov.au) Only the Unit and, when appropriate, the Parole Board have access to your details. This ensures confidentiality. The person who committed, or is accused of committing, the offence cannot get hold of your details.

Before you are listed on the Victim Register, the Department will check details of the **offence** and of you with the police.

### The Parole Board of SA

If you are listed on the Victim Register, there will be an opportunity for you to make a submission to the Parole Board in writing or, by prior arrangement with the Board, in person before the prisoner is released on **parole**.

There are no hard and fast rules about what can be included in a victim's submission. Your submission could include the following:

- If you have specific areas of concern (such as worry that the prisoner will try to contact you), you might request that certain locations or areas be noted in the conditions as restricted areas for the prisoner;
- you might have outstanding issues that you feel should be brought to the Board's attention (for example, copies of Restraining Orders or other Family Court Orders that may be relevant); and
- you might mention continuing issues relating to the impact of the offence on you and your family.

Please note that the Parole Board cannot re-sentence the prisoner. The Parole Board's role is to:

- hear parole applications and decide whether a prisoner is released on parole;
- set parole conditions;
- monitor the progress of those on parole;
- hear breaches of parole conditions and determine what action is to be taken; and,
- to undertake Prisoner Reviews.

If you want to make a submission you should write to the Secretary, Parole Board of South Australia, 181 Flinders Street, Adelaide, 5000. **If you want to make a submission in-person, you should also contact the Secretary.**

All submissions to the Parole Board are confidential and prisoners will not have access to them under any circumstances. If, however, information from your submission is used to justify the Parole Board's decision and the prisoner asks for an explanation of that decision, the Board will summarise the relevant information in its report to the prisoner.

If the prisoner is paroled, and your name is on the Victim Register, you will be told his or her release date. You will be told of anything the prisoner must, or must not, do concerning you. For example, you will be told if the prisoner has to stay away from you, and what happens if he or she does come near you.

More information on victims' rights and parole is available on the website of the Commissioner for Victims' Rights [www.voc.sa.gov.au](http://www.voc.sa.gov.au) or by phoning (08) 82049635.

### Appeals

In certain circumstances the **accused** is able to appeal against either his or her conviction or his or her sentence. The **DPP** has a right to appeal in certain circumstances. This right will always be exercised with restraint and only where there is a reasonable prospect of success. You may write to the **DPP** asking that an appeal be considered. You must do this within 10 days of the court's determination.

### What assistance is available to me as a victim of crime?

If you have to give evidence in court, you can usually expect to be in the same room as the **defendant**. Because this can be embarrassing or threatening for some people, some ways have been developed to make it easier to give evidence.

The Police Victim Contact Officer, the Witness Assistance Service (attached to the Office of the Director of Public Prosecutions) and the (non-government) Victim Support Service can help you.

## Giving feedback or lodging complaints

The Declaration of principles governing the treatment of victims of crime applies to all South Australian public agencies and officials.

If you feel that you have been treated appropriately or wish to make suggestions on how to improve the way victims are treated, or complain your comments are welcome. Please direct your comments or suggestions as explained below.

As a victim of crime, you are entitled to complain if you believe that your rights have not been met and/or that you have been treated inappropriately. If you feel that your rights have not been recognised or have been given inadequate recognition there are a number of things you can do. These are explained below.

You should contact the Victim Contact Officer or a supervising officer at your local police station. Telephone your local police station (see the White Pages).

If you are not satisfied with the response that you receive or you have more than a minor grievance you should contact either:

### The Commissioner of Police

GPO Box 1539 Adelaide SA 5001

**Email:** [sapol.enquiries@police.sa.gov.au](mailto:sapol.enquiries@police.sa.gov.au)

### The Police Complaints Authority

GPO Box 464 Adelaide SA 5001.

**Phone:** 8226 8677

**Email:** [pca@agd.sa.gov.au](mailto:pca@agd.sa.gov.au)

**Website:** [www.pca.sa.gov.au](http://www.pca.sa.gov.au)

### Director of Public Prosecutions

GPO Box 464 Adelaide SA 5001

### Supreme Court of South Australia

Honourable Chief Justice  
301 King William Street  
Adelaide SA 5000

### District Court of South Australia

His Honour the Chief Judge  
GPO Box 2465 Adelaide SA 5001

### Magistrates Courts in South Australia

Chief Magistrate  
PO Box 6115 Halifax Street  
Adelaide SA 5000

If you are unsure of your rights, you can also contact the Commissioner for Victims' Rights:

- by telephone on 8204 9635
- in writing to GPO Box 464 Adelaide SA 5001
- by email: [vco@agd.sa.gov.au](mailto:vco@agd.sa.gov.au)
- website: [www.voc.sa.gov.au](http://www.voc.sa.gov.au)

## List of legal terms

**Accused** See defendant.

**Acquit** To find the accused person not guilty at a trial.

**Affirmation** A statement that something is true which may be made in place of an oath if an oath is contrary to a person's religious belief or if the person has no religious belief.

**Appeal** To take a case to a higher court in order to challenge a decision.

**Arraignment** The first appearance of the accused in the District or Supreme Court. This is usually brief and there is no need for the victim to appear at this hearing. The accused must indicate his or her plea to the charge(s) and a time is set for a directions hearing.

The accused may also at this time nominate to be tried by a Judge alone instead of by Judge and Jury.

**Arrest** To apprehend or take into custody a person suspected of having committed a crime.

**Bail** An accused person may be granted bail to allow him or her to go free while awaiting a court hearing. Sometimes money must be offered as a security, or the accused may simply promise (known as entering into a recognisance) to appear in court. Failure to appear is an offence.

**Barrister** A lawyer who argues cases in court.

**Bond** An agreement to be of good behaviour or a deed under seal in which a person promises to do or refrain from doing certain things. This is sometimes referred to as a recognisance.

**Burden of proof** The level of proof required. In criminal cases the prosecution bears the burden of proof beyond reasonable doubt.

**Charge** In criminal law, the formal allegation that a person has committed an offence.

**Child** A person under 18 years of age.

**Committal** Where a magistrate in a lower court hears proceedings evidence on an indictable charge and decides whether the accused is required to stand trial in a higher court.

## List of legal terms Continued

<p><b>Contempt of Court</b> The failure to obey a court order or an act which shows disregard for the authority of the court. A person in contempt may face imprisonment.</p> <hr/> <p><b>Corroborative evidence</b> Independent evidence that implicates the accused person by connecting him or her with the crime.</p> <hr/> <p><b>Defendant</b> The person accused of committing the crime. Also known as the accused.</p> <hr/> <p><b>Defence Counsel</b> The lawyer for the accused.</p> <hr/> <p><b>DPP</b> Office of the Director of Public Prosecutions, which is an independent authority responsible for prosecuting criminal charges.</p>	<p><b>Exhibit</b> A document or physical item tendered as evidence in a court hearing or referred to in an affidavit.</p> <hr/> <p><b>Home detention</b> A program providing for offenders and bailees to be detained in their homes according to an approved set of curfew conditions, and case managed /supervised according to the conditions of release set by a court, Parole Board, or Prisoner Assessment Committee.</p> <hr/> <p><b>Judge or Magistrate</b> Presides over the court and may be addressed as “Sir” or “Madam” or “Your Honour”.</p> <hr/> <p><b>Mental impairment</b> A mental illness, an intellectual disability or a disability or impairment of the mind resulting from senility.</p>	<p><b>Mental incompetence</b> A person is mentally incompetent to commit an offence if at the time of the offence, because of a mental impairment they did not know the nature and quality of their behaviour, or they did not know that their behaviour was wrong or they were unable to control their behaviour.</p> <hr/> <p><b>Mental unfitness to stand trial</b> A person is mentally unfit to stand trial if their mental processes are so impaired that they are not able to understand or respond rationally to the charge or the allegations on which the charge is based or they are unable to provide rational instructions to their legal representative or they are not able to understand the nature of the proceedings or follow the evidence during the course of the trial.</p>	<p><b>Non-parole period</b> When a judge imposes a <b>sentence</b> of imprisonment, a non-parole period will also be imposed. This is the minimum period the prisoner will serve before he or she is eligible for release. If this period is greater than five years, the release of the prisoner is dependent on the Parole Board.</p> <hr/> <p><b>Oath</b> A solemn undertaking or promise to tell the truth, usually sworn on the Bible. An <b>affirmation</b> can be made without formally swearing on the Bible.</p> <hr/> <p><b>Offence</b> A breach of the criminal law—an illegal act. A crime.</p> <hr/> <p><b>Parole</b> The probationary release of a prisoner on certain conditions before his or her <b>sentence</b> is finished.</p>	<p><b>Preliminary examination</b> See committal proceedings.</p> <hr/> <p><b>Prosecutor</b> Lawyer or police officer conducting a prosecution.</p> <hr/> <p><b>Recognisance</b> A bond to secure the performance of an act by the person bound by it, for example, to be of good behaviour.</p> <hr/> <p><b>Sentence</b> The penalty imposed on the accused if he or she is found guilty of an offence.</p> <hr/> <p><b>Subpoena</b> A court order for the appearance of a person in court or the production of specified documents to the court.</p> <hr/> <p><b>Summary offence</b> A minor offence heard and decided in a Magistrates Court and not sent for trial before a judge and jury.</p> <hr/> <p><b>Trial</b> The court case.</p>	<p><b>Victim Impact Statement</b> A document which you prepare and which informs the court what effect the crime has had on you, which is a factor the court should have regard to when determining the sentence. In some special instances a community leader or organisation may prepare the Statement on behalf of a number of people.</p> <hr/> <p><b>Warrant</b> In criminal law, a legal document that gives authority to a police officer to take the action set out in the warrant.</p> <hr/> <p><b>Witness</b> A person who gives either an eyewitness account of events about your case or expert evidence upon some matter affecting your case.</p>
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## Service list

### Allianz SA CTP

GPO Box 2198 Adelaide SA 5001  
**Phone:** 1300 137 331 (from anywhere in Australia for the price of a local call)  
**Fax:** 1300 137 431  
**Web:** [www.allianz.com.au](http://www.allianz.com.au)

### Anglicare SA Loss and Grief Service

**Phone:** (08) 8131 3400  
**Email:** [admin@anglicare-sa.org.au](mailto:admin@anglicare-sa.org.au)  
**Web:** [www.anglicare-sa.org.au](http://www.anglicare-sa.org.au)

### The Australian Funeral Directors Association (AFDA)

**Phone:** (03) 9859 9966  
**Toll Free:** 1300 888 188  
**Email:** [info@afda.org.au](mailto:info@afda.org.au)  
**Web:** [www.afda.org.au](http://www.afda.org.au)

### Births, Deaths and Marriages

2nd Floor, Chesser House  
91 Grenfell Street  
Adelaide SA 5000  
**Phone:** (08) 8204 9599

### Child and Youth Health

**Parent Helpline Phone:**  
1300 364 100  
**Youth Helpline Phone:**  
1300 13 17 19  
**Web:** [www.cyh.com](http://www.cyh.com)

### Commonwealth Department of Veterans' Affairs

**Phone:** 133 254  
**Web:** [www.dva.gov.au](http://www.dva.gov.au)

### Compassionate Friends

**Phone:** (08) 8351 0344  
**Email:** [tcf@arcom.com.au](mailto:tcf@arcom.com.au)  
(for enquiries and newsletter contributions), or  
[tcfkachat@bigbutton.com.au](mailto:tcfkachat@bigbutton.com.au)  
(for support and to chat with a volunteer bereaved parent)  
**Web:**  
[www.compassionatefriendssa.org.au](http://www.compassionatefriendssa.org.au)

### Commissioner for Victims' Rights

GPO Box 464 Adelaide SA 5001  
**Phone:** 8204 9635  
**Email:** [vco@agd.sa.gov.au](mailto:vco@agd.sa.gov.au)  
**Web:** [www.voc.sa.gov.au](http://www.voc.sa.gov.au)

### Coroner's Court

302 King William Street  
Adelaide SA 5000  
**Counselling Service**  
**Phone:** (08) 8204 0600

### Crisis Care

**Phone:** 131 611  
**Web:** [www.families.sa.gov.au](http://www.families.sa.gov.au)

### Families SA Funeral Assistance Program

**Phone:** 1300 762 577

### Forensic Science SA

**Details:** ?????????

### Kids Helpline

**Phone:** 1800 55 1800  
**Web:** [www.kidshelp.com.au](http://www.kidshelp.com.au)

### Law Society of South Australia

GPO Box 2066 Adelaide SA 5001  
**Phone:** (08) 8229 0222

### Legal Services Commission of South Australia

**Phone:** (08) 8463 3555  
**Legal Helpline:** 1300 366 424  
**Web:** [www.lsc.sa.gov.au](http://www.lsc.sa.gov.au)

### Motor Accident Commission

Level 2, 121 King William Road, Adelaide  
GPO Box 2438, Adelaide SA 5001  
**Phone:** 08 8422 8100  
**Fax:** 08 8422 8101  
**Web:** [www.mac.sa.gov.au](http://www.mac.sa.gov.au)

### Online Funeral Directory

**Web:** [www.funeraldirectory.com.au](http://www.funeraldirectory.com.au)

### Parole Board of South Australia,

181 Flinders Street Adelaide SA 5000

### Police Complaints Authority

GPO Box 464 Adelaide SA 5001  
**Phone:** 8226 8677  
**Email:** [pca@agd.sa.gov.au](mailto:pca@agd.sa.gov.au)  
**Web:** [www.pca.sa.gov.au](http://www.pca.sa.gov.au)

### Road Trauma Support Team

**Phone:** (08) 8152 0600  
1800 069 528  
**Mobile:** 0400 705 066  
**Web:** [www.roadtraumasupportsa.com.au](http://www.roadtraumasupportsa.com.au)

### Sheriff's Office

GPO Box 798 Adelaide SA 5001  
**Phone:** (08) 8204 0149  
**Email:** [sheriff@courts.sa.gov.au](mailto:sheriff@courts.sa.gov.au)

### South Australia Police Major Crash Victim Investigation Unit

**Phone:** (08) 8207 6559

### Major Crash Victim Contact Officer

**Phone:** (08) 8207 6525

### The Commissioner of Police

GPO Box 1539 Adelaide SA 5001  
**Email:** [sapol.enquiries@police.sa.gov.au](mailto:sapol.enquiries@police.sa.gov.au)

### Solace

**Phone:** (08) 8272 4334  
9am-11pm 7 days  
**Web:** [www.solace.org.au](http://www.solace.org.au)

### Witness Assistance Service

**Phone:** 8207 1529

### Victim Register

Victim Services Unit in the Department for Correctional Services  
**Phone:** 8226 9067

### Victim Support Service

**Phone:** 8231 5626  
Metropolitan callers during office hours.  
Country callers please phone the closest office from the list below:

**Mt Gambier:** (08) 8723 2968  
**Murray Bridge:** (08) 8531 3987  
**Port Augusta:** (08) 8641 1115  
**Port Lincoln:** (08) 8683 0111  
**Port Pirie:** (08) 8633 4888  
**Riverland:** (08) 8582 2801  
**Whyalla:** (08) 8649 2522

Otherwise ring 1800 182 368 during office hours. A message can be left on the answering machine after hours.

**MAC**

Motor Accident Commission



Government  
of South Australia