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# Introduction

*This handbook has been prepared to help guide families through one of the saddest and most difficult periods in their lives — losing a loved one due to a crime-related death. This is a time when people experience a range of emotions. It is also a time when practical arrangements need to be made and support and timely information are required.*

*The issues that arise from a crime-related death are usually far more complex than those arising from a death from natural causes. Your world may be turned upside down and everything you took for granted may be in doubt. Making decisions can be very difficult and often made more so by not knowing how or where to get information. For many, this is a very confusing and frightening time. There will be many issues you will need to become involved in and some that you won't. Knowing the difference and being able to access information that will assist you is important.*

*With this in mind, this handbook has been designed to give you answers to frequently asked questions and issues. It specifically deals with deaths that arise from:*

- *murder, manslaughter or grievous bodily harm charges that later result in a death*
- *road fatalities where a person has been or is likely to be charged in relation to the death of a loved one.*

*It covers a wide range of issues, some of which will be relevant to you now and*

*some later. The handbook is not meant to be a comprehensive guide but it will provide you with a map to navigate your way through different issues you are likely to encounter. It is intended to be a quick reference, providing essential information on a given topic as well as information on who to contact if you need further help.*

*As you will have contact with the police and possibly State Prosecutors, a glossary of legal terms has been provided at the end of the handbook.*

*This handbook may help families better understand the criminal justice system.*

*The Victim Support and Child Witness Service has compiled this handbook with invaluable assistance from members of the Homicide Victims' Support Group, the WA Police, Coroner's Office and the Office of the Director of Public Prosecutions. Other Government and non-government agencies have also helped provide information and we acknowledge their valuable contributions.*

*When death is caused by the violent act of another person, the distress and grief you experience is often more severe, difficult and complicated than a death by natural causes.*

# *Coping when someone close has been killed*

Grief is a personal journey.

When death is caused by the violent act of another person, the distress and grief you experience is often more severe, difficult and complicated than a death by natural causes. You may become overwhelmed and wonder how you are going to cope.

In addition to coping with your own feelings, you will have stresses put upon you by the investigation of the death, media and other things that follow an unexpected death. These stresses are often outside your control. You are also likely to experience a delay before the person who has died can be buried.

## Reactions

At the news that someone you love has met with a sudden, violent death, your first reactions are likely to be of disbelief, shock and numbness. You may refuse to comprehend or absorb the full impact – the death may not make sense. You may demand more information to answer the many questions that you have. Nothing in our coping ability prepares us for this level of psychological trauma.

The other stress reactions you may experience include: anger and at times rage, fearfulness, anxiety, vulnerability, guilt and blame. You may have difficulties concentrating, remembering things and making decisions. This is often experienced as a loss of control and is quite normal given the trauma you are dealing with. You may also feel the need to emotionally withdraw until you can make sense of this tragedy. There is often a sense of being emotionally separated from one's closest supports, and this can lead to feeling isolated and misunderstood. Some people experience

these reactions as physical pain and aching in their body, leading them to worry that they are physically ill.

Some of the physical signs of stress include: insomnia, nightmares, fatigue, frequent crying, headaches, weight loss or gain, and nausea. Other health conditions previously under control may become problematic.

It is important to recognise that reactions to sudden loss and grief are normal. We all deal with grief differently. Some family members/friends may withdraw while others may talk a lot or immerse themselves in work. All are ways of mourning, trying to cope and regain some sense of control.

Children do not always express their grief in the same way as adults as they may not be able to express or understand their feelings. As an adult you may need to help them.

## Finding support

Grief is a personal journey – it is a process, not a state. It takes time to move through the process and recover.

You will need ongoing comfort, support and understanding to move towards re-establishing your normal pattern.

You may experience setbacks during grieving. Reminders like birthdays, anniversaries and other special events, and the criminal trial may cause you to revert to being distressed. It is important that you get support and seek out counselling when you need it. Professional counsellors have knowledge in working with people affected by trauma and are aware of resources and services.

## Counselling

The Victim Support and Child Witness Service provides free counselling to victims of crime in metropolitan and regional areas. Staff understand the criminal justice system and can provide information and support. See Chapter 9 for contact details.

## Support groups

Support groups can offer you the opportunity to talk to people who have experienced a similar tragedy.

The Homicide Victims' Support Group is a self-help group of people who have suffered a loss of a family member or friend to homicide. The group provides support, information and advocacy. They can be contacted on **0419 241 220**. Refer to Chapter 10 on the Homicide Victims' Support Group.

## Coping with a child's grief

The perception of death varies greatly among children and how the child finds out about the death is important.

Children react to trauma and grief in a similar way to adults and this often depends on their age and level of understanding. Young children react through their behaviour more than through words. Older children may need help to express their thoughts and feelings.

## How can we help?

- Be honest and keep explanations as simple and clear as possible, suitable to the age and development of the child.
- Speak at a level your child can understand. Be open, but modify explanations according to the child's understanding.
- Encourage them to be open about their feelings.
- Spend time playing with younger children as they play out their feelings.
- Reassure them that they are still loved and will be cared for. They may need reassurance that they will be safe. This is especially important after a homicide, where they may feel that the world is an unsafe place;
- Provide a friend/ally to the child who will assist them during the funeral service and early days of grieving.
- Explain that the family's reaction to grief is normal and will not last forever.

- Be patient if your child's behaviour regresses. Normally this is temporary, but if it persists, you may want to talk to a doctor or counsellor.
- Be consistent and maintain your child's usual routine.
- Displaying emotion in front of your child is OK. Share your grief but do not depend upon your child to care for you.
- Inform the child's teacher/school/daycare, so they can be prepared for any behavioural changes or changes in the child's grades.
- Be a parent in the way you normally would – children still need boundaries. It helps them feel safe and secure.

### **How to tell children someone they love has been killed**

There is no easy way to tell a child that their parent or someone they love has been killed. You may feel that it is your responsibility to do this but you may not know how. If you need help, get

someone to be with you. Don't forget that you will have to manage the child's reactions as well as your own. While it is OK to show your feelings, being out of control can be frightening for a child. The child will be looking to see who will be their strength and support at this time.

Before you sit down with the child try to create a place where there is safety and privacy so that they can react in whatever way they need.

Try to minimise the distractions around you (eg, turn off the TV) so you can get the child's full attention – but don't expect to keep it as the information may be too difficult to listen to. Sometimes having a favourite toy or belonging can be helpful for a child as something to hold on to when all around is falling apart.

Keep to the truth as much as possible, although it can be difficult to know how much information to include when the death is homicide-related.

Keep explanations as clear and simple as possible and use the language the child is used to. It is advisable not to mix

medical and religious explanations. For example, if you tell them that God has taken their sister to heaven because she was good, she might assume that God has overlooked her because she was bad, not good enough or that God might come and get her later.

Also avoid saying things like 'mummy has gone to sleep', as this may make them too scared to go to sleep, in case they never wake up. 'Mummy has gone away for a long time' can be interpreted as mummy has deserted them, and they may think that mummy is punishing them, which in itself can cause guilt and feelings of desertion.

Let children ask questions and encourage them to do so. He or she will need to process and make sense of what they are being told. Asking questions is how children do this. If you don't know the answer tell the child so and that you will find out if you can.

Children will naturally wonder who is going to look after them especially if a parent has been killed or is not coping. Try and explain who is going to look



after them, what is going to happen and when things will take place. A child needs someone to re-establish control and certainty.

**REMEMBER** *you can only do your best and these are only hints, not rules.*

## **Should a child go to the funeral of a loved one?**

This is often a difficult question for parents who want to protect the child from the sadness and emotional outpouring of grief that accompanies this occasion.

Child authorities have come to the conclusion that not only is it correct to permit a child to attend the funeral, but from about the age of seven – the child should be encouraged (but not forced) to attend. To shut them out may actually be damaging their sense of belonging, and may lead them to believe that they are not important enough to attend the funeral. However, the choice must remain with the child. If they genuinely don't want to attend, it is important to

respect their wishes.

Explain to them what to expect at a funeral. Give them an explanation as to why we have funerals, who will be coming, how long they will be there, and that it is a time to honour the person who has died.

Remember that children often have a 'short sadness span' and that outward signs of grief may come and go.

Although they may not completely understand the ceremony surrounding the death, being involved in the funeral will help establish a sense of comfort that life goes on even though someone they loved has died.

For further information on children's different stages of development and understanding death please refer to the appendix at the end of this booklet.

*The police will investigate the circumstances of an unexpected death where a person dies violently or from unusual or suspicious circumstances.*

*They will work in conjunction with the Coroner's Office and charges may be laid depending on their findings.*

# *Police investigation*

Many services are involved in the investigation of a sudden death.

Many services are involved in the investigation of a sudden death. In some cases this may be a charge under the Road Traffic Act where it involves dangerous driving causing death or it may be a charge under the Criminal Code, such as death resulting from a serious assault or murder. The investigation process is similar irrespective of the final charges that are laid.

## Homicide investigation

Many services are involved in the investigation of a homicide. All have an important and vital role to play in solving what happened, how it happened and who was involved. The police are often the first to attend the scene when they have been notified a body has been found. Other service providers are often involved in the investigation.

### The Western Australian Police

In the metropolitan area the Major Crime Squad is responsible for investigating all homicide-related deaths.

In regional WA, local detectives may carry out the investigation with support from Major Crime Squad staff. Detectives are nominated for different roles which include:

- Senior Investigating Officer (SIO) – an experienced detective who is responsible for the overall leadership, management and coordination of the investigation.
- Family Liaison Officer (FLO) – a detective appointed to liaise with the family.

The role of the Family Liaison Officer is to:

- Notify the family of the circumstances of the death;
- Immediately establish and maintain a rapport with the family and/or friends of the victim;
- Arrange visual identification of the victim (where necessary);
- Take any relevant exhibits as items of evidence or DNA examination (eg, clothing, hairbrushes etc);

- Facilitate the flow of information between the investigation team and the family;
- Prepare the family for media enquiries;
- Introduce the family to the Victim Support Service and other support groups;
- Prepare family members for any court proceedings; and
- Provide general support.

The family can expect to receive:

- Information deemed relevant by the officer in charge of the investigation; and
- Ongoing contact with the Family Liaison Officer.

## Crime scene investigators

These are forensic police officers who specialise in collecting and examining evidence at the scene, and also take photographs of the scene.

## Pathologists

Pathologists from Forensic Science

examine the victim's body and the immediate surrounding area where it is located.

## Uniform patrols — police

These officers attend the scene of the crime and secure the scene by placing 'DO NOT CROSS' tape around the scene. At the direction of detectives, police patrol sometimes door knock the local area and search the area outside the crime scene for clues.

## Ambulance officers

An ambulance may be called by the person who has found the victim's body. The ambulance service attends and examines the body for evidence of life.

## Media

The media are sometimes involved at the scene of the crime. They can also play a part in helping police collect information from the public. All calls from the public are immediately

transferred to the investigation team. News reports announcing the murder can occur any time from two to eight hours after the discovery of the body.

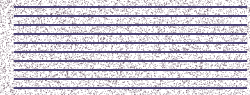
## The crime scene

The process of investigating, securing and collecting evidence from a crime scene can take days to complete depending on the circumstances. Crime scenes are secured to ensure all evidence is collected. No access to the public or the victim's family is allowed during this time.

## Delays

Property seized as relevant evidence to be used as exhibits in the trial will not be returned until completion of the trial or until legal requirements are completed. This may not occur for many years. There could be delays in releasing the crime scene until the collection of evidence has been completed.

There may be delays in releasing the victim's body to the family for burial,



in particular when waiting for results of forensic tests and considering whether further tests are required. Viewing of your loved one can be arranged at the mortuary if you wish. Please speak to the police Family Liaison Officer or the Coroner’s Counselling Service to arrange a viewing.

## Investigation of a traffic fatality

In all cases where a person has died as a result of a traffic crash, a police investigation, on behalf of the Coroner will take place.

### Who will investigate the crash?

All serious and fatal traffic crashes are investigated by either the Local Traffic Investigation section who cover the area where the crash occurred, or the Major Crash Investigation section.

The circumstances surrounding the traffic crash will determine who will carry out the investigation.

The Major Crash Investigation section investigates traffic crashes throughout WA where a surviving driver may be held responsible for occasioning death or serious injury to another person.

### How do I contact the crash investigation office?

Contact details for the WA Police Crash Investigation Offices:

**Major Crash Investigation Section**  
**State Traffic Operations**  
**2 Clayton Street**  
**MIDLAND WA 6056**  
**Phone:**

<b>North West Metro</b>	<b>9400 0969</b>
<b>West Metro</b>	<b>9345 9040</b>
<b>Central Metro</b>	<b>9222 1873</b>
<b>East Metro</b>	<b>9250 0325</b>
<b>South Metro</b>	<b>9430 1231</b>
<b>South East Metro</b>	<b>9451 0016</b>

Investigating police officers work rotating shifts and may not always be in the office. It is best to contact the relevant office between 8am and 4pm.

To assist you in your inquiry, it is helpful to have some details recorded about the crash to ensure that you speak with the right officer. You will need to record the officer’s name and work location, phone number, incident report number and the crash file number. You will need these details for future reference and to forward to the Insurance Commission of WA (see Chapter 19). If you lodge a claim, you may want to use the next page to record these details.

### **Reference details**

Name of deceased person:

---

Date of crash:

Time of crash:

---

Location of crash:

---

You are currently talking to:

Ph:

---

The crash is being investigated by: (inquiry officer) of (crash office)

Ph:

---

Incident Report Number:

---

State Crash File Reference Number:

---

## **What is involved in a police investigation?**

The investigators will conduct an investigation by obtaining statements from witnesses and various technical and forensic reports. The report may take some months to complete.

The investigation may result in the prosecution of a person and there are a range of charges that may be laid depending on the circumstances.

In some cases only minor traffic charges may result, while others may involve more serious criminal charges. Some crashes may result in no charges being laid at all. In all cases, the investigating officers can keep you informed of the investigation's progress.

If you prefer, you can nominate a close friend or family member as a point of contact. This sometimes makes it easier for the investigators to relay information about the investigation. Don't be afraid to contact the investigating officer if you have any concerns.

## **What is an identification and why is it necessary?**

When a motor vehicle crash results in a death, the investigating officers must positively establish the identity of the deceased person.

The identification is necessary so that the police, as agents of the coroner and other authorities, are absolutely certain of the identity of the deceased person.

Also, a formal identification is necessary for future legal requirements, ie burial, cremation and registration at the Registry of Births, Deaths and Marriages.

## **Who is required to perform an identification?**

An identification must be performed by a person who knew the deceased person well, preferably a relative or close friend. That person is required to view the deceased person and confirm his/her identity in the presence of a police officer.



The investigating officer will explain where and when the identification will take place. Other family members or friends may accompany a person performing an identification.

Apart from the formal identification, further viewing of the deceased person may be arranged through a funeral director.

Under certain circumstances, the identification of the deceased person may have to be established through the use of fingerprints or dental records.

## **Will the police release the deceased person's name to the media?**

WA Police have a policy that they will not release a person's name for 24 hours to allow relatives to be notified. The time can be extended in certain circumstances, however in due course name(s) will be released.

## **What happens to the vehicle?**

Generally, the police will hold a vehicle involved in a fatal crash at an authorised yard for later examination by a vehicle examiner. A vehicle may be released after the mechanical examination, but others may be kept as a court or coroner's exhibit and released after that time.

If the crash occurred in the country, the vehicle may be held at a police station or crash repairer. If you are unsure of the location of the vehicle, contact the inquiry officer.

If you require property from the vehicle, or you want to view the vehicle, contact the investigator to make an appointment.

The vehicle compound staff will not allow access to the vehicle without permission from the investigator.

## **What if I don't want any charges laid?**

The investigating officer, in conjunction with the Director of Public Prosecutions, will make the decision as to whether any charges will arise from the crash.

## **If someone is charged with the offence, can they still drive their motor vehicle?**

Yes, until the courts resolve the matter, the charged person is not considered to be guilty of any offence.

*Bail is the right granted to a person charged with an offence to be released from custody, on the condition that they undertake to return to the court at some specified time, and abide by any other conditions the court may impose. A person granted bail remains under the authority of the court.*

# *Bail*

Many factors are considered when the issue of bail is being addressed.

In Western Australia, the legislation that deals with bail matters is the *Bail Act 1982*.

Bail is a right that can be granted to a person charged with an offence to be released from custody, on the condition that they undertake to return to the court at some specified time, and abide by any other conditions the court may impose. A person granted bail remains under the authority of the court.

In some cases, on top of personal obligations, the person charged might be released to another person or people. This person or people, in the way described by the law, become security for the charged person by guaranteeing their future court appearance.

### **What factors are considered when setting bail?**

Many factors are considered when the issue of bail is being addressed. These are set out in the *Bail Act 1982*.

The full set of principles governing the

granting or refusal of bail is quite extensive. The main points taken into account by the relevant authority when considering bail are:

- a) whether, if the accused person is not in custody, they may:
  - fail to appear in court in accordance with the bail undertaking;
  - commit an offence;
  - endanger the safety, welfare or property of any person; or
  - interfere with witnesses or generally obstruct the 'course of justice';
- b) whether the accused person should be held in custody for their own protection;
- c) what grounds the prosecutor puts forward in opposing bail;
- d) whether there are grounds for believing the trial may be prejudiced if the accused is not kept in custody during the trial period;
- e) if the accused is charged with

an offence alleged to have been committed against a child, the accused be required to reside at a different place to the child; and

- f) whether the alleged circumstances of the offence(s) are of such a serious nature that granting bail would be inappropriate.

Point a) above is influenced by a number of factors. When considering whether the accused may do any of the things listed, the authority determining the granting of bail must consider the following:

- a) the nature and seriousness of the offence(s) and the probable method of dealing with the accused, if convicted;
- b) the character, previous convictions, home environment, background, place of residence and financial position of the accused;
- c) the history of any previous grants of bail; and
- d) the strength of evidence against the accused.

Bail is generally not granted for the most serious offences such as murder.

If the family of the deceased victim feel they are at risk from the accused person, the prosecutor can inform the court and can use this as grounds to oppose bail or have appropriate conditions imposed.

### **If bail conditions/terms are broken, what can be done?**

If bail conditions are broken, it should be reported to police as soon as possible, with information about the bail undertaking and details of the breach committed. If police are satisfied there has been a breach of bail conditions, the matter can be taken to the court, which can issue a warrant to arrest the accused person for breach of bail conditions.

*For most people, arranging a funeral is not something they find easy. If possible, ask someone to help you make the arrangements.*

# *Funerals*

Arranging funerals can be a tense time for families - not only because of how emotional people usually feel but also because family members might have different views about what should take place. This is normal and if differences arise ask someone you trust to help you.

For most people, arranging a funeral is not something they find easy. Unless you have had to organise one before, you may not even know where to start. The circumstances of the death of your loved one are likely to make organising their funeral even more difficult. If possible, ask someone to help you make the arrangements because there are many decisions to make and you may not be thinking clearly at this time.

Arranging funerals can be a tense time for families not only because of how emotional people usually feel but also because family members might have different views about what should take place. This is normal and if differences arise ask someone you trust to help you.

### **Organising a funeral**

Not all people who die have a will that appoints an executor, so the next of kin or other relatives are responsible for making arrangements. In most cases, a funeral director will be contacted to arrange the funeral. Remember that the funeral should be what you want for your loved one so don't be afraid to speak up if you are not happy with what is being organised. Mostly, funeral directors are very sensitive and can assist in meeting your specific personal or cultural needs.

Although arrangements for a funeral can be made, the burial or cremation cannot be carried out until the coroner releases the body.

The funeral director will make the necessary enquiries with the Coroner's Office regarding this on behalf of the family. You can also ask to view your loved one while they are at the mortuary (see Chapter 6). Alternatively, the funeral director can organise a viewing at their premises.

Usually your loved one will be released for burial or cremation following an identification and post mortem examination. In some instances, it may be necessary for organs to be retained for a time for further examination. You may want to take this into consideration when planning a funeral date. To find out if organs have been retained, contact the duty counsellor at the Coroner's Office as soon as possible.

For information regarding the Coroner's Office and death certificates see Chapter 6.

### **Paying for a funeral**

Funerals can be very expensive. It is important to know what you are agreeing to and how much each part of



it will cost. This is not an easy time to be discussing money but it is important that you are very clear about what the final cost will be. Once again, it is important to have a friend or someone you can trust to help you with arrangements.

If your loved one had a will it is important to ask the executor to read it as it may provide for funeral costs and specify whether cremation or burial is preferred. Some private health insurances, sickness and accident insurance, union membership or life insurance policies may pay funeral and death payments. Therefore, it is also important to ask people who were close to the deceased (eg employers, accountants, financial advisers or the like) if they know of any financial plans or insurances. It is always advisable to get a written quotation. You may be able to pay the amount off in instalments, but you must negotiate this with the funeral director before you sign the service contract. The person who signs the service contract for the funeral may be held responsible for any outstanding debts.

Sometimes, however, neither the deceased's estate, their family or friends have the financial resources to pay for the costs of a funeral. The Department for Child Protection may be able to provide assistance where family or next of kin are unable to pay for or raise credit to meet the cost of a private funeral under the Bereavement Assistance Program.

Contact the Department for Child Protection's Bereavement Assistance Program on freecall **1800 854 925**.

You might hear people talking about being eligible for compensation. The State has a Criminal Injuries Compensation scheme. Refer to Chapter 18 for more details. Funeral expenses may be dealt with as an interim payment before a final determination is made on the application for compensation. However, if the application is refused this payment must be repaid.

The Insurance Commission of WA deals with fatal injury claims resulting from a motor vehicle crash. Funeral costs may be covered under third party insurance. To find out if you have a claim, telephone 9264 3333 to contact the Motor Vehicle Personal Injury Division. For more information, refer to Chapter 19 on insurance.

## Media

Depending on how your loved one has been killed, be aware that the media (TV, radio, newspapers) is likely to have an interest in what is happening. They may try to contact you or people you know. They may even be present at the funeral. Chapter 7 may be helpful if you would like some ideas on how to manage the media and have your needs and wishes respected.

*The police provide information to assist the  
Coroner's Office in establishing  
the cause of death.*

# *Coroner's Office*

The Coroner must enquire into every death that occurs suddenly and unexpectedly to establish the cause and circumstances of the death.

**Coroner's  
Office**

The Coroner must enquire into every death that occurs suddenly and unexpectedly to establish the cause and circumstances of the death.

### **Coroner's inquiry**

The police will provide the Coroner with information on the details of the place and manner of death and the identification of the deceased. The forensic pathologist provides details on the cause of death to the Coroner. It may take months for all of this information to be put together.

Where a person is to face criminal charges, the Coroner can only proceed to a finding into the death once all court proceedings against the offender have been completed. This will result in delaying the coronial inquiry.

### **What is a post mortem examination?**

A post mortem examination, also known as an autopsy, is a step-by-step external and internal examination of the deceased's body by a forensic pathologist to establish the medical cause of death.

During the internal examination, some tissue and blood samples are usually retained for specialised laboratory analysis. In some cases, it may be necessary for whole organs to be retained for further examination to confirm the cause of death. In crime-related deaths, post mortem examinations are an essential part of collecting forensic evidence, understanding the cause and explaining the circumstances surrounding the death.

The post mortem examination is carried out as soon as possible. In most cases, your loved one's body is released for burial or cremation immediately after the examination, but a homicide may result in a few days' delay.

If organs are retained, they may be held for several days or longer. This may need to be taken into account when deciding on a funeral date. A coronial counsellor will contact you immediately if any organs need to be retained. If you want to know more about the post mortem process, contact the Coroner's Office on **9425 2900** and ask for the Duty Counsellor.

### **Where is the state mortuary?**

The mortuary is located next to, but separate from the Accident & Emergency Department at Queen Elizabeth II Medical Centre, Hospital Avenue, Nedlands.

### **If I live in the country, who pays the cost of transporting the deceased for a post mortem?**

The Coroner's Office will cover the cost of transporting the deceased to Perth and returning them to the place of death. If a funeral is to be held elsewhere in the State, the family should contact the Coroner's Office to discuss transport.

## Can I object to a post mortem?

The police will present next of kin with a pamphlet, *When A Person Dies Suddenly*, which outlines the right of the next of kin to object to a post mortem. An objection should be lodged by the next of kin within 24 hours of receiving the Coroner's brochure. If you wish to object to a post mortem examination do not set a date for the funeral, as the objection process may take several days.

NOTE: In the case of a homicide, a post mortem is central to the evidence required for investigation and prosecution of the offender(s). In the majority of cases where the circumstances are suspicious, the Coroner will order that an immediate post mortem take place. This may result in the automatic overruling of an objection, even prior to the Coroner's Office being advised of the wishes of the family. Traffic deaths are often dealt with as routine coronial inquiries, and the right to object to a post mortem will be examined by the Coroner once an objection is received.

If after receiving your objection the Coroner still decides that a post mortem should be held, s/he must give you (the senior next of kin) written notice stating the reasons for the decision. If you still wish to oppose the Coroner's decision, you will need to apply to the Supreme Court for an order within 48 hours of receipt of the letter.

## How do I apply to the Supreme Court for an order?

You will need to engage a solicitor to lodge a writ with the Supreme Court. The Supreme Court may take up to two weeks before a hearing is listed.

Should the court uphold your objection not to proceed with the post mortem, you will not have a cause of death.

## When can I begin funeral arrangements?

You can make funeral arrangements whenever you are ready by contacting a funeral director. The funeral director will contact the Coroner's Office to determine the earliest release of the body on

behalf of your family.

The body is released to the funeral director when the identification and post mortem have been completed; this is usually within three to four days.

If you have particular cultural or religious requirements for the funeral, remember to discuss these with your funeral director.

Refer to Chapter 5 on funerals for more information.

## Can I see the deceased?

Viewing of the body can be arranged. In certain situations, a viewing may not be recommended.

Following the formal identification at the state mortuary, family members are encouraged to discuss their requests for viewing with their funeral director. Refer to Chapter 5 on funerals for more information.

If you wish to view the body at the mortuary, please contact the mortuary on **9346 2533** or after hours on **9346 2536**. If the death occurred in the

country and the deceased was not taken to Perth, the body of the deceased is likely to be held at the local hospital.

### **Where can I obtain a copy of the death certificate?**

The final Registration of Death (death certificate) is issued following a coronial inquiry. Usually the Registration of Death is available after several months but if the matter is going to trial, it may take longer.

Check with your funeral director to see if they have arranged for a death certificate. This is included in the funeral expenses and they may be sending one automatically.

An interim death certificate is available prior to a cause of death being established by the Coroner. This certificate can be used in limited circumstances to assist in progressing matters of the deceased person's estate to access money in bank accounts by a spouse and for Centrelink purposes. Interim and complete Registration of Death certificates are available from the

Registry of Births, Deaths & Marriages, Level 10, Westralia Square, 141 St Georges Terrace, Perth. The phone number is 1300 305 021.

### **What is an inquest?**

An inquest is a formal court hearing in which the Coroner hears evidence to assist in determining the manner and cause of death. The Coroner's Court operates in an inquisitorial manner with the Coroner pursuing lines of enquiry. The Coroner will finalise the inquest by making a 'finding' as to how the death occurred.

Normally, if charges are laid or if the death is the result of a homicide, an inquest will not be held. Under other circumstances, for instance where a missing person is believed to have been murdered, an inquest may be necessary.

## **Will I be advised if an inquest is to be held?**

The next of kin will be advised by letter of the Coroner's intention to hold an inquest into the death of your family member.

You can attend the inquest and discuss any queries with Counsel Assisting the Coroner.

You may choose to obtain legal representation. If you have questions regarding the death, you can request to view the coronial file. One of the coronial counsellors can facilitate the viewing of the file to provide you with support and answer queries. It is important to talk to the Coroner's Office about your rights and the inquest process as they can arrange a court supporter for you, if requested.

## **Can I request an inquest?**

You are advised to put your request in writing stating the reasons or the questions to which you hope to obtain answers. Your request will be considered

and a response provided by the Coroner. It is recommended that you discuss your wishes with the duty counsellor who will advise on how to submit your request and the resulting process.

## **When can I access my loved one's personal belongings?**

Personal effects, including jewellery are removed during admission to the mortuary and placed in safe custody by police officers until they can be returned to the family. In the event that the deceased's personal belongings are held as forensic evidence, they will be returned on request after the criminal proceedings are completed.

Return of personal belongings can be arranged by contacting the police investigating officer. It may also be wise to make arrangements to be contacted prior to the belongings being sent or delivered, to prevent unnecessary distress should they arrive without warning.

## **Coronial Counselling Service**

The counselling service is free and can provide support to family members and answer questions about the coronial investigation process. If you have any questions, a counsellor would be happy to help. A counsellor is available seven days a week between 7am-6pm.

The Coronial Counselling Service is at Central Law Courts, Level 10, 501 Hay Street, Perth.

Phone: **9425 2900**

Country callers: **1800 671 994**

Weekends and public holidays:

**0419 904 476.**

*By now, you have more than likely had some  
contact with the media.*

*Any comments you make to the media could  
impact on forthcoming legal proceedings*



# *Dealing with the media*

Prior to talking to the media, it is important you consult with the police or the prosecutor so as not to jeopardise legal proceedings.

Dealing with  
the media

By now, you may have had some contact with the media. Some people find this traumatic or intrusive.

How people feel about the media often depends on how respectfully they have been treated and how accurate the reporting has been. You may already have made a statement to the media or may plan to in the future (for example, after the arrest of a suspect or during or at the conclusion of a trial). It is important that the information you provide is reported accurately. For this reason, the following information on dealing with the media has been included.

## **Legal implications**

Any comments you make to the media could have an impact on forthcoming legal proceedings, especially if a suspect has been arrested and a court case is pending. Once a suspect has been charged, it is suggested that you speak with someone from the office of the Director of Public Prosecutions, police, Victim Support Service or Homicide Victims' Support Group before saying anything in the media.

## **After the death**

The media may approach you immediately after the death for comment. It is best to avoid making any comment unless asked to do so by the police to assist in their investigation. The police will arrange for a media conference to be held and will be with you to offer advice and support when you speak with the reporters.

In some cases, reporters may come to your home to seek comment or to obtain pictures of the deceased. If you do not want to speak with them,

politely decline their requests. If they persist, advise them that you will contact their editors and/or police to lodge a complaint. It is important to remember that reporters are simply going about work they have been assigned. Some may approach their tasks more vigorously than others and this can, sometimes, be taken for arrogance or aggression.

The manner in which you deal with the media can have a big impact on the way they relate to you. If you do not feel strong enough to deal with them personally, have a family member or trusted friend speak to them on your behalf. Avoid angry outbursts but be firm.

## **During a trial**

The media may be present at the trial of the accused. They may want to film the family entering and leaving the court. While this may seem intrusive at the time, in most cases they will not hinder you unnecessarily. It is a generally accepted practice that media can film/

photograph/interview people involved in court cases on public land around courthouses without hindrance.

Remember that you are under no obligation to speak to the media under these conditions, nor should they make it difficult for you to move from the court to your transport. It may be advisable to arrange for a friend or other family member to collect you from the front of the court in order to avoid being followed by the media to where your vehicle is parked. Where personal security is an issue, special protective measures will be put in place for both your arrival and departure from court.

## Sentencing

Again, you are under no obligation to speak to the media, however it is an opportunity to let the community know how you feel. If you do decide to comment, it is advisable to prepare a brief statement in writing before you speak to the media. If you do not wish to speak directly to the media yourself you can appoint a spokesperson for the

family to read your statement to the press.

Again, many cases of unlawful death attract media attention because of the nature of the crime/s. Dealing with this intrusive presence in your life is just one of the many adjustments you will be making at this time. While sudden grief will manifest itself in many ways, try to avoid attacking the media presence as that may be reported. Rather, you may use it as an opportunity to express your feelings to the widest possible audience. What you think and feel is important and the media can help you to be heard.

Prior to talking to the media, it is important you consult with the police or the prosecutor so as not to jeopardise legal proceedings.

For more information about dealing with the media, refer to Chapter 10, on the Homicide Victims' Support Group.

*As a victim or secondary victim you can submit  
a Victim Impact Statement to assist  
the court at sentencing.*

# *Treatment of victims*

The *Victims of Crime Act 1994* issues guidelines regarding how victims of crime, including the immediate family of the deceased, should be treated.

**Treatment of  
victims**

The *Victims of Crime Act 1994* issues guidelines regarding how victims of crime, including the immediate family of the deceased, should be treated. The guidelines apply to all public officers and bodies of the Western Australian Government and are to be followed wherever possible. As a victim or secondary victim you can submit a Victim Impact Statement to assist the court at sentencing. For more information, refer to Chapter 15 on Victim Impact Statements.

The following guidelines are contained within the *Victims of Crime Act 1994*:

- A victim should be treated with courtesy, compassion and with respect for their dignity;
- A victim should be given access to counselling, information about the availability of welfare, health, medical and legal assistance services and criminal injuries compensation;
- A victim should be informed about the availability of lawful protection against violence and intimidation by the offender;
- Inconvenience to a victim should be minimised;
- The privacy of a victim should be protected;
- A victim, who has so requested, should be kept informed about —
  - the progress of the investigation into the offence (except where to do so may jeopardise the investigation);
  - charges laid;

- any bail application made by the offender; and
- variations to the charges and the reasons for the variations;
- A victim, who is a witness in the trial of the offender and has so requested, should be informed about the trial process and the role of the victim as a witness in the prosecution of the offence;
- A victim, who has so requested, should be informed about any sentence imposed on the offender, or any other order made in respect of the offender, as a result of the trial and about any appeal and the result of any appeal;
- A victim's property held by the State or the police for the purposes of investigation or evidence should be returned as soon as possible;
- Arrangements should be made so that a victim's views and concerns can be considered when a decision is being made about whether or not to release the offender from custody, otherwise at the completion of a term of imprisonment or detention;
- A victim, who has so requested, should be informed about the impending release of the offender from custody and, where appropriate, about the proposed residential area of the offender after release; and
- A victim, who has so requested, should be informed of any escape from custody by the offender.

If you believe that you have not been treated in accordance with these guidelines, you have the right to complain to any of the Government agencies that acted inappropriately.

The Victim Support Service can help you obtain information about the crime incident and to support you in lodging a complaint.

For more information, contact the office on 9425 2850 or 1800 818 988.

*The aim of the Victim Support Service is to ensure that victims of crime and their families are given access to counselling as well as information about the availability of welfare, health, medical and legal services.*



# *Victim Support Service*

The Victim Support Service is free, confidential and available across the State.

**Victim Support  
Service**

The Victim Support Service (VSS) is usually advised of all crime-related deaths. Once the service has been advised of an unlawful death it will attempt to either contact you in person or write to you.

VSS is operated by the Department of the Attorney General and provides a broad range of services to victims of crime, including support to family members. Where someone has died as a result of a crime, support is provided to the deceased's family and close relatives (often referred to as secondary victims). The service is free and confidential and provided on a metropolitan-wide basis by professional counsellors and volunteers. The service is also available in 13 major regional centres.

The aim of the VSS is to ensure that victims of crime are given access to counselling as well as information about the availability of welfare, health, medical and legal services. It can put you in direct contact with appropriate Government departments, private organisations and support groups.

## The Victim Support Service provides the following:

- Counselling and support;
- Information about a wide range of other services;
- Appropriate referral to other support services;
- Assistance in writing a Victim Impact Statement;
- Witness preparation and support during a court case;
- Information on the status of police investigations;
- Information about court proceedings;
- Support when making an application for a violence restraining order;
- Assistance with enquiries about criminal injuries compensation; and

- Help to understand your entitlements within the criminal justice system.

## Child Witness Service

The Child Witness Service is a support service that assists children who are required to give evidence in court in criminal matters. The service is free and provides non-evidentiary, practical and emotional preparation and support to children on an individual basis. For further information regarding these services, contact Victim Support and Child Witness Service on **9425 2850** or **1800 818 988** or visit the Department of the Attorney General website at **[www.dotag.wa.gov.au](http://www.dotag.wa.gov.au)**

*The Homicide Victims' Support Group is a self-help support group made up of people who have lost a loved one to homicide.*

# *The role of the Homicide Victims' Support Group*

Monthly meetings are held to provide support and information. Through the 24-hour telephone support line, they provide ongoing support for each other.

The Homicide Victims' Support Group (HVSG) is a self-help support group made up of people who have lost a loved one to homicide. Monthly meetings are held to provide support and information. Through the 24-hour telephone support line, they provide ongoing support for each other. It is important to note that the group provides support and information, not counselling.

## **The executive committee**

A management committee meets monthly, on a separate date, and runs the business side of the group. The executive committee aims to deal with issues of social reform and education.

## **What can I expect at the HVSG meetings?**

The meetings run according to the agenda, with a coffee break in the middle, and time for members to voice any concerns or share their experience in the latter part of the meeting. Members are invited to light a candle in memory of a loved one. Guest speakers are invited to attend on a regular basis.

The HVSG has a close working relationship with the Victim Support Service and the police Major Crime Unit. Members have an opportunity to ask questions in an informal way.

The group has access to a network of services and is able to refer people to different agencies — or people who can help with specific issues or problems.

The group provides a place where members can express their feelings in a caring and supportive atmosphere.

Experiences of loss are accepted as normal. It is somewhere to go and share with others who have had a similar experience.

There is no judgement of how you feel or cope.

You may find that you form an external support network with other members that you have a rapport with, meeting for coffee or just having people to talk with on the phone.

When people come to the meetings, there is no obligation to do or say anything.

Confidentiality is one of the 'house rules' that is there to protect your privacy and the privacy of other group members.

## **Who can join?**

Anyone who has lost a loved one to homicide.

## **When is the best time to attend?**

It is an individual decision. Whenever you want to, or feel comfortable to attend, is when it is right for you to attend. You may find that you attend regularly or infrequently but stay in touch with some of the people you meet.

## **Who do I contact to join?**

It is advisable to contact someone from HVSG before you come to a meeting.

You can call **0419 241 220** (24 hour volunteer service) to obtain more information about the meeting venue, time and date.

- *Children's Court*
- *Magistrates Court*
- *District Court*
- *Supreme Court*



# *Jurisdiction of the courts*

Each court has its own jurisdiction that determines the type of matters it can hear.

**Charges that are laid for criminal matters as a result of a death of a person, may be heard in one of the following courts:**

- Children's Court
- Magistrates Court
- District Court
- Supreme Court.

### **Children's Court**

The Children's Court hears matters related to offences committed by people who are under the age of 18 years at the time of the offence. Serious offences are usually heard by a judge (also known as the President) of the Children's Court.

### **Magistrates Court**

This court deals mostly with summary offences committed by adults of 18 years or over. However, all accused adults make their first appearance in the Magistrates Court. Depending upon the seriousness of the offence, and what is permissible under the Criminal

Code, the matter is channelled to the most appropriate court. The Magistrates Court is presided over by a stipendiary magistrate or by justices of the peace. There is no jury in this court.

## **District Court**

The District Court hears indictable offences which may include grievous bodily harm, and some cases of dangerous driving causing death. The court is presided over by a judge and jury, however an accused can apply to be tried by a judge alone, subject to the State's consent.

## **Supreme Court**

The most serious offences including manslaughter, murder and wilful murder, are tried in the Supreme Court. Again, the court is presided over by a judge and jury, however an accused can apply to be tried by a judge alone.

*Following investigation, the police decide whether to lay charges. In making this decision, the police may seek advice from the Director of Public Prosecutions (DPP).*

# *Decision to prosecute*

It is the responsibility of the DPP to review the evidence and decide whether the charges can be sustained or different charges laid.

Following investigation, the police decide whether to lay charges. In making this decision, the police may seek advice from the Office of the Director of Public Prosecutions (DPP). The police will then forward a 'brief', which includes witness statements and other relevant information, to police prosecutions. Initially, the matter goes to the Magistrates Court where it is dealt with by a magistrate.

It is the responsibility of the DPP to review the evidence and decide whether the charges can be sustained or different charges laid. If the charges are to be proceeded with in the higher courts then an indictment will be presented.

Charges that result from offences committed under the *Road Traffic Act*, may be dealt with differently from offences arising from the criminal code, even though in each situation a death may have resulted. Some *Road Traffic Act* offences can be dealt with summarily. This means the charge may be heard in the Magistrates Court. The prosecution process is outlined in

the next chapter. Indictable offences are usually referred to a higher court. The DPP will then take over the prosecution from the police.

The decision to prosecute or not is the responsibility of the DPP and is subject to its Prosecution Policy and Guidelines.

Generally the DPP will prosecute the matter if:

- there is a reasonable prospect of a conviction
- it is in the public interest to do so.

### **Role and function of the Office of the Director of Public Prosecutions**

The main function of the Office of the Director of Public Prosecutions is to conduct serious criminal prosecutions on behalf of the State.

The DPP does not represent you and is not 'your lawyer'. The DPP represents the community as a whole and acts independently in the public interest.

The DPP:

- Prepares legal cases
- Appears in court on behalf of the State including for bail applications
- Conducts the prosecution at the trial
- Represents the State at the sentencing of the offender
- Appears at an appeal by the offender or the DPP.

## What contact you can expect from the DPP

The DPP will usually initiate contact with you by sending a standard letter (including a notification form) informing you of the forthcoming court appearance and inviting you to prepare and submit a Victim Impact Statement. If you wish, the DPP will keep you informed of the charges laid, court dates, the progress of the case, and whether you are required to give evidence. You will need to complete and return the notification form to be kept informed.

The Victim Support Service can assist

with the preparation of a Victim Impact Statement. Refer to Chapter 9 on the Victim Support Service and Chapter 15 on Victim Impact Statements.

## Witnesses

If you are going to be a witness at the trial, the DPP will liaise with you about your availability. However, ultimately, the court sets trial dates.

The DPP will arrange to have the sheriff, or in some cases, a police officer, serve you with a summons.

If necessary, the DPP will provide assistance with travel and accommodation.

## Proofing

Where the accused person pleads not guilty to the charges, the matter will go to trial. You may be required to give evidence in court. The prosecutor may arrange to meet you and go through your police statement. This is called proofing. If you have any concerns about what might happen at the trial, you can discuss these with the prosecutor.

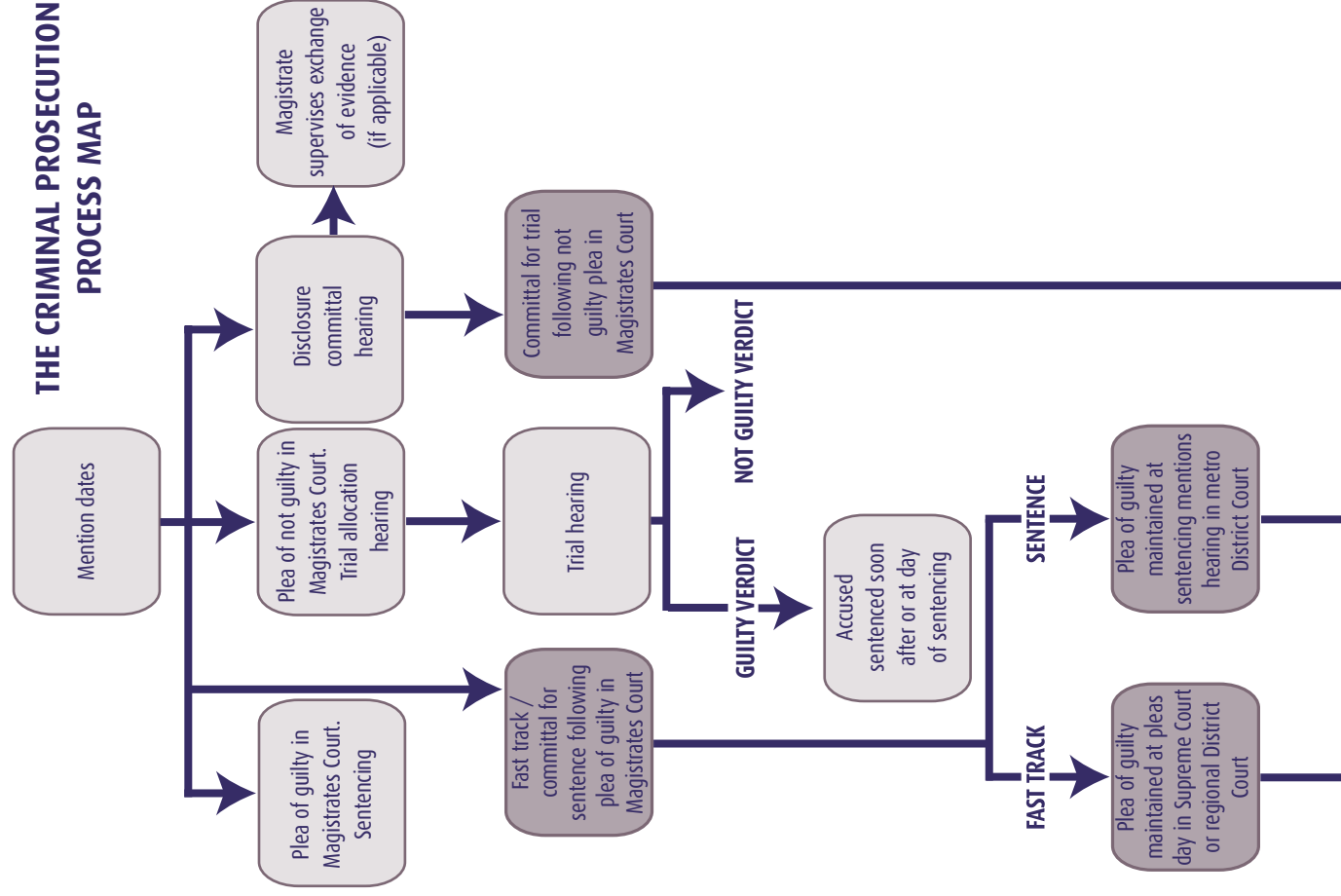
*The prosecution process for all indictable offences always begins in a Magistrates Court for adults. In some cases the Magistrates Court will not have the power within its jurisdiction to hear serious matters and will refer these to either the District or Supreme Courts.*



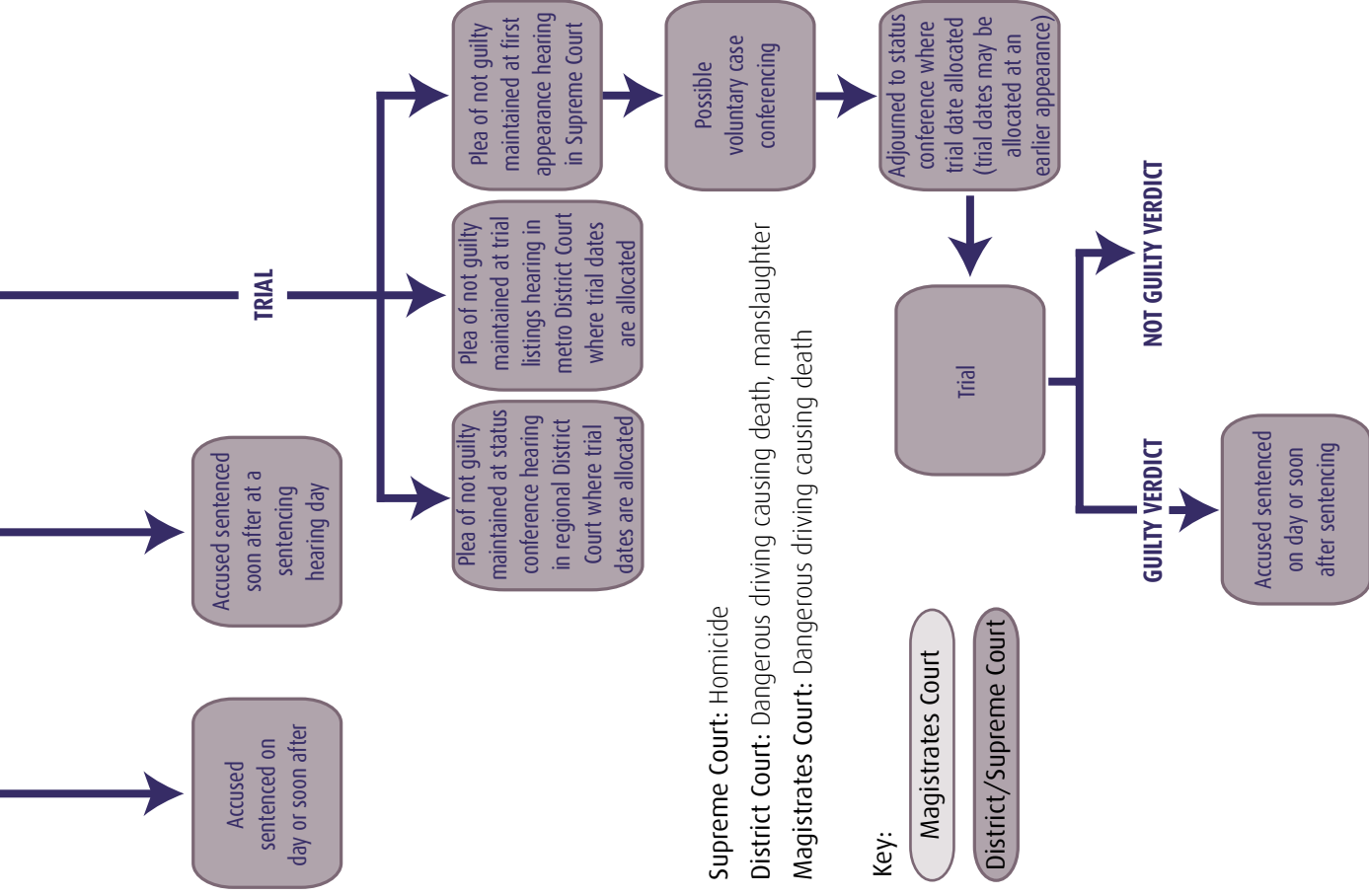
# *The prosecution process*

There are many steps in the prosecution process.

## THE CRIMINAL PROSECUTION PROCESS MAP



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The prosecution process for all offences always begins in a Magistrates Court for adults. In some cases the Magistrates Court will not have the power within its jurisdiction to deal with serious matters and will refer these to either the District or Supreme Courts. Some cases of dangerous driving causing death can be dealt with in the Magistrates Court.

Either way, there are a number of procedural steps that can lead to the accused making numerous appearances in the same court. Refer to the criminal prosecution process map on the previous page.

All courts are open courts and you can attend at any of the appearances made by the accused. However, in rare cases, a judicial officer may 'close the court.'

The following descriptions will assist you to understand more about these steps as well as some of the language used in courts.

### First mention day

This will usually be the accused person's first court appearance in the Magistrates

Court. Routine administrative issues are discussed and the charges will be read out but the accused may not be required to enter a plea. If the accused is a juvenile, they will appear in the Children's Court.

Instead of entering a plea, the accused may be allowed further time to get a lawyer, or to speak further with their lawyer about the charge. This can happen more than once, particularly if the charge is serious. If this happens, the matter will be adjourned to another mention day in the Magistrates Court.

### Further mention day

Once the accused has had an opportunity to speak further with their lawyer, the accused may tell the court they are ready to plead to the charge. The charge may be read to the accused and the accused will say that they:

- are guilty;
- are not guilty; or
- they want the matter to go to a committal mention. This only applies

to a charge that must be dealt with in the District or Supreme Court.

In some cases, depending on the charge, if the accused pleads guilty the Magistrate may sentence the accused there and then. If the accused pleads not guilty and the charge is one that can be dealt with in the Magistrates Court, a date for a trial will be set, probably some months away.

### Fast-track system

If the accused pleads guilty at this early stage and the charge is one that needs to be dealt with in the District or Supreme Court, this starts a 'fast-track' process. This means the accused will appear next in the District or Supreme Court for sentencing. They may be given a reduced sentence in recognition of their early acceptance of responsibility for the offence.

### Committal mention

If at the mention day the accused chooses a committal mention day for a

charge that must be dealt with in the District or Supreme Court, the defence counsel can get a full disclosure of all the prosecution evidence. If the defence counsel chooses this option, the matter is adjourned for six to eight weeks and all the evidence is provided to the defence counsel by the next appearance which is called a 'committal mention'. At a committal mention, the charge will then usually be sent to the District or Supreme Court. A committal mention can also be dispensed with if both parties agree and the charge can be sent straight to the higher court.

## **Plea**

A 'plea' is the accused's indication to the court whether they are pleading guilty or not guilty to the charge. The accused can enter a guilty plea at any stage of the proceedings, including up until a verdict is handed down following a trial.

## **Plea process in the higher courts**

If the accused has pleaded guilty on the

fast-track system, their next appearance will be in the District or Supreme Court. If they are to appear in the District Court in Perth, the next appearance will be called an 'initial mentions sentencing list'. The accused is not sentenced on this day, which is for checking all materials required for the sentencing will be available. They will be sentenced on a day usually two to three weeks later. If the accused is to appear in the District Court outside of Perth, or in the Supreme Court, then the first date will be a pleas date.

## **Pleas date**

If a matter is sent to a higher court, the accused will again need to appear and enter a plea. At a pleas date the accused person is identified, the charge document (called an 'indictment') is read and a plea is entered. This process is called the arraignment. Sometimes an accused who has pleaded not guilty previously, may change their plea to guilty at this time. If the accused pleads guilty, the judge may sentence the accused straight away. However,

sometimes after hearing from the parties, a judge may adjourn the sentencing to consider what the proper sentencing should be and a further sentencing date may be set.

If the accused continues to plead not guilty, the next appearance will be at a status conference.

## **Status conference/Trial listing hearing**

A status conference is a procedural hearing involving a judge, the prosecutor and defence counsel (when the accused is represented) and the accused, to discuss the availability of witnesses and case preparation in order to work out what date the trial should be held and how many days it is likely to run. Depending upon the complexity of the case and the availability of court time, there may be more than one status conference. The District Court refers to status conferences as 'trial listing hearings'.

## Directions hearing

A directions hearing is a procedural hearing involving the judge, the prosecutor, defence counsel (when the accused is represented) and the accused. The purpose of this hearing is to raise and determine points of law and obtain decisions on matters relating to witnesses such as witness status, pre-recorded video evidence, and the use of closed circuit TV for the trial. Not all cases will need a directions hearing.

## The trial in the Magistrates Court or Children's Court

If the charge is not one that has to be heard in the District or Supreme Court, then it will be a magistrate sitting alone without a jury who will hear the evidence and decide whether the accused is guilty or not guilty. Other than the absence of a jury and that the case will usually be prosecuted by a police prosecutor rather than an Office of the DPP lawyer, many of the features of the trial may be the same

as in the higher courts. A trial in the Children's Court will be similar to a Magistrates Court trial, without a jury.

## The trial in the District Court or Supreme Court

At the trial, the accused will usually be tried by a judge and jury, however in a small number of cases the trial may be by judge alone. The purpose of the trial is to present all relevant admissible evidence to the jury (or judge where it is a trial by judge alone) to help it decide the innocence or guilt of the accused person.

## People involved in the trial

### Judge

The judge is responsible for the fair conduct of a trial and that it operates according to the rules of law and for ensuring that those involved act within the guidelines of good legal practice. The judge answers questions on law, directs the jury, and ensures the smooth operation of the court. At the end of a trial the judge addresses the jury and

instructs them as to the applicable law and makes comments on the evidence where required.

Sentencing is also the responsibility of a judge.

### The jury

A jury consists of 12 people from the community who are selected at random from a pool drawn from the electoral roll. The duty of each juror is to listen carefully to the evidence and decide whether or not the accused is guilty beyond reasonable doubt.

### State prosecutor

This is a lawyer representing the State who presents and argues the case for the State.

### Defence counsel

This is a lawyer acting for the accused, who represents the interests of the accused person.

### **Judge's associate**

The judge's associate is also known as the Clerk of Arraignment, who acts as the administrator in court on behalf of the judge. The associate is responsible for the empanelling of the jury, ensuring that relevant forms are issued, reading the charges to the accused, recording exhibits and ensuring that decisions are recorded.

### **Judge's orderly**

This is the personal attendant to the judge who is responsible for making announcements in court about starting, adjourning, concluding and calling witnesses into court.

### **Sheriff**

The Sheriff, or sheriff's officer is responsible for the welfare, care, control, supervision and protection of jurors during and after trial and service and execution of court documents.

### **Accused**

This is the person who has been charged

(the defendant). If convicted, the accused is referred to as the offender.

### **Witnesses**

Witnesses give evidence under oath at a preliminary hearing or trial.

### **Court security officer**

These officers are responsible for keeping order in court.

### **Court recorder/transcription service**

These people type the transcripts of court proceedings.

### **The verdict**

For a charge of murder, the jury must return a unanimous verdict. For charges other than murder, where the jury cannot all agree on a verdict, after a minimum of three hours the judge can ask the jury for a majority verdict. A majority verdict requires that 10 of the 12 jurors agree.

If the jurors cannot agree, it is called a 'hung jury' and the trial is aborted. There may have to be a re-trial. Any decision

as to whether a re-trial will occur is made by the Office of the Director of Public Prosecutions.

If a not guilty verdict is returned, the accused person is discharged and is free to go, unless they are in custody for some other reason.

### **Sentencing process**

If an accused is found guilty, they are referred to as the offender. When the offender is to be sentenced, the prosecutor reads out the facts of the case and if there is a defence counsel, they present a plea in mitigation. A plea in mitigation usually deals with the circumstances of the facts leading up to the incident, the background of the offender and addresses the issues that may affect the penalty from the offender's point of view. The prosecutor will also address from the community's point of view. The offender may be sentenced on the spot or the matter can be adjourned to enable the judge to obtain reports about the offender (such as psychological reports) prior to determining a penalty.



*Being called to give evidence in court  
may be daunting.*



# *Information for witnesses*

Information  
for witnesses

When the matter goes to trial you may be required to give evidence.  
You will be known then as a witness.

When the matter goes to trial you may be required to give evidence. You will be known as a witness. You should receive a summons to give evidence at the hearing.

If you are in doubt, contact the police investigating officer or the Office of the Director of Public Prosecutions (DPP), if the DPP is involved.

If you would like court support, contact the Victim Support and Child Witness Service.

## Meeting the State prosecutor

If the prosecution has called you as a witness for the prosecution, usually the prosecutor will organise to meet with you, to go over your police statement before the trial. At the meeting you will discuss your evidence and clarify any concerns you have about the trial.

If you are not required as a witness, you may still like to meet the prosecutor and discuss any issues of concern before the trial. Contact the Office of the Director of Public Prosecutions to discuss your request.

Being called to give evidence in court may be daunting. If you have any concerns about your personal safety at court or about giving evidence in front of the defendant, discuss this with Victim Support Service or the prosecutor. The prosecutor may be able to apply to the court to have you declared a special witness. As a special witness, you may be entitled to give evidence from behind a screen or on closed circuit TV.

You may like to contact the Victim Support and Child Witness Service to arrange court support, court orientation and to do witness preparation. There may be a separate room for you to wait in.

## Open court and the public gallery

Generally the courtroom is open to the public unless, in rare cases, the judge has ordered it closed. The public gallery is located at the rear of most courts.

Family members can sit in the public gallery throughout the trial. If you are required to be a witness, you will have to wait outside the courtroom until you have given evidence, then you may sit in the public gallery.

## Before court

Help prepare yourself before you give evidence in a hearing by observing the following:

- Reflect on the incident that you will be providing evidence about and try to remember details like dates,

times, description, actual words, as best you can; don't worry if you cannot remember everything.

- Ask the prosecutor if you can read your statement to refresh your memory; in some cases the prosecutor may not wish you to do this.
- If you think you will need an interpreter on the day of the trial, discuss this with the prosecutor.
- Court hearings are listed under the name of the accused. To find out which court the matter is listed in, enquire at the court reception and then go to the waiting area outside the courtroom and wait to be called.
- If you are concerned about contact with the accused, let the court officer know.
- Do not discuss your evidence with anybody and do not go in to the courtroom until the orderly calls you.

- You may have a long wait before being called, so be sure to take some light reading to keep yourself occupied.

## **In court**

The court orderly will call you from the waiting room and show you to the witness box.

You will be asked to swear an oath or affirmation which is a promise to tell the truth.

The process of being a witness for the prosecution starts with the State Prosecutor asking you questions about your knowledge of or involvement in the offence. This is referred to as evidence in chief. The prosecutor cannot 'lead' or put ideas to you, only provide prompts. Any evidence you give depends on what you remember. It is followed by cross-examination by the defence counsel. The prosecutor may then follow by asking questions known as re-examination. Sometimes the judge may also ask questions to clarify your evidence.

### Helpful tips

- Remain calm and try to give your evidence clearly;
- Consider each question carefully. There is no need to rush;
- If you do not understand a question, say so and ask for it to be clarified;
- If you do not remember events, say so. Don't guess answers;
- If you begin to cry, remember it is natural to be upset when talking about distressing things. No one will get angry with you;
- You can ask the magistrate/judge for a break if you need one;
- If you have a break in the middle of giving evidence, do not discuss the case with anyone; and
- After you have completed giving your evidence, the magistrate/judge will excuse you and you are then free to remain in court or leave.

### Courtroom attire and etiquette

Courts are formal places where behaviour is expected to be respectful and orderly to facilitate cases being heard properly.

It is important to wear appropriate clothing in the court. Talking, smoking, eating and chewing gum are not permitted in the courtroom. Mobile phones and watches with alarms must be switched off. The use of cameras, video tape recorders or any other electronic equipment is not allowed without permission from the magistrate/judge.

In the Magistrates Court, the magistrate and lawyers do not wear robes. In higher courts, lawyers wear black gowns and a white jabot (tie). The judges usually wear black gowns in the Supreme Court and black, red and purple gowns in the District Court. Judges and lawyers in the District and Supreme Courts used to wear wigs, but these were abolished from January 2010.

Respect is to be shown to the magistrate or judge by:

- standing and bowing when s/he enters the courtroom and sitting when they are seated;
- correctly addressing the judge or magistrate as 'Your Honour', 'Sir' or 'Ma'am'; and
- when entering or leaving the court, while the court is in session, bowing to the State crest behind the judge or magistrate.

## Arranging childcare

If you have children to care for and are required as a witness, you can apply to the Department of the Attorney General for free child minding. Approved local childcare centres are used but must be arranged ahead of the trial date.

For matters being heard at the Central Law Courts, contact the registry on **9425 2262**. In the outlying metropolitan courts and in country regions, contact the local clerk of courts.

## Remember:

- It is important to make your application early to ensure that the childcare will have a vacancy to accommodate your children on the day you need childcare;
- You should call or visit the courthouse and make an application as soon as you receive your summons;
- An authorisation number and a list of local approved childcare centres will be provided to you; and
- Quote your authorisation number to the childcare staff when making the booking, as this will ensure that the Department of the Attorney General will pay the costs.

## Claiming expenses as a witness

If you are called as a witness, you may be eligible to claim expenses for loss of wages, travel and meals. Proof of expenses incurred will be required. For further information, contact the court counter staff or the Office of the Director of Public Prosecutions.

*A Victim Impact Statement tells the court  
of the impact the crime has had on you and your  
family.*

# *Victim Impact Statements*

The Victim Support Service can help you prepare a victim impact statement.

**Victim Impact  
Statements**

Unless you are a witness in a trial, you will have no formal involvement with the courts in relation to the death of your loved one. However, you may like to say how the crime has affected you and your family.

You can do this by submitting a Victim Impact Statement to the court. The purpose of a Victim Impact Statement is to inform the judge or magistrate of the impact the crime has had on your family.

The court uses a Victim Impact Statement only if the offender pleads guilty or is found guilty. It is presented to the judge or magistrate in writing before the judge or magistrate decides a sentence. Verbal statements can also be made to the court but the court needs to give permission to do this.

A Victim Impact Statement is submitted to the court via the police prosecutor or the State Prosecutor (Director of Public Prosecutions). It needs to be prepared before a trial or hearing because sentencing can sometimes take place immediately after the offender is found guilty (though more often sentencing



is set for a later date). If you want to make a verbal statement, you will need to speak with the police or State Prosecutor.

Three copies of the Victim Impact Statement are submitted to the court, one for the judge, one for the prosecutor and one for the defence lawyer. Because of this, the accused may get to see what you have written. Sometimes the judge may refer to your statement in court or the prosecutor may read excerpts. This means that people who are in the court may hear parts of your statement and this includes the media. If you do not want this to happen, you need to advise the prosecutor.

A brochure outlining how to prepare a Victim Impact Statement and what can and cannot be included is available from the Victim Support and Child Witness Service or the Department of the Attorney General website. If you need help, ring the Victim Support and Child Witness Service on **9425 2850** or visit the Department of the Attorney General

website at  
**[www.dotag.wa.gov.au](http://www.dotag.wa.gov.au)** or the Victims of  
Crime website at  
**[www.victimsofcrime.wa.gov.au](http://www.victimsofcrime.wa.gov.au)**

*Either the offender, the State (through the  
Director of Public Prosecutions) or the  
Attorney General can initiate an appeal.*

# *Criminal appeals*

Appeals are heard in a higher court from the court that made the original decision.

**Criminal  
appeals**

If the appeal is from the decision or verdict of a magistrate or a Children's Court magistrate, the appeal will be heard by a single judge of the Supreme Court.

If the appeal is from a decision or verdict of the District Court, Supreme Court, or President of the Children's Court, the appeal will be heard by the Court of Appeal of the Supreme Court. Generally this is made up of three Supreme Court judges.

Either the offender, the prosecution (through the Office of the Director of Public Prosecutions) or the Attorney General can initiate an appeal.

The family, partner or friends of the victim do not have the right to appeal against a conviction or sentence themselves.

The offender has a right of appeal if the grounds of the appeal relate to the:

- conviction
- sentence

The State can appeal against:

- the sentence

- an acquittal by a magistrate or judge sitting alone without a jury.

In very limited circumstances, the State can appeal an acquittal by a jury, but only where there were serious errors of law by the trial judge in directing the jury. Such appeals are extremely rare. In almost all cases, an acquittal by a jury means that the matter is finished.

The principle of 'double jeopardy' usually prevents someone being tried twice for the same offence.

Appeals against conviction or acquittal usually relate to errors in law in the conduct of the trial. Appeals against sentence usually relate to the sentence either being too harsh or manifestly inadequate, depending upon who is bringing the appeal.

An appeal must be brought within 21 days of the conviction or sentence. However, in special circumstances, the court may allow a convicted person or, more rarely, the prosecution to appeal out of time.

If an appeal is lodged, the party bringing the appeal is called the appellant and the person/party against whom the appeal is brought is called the respondent.

If an appellant/offender is successful and the appeal is upheld against:

- conviction — the conviction will be quashed and an acquittal entered or a retrial ordered;
- sentence – the court may either increase or reduce the sentence.

Family and friends who have concerns about their safety and protection, need to be aware that the upholding of an appeal may lead to the immediate release of the accused either because the conviction is set aside or the sentence is reduced and the accused has already served the new period of imprisonment. Where an appellant is unsuccessful, the appeal will be dismissed. This means that the result of the trial or sentencing remains the same.

## Frequently asked questions

***Q. Can the partner/family/friends attend the appeal hearing in the Supreme Court or the Court of Appeal?***

A. Generally, any member of the public can attend the hearing of an appeal.

***Q. How long will the appeal process take from the time of lodging the application until a decision is made?***

A. It varies from case to case. However on average it is quicker than the time it takes from the commission of the alleged offence until trial.

***Q. Can the offender lodge the appeal him/herself?***

A. While an offender may have a lawyer acting for him/her, many offenders lodge appeals against sentence in person.

***Q. If the offender/appellant engages a lawyer, can this be covered by Legal Aid?***

A. Sometimes, though many offenders lodge appeals in person as legal aid is not always available.

*Under the Victims of Crime Act 1994,  
victims of crime can request to be informed about  
the availability of protection against violence and  
intimidation by the defendant/offender.*

# *Protection*

Once an accused is charged, the bail conditions may include no contact with you and your family.

**Protection**

Under the *Victims of Crime Act 1994*, victims of crime may have access to protection against violence and intimidation by the defendant/offender.

Therefore should you or your family receive any threats, implied or direct, from the offender or on their behalf, contact the police for assistance. The Victim Support and Child Witness Service can provide assistance should you decide to apply for a Violence Restraining Order (VRO). You can apply directly to any Magistrates Court for a restraining order or, if the offender is under the age of 18 years, to the Children's Court.

The restraining order is designed to deter acts of physical violence and to limit threats to you in the future. Having a restraining order allows the police to intervene on your behalf if the conditions are breached.

Once an offender has been charged, the bail conditions can include no contact with you or your family. For information on bail conditions, refer to Chapter 4.

## Offender release information

Under the *Victims of Crime Act 1994*, victims can request to be informed about the impending release or escape of an offender in custody.

The Victim Notification Register (VNR) provides information about the status of the offender to the victim of an offence committed by the offender. The service is available to people who have either been the direct victim of a crime or to the immediate family where the offence has resulted in death. The offender must either be in custody or subject to a community supervision order (ie the offender must be under the supervision of the Department of Corrective Services).

Information that may be provided includes:

- details of the sentence imposed, including eligibility dates for early release programs.
- changes to the sentence including any arising from an appeal



- custody release date of the offender
- information about providing a victim submission to the releasing authorities
- notice of any escape from custody and recapture.

For more information about the Victim Notification Register and to apply online visit [www.correctiveservices.wa.gov.au](http://www.correctiveservices.wa.gov.au) > Support for Victims, or phone 9425 2870.

## Contact between victims and offender

The Victim-Offender Mediation Unit (VMU) provides services to victims of crime where:

- an offender has been convicted and the court orders mediation or a pre-sentence report; or
- an offender is on a community supervision order or being considered for release from prison and the victim is concerned about contact from the offender.

If you receive unwanted contact from the offender while they are in prison you should report it to the VMU to enable the prevention of such contact.

The VMU can also assist to ensure protective conditions are imposed on the offender to stop unwanted contact occurring. These conditions then become part of the offender's release or supervision order and remain in effect for the life of the order. This applies to both adult and youth offenders.

For more information, contact the Victim-Offender Mediation Unit on 9425 3200.

*Criminal injuries compensation is a State Government scheme that enables victims of crime to apply for compensation for injury or loss as a result of an offence or alleged offence.*

# *Criminal injuries compensation*

The *Criminal Injuries Compensation Act 1985* makes provision for any person who has suffered an injury from an act of crime, to make an application for compensation.



## What is criminal injuries compensation (CIC)?

Criminal injuries compensation is a State Government scheme that provides compensation to victims of crime for their injuries and some losses under the *Criminal Injuries Compensation Act 2003*.

A victim can claim compensation for an incident reported to the police regardless if the offender has been identified, charged or convicted of the crime. If an offender is acquitted it is unlikely you will be eligible for compensation.

The *Criminal Injuries Compensation Act* provides compensation if you suffer bodily harm, mental or nervous shock or pregnancy resulting from an offence. Mental and nervous shock means something more than the emotional upset and grief we all experience when a loved one dies. If you receive any medical or psychological treatment, it is helpful to keep a diary of the appointment dates and receipts for payments. You will also need to request medical/counselling reports to support your claim.

At the time of publishing, the maximum amount payable per claim for injuries is \$75,000.

In addition, the *Criminal Injuries Compensation Act* provides that a close relative - being a spouse, defacto, parent, grandparent, step-parent, child, step-child or grandchild, may also make a claim for loss of financial support suffered as a result from a death.

To make a claim, an applicant must have been financially dependent on the deceased.

A claim for loss of financial support must be supported with details about the deceased's earnings, any life insurance payout, work history and details of how the applicant was supported. If the deceased left a will or any estate, this will need to be considered.

A claim for loss of financial support must be made by the executor of the deceased's estate or the personal representative of the estate if there is no will. The maximum amount payable to all close relatives collectively is \$75,000.

Reasonable funeral and monumental expenses are claimed under this section of the Act.

If a person has been charged with an offence, the prosecution of that person needs to have been completed before a claim for compensation is finalised. Where no person has been charged, police inquiries need to have been completed.

Compensation payments are made directly to the applicant by the Government but the State seeks to recover awards from the offender. This means that the person responsible for the offence will be advised of your application.

Applications resulting from a road traffic incident are generally not compensable under the *Criminal Injuries Compensation Act 2003* and you should seek legal advice about this. You may have some recourse under the *Fatal Accident Act* and should discuss this with the Insurance Commission of WA. Refer to Chapter 19 for more information.

## Interim payments

The assessor may make interim payments for treatment, medical reports or funeral expenses before the case is determined. If an award is later refused, these payments must be repaid.

The State can take action to recover the compensation paid from the offender.

If you disagree with the assessor's decision, you can appeal to the District Court. An appeal must be lodged within 21 days of notification of the assessor's decision.

## How to make an application

Applications are submitted on an application form available from the Criminal Injuries Compensation office or from [www.dotag.wa.gov.au](http://www.dotag.wa.gov.au) or through the Victim Support Service.

Applications need to be submitted within three years of the date of the offence.

If later than three years, you can apply, in writing, to the Chief Assessor for an extension of time, giving reasons for the delay in making your claim. The Office

of Criminal Injuries Compensation can be contacted on **9425 3250** or [criminal.injuries@justice.wa.gov.au](mailto:criminal.injuries@justice.wa.gov.au)

The application form is designed so you can complete it yourself but, if you have a complex situation or are unsure about what you should do, then you might choose to consult with a solicitor.

If you need information about solicitors, contact the Law Society on **9322 7877**. Solicitors' fees are not covered as part of any award of criminal injuries compensation.

The Legal Aid Commission has limited resources to help claimants and its assistance is subject to an income and assets test. Contact your nearest Legal Aid office for further information.

## Payments

The Assessor of Criminal Injuries Compensation determines the amount paid as compensation.

In most cases, awards for compensation are made on the basis of the written information submitted to the assessor and do not involve a court hearing.

However, the assessor is able to convene a hearing if there is a dispute or if information needs to be clarified.

Each claim is decided on its individual merits. If you or the offender are dissatisfied with the decision of the assessor, you are able to appeal. An appeal needs to be lodged with the District Court within 21 days of your being notified of the assessor's decision.

Normally, up-front payments cannot be made for funeral expenses or treatment costs. You will need to pay all accounts yourself and then submit these at a later date with your application.

Remember to keep all your receipts because without proof of payment you may not be able to claim the costs you have incurred.

Any application arising as the result of a death is given priority by the assessor's office.

If you require any further information, you will need to seek legal advice.

*The Insurance Commission of WA provides third party insurance for owners of all registered motor vehicles in Western Australia. The policy indemnifies the policyholder against liability resulting from their negligence in regard to death or bodily injury directly caused by, or by the driving of, a Western Australian registered vehicle.*

# *Insurance Commission of WA*

Claims made under third party insurance are different from claims for criminal injuries compensation.



## Lodging a claim for loss of life or personal injury, due to a motor vehicle crash

The Insurance Commission of WA provides third party insurance for owners of all registered motor vehicles in Western Australia. The policy indemnifies the policyholder against liability resulting from their negligence in regard to death or bodily injury directly caused by, or by the driving of, a Western Australian registered vehicle.

Claims made under third party insurance are different from claims for criminal injuries compensation in that insurance monies may be paid irrespective of whether a person is charged with an offence or not. Notice of intention to claim must be made as soon as possible after the motor vehicle crash. The claim itself can be made later but must be finalised, or a writ issued, to preserve the right to claim within six years of the crash or six years after the 18th birthday of a minor.

Claims for personal bodily injury are governed by the *Motor Vehicle (Third Party Insurance) Act 1943*.

Fatal injury claims resulting from a crash are dealt with under the provisions of the *Fatal Accident Act 1959*.

Claims under the *Fatal Accident Act 1959* can be made, subject to liability, for:

- the reasonable cost of funeral and headstone expenses and any associated medical expenses to the time of death;
- past and future losses sustained by relatives who can establish they were financially dependent upon the deceased.

## How can I lodge a claim for loss of life or personal injury?

To establish if you are entitled to make a claim, contact the Insurance Commission of WA, Motor Vehicle Personal Injury Division. (Refer to the resource section for contact number.) You will be advised of your entitlement to lodge a claim and you may choose to consult a solicitor for legal advice.

A reference number is provided and the claim forms will be mailed to you.

Claims can also be lodged online at [www.crashreport.com.au](http://www.crashreport.com.au)

## What information do I need to complete the claim form?

The information required for the forms will include details of the accident, location, time, names of parties involved, registration numbers of vehicles and witness details. You may not know some of this information. You may obtain this information from the WA Police Information Release Centre. They can advise you who is dealing with the



police investigation and the Insurance Commission will liaise with them for further details.

The contact details are:

**WA Police**  
**Information Release Centre**  
**Level 3, Public Trust Building**  
**565 Hay Street**  
**PERTH WA 6000**  
**Phone: 9268 7521 or 9268 7800**

# *Appendix*

## CHILDREN'S UNDERSTANDING OF DEATH

*Young children's ability to understand death is very limited. Their questions should be answered in a matter-of-fact way, keeping explanations as simple and brief as possible. Too much information and detail will often confuse them. It is important for children to learn how to grieve and they do this through watching others around them.*



Age and stage development play a great part in how children express their grief. Their grief reactions can also depend upon their relationship to the person who has died. The closer the relationship, the greater the loss will be.

### **Infants (up to two years old)**

Infants are affected by their parents' emotional state, and although they will not understand death, they will be affected by the reactions of people around them. Reactions to grief may include being unsettled, having difficulty sleeping and becoming more 'clingy' and attention-seeking.

### **Children aged two to six years**

At this stage of a child's life, family is the centre of their world. They have magical thinking – they believe their own thoughts, wishes and actions cause what happens to themselves and others. In other words, if they think it – it happens. Wishing someone dead makes them dead. Wishing they would come back brings them back. Children in this age group find it difficult to distinguish

truth from fantasy and can use fantasy to deal with feelings they find difficult or confusing. When explaining death to this age group, keep explanations simple and honest. They may react quite casually because they are used to playing 'bang, bang, you're dead' and getting up again. They may cry and search for their lost loved one, which fits in with magical thinking and not understanding the permanency of death. They may throw tantrums to get attention, or feel guilty that maybe their behaviour has caused the person to die.

### **Children aged six to nine years**

At this age group, children see things in black or white. They are unable to deal with subtleties, so it is important not to use figures of speech such as 'we lost your mummy' as they may take this literally. They still have magical thinking but have begun to see death as final. Provide honest, concrete explanations of what has happened. They may want to discuss different aspects of the death, and may ask questions. Be patient and listen to their concerns.

Advise the teacher of the death, and ask them to monitor how your child is managing. Discuss times that could be difficult for the child, like anniversaries of the death, father's or mother's day, birthdays, and school parent evenings.

### **Children aged nine to 12 years**

Children in this age group may see death as a punishment for poor behaviour. They have by now developed a strong sense of good and bad behaviour and have concerns about the rituals of death, such as the funeral, cremation and burial. Children may also be interested in the spiritual aspects of death, and have questions on this aspect of things. They may also be worried about who will care for them, and they may feel guilt and blame themselves in some way, for the death. They may even regress in their behaviour; usually this is a temporary thing, but something to look out for. You may notice changes in their sleep patterns, and their behaviour with other children. They may experience anger that they do not know how to deal with,

and this could erupt in the schoolyard, or with siblings. Talk to their teacher and let them know what has happened, so they can watch out for changes in their grades, and keep an eye on them in the playground. Reassure your child that they are not to blame for the death.

## Teenagers

Teenagers may see death as the enemy. It is irreversible and inevitable. They think like an adult and will question the meaning of life if it ends in death. They will need guidance with the grief process. Remember that teenage boys will grieve differently from girls. Teenagers may need someone who will listen to them and to talk to, but it may be a peer, or someone outside the family. They may not want to share their grief with you.

They may be feeling anger and guilt, and it is difficult for them to express this in an adult way. It is important to be honest with them, and keep them informed along the way. We often try to shield our children from information

that may upset them but, especially at this age, they will only feel resentment if they are not included. Some emotional and behavioural changes to look out for include apathy, acting out, anger, anxiety and fears, confusion, withdrawal, guilt, risk taking, prolonged sadness, depression, self criticism, trouble sleeping or lack of appetite. Increased appetite could also be a factor, food being used as a comfort.

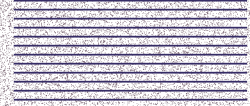
Suicide is a very real risk and should not be dismissed. Alternatively, some teenagers become involved in high risk-taking behaviours which can be just as threatening to their lives (eg driving fast, drug-taking, excess alcohol consumption, skylarking). If you are concerned, contact the Victim Support Service and speak to a counsellor or contact your GP. Communication is so important. Try to keep the lines of communication open with them, even if they are being moody, and uncooperative. Listen to their concerns and give them lots of hugs, let them know you are there for them if they want to talk and don't be afraid to share your grief with them.

Patience and love will do wonders and remember, there is professional help available if you are feeling overwhelmed.

## Helpful activities with children

There are many different play activities that you can engage in with children to keep you connected and heal the loss. Below are some ideas that you can build on.

- Read together. There are many books available that can assist in the understanding of death and promote discussion. (Refer to the books and websites section for some suggestions.)
- Create a special memories book and include your child's stories, paintings, photos, drawings and special mementoes of the person who has died. These can always be brought out and looked at any time.
- Playing dress up, or using puppets to act out how you each feel.



## SUGGESTED READING & RECOMMENDED WEBSITES

### BOOKS FOR BEREAVED PARENTS

- A Grief Observed \_\_\_\_\_ CS Lewis  
Coping with Grief \_\_\_\_\_ Mal McKissock  
For Women who Grieve \_\_\_\_\_ Tangea Tansley  
Grief Counselling and Grief Therapy \_\_\_\_\_ J William Worden  
Healing Grief \_\_\_\_\_ Barbara Ward  
Losing a Parent \_\_\_\_\_ Alexandra Kennedy  
Surviving Grief and Learning to Live Again \_\_\_\_\_ Catherine Sanders  
Where is Heaven? \_\_\_\_\_ Ted Menten  
Men and Grief \_\_\_\_\_ Carol Staudacher  
Healing a Father's Grief \_\_\_\_\_ Bill Shatz  
When Going to Pieces Holds You Together \_\_\_\_\_ William Miller

### CHILDREN'S BOOKS

- Dialogue between Parent and Child \_\_\_\_\_ Earl Grollman  
Badger's Parting Gifts \_\_\_\_\_ Susan Varley  
Beginnings and Endings with Lifetimes in between \_\_\_\_\_ Bryan Mellonie  
Remembering Mum \_\_\_\_\_ Ginny Perkins  
Sadako and the 1000 Paper Cranes \_\_\_\_\_ Eleanor Coerr  
What Do You Know about... Death and Dying? \_\_\_\_\_ Pete Sanders & Steve Myers  
My Daddy Died \_\_\_\_\_ Heather Teakle  
Old Pig \_\_\_\_\_ Margaret Wild

Emma Says Goodbye: a Child's Guide \_\_\_\_\_ Carolyn Nystrom  
Bereavement after Charlotte's Mom Died \_\_\_\_\_ William Miller

## ADOLESCENTS' BOOKS

Bridge to Terabithia \_\_\_\_\_ Katherine Paterson  
Help for the Hard Times : Getting through Loss \_\_\_\_\_ Earl Hipp  
Something I've Never Felt Before \_\_\_\_\_ D. Zagdanski  
Teenagers and Grief \_\_\_\_\_ Earl Grollman

## DIRECTORY OF SERVICES FOR VICTIMS OF CRIME

Contact the Victim Support and Child Witness Service or visit  
[www.dotag.wa.gov.au](http://www.dotag.wa.gov.au) or [www.victimsofcrime.wa.gov.au](http://www.victimsofcrime.wa.gov.au)

## WEBSITES

**The Dougy Centre** - provides a series of books assisting children, teens and family to cope with the death of a family member.  
[www.dougy.org](http://www.dougy.org)

**Fernside** - A site for children to engage in activities, questions, and discussion. A booklist is provided and suggestions for parents on how to assist a grieving child.  
[www.fernside.org](http://www.fernside.org)

**Law Compass** - The Department of Attorney General website provides information on a range of topics including the court system, witness and victims of crime.  
[www.dotag.wa.gov.au](http://www.dotag.wa.gov.au)

**Victims of Crime** - helps victims of crime, their families and others by providing answers to the most commonly asked questions and issues encountered.  
[www.victimsofcrime.wa.gov.au](http://www.victimsofcrime.wa.gov.au)



## GLOSSARY – COURTS AND THE LAW

### **Adjournment**

The postponement of the hearing of a case until a future date.

### **Affidavit**

A written statement of facts made on oath or affirmation, which may be used as evidence in some cases.

### **Affirmation**

A declaration that the evidence to be given in court is the truth — made instead of taking a religious oath.

### **Appeal**

A registered challenge to a court's decision on an acquittal, conviction or sentence. An offender can appeal against a conviction or sentence while the DPP can appeal on the grounds of a sentence or an acquittal on limited grounds.

### **Arraigned**

The accused is called by name by the clerk of courts, having the charge read and pleading either guilty or not guilty.

### **Bail**

A written promise (undertaking) that the defendant will appear in court on the day required and sometimes an undertaking to do or not to do specific things in the interim.

### **Barrister**

A lawyer who argues cases in court. Most WA lawyers are both barristers and solicitors.

### **Civil law**

Law concerned with private matters between citizens in which the wronged party seeks action against another. Criminal law is different - it is the State, not a private party, against the accused.

### **Common law**

Law made or developed through judgements made by judges from individual court cases.

### **Compensation**

Paying money for the damage or hurt done.

### **Coroner**

A judicial officer who conducts inquests into deaths, which are not due to natural causes.

### **Criminal law**

Law dealing with offences such as burglary, assault, drug offences and murder which are considered to be offences against the community as a whole.

### **Cross examination**

The interrogation in court of one party's witness by the opposing party.

### **Custody**

Confinement in a police station or prison.

### **Defamation**

Injury to another's reputation by making false statements.

### **Defendant**

A person charged with an offence or about whom a civil complaint has been laid. Also known as the accused in criminal matters.



### **Directions hearing**

A hearing with the judge, defence counsel, prosecutor and accused in attendance to raise and determine points of law, and obtain directions about the case.

### **Examination-in-chief**

The questioning of a witness in court by the party who called him/her to give evidence, in order to put his/her evidence before the court.

### **Fast-track**

A person charged with an indictable offence may decide to plead guilty at an early stage. The superior court will take into account the early plea of guilty and will usually discount the sentence that otherwise would have been imposed.

### **Indictable offence**

A more serious crime, triable by a superior court, usually with a jury. Some indictable offences can be dealt with summarily (ie without a jury) at the election of the accused.

### **Judge**

The judicial officer who decides outcomes of cases in the superior courts.

### **Judiciary**

The systems of courts of justice and the personnel, such as judges, who are involved in making judgements.

### **Jurisdiction**

The extent of authority to make judgements and administer justice.

### **Magistrate**

A judicial official who makes judgements in the Magistrates Court.

### **Mediation**

A system using a neutral person to help two parties in a dispute to come to an agreement or settlement without going to court.

### **Mention**

Appearance in a Magistrates Court before a magistrate by the accused to hear the charges read out.

### **Notice of discontinuance**

A procedure by which the Director of Public Prosecutions may terminate criminal proceedings.

### **Oath**

A sworn promise to speak the truth.

### **Order**

A command or direction by the court.

### **Personal undertaking (bail)**

An amount of money fixed by the court that the defendant promises to pay the State should he/she fail to appear at court on the required date.

### **Pleas date**

Date on which charges are read out to the accused and they are required to enter a plea of guilty or not guilty.

### **Precedent**

A prior judicial decision which serves as an example for later decisions.

### **Preside**

To occupy the position of authority or control and to hear and determine the matter brought before the court.

**Queen's Counsel**

A senior barrister who has been appointed to this position of distinction by the Chief Justice. Today, appointments are to the position of Senior Counsel, which is an equivalent position.

**Re-examination**

A party's examination of their witness for a second time about matters arising from cross-examination by the opposing party.

**Remand**

Imprisonment while awaiting trial or further proceedings.

**Restitution**

Giving something back or repairing something.

**Sentence**

A penalty imposed by the court.

**Status conference**

A hearing involving a judge, prosecutor, defence counsel and accused to discuss availability of witnesses, and case preparation in order to set a trial date.

**Summary/simple offence**

A minor criminal offence triable before a magistrate without a jury.

**Solicitor**

A lawyer who mainly advises clients, prepares cases and briefs barristers. Most WA lawyers are both barristers and solicitors.

**Statute**

A law passed by Parliament.

**Summons**

A document requiring a person to appear in court either as an accused or as a witness. It states the name of case, the date and the court appearance location. Another form of summons can require a person to bring documents to the court.

**Surety**

A guarantor — a third party who promises to pay the State an amount fixed by the court to ensure the defendant's appearance at court on the required date.

**Witness**

A person who gives evidence in court.

## RESOURCES

## COUNSELLING SERVICES

### CORONIAL COUNSELLING SERVICE

Central Law Courts  
Level 10, 501 Hay Street  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9425 2900  
Fax: \_\_\_\_\_ 9425 2901  
Freecall: \_\_\_\_\_ 1800 671  
994

Weekends and public holidays  
0419 904 476 (7am-6pm)

### GRIEF COUNSELLING

#### SILVER CHAIN GRIEF SUPPORT SERVICE

Phone: \_\_\_\_\_ 9242 0242

### COMPASSIONATE FRIENDS

City West Lotteries House  
2 Delhi Street  
WEST PERTH WA 6005  
Phone: \_\_\_\_\_ 9486 8711  
Freecall: \_\_\_\_\_ 1800 628 118  
[www.compassionatefriends.wa.org.au](http://www.compassionatefriends.wa.org.au)  
[info@compassionatefriendswa.org.au](mailto:info@compassionatefriendswa.org.au)

### CENTRECARE INDIVIDUAL AND FAMILY SUPPORT

456 Hay Street  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9325 6644

### CENTRECARE BUNBURY

103 Clarke Street  
BUNBURY WA 6230  
Phone: \_\_\_\_\_ 9721 5177

### CENTACARE FAMILY SERVICES GERALDTON

3 Maitland Street  
GERALDTON WA 6530  
Phone: \_\_\_\_\_ 9921 1433  
[admin@centacare.wa.com.au](mailto:admin@centacare.wa.com.au)

### CRISIS CARE

Phone: \_\_\_\_\_ 9223 1111  
Freecall Std: \_\_\_\_\_ 1800 199 008

### LIFELINE

Phone: \_\_\_\_\_ 13 11 14

## **KINWAY**

### **Metro**

East Perth: \_\_\_\_\_ 9263 2050

Joondalup: \_\_\_\_\_ 9300 0460

Gosnells: \_\_\_\_\_ 9490 2794

Rockingham: \_\_\_\_\_ 9528 0702

### **Regional**

Albany: \_\_\_\_\_ 9841 4244

Broome: \_\_\_\_\_ 9194 2400

Dampier/Karratha: \_\_\_\_\_ 9183 0511

Kununurra: \_\_\_\_\_ 9166 5000

## **ANGLICARE**

For Anglicare locations visit

[www.anglicarewa.org.au](http://www.anglicarewa.org.au)

## **RELATIONSHIPS AUSTRALIA**

General Enquiries: \_\_\_\_\_ 1300 364 277

### **Metro**

West Leederville: \_\_\_\_\_ 9489 6363

Fremantle: \_\_\_\_\_ 9432 5000

Gosnells: \_\_\_\_\_ 9394 9000

Joondalup: \_\_\_\_\_ 9301 2000

Mandurah: \_\_\_\_\_ 9583 6000

Midland: \_\_\_\_\_ 9250 1242

Rockingham: \_\_\_\_\_ 9529 4100

## **Regional**

Albany: \_\_\_\_\_ 9845 7700

Bunbury: \_\_\_\_\_ 9792 1111

Katanning: \_\_\_\_\_ 9821 7683

Merredin: \_\_\_\_\_ 9041 2011

Northam: \_\_\_\_\_ 9621 2550

South Hedland: \_\_\_\_\_ 9172 2222

## **VICTIM SUPPORT AND CHILD WITNESS SERVICE**

District Court Building

Level 2, 500 Hay Street

PERTH WA 6000

Phone: \_\_\_\_\_ 9425 2850

Fax: \_\_\_\_\_ 9425 4428

Freecall: \_\_\_\_\_ 1800 818 988

### **Peel**

Rockingham Justice Complex

Whitfield Street

ROCKINGHAM WA 6168

Phone: \_\_\_\_\_ 9527 7699

Fax: \_\_\_\_\_ 9527 9782

## **Regional**

### **ALBANY**

Albany Courthouse

184 Stirling Terrace

ALBANY WA 6330

Phone: \_\_\_\_\_ 9845 5222

Fax: \_\_\_\_\_ 9841 7920

### **BROOME**

Office 2

9 Napier Street

BROOME WA 6725

Phone: \_\_\_\_\_ 9192 6575

Fax: \_\_\_\_\_ 9192 6585

### **BUNBURY**

Bunbury Courthouse

Ground Floor, 65 Wittenoom Street

BUNBURY WA 6230

Phone: \_\_\_\_\_ 9781 4294

Fax: \_\_\_\_\_ 9781 4233

### **CARNARVON**

2 Rushton Street

CARNARVON WA 6701

Phone: \_\_\_\_\_ 9941 4070

Fax: \_\_\_\_\_ 9941 4080

**DERBY**

Derby Courthouse

Loch Street

DERBY WA 6728

Phone: \_\_\_\_\_ 9191 2274

Fax: \_\_\_\_\_ 9193 1025

**ESPERANCE**

100 Dempster Street

ESPERANCE WA 6450

Phone: \_\_\_\_\_ 9071 6318

Fax: \_\_\_\_\_ 9083 2666

**GERALDTON**

Geraldton Courthouse

Marine Terrace

GERALDTON WA 6530

Phone: \_\_\_\_\_ 9964 4816

Fax: \_\_\_\_\_ 9921 4358

**KALGOORLIE**

Goldfields Centrecare

7 Dugan Street

KALGOORLIE WA 6430

Phone: \_\_\_\_\_ 9091 1833

Fax: \_\_\_\_\_ 9021 8673

**KARRATHA**

Karratha Courthouse

Balmoral Road

KARRATHA WA 6714

Phone: \_\_\_\_\_ 9143 1877

Fax: \_\_\_\_\_ 9185 6188

**KUNUNURRA**

2B Banksia Street

KUNUNURRA WA 6743

Phone: \_\_\_\_\_ 9166 5000

Fax: \_\_\_\_\_ 9166 5050

**NORTHAM**

Northam Courthouse

Wellington Street

NORTHAM WA 6401

Phone: \_\_\_\_\_ 9622 7017

Fax: \_\_\_\_\_ 9622 1234

**PORT HEDLAND**

South Hedland Justice Complex

Hawke Place

SOUTH HEDLAND WA 6722

Phone: \_\_\_\_\_ 9172 9307

Fax: \_\_\_\_\_ 9172 9330

## GOVERNMENT CONTACTS

### Attorney General; Minister for Corrective Services

Allendale Square  
Level 29, 77 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9220 5050

### Office of the Director of Public Prosecutions (DPP)

International House  
Level 1, 26 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9425 3999  
Fax: \_\_\_\_\_ 9264 1777  
Freecall country only \_\_ 1800 264 144  
Email: \_\_\_\_\_ dpp@justice.wa.gov.au  
www.dpp.wa.gov.au

### REGISTRY OF BIRTHS, DEATHS & MARRIAGES

Westralia Square  
Level 10, 141 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 1300 305 021

## COURTS

### Central Law Courts

501 Hay Street  
PERTH WA 6000  
Listings Phone: \_\_\_\_\_ 9425 2261  
Court Results Phone: \_\_ 9425 2266  
Restraining Orders Phone: 9425 2398

### District Court

500 Hay Street  
PERTH WA 6000  
Criminal Registry  
Phone : \_\_\_\_\_ 9425 2128  
www.districtcourt.wa.gov.au

### Supreme Court

Stirling Gardens, Barrack Street  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9421 5333  
Fax: \_\_\_\_\_ 9221 4436  
www.supremecourt.wa.gov.au

### Family Court of Western Australia

Level 1, 150 Terrace Road  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9224 8222  
Fax: \_\_\_\_\_ 9224 8360  
Counselling Service: \_\_ 9224 8248  
Freecall: \_\_\_\_\_ 1800 199 278  
www.familycourt.wa.gov.au

### Regional court sittings — criminal matters

Regional courthouses are on the  
District and Supreme Courts circuits  
for indictable offences.

### Albany Courthouse

184 Stirling Terrace  
ALBANY WA 6330  
Phone: \_\_\_\_\_ 9845 5200  
Fax \_\_\_\_\_ 9841 7920

### Broome Courthouse

Hamersley Street  
BROOME WA 6725  
Phone: \_\_\_\_\_ 9192 1137  
Fax: \_\_\_\_\_ 9192 1878

### Bunbury Courthouse

3 Stephen Street  
BUNBURY WA 6230  
Phone: \_\_\_\_\_ 9781 4200  
Fax: \_\_\_\_\_ 9721 8180

### Busselton Courthouse

12 Stanley Street  
BUSSELTION WA 6280  
Phone: \_\_\_\_\_ 9754 9666  
Fax: \_\_\_\_\_ 9752 4950

**Carnarvon Courthouse**

Robinson Street

CARNARVON WA 6701

Phone: \_\_\_\_\_ 9941 1082

Fax: \_\_\_\_\_ 9941 2779

**Collie Courthouse**

Wittenoom Street

COLLIE WA 6225

Phone: \_\_\_\_\_ 9734 2061

Fax: \_\_\_\_\_ 9734 1817

**Derby Courthouse**

Loch Street

DERBY WA 6728

Phone: \_\_\_\_\_ 9191 1406

Fax: \_\_\_\_\_ 9193 1025

**Esperance Courthouse**

100 Dempster Street

ESPERANCE WA 6450

Phone: \_\_\_\_\_ 9071 2444

Fax: \_\_\_\_\_ 9071 2288

**Geraldton Courthouse**

Marine Terrace

GERALDTON WA 6530

Phone: \_\_\_\_\_ 9921 3722

Fax: \_\_\_\_\_ 9964 1864

**Kalgoorlie Courthouse**

Brookman Street

KALGOORLIE WA 6430

Phone: \_\_\_\_\_ 9093 5300

Fax: \_\_\_\_\_ 9021 2005

**Karratha Courthouse**

Balmoral Road

KARRATHA WA 6714

Phone: \_\_\_\_\_ 9185 2922

Fax: \_\_\_\_\_ 9185 2413

**Katanning Courthouse**

Clive Street

KATANNING WA

Phone: \_\_\_\_\_ 5821 1177

Fax: \_\_\_\_\_ 9821 2210

**Kununurra Courthouse**

Coolibah Drive

KUNUNURRA WA 6743

Phone: \_\_\_\_\_ 9168 1011

Fax: \_\_\_\_\_ 9168 1103

**Manjimup Courthouse**

Mount Street

MANJIMUP WA 6258

Phone: \_\_\_\_\_ 9771 1316

Fax: \_\_\_\_\_ 9777 1252

**Merredin Courthouse**

20 Mitchell Street

MERREDIN WA 6415

Phone: \_\_\_\_\_ 9041 5266

Fax: \_\_\_\_\_ 9041 2604

**Moora Courthouse**

Dandaragan Street

MOORA WA 6510

Phone: \_\_\_\_\_ 9651 1407

Fax: \_\_\_\_\_ 9651 1375

**Narrogin Courthouse**

Fortune Street

NARROGIN WA 6312

Phone: \_\_\_\_\_ 9881 1722

Fax: \_\_\_\_\_ 9881 3344

**Northam Courthouse**

118 Wellington Street

NORTHAM WA 6401

Phone: \_\_\_\_\_ 9622 1035

Fax: \_\_\_\_\_ 9622 1234

**Roebourne Courthouse**

Hampton Street

ROEBOURNE WA 6718

Phone: \_\_\_\_\_ 9182 1281

Fax: \_\_\_\_\_ 9182 1191

**South Hedland Courthouse**

Hawke Place

SOUTH HEDLAND WA 6722

Phone: \_\_\_\_\_ 9172 9300

Fax: \_\_\_\_\_ 9172 9330



## **INSURANCE/ COMPENSATION CLAIMS**

### **Office of Criminal Injuries Compensation**

International House  
Level 12, 26 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9425 3250  
Fax: \_\_\_\_\_ 9425 3271

### **Insurance Commission of WA**

Fatal Accidents and  
Personal Injury Claims  
Forrest Centre  
Level 13, 221 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9264 3333  
Fax: \_\_\_\_\_ 9264 3564

## **LEGAL**

### **Aboriginal Legal Service**

7 Aberdeen Street  
PERTH WA 6004  
Phone: \_\_\_\_\_ 9265 6666  
Fax: \_\_\_\_\_ 9221 1767  
Freecall: \_\_\_\_\_ 1800 019 900

### **Law Access**

89 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9322 7877  
Fax: \_\_\_\_\_ 9322 7899

### **Legal Aid**

55 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 1300 650 579  
[www.legalaid.wa.gov.au](http://www.legalaid.wa.gov.au)

## **POLICE**

### **Minister for Police**

Level 20, 197 St Georges Tce  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9222 9211  
Fax: \_\_\_\_\_ 9321 6003

### **Police Commissioner**

2 Adelaide Terrace  
EAST PERTH WA 6004  
Phone: \_\_\_\_\_ 9222 1256

### **Major Crime Investigation Section**

Curtin House  
60 Beaufort Street  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9223 3630



## PROTECTION

### Victim-Offender Mediation Unit

International House  
Level 13, 26 St Georges Terrace  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9425 3200  
Fax: \_\_\_\_\_ 9425 3222

### Victim Notification Register

District Court Building  
Level 2, 500 Hay Street  
PERTH WA 6000  
Phone: \_\_\_\_\_ 9425 2870  
Fax: \_\_\_\_\_ 9425 2869

### Prisoners Review Board Secretariat

PO Box 451  
WEMBLEY WA 6913  
Phone: \_\_\_\_\_ 9423 8700  
Fax: \_\_\_\_\_ 9388 6208

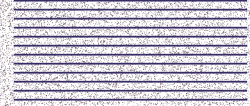
## HOMICIDE SUPPORT

### Homicide Victims' Support Group

PO Box 8435  
PERTH WA 6849  
Phone: \_\_\_\_\_ 0419 241 220

### Angelhands

PO Box 359  
MAYLANDS WA 6951  
Mobile: \_\_\_\_\_ 0416 580 090  
Phone: \_\_\_\_\_ 9272 2242



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