

Guide to Victim Impact Statements

victimsofcrime.vic.gov.au

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Also published on victimsofcrime.vic.gov.au

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This guide explains:

- what a Victim Impact Statement is
- who can make one
- when and how a Victim Impact Statement is used in court.

It also has a form you can use to prepare your Victim Impact Statement.

You might see some legal terms in this guide that you haven't seen before.

These grey boxes explain the legal terms.

Get help with your Victim Impact Statement

The law in Victoria says that you can get help to prepare your Victim Impact Statement.

Call the Victims of Crime Helpline on 1800 819 817. Open 8am-11pm, 7 days a week. They can organise a victim support worker to help you.

For more information about Victim Impact Statements, visit victimsofcrime.vic.gov.au/impactstatement

About Victim Impact Statements

What is a Victim Impact Statement?

A Victim Impact Statement (VIS) is a legal statement that explains how a crime has affected you.

This includes how a crime has affected you:

- emotionally
- physically
- financially
- socially.

As a victim of crime, you can describe the impact of the crime on you at court if someone **pleads guilty** to the crime or is **found guilty** of the crime.

Pleading guilty

When someone pleads guilty, they admit in court they did the crime.

Found guilty

When someone is found guilty in the Magistrates' Court, it means a magistrate has found them guilty. In the County Court and Supreme Court, a jury finds someone guilty.

What is a Victim Impact Statement used for?

A VIS helps a **judge** or **magistrate** understand how a crime has affected you.

Judge

A person who is in charge of the court room in the County Court or Supreme Court. They make sure the rules of the court are followed.

If the accused person pleads guilty or is found guilty, the judge decides on a penalty.

Magistrate

A person who is in charge of a Magistrates' Court. They listen to each side of the case and have the power to decide if the accused person is guilty or not guilty.

A judge or magistrate must always consider the impact of a crime on its victims when sentencing an offender.

Do I need to make a Victim Impact Statement?

No. You only make a VIS if you want to.

You can talk about it with your family, friends or a victim support worker but the final decision is yours.

If you decide not to make a VIS, the court will still consider the impact of the crime on you through the evidence heard during the court case and information provided by the **prosecutor** about the impact of the crime.

Prosecutor

The prosecutor presents the evidence in court against a person accused of committing a crime.

For most cases, the prosecutor is a police officer (called the police prosecutor).

For some serious cases, the prosecutor is a lawyer from the Office of Public Prosecutions (OPP).

Who can make a Victim Impact Statement?

Any victim of crime can make a VIS.

You are a victim of crime if you are physically injured or suffer emotional problems, loss or damage because of a crime. This includes any grief, distress or trauma that a crime causes you.

You don't need to be the person who the crime was committed against (the 'primary victim') to make a VIS. Family members, and sometimes friends, can also be victims of the crime and can make a VIS.

Can a child make a Victim Impact Statement?

If a primary victim of crime is under 18 years old, someone may be able to prepare a VIS for them. If a victim is under 18 years of age and they want to prepare a VIS, you can contact the Child Witness Service. The Child Witness Service offers support for children and young people thinking about making a VIS.

To speak to a child witness service worker, call the Child Witness Service on 1300 790 540 or email childwitnessservice@justice.vic.gov.au.

When is a Victim Impact Statement used?

At the plea hearing

A VIS is used by the court at a plea hearing. The plea hearing is when the prosecution and defence lawyers give information to the judge or magistrate to help them decide on the most fitting sentence (punishment) for the offender. The prosecutor gives the judge or magistrate your VIS at the plea hearing.

A plea hearing happens after someone is found guilty or pleads guilty, but before they are sentenced.

At the plea hearing, the offender's lawyer can present information about the good character of the offender, or provide medical reports, like

reports from a doctor or psychologist. This can help the judge or magistrate understand all the circumstances of the case.

After the plea hearing, there is a sentencing hearing. This is when a judge tells the offender what their sentence will be.

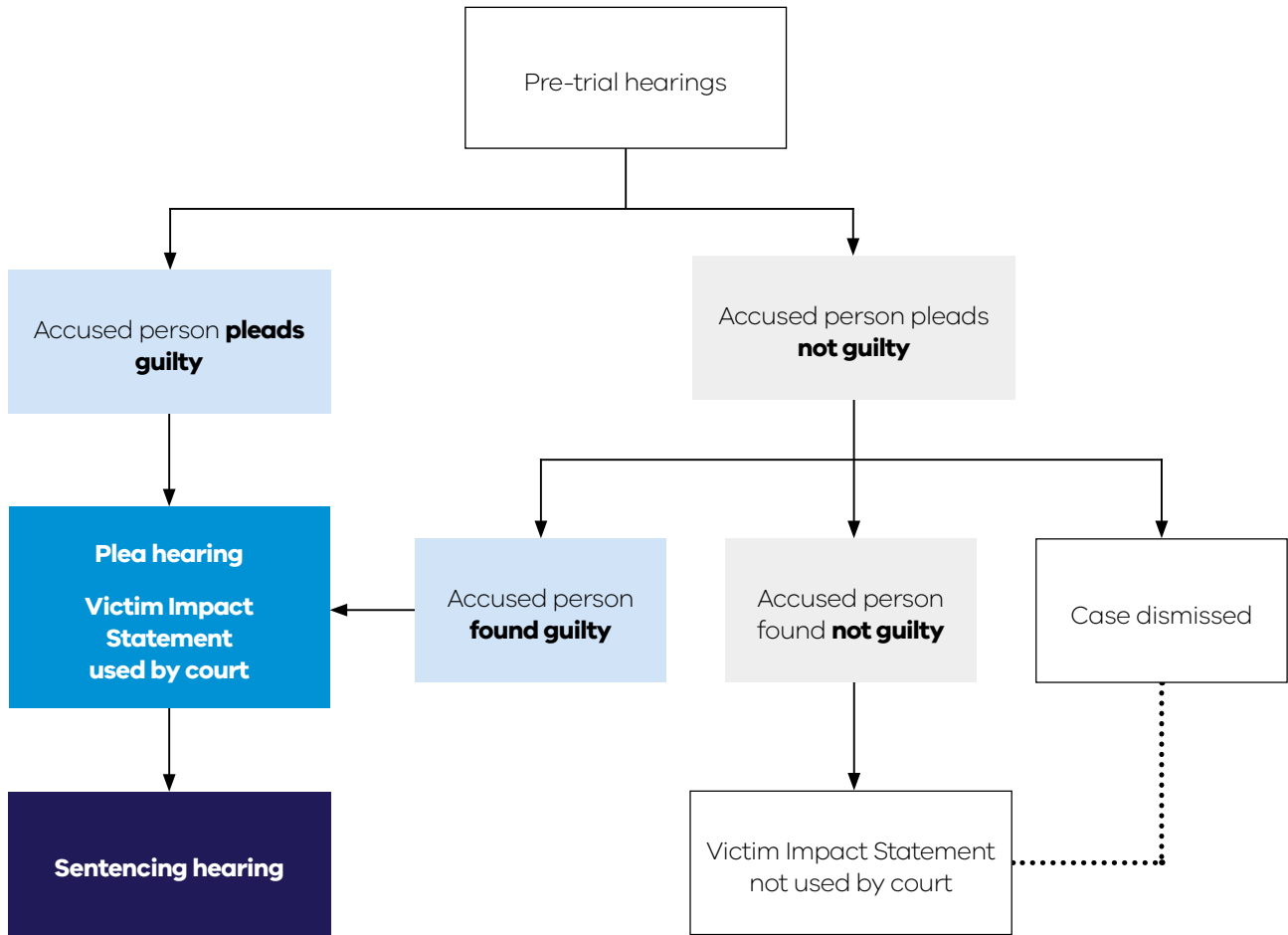
In an appeal

If the offender disagrees with the sentence, they can ask a higher court to change it. This is called making an appeal.

Your VIS is one of the many things the court considers if there is an appeal.

The court uses a Victim Impact Statement at the plea hearing

This diagram shows where the plea hearing fits in the court process.



This diagram doesn't show all the different types of hearings that may happen from the time someone is charged with a crime to when they are found guilty or not guilty, or plead guilty. It only shows when your VIS can be presented in court.

For more information about the court process, visit victimsofcrime.vic.gov.au/court, or call the Victims of Crime Helpline on 1800 819 817.

Sometimes a VIS can also be used in an application for financial assistance to the Victims of Crime Assistance Tribunal.

For more information about financial assistance, visit victimsofcrime.vic.gov.au/financial

Victoria has three levels of courts

Magistrates' Court

The Magistrates' Court is the lowest court. Magistrates deal with a large number of cases for different crimes. For most crimes, a magistrate hears all other offences and if the accused person is found guilty, sentences them.

For some serious crimes, magistrates hold hearings (called 'committal hearings') before cases move up to the County Court or Supreme Court.

County Court

The County Court sits between the Magistrates' Court and the Supreme Court. It hears most serious criminal charges except murder and manslaughter. If the accused person pleads not guilty in the County Court, a trial is held before a judge and jury. The jury decides if someone is guilty. If they are found guilty, the judge will sentence them.

The County Court hears appeals against sentences or convictions from cases in the Magistrates' Court.

Supreme Court

The Supreme Court is the highest court in Victoria. The Supreme Court hears murder and manslaughter cases, as well as other serious and complex criminal cases.

If someone pleads not guilty in the Supreme Court, a trial is held before a judge and jury. The jury determines if they are guilty.

If they are found guilty, the judge sentences them. The Court of Appeal is also part of the Supreme Court. The Court of Appeal hears appeals against sentences or convictions from cases in the County Court and Supreme Court.

When does a plea hearing happen?

The time frame for a plea hearing is different from case to case. Check with the **police informant** for more information.

Police informant

The police informant is the police officer who investigated the crime and laid criminal charges against the accused person.

Cases in Magistrates' Court

If the case is being heard in the Magistrates' Court, the hearing, plea and sentencing can happen quickly – sometimes on the same day. Other times, a plea hearing is booked in for weeks or sometimes a few months after the first hearing.

You'll need to know the date of the first hearing in the Magistrates' Court so you can keep up to date with when the plea hearing will happen. Talk about this more with your victim support worker and the police informant.

Cases in County Court or Supreme Court

If the case is heard in the County Court or Supreme Court, sometimes a plea hearing is held on the same day that someone is found guilty or pleads guilty. Sometimes there is a day or two between a verdict or plea of guilty and the plea hearing. Sometimes the plea hearing is booked for several weeks later or even months later. There are many different reasons why this can happen.

You can talk about this more with a witness support worker from the Witness Assistance Service at the Office of Public Prosecutions (OPP) or the OPP solicitor handling the case. You can also talk about this with the police informant.

What else should I know about sentencing?

Your Victim Impact Statement enables you to tell the judge or magistrate how the crime has affected you. The judge or magistrate must also consider many other things when sentencing the offender such as:

- the type of crime and seriousness of the crime
- the injury, loss or damage to property that the crime caused
- the offender's role in the crime
- the reasons for the offender committing the crime
- whether the offender has committed a crime before
- the youth or maturity of the offender
- if the offender has mental health issues
- current sentencing practices
- the availability of a Community Corrections Order
- if the offender pleads guilty or not.

All this information helps them decide on the most fitting sentence for the offender.

Key points

- A Victim Impact Statement (VIS) is a legal statement explaining how a crime has affected you.
- Your VIS helps a judge or magistrate understand the impact of the crime on you when sentencing someone who is found guilty or pleads guilty.
- Any victim of crime can make a VIS.
- The court uses your VIS during a plea hearing, after someone is found guilty or pleads guilty, but before they are sentenced.
- The time frame for a plea hearing differs from case to case.
- The impact of a crime on you is one of many factors a judge or magistrate takes into account when sentencing the offender.

Victim Impact Statement form

Pull this form out of the booklet →

See page 11 for information about how to prepare your Victim Impact Statement.

If you would rather type your Victim Impact Statement, visit victimsofcrime.vic.gov.au/impactstatement to get a PDF or Microsoft Word version of this form.

Case information

This information helps the court know which case your Victim Impact Statement is for.

1. Your name:

If you are not the direct (primary) victim of the crime, please write the name of the primary victim below and describe your relationship to the primary victim:

Primary victim's name:

Your relationship to the primary victim:

2. Name of the accused person (if known):

3. Name of the police informant (if known):

4. Name of the OPP solicitor (if known):

5. Would you like your Victim Impact Statement read aloud in court?

The judge or magistrate will decide if you can read all of your Victim Impact Statement or only some parts of it aloud in court.

No – I do not want my Victim Impact Statement read aloud in court

Yes – I would like my Victim Impact Statement read aloud in court by:

Me

The prosecutor

A representative

I'm not sure yet

If you would like your VIS read aloud in court, please discuss this with the OPP solicitor or the police informant as soon as possible.

Statutory declaration

You must fill in this page and get it signed by an authorised witness.

The court will not accept your Victim Impact Statement without this page completed.

I, _____, do solemnly and sincerely declare that the contents of this Victim Impact Statement are true and correct. I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.

Declared at _____

on this _____ day of _____, 20_____

.....
Signature of person making this declaration
[to be signed in front of an authorised witness]

Before me,

.....
Signature of Authorised Witness
The authorised witness must print or stamp his or her name, address and title under section 107A of the Evidence (Miscellaneous Provisions) Act 1958 (as of 1 January 2010), (previously Evidence Act 1958)

Find an Authorised Witness

An authorised witness can be a lawyer, police officer, court registrar, doctor, dentist, pharmacist, vet, bank manager or State school principal.

Preparing a Victim Impact Statement

When should I prepare my Victim Impact Statement?

You should not start preparing your Victim Impact Statement (VIS) straight after the crime happens. A VIS can only be used by the court after someone is found guilty of a crime or pleads guilty to a crime.

Don't give your VIS to the police informant or prosecutor until the accused person is found guilty or pleads guilty to the crime.

You can still talk to a victim support worker about your VIS before this stage, and think about what you might want to include.

The time frames for the different courts are explained below. These time frames are only a guide, so speak to your support worker, OPP solicitor or police informant for more information.

Cases in the Magistrates' Court

In the Magistrates' Court, the accused person can plead guilty at the first hearing date. They may be sentenced at the end of that hearing or later that day. If this happens it can be difficult to prepare your VIS before the plea hearing.

If you attend court for the first hearing and the accused person pleads guilty or is found guilty and is being sentenced on the same day, you may be able to submit your VIS before the plea hearing.

You must speak to the police informant or **police prosecutor** about this before the first hearing. Let them know that you would like to submit a VIS.

Police prosecutor

A police prosecutor is the police officer who presents the evidence against the accused person in the Magistrates' Court.

This may be a few weeks or even a month or two after the first hearing. During this time you can prepare your VIS.

You should speak with a victim support worker or the police informant if the case is being heard in the Magistrates' Court. You will need to know the court dates so you can prepare a VIS and submit it before the plea hearing.

Cases in the County Court or Supreme Court

In the County Court or Supreme Court, the time between a guilty finding or guilty plea and the plea hearing varies. In some cases this is only a day or two. Sometimes it's a few weeks.

Sometimes a plea hearing is set for a later date.

What does a Victim Impact Statement look like?

There is no set way to prepare a VIS, but every VIS must have a **statutory declaration** signed by an **authorised witness** at the end.

Statutory declaration

A statutory declaration is a statement signed by you and declared to be true and correct in front of an authorised witness. The authorised witness must sign (witness) your statutory declaration.

Authorised witness

An authorised witness can be a lawyer, police officer, court registrar, doctor, dentist, pharmacist, vet, bank manager or State school principal.

By signing the statutory declaration, you agree your VIS is true. You can be charged with perjury (making a false statement under oath) if you include information you know is not true. You must be as accurate as possible with the information in your VIS.

Ways to prepare your Victim Impact Statement

Hand write your Victim Impact Statement

Use the form on page 7 write your VIS.

When you have finished writing:

1. pull the form out of this booklet
2. sign the statutory declaration in front of an authorised witness.

Type your Victim Impact Statement

If you want to use a computer to prepare your Victim Impact Statement:

1. visit victimsofcrime.vic.gov.au/impactstatement to get a copy of the form
2. save a copy of the form to your computer
3. print it out when you have completed your VIS
4. sign the statutory declaration in front of an authorised witness.

The online form has sections about the effects of crime to help you organise your VIS.

Some people use this form as a journal to help them remember things to include in their VIS later on.

The form is just a guide

Remember, you don't need to use the Victim Impact Statement form—it's just a guide.

What should I include in my Victim Impact Statement?

The court wants to hear from you in your own words about how the crime affected you.

Thinking about what to write

Imagine that someone who knows about what happened to you asked "how has the crime changed your life?". This can be a good way to start. Some people also find it useful to think about how the crime will change their life into the future.

If the crime caused the death of a loved one, you might want to describe what you miss most about them.

You should explain how the crime has affected you emotionally, physically, financially and socially. Here are some examples of what you might want to include.

Emotional impacts

You might want to describe any emotional impacts of the crime, including:

- your general feelings of wellbeing or enjoyment of life
- how the crime has affected any relationships (with your partner, family, friends or co-workers)
- any emotions or feelings related to the crime (such as hurt, anger, fear, frustration)
- effects on your lifestyle and activities (such as trouble sleeping, eating, working)
- psychological effects of the crime, including any treatment you need (such as depression or anxiety)
- how these impacts might change your life into the future.

Physical impacts

You might include:

- injuries as a result of the crime (such as broken bones, nerve damage)
- how injuries have affected your life (such as work, sport or leisure activities)

- any long term impacts of injuries on your life
- any ongoing medical treatment you need.

Financial impacts

You might include:

- loss of future earnings because of the crime (if a physical or psychological injury has affected your ability to work)
- general expenses caused by the crime (such as home security, replacing items)
- travel expenses because of the crime (such as court appearances)
- cost of medical treatment needed because of the crime.

Social impacts

You might describe problems the crime has caused in your daily life now and into the future, including how the crime has affected:

- work or study commitments
- family or social life (friendships, social events, sporting commitments)
- how safe you feel.

What should I avoid in my Victim Impact Statement?

Because there are laws about what evidence is allowed in court (called admissible evidence) and what is not allowed (called inadmissible evidence), there are rules about what you can include in your VIS.

If you include information that is not about the impact of the crime on you, all or part of your VIS might be inadmissible.

If the judge or magistrate says your VIS is inadmissible, this means the court will not take your VIS into account when sentencing the offender. Your VIS can't be read aloud in court.

If the judge or magistrate says a part of your VIS is inadmissible, this means the court will not consider that part when sentencing the offender. That part of your VIS can't be read aloud in court.

Parts of your VIS might be inadmissible if you:

- describe the crime more than what is necessary to explain how it affected you (the judge or magistrate already knows about the crime)

- say what sentence you think the offender should get or what should happen to them (this is the judge or magistrate's decision)
- mention crimes the offender may have committed in the past (the judge or magistrate already knows about the offender's criminal record, and is only sentencing the offender for the current crime)
- give your opinion about the chance of the offender committing other crimes in the future
- give your opinion about the offender's ability to change their ways
- give your opinion about the personality or character of the offender
- mention how the crime has affected other people (except if you are making a VIS on behalf of someone else)
- mention other documents that you haven't attached to your VIS, or that weren't part of the court case
- use inappropriate or offensive language.

The most important thing to remember is your VIS should only be about how you've been affected by the crime.

Call the Victims of Crime Helpline on 1800 819 817 for more advice about what to avoid including in your VIS. They can also organise a victim support worker to help you.

The police prosecutor, OPP solicitor, Witness Assistance Service worker or victim support worker may also talk to you about the admissibility of your VIS.

Even if your VIS is inadmissible, the court will still hear about the how the crime affected you through the evidence heard during the court case.

Can I add other things to my Victim Impact Statement?

Yes. You can add a letter, poem, drawing, photo or other things if they relate to how the crime has affected you.

You can also attach a medical report to your VIS to support the statements you make about the impact of the crime on you. This can be from your doctor, dentist or psychologist.

Can someone else write my Victim Impact Statement for me?

In most cases you must write your VIS yourself. The VIS is your statement, so it's important your thoughts and feelings are in your own words.

A victim support worker can help you think about how a crime has affected you – but they can't write your VIS for you. They can help you fill out the VIS Form or type your statement if it's easier for you to give your statement that way.

In some cases, a victim cannot prepare a VIS because they are ill, have a physical or intellectual disability or they may have died. In these cases, someone else can prepare a VIS for them. This might be a:

- parent
- friend
- carer
- support worker.

Someone else can also prepare a VIS for a person aged under 18 years of age. If you are preparing a VIS on behalf of someone, explain in the VIS why the victim cannot prepare their own.

Key points

- **Do not submit your VIS until there is a guilty plea or verdict.**
- **Talk to your support worker, the police informant or the OPP solicitor about when your VIS is needed.**
- **Keep up to date with the court hearings for the case.**
- **Submit your VIS after a guilty plea or verdict, but before the plea hearing.**
- **There is no set way to prepare a VIS – it just needs to have a statutory declaration at the end.**
- **The Victim Impact Statement form at victimssofcrime.vic.gov.au/impactstatement can help guide you.**
- **Your VIS should describe how the crime has affected you. You can add photos, letters or information from doctors and others to your VIS.**
- **Don't include information that describes the crime, refers to the sentence someone should get or other crimes the offender may have been involved in.**

Victim Impact Statements at court

Who do I give my Victim Impact Statement to?

If the case is being heard in the County Court or Supreme Court, you can give your Victim Impact Statement (VIS) to the Office of Public Prosecutions (OPP) solicitor, your Witness Assistance Service worker or the police informant.

If the case is being heard in the Magistrates' Court, give your completed VIS to the police informant. They will provide it to the police prosecutor.

The police prosecutor, OPP solicitor, Witness Assistance Service worker or victim support worker may talk to you about the admissibility of parts of your VIS.

Who reads my Victim Impact Statement?

The prosecution gives your VIS to the court as well as the offender's lawyer. This means the offender could read your VIS.

Do I need to go to the plea hearing?

No. You don't have to attend the plea hearing.

Although it hardly ever happens, the court may call you to give evidence about what you have included in your VIS. If this happens, you will be given a letter called a subpoena. It will tell you when and where you will need to give evidence. If you receive a subpoena, you must go to court.

If this happens, you should talk with the police informant, the OPP solicitor handling the case, or your support worker. They will help explain the process before you go to court.

You can also ask a witness, such as your doctor, to give evidence in court to support what you include in your VIS. You should speak with the police

informant, OPP solicitor or your victims or witness support worker if you would like to ask a doctor or other expert to give evidence supporting your VIS.

Can my Victim Impact Statement be read aloud in court?

If you like, you can ask for all or some of your VIS to be read aloud in court by:

- you
- a person of your choice (you need to get approval from the court for this)
- the prosecutor.

Your VIS must be admissible (allowed by law) to be read aloud in court.

If you would like your VIS read aloud in court, you must talk to the Office of Public Prosecutions (OPP) solicitor before the plea hearing in the County or Supreme Court, or the police informant in the Magistrates' Court before the first hearing date.

The judge or magistrate decides which parts of your VIS can be read aloud in court. They will only allow you or your representative to read parts of your VIS that are relevant to sentencing and are admissible (allowed under law).

If there are any parts of your VIS that you do not want read aloud in the court room, tell the prosecutor and make a note about it in your VIS.

If you are concerned about your privacy when reading your VIS aloud, you can apply to the judge or magistrate to close the court room. If the judge or magistrate agrees, this means that the general public and media would not be allowed in the court room while you read your VIS.

Even if the judge or magistrate agrees to close the court while you read your VIS, your VIS may still be available to the general public after the court case.

Will my Victim Impact Statement be mentioned during sentencing?

Sometimes a judge or magistrate speaks about your VIS when sentencing someone. They may read parts of your VIS aloud so the court can hear it.

If the judge or magistrate does not speak about or read any of your VIS aloud in court, this does not mean they haven't read or taken your VIS into account when sentencing the offender.

The judge or magistrate must always take into account the impact of a crime on its victims when sentencing.

What happens to my Victim Impact Statement after the court case?

After the court case is over, your VIS becomes part of the official court file. Any member of the public or even a journalist can ask to read a court file after a court case is over.

Newspapers and other media cannot name sexual assault victims in their reports.

If the judge speaks about your VIS at the sentencing hearing, their comments will be made available to the media. If the case was heard in the Supreme Court, their comments will also be published online at austlii.edu.au.

What happens if there is an appeal?

If there is an appeal, your VIS will be one of many things the court considers.

Key points

- Do not submit your VIS until there is a guilty plea or verdict.
- In the Magistrates' Court, give your completed VIS to the police informant.
- In the County or Supreme Court, give your VIS to the OPP solicitor, police informant or Witness Assistance Service worker.
- You don't need to go to the plea hearing if you don't want to. Victims are only rarely called to court to answer questions about their VIS.

Your privacy

- The offender could read your VIS.
- You can ask to read your VIS aloud in court. You can also ask the prosecutor or someone you know to read it aloud.
- You can ask for the court room to be closed if you read your VIS aloud. The judge or magistrate will decide if this is possible.
- The judge or magistrate may read parts of your VIS aloud in the court room.
- If there are parts of your VIS that you don't want read aloud in the court room, tell the prosecutor and make a note about it in your VIS.
- If the judge or magistrate mentions your VIS at the sentencing hearing, their comments will be made public.
- After the court case is over, the VIS becomes part of the court file. Sometimes members of the public (including journalists) can read it.

Where to get help

Victims of Crime Helpline

The Victims of Crime Helpline can connect you with a support service in your local area for day-to-day support, and help with making your Victim Impact Statement.

Open: 8am-11pm every day

Call: 1800 819 817

Text: 0427 767 891

Email: vsa@justice.vic.gov.au

victimsofcrime.vic.gov.au

Witness Assistance Service

If the court case is being handled by the Office of Public Prosecutions (OPP), the Witness Assistance Service supports victims of crime, family members and witnesses through the court process.

The Witness Assistance Service can:

- give you information about the progress of the case and explain the court process
- support you through meetings with the prosecution team
- help you with arrangements for being in court
- connect you with other support services.

Call: 1800 641 927

opp.vic.gov.au

Child Witness Service

The Child Witness Service offers specialised support for children and young people.

Call: 1300 790 540

Email: childwitnessservice@justice.vic.gov.au

