

What needs to happen for a perpetrator to be prosecuted?

In Australia, crimes are dealt with by police and the public prosecutor. It is a long process and not all crimes result in a criminal conviction. If you have decided to make a statement to police and you want the person who assaulted you to be prosecuted, there are steps to go through.

After you have made your statement, the police need to decide whether there is enough evidence to bring charges against the alleged offender. If they determine that there is enough evidence, they present this evidence (known as a **brief of evidence**) to the public prosecutor. In Queensland, the prosecutions are handled by the lawyers at the Office of the Director of Public Prosecutions (usually shortened to **OPP** or ODPP). The OPP consider the evidence, carry out interviews, and decide whether to proceed to prosecution.

Sometimes, prosecution will not happen. This may be because there is not enough evidence (from a legal context) or because the OPP determine that a guilty verdict is unlikely (i.e., they think the court will **not** agree that the alleged offender committed the crime). It is important that you understand that you do not get to make decisions about whether the perpetrator is charged or prosecuted – that is up to the police and OPP. No matter the legal outcome - we still support and believe you.

What do the courts do?

When a person is charged with a crime, they first appear in the **magistrate's court**. One of the magistrate's tasks is to decide whether there is enough evidence for the **defendant** (the person accused of the crime) to be convicted of committing the crime. At a **committal hearing**, the OPP presents evidence against the defendant, including asking questions of witnesses, including the victim/survivor (once the case gets to court, the victim is considered a witness). The defendant's lawyer or the defendant themselves may also question the witnesses - this is called **cross-examination**. If the magistrate decides there is enough evidence to proceed to trial, the magistrate will send the matter to the **district court**.

If the defendant admits to committing the crime (**pleading guilty**), they will be **sentenced** by a magistrate or district court judge. A sentence can include time in prison (a **custodial sentence**) or **non-custodial orders**, such as restrictions on what the person can do, requiring them to pay a fine, or ordering that they carry out community service (unpaid work for the benefit of the community). If they do not admit to committing the crime, they will be **committed to trial** in the district court. The purpose of the trial is for a jury of 12 people to decide whether it is overwhelmingly likely that the defendant committed the crime. If so, the offender will be convicted and sentenced.

It is common for the time between reporting a sexual crime and the end of a trial to be 18 months or more.

Throughout the prosecution process, it is possible for the prosecution to be changed or stopped for a whole range of reasons.

The charges laid by police are not always the same as those that are prosecuted. Some charges can be combined into one type of crime for which the defendant is prosecuted or, particularly if further evidence is found during the DPP investigation, further charges may be added.

The accused may change their plea to guilty, admitting to having committed the crime, leading to a sentencing decision rather than a complete trial process.

Sometimes evidence comes up that leads the DPP to stop the prosecution.

The DPP should keep you up-to-date with any developments. You also have the right to appoint another person for the DPP to include in any communications with you, so that your supporter (a family member, support worker, etc.) also knows what is happening and can help you work through the information.

