

Reporting, Police & the Legal System

Information for Survivors & Supporters



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Introduction

This booklet is for people who have experienced sexual violence.

If you have experienced sexual violence, you might have a lot of questions about what to do now.

That is why we wrote this booklet.

It is also for their family, friends, and support workers.

You will find this booklet useful if you have questions like:

- Should I tell the police?
- What will happen if I tell the police?
- What will happen next?
- What will I need to do?
- Who can help me?



What Is Sexual Violence?

Sexual violence is when one person does sexual things to another person that hurts them or make them feel uncomfortable.

Sometimes it is hard to be sure if something a person does is sexual violence.

If you feel uncomfortable about sexual things another person has done, it is important to talk to someone you trust about what has happened.



Sexual violence includes:

- When one person makes another person do sexual things with them when the other person doesn't want to.
- When one person pressures another person to do sexual things.
- When one person touches another person's private parts without that person's permission.
- When one person takes or shares naked photos or videos of another person without that person's permission.



Part I: Reporting to Police

Do I have to tell the police what happened?

No. You are allowed to decide who you tell about the sexual violence.

Sometimes, another person who knows about the sexual violence could tell the police. Especially if you are younger than 16 years old.



You will need to tell the police if you want the person who hurt you to be charged for what they did.

If you tell the police, they will decide whether to charge the person who hurt you.

I don't know what to do. Who can help me?

If you want help to decide whether or not to tell the police, you can talk to a support person or a sexual violence worker.

It is best to tell somebody you trust and who cares about you.

People who might be helpful include

- A friend
- A family member your trust
- A support worker
- A support phone line worker



Sexual Violence Services

Sexual violence workers know about sexual violence and what your options are.

They won't tell you what to do but they can help you decide what is right for you. We've listed some local Brisbane services below.



In Brisbane, BRISSC can give you or your supporters information. Our phone number is 3391 0004.



If you have an intellectual or learning disability, WWILD can help. Their phone number is (07) 3262 9877.



If you aged 12-25 years old or less, Zig Zag can help. Their phone number is: (07) 3843 1823



Phone support line is available for free, 24 hours a day, 7 days a week to support people impacted by domestic, family or sexual violence
Their number is: 1800 737 732

I want to tell the police. How can I tell them?

There are two main ways to **report** sexual violence to police:

1. Making a statement.
2. Alternative reporting options (AROs).



Option 1. Making a statement

You can go to a police station and tell them in detail about what happened. This is called making a **statement**.

The police will write down what you tell them. When you have finished making your statement they will print out what they have written.

You will need to check that what they have written is true.



If other people saw or heard what happened, they can make statements to the police as well.

Is making a statement important?

The police use statements to help them find out what happened.

A statement has to be made before the person who hurt you can be charged with any crimes.

If no one makes a statement, the person who hurt you can't be charged with any crimes.



Can I have help with this?

Yes.

People with intellectual disabilities also have special rights when they talk to the police. If you have an intellectual disability and you tell the police, they should help you get extra support.



You also can have an interpretor who speaks your language with you to help tell your story.

Can a support person come with me?

Yes.

You can have a support person with you whenever you talk to the police about what happened to you.

This can be:

- A family member.
- A friend.
- A support worker or advocate.



Very Important Information

You might not be able to have the person you most want to stay with you the whole time.

If you have told a person about what happened before you go to the police, they might also have to give a statement.

That person won't be able to stay with you while you make your statement.

You can choose someone who you haven't already told about what happened as your support person. They will be able to stay with you the whole time.

What can the police do after I give a statement?

The police will use your statement and other **evidence** to decide whether they will be able to charge the person who hurt you with a crime.

What is evidence?

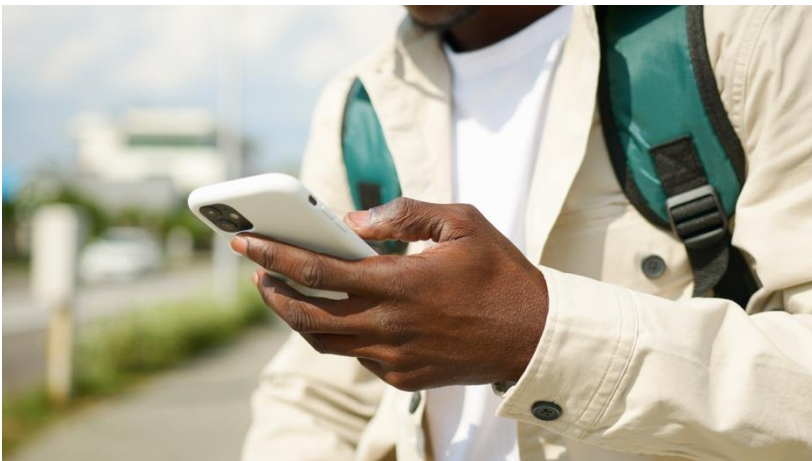
Evidence means things that police or lawyers can use to show that a crime happened.

If you make a statement, that is one piece of evidence.



The police might look for other evidence, too.

- They might get statements from other people.
- They might see if there are pictures or videos of what happened or the place it happened.
- If you see a doctor or had to go to hospital after the sexual violence, the doctor or hospital can give the police evidence.
- If the person who hurt you sent you messages or emails, the police might use these as evidence.



What will the police decide to do?

We can't be sure if the police will decide to charge the person who hurt you with a crime.

The police are only allowed to charge a person if they think there is enough evidence.

Sometimes a statement is not enough evidence.

The police might take a long time to make a decision. This can be because they are looking for more evidence.

Waiting for them to make a decision can be hard.



What if the police decide to charge the person?

If the police decide to charge the person who hurt you, they will find and arrest the person.

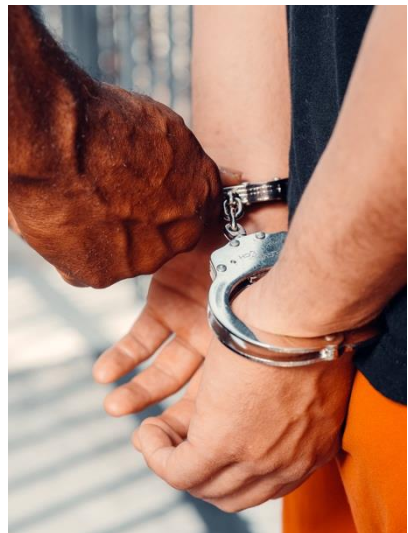
The police will give the evidence to lawyers called the **Office of the Director of Public Prosecutions**. This is often just called the **DPP**.

There is more information about what the lawyers do later in this booklet.

After the person is arrested, they may be kept in jail or released on **bail**. If they are released on bail, they will live in their home until the court case continues.

People on bail usually have to follow strict rules about what they can do.

If a person tries to message, call, or see you while they are on bail, you can tell the police.



Option 2. Alternative reporting options (AROs)

If you want the police to know what happened but you don't want to make a statement, you can use an alternative reporting option (ARO).

An ARO is a long form that you or a support person will need to fill in. This can be done on a computer or on a paper form.

This form can be anonymous.

A sexual violence worker can help you fill in the form.



If you use an ARO the police can use it to help them find out about other crimes. They might contact you to ask questions about what happened if they think the same person who hurt you has hurt someone else.

The police does not investigate or a charge a person from ARO. For that option you will need to do a statement.

Tricky Terms

Bail: When a person who has been charged with a crime is allowed to live at home until they go to court.

Charge: When the police arrest a person for a crime and give the evidence to the lawyers at the DPP.

Evidence: Things that police or lawyers can use to show that a crime occurred or to show that it is likely a crime occurred. This can be statements, photographs or videos, information from doctors and hospitals, and messages from the person who hurt you.

Office of the Director of Public Prosecutions: Lawyers who try to have people who have committed crimes to be held responsible in court.

Perpetrator: A person who has committed an act of sexual violence.

Sexual violence liaison officer: A police officer who is focused on sexual violence.

Sexual violence services: Community services whose workers support people who have experienced sexual violence.

Statement: A formal document police create as you tell them about a crime. It is very detailed and involves having a long conversation. Statements are usually taken at police stations.

Part 2: Magistrates Court

If the police charge the person who hurt you, there are lots of things that need to happen before they are held responsible for what they did.

This takes a long time and many people find it very confusing.

The next steps involve:

- The Magistrates Court.
- The Office of the Director of Public Prosecutions (DPP). These are the lawyers who will try to show evidence that you have been harmed by the person who hurt you.
- Lawyers who are working for the person who hurt you. They are called the **defence**. This is because they will try to show evidence that the person did not hurt you.

People from the DPP will want to talk to you and they will send you letters.

Can I have support?

Yes, you can have support throughout this time.

You can ask to have a support person with you when you meet with the DPP or speak to them on the phone.

You can ask the DPP to send all letters about your case to a support person as well as to you.

The DPP have a people who help victims of crime. They are called Victim Liaisons. Their phone number is (07) 3035 1122.

You will be assigned a liaison during your court process.

A service called PACT also provides help for victims of crime at court. Their phone number is 1800 449 632



What is the Magistrates Court?

The Magistrates Court is a lower level court where decisions have to be made before there can be a trial.

The Magistrate is a kind of judge. They will consider what the lawyers say and make decisions.

At the Magistrates Court, the person who hurt you will be called the **accused**. This can be confusing, because they are called other things at other times, like the **defendant** or the **alleged offender**.



(Brisbane Magistrates Court, Roma St)

There are several people at the Magistrates Court.

Inside a magistrate's court room, the Magistrate sits at the front (where the number 1 is in the picture).



There are also court staff, like the clerk who sits in front of the magistrate (number 2 in the picture).

Lawyers will be at the table in the middle of the room (numbers 3 and 4 in the middle).

The defendant may be present (seat 5).

People who give evidence do this at number 6 in the picture.

What will happen at Magistrates Court?

The Magistrate will ask the accused whether they hurt you in the way you have said.

The accused usually has their lawyer answer this.

There are three answers the accused or their lawyer can give.

- They can **plead guilty**, which means they admit that they hurt you in the way you have said.
- They can **plead not guilty**. This means they are saying they didn't hurt you in the way you have said.
- They can enter **no plea**, which means they are not admitting they hurt you or saying they didn't hurt you.

What will the Magistrate do if the accused pleads guilty?

If the accused pleads guilty, the Magistrate will send them to be **sentenced**. This means that a judge will decide whether the accused will be punished.

We have more information about sentencing near the end of the booklet.

What will they do if the accused doesn't plead guilty?

If the accused pleads not guilty or does not enter a plea, the Magistrate has to decide what will happen next.

The most important decision they will make is deciding whether the DPP has enough evidence to take the accused (the person who hurt you) to trial.

If the Magistrate decides that the accused should go to trial, this is called a **committal**. There is usually a very long gap between the committal and the start of the trial.

If the Magistrate decides there is not enough evidence for a trial, the person who hurt you will be **dismissed**.

What does 'dismissed' mean?

If the accused is dismissed, they will go free.

They will not face legal consequences for what they did. For example, they will not go to prison.

How does the Magistrate make their decision?

The DPP will show the Magistrate their evidence. As part of the DPP's evidence, they may question people, including you.

While this is happening, you might be called a **witness**. Other people the lawyers question will also be called witnesses. This is the name for people who are expected to answer lawyers' questions at court.

Sometimes, the defence (the lawyers for the accused) might ask witnesses questions, too.

The Magistrate uses the DPP's evidence to decide whether to commit the accused to trial.



What Will I Need to Do?

The DPP may need to ask you to tell the Magistrate what happened to you. This is called **giving evidence**.

The DPP will tell you if you need to give evidence.

If you need to go to the Magistrates Court and talk to the Magistrate, you can have a support person with you.

Very Important Information

Just like when you are talking to the police, you might not be able to have the person you most want to stay with you at court.

If your support person is also a witness they will not be able to be with you when you answer the lawyers' questions at Magistrates Court.

You can choose someone who is not a witness to be with you at court.

Part 3: Going to Trial

Trials are held in another court, called the District Court.

If they are committed to trial, the person who hurt you will be called the **defendant**.

There will still be a lot of things that need to happen before the trial begins.



The DPP and defence lawyers will often talk to the judge before the trial and ask the judge to make decisions.

This includes decisions about vulnerable witness protections, such as the ones listed on the next page. You or a support person must ask the DPP lawyers to arrange these protections if you want them.

The DPP should tell you about decisions the judge makes.



Lawyers might also ask the judge to delay the start of the trial. This can be very upsetting for victim-survivors and witnesses.

Sometimes the DPP or a judge might decide that the case shouldn't continue to trial. This is called having the case **discontinued**. This means that the person who hurt you will go free.

Very Important Information

Victims of sexual violence can be given extra support and protection during a trial. These are called **vulnerable witness protections** or **special witness protections**.

Protections include:

- Being allowed to give your evidence before the trial. The DPP can then show a recording of your answers to questions at the trial.
- Being allowed to give evidence in another room at court, so that you don't have to be in the same room as the defendant.
- If you have to give evidence in the room with the defendant, having a screen placed between you and the defendant so you do not have to see them.

If you want these protections, you or your support person must ask the DPP to make an **application** to the judge.

The judge will decide whether you will have these protections at trial.

What happens once the trial starts?

When the trial starts, the defendant will tell the judge whether they plead guilty or not guilty. This is similar to what they need to tell the Magistrate (see page 25).

If the defendant pleads guilty the trial won't go ahead. Instead, the judge will sentence the defendant at a sentencing hearing (see pages 42-44).

If the defendant pleads not guilty, a **jury** will come in to the court.

What is a jury?

The jury is a group of 12 people who will hear the evidence at court and decide whether they think the defendant is guilty or not guilty.

What does the jury do?

When the DPP and defence lawyers ask witnesses questions, the jury will listen to the witnesses' answers.

They will also look at any documents, like photos or reports, that the lawyers show to the court.

What happens next?

Stage 1: The DPP presents their evidence

First, the DPP will **present** their evidence.

This means they will show their documents to the court and question their witnesses.

If you have given evidence in advance and it was recorded, they will play this recording.

If you have been called to give evidence and haven't had it recorded by the DPP in advance, you might have to:

- Answer their questions in front of the judge and jury.
- Answer their questions in another room (away from the defendant).

Other witnesses will also give evidence.

Stage 2: Defence cross-examination

After the DPP questions their witnesses, the defence lawyers will ask the witnesses some questions.

This is called **cross-examining** the witnesses.

Being cross-examined can be confronting. It is important to tell the judge if you don't understand something, need the question repeated or if you feel overwhelmed and need a break.

Stage 3: The defence presents their evidence

The defence calls their own witnesses and shows the court any documents they want to be used as evidence.

They will ask their witnesses questions. They will aim to show that it is not certain that the defendant hurt you.

This can be very upsetting for victims.

Stage 4: DPP cross-examination

The DPP lawyer will ask questions that the defence witnesses have to answer.

Stage 5: The jury makes a decision

When all the evidence has been presented, the jury will go into another room and make a decision, called a **verdict**.

The jury has to follow very strict rules when they make a decision. They need to consider the evidence that has been presented to the court.

The big rule is that they can only decide that the defendant is guilty if the evidence proves this *beyond reasonable doubt*.

What is 'beyond reasonable doubt'?

This is something a lot of people find challenging.

'Beyond reasonable doubt' means that the evidence that the defendant is guilty is very strong.

It means that the jury can be almost certain that the defendant did hurt you in the way you say they did.

Unfortunately, it can be very hard for the DPP to show such strong evidence, even when a defendant is guilty.

A person can know that the defendant hurt them, but that defendant can still be found *not guilty 'beyond reasonable doubt'*.

This means that the jury cannot be certain from the evidence that the defendant is guilty despite the violence occurring.



What decisions can a jury make?

There are three kinds of decisions a jury can make.

I. Guilty verdict

A guilty verdict means that the jury is sure the defendant committed the crime or crimes they are on trial for.

The jury believes that the DPP has proved the defendant's guilt beyond reasonable doubt.

After a guilty verdict, the judge will sentence the defendant. There is information about sentencing on page 41.



2. Not guilty verdict

If they think there is reasonable doubt that the defendant is guilty, the jury must give a *not guilty verdict*.

This doesn't mean that the defendant did not hurt you.

It means that the DPP wasn't able to *prove beyond a reasonable doubt* that the defendant hurt you.

When this happens, it can be very upsetting for victim-survivors and their supporters.

3. No verdict

If the jury cannot agree about whether the defendant is guilty or not guilty beyond reasonable doubt, this is called a **hung jury**.

When the jury cannot agree, the DPP may decide to reattempt the trial. They can also decide not to reattempt the trial.

If the trial is reattempted, this will take a long time.

If the trial is not reattempted, the defendant goes free.

This can also be very upsetting for victim-survivors and their supporters.

What do I need to do to give evidence?

Whether you give evidence in court or your evidence is recorded before the trial, you need to be honest.

Tell the truth and say exactly what happened to you.

Don't pretend to know an answer if you don't. If you do not know the answer to a question, just say so. That is okay.

Try to answer exactly the question that you are asked. Do not give more information than the lawyer has asked for.

If you are asked a question you do not understand, tell the DPP lawyer or judge that you don't understand. They will rephrase & repeat.

If you need to take a break, tell the DPP lawyer or judge. You are allowed to have breaks when you need them.

What is sentencing?

If the person who hurt you is found guilty, the judge will decide whether they will be punished for what they did to you.

There are two main types sentences:

- Custodial sentences.
- Non-custodial sentences.

What is a custodial sentence?

Victims often want the person who hurt them to go to prison. This is called **imprisonment** or a **custodial sentence**.

The judge might decide that the person who hurt you will go to prison. Prison sentences usually last from a few months to a few years.

If the person has been in jail (instead of living at home on bail) the judge might decide that their time in jail is enough. If the judge decides this, the person will go free.

What is a suspended sentence?

The judge might decide that that the person can go free as long as they do not break any rules that the judge sets.

This is called a **suspended sentence**. A suspended sentence is kind of like being on bail (page 18).

If a person on a suspended does something that is against the judge's rules, the judge can decide they must go to prison.

What is a non-custodial sentence?

Sentences that don't involve prison are called **non-custodial sentences**.

Non-custodial sentences include restricting the person's behaviour. The judge could make a rule that the person is not allowed to contact you for example.

For some crimes, the judge might order the person to do community service or pay a fine.

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