



## Victims Of Property Crime

### What Can I Do If I Suffer Damage Or Loss Of Property As A Result Of Crime?

Report the crime to the Police. You can either go to the nearest police station or call 131 444 or report online to WA Police

<https://www.police.wa.gov.au/Police-Direct/Report-Stolen-or-Damaged-Property>.

### Do I Have To Report The Crime To The Police?

You do not have to report a property crime to the Police. However, if the property is insured, you must report the crime before you can make an insurance claim and be compensated for the damage or loss.

### What Happens After I Report A Crime To Police?

Depending on the seriousness of the crime, the Police may wish you to give them a detailed statement. The Police may or may not investigate the crime. You can keep up to date with the status of the investigation on the police website <https://www.police.wa.gov.au/Police-Direct/Crime/Check-my-crime>

### What Happens If The Police Charge A Person With The Crime?

If a person is charged, then he/she (now called the accused) may have to attend court.

If the accused is under the age of 18, the Police may issue them with a Police 'caution', refer them to the Juvenile Justice Team, or require them to attend the Children's Court.

If the accused is 18 years old or over, they may appear in the Magistrates Court and, depending on the seriousness of the charge, the matter may either stay in the Magistrates Court or be dealt with in the District Court or Supreme Court.

### What Is My Role Once Charges Are Laid?

A criminal offence against a person or their property is considered to be an offence against the State of Western Australia or the Commonwealth of Australia (depending on the charge). This means that in criminal matters, the State or Commonwealth is listed as the other party rather than the victim.

If you are the victim of a crime, you cannot get the charges dropped once they are laid unless the State of Commonwealth agree. Your role is that of witness for the State or Commonwealth.



## What Happens If The Accused Pleads Guilty?

If the accused pleads guilty, you will not have to go to court. You can attend as a member of the public to observe the sentencing if you wish. You may be asked to provide a written Victim Impact Statement to the Judge.

## What If The Accused Pleads Not Guilty?

If the accused pleads not guilty, the matter will be set down for a trial at a later date.

You may have to attend court on the day of the trial to give your account of what happened or to confirm that you are the owner of the property that was stolen or damaged. You will be served with a witness summons. If this happens to you, you must attend on the days stated in the summons, regardless of your age. If you fail to turn up to court, you can be charged with an offence.

## What If I Am Going To Be Overseas During The Trial Date?

If you are not going to be able to attend on the court day and have a good reason, you must let the police officer in charge of the case know as soon as possible as they may have to get a new trial date.

## I Am Scared. Can I Get Out Of Going To Court?

If the trial is in an adult court and you are under the age of 18, then an application can be made to the court for you to give your evidence in a separate room. You are also entitled to have a support person next to you when you give your evidence.

If the accused is a child then you will have to give evidence in the Children's Court, regardless of your age. If you feel unsafe attending the court with the accused present, you can let the Police know and sit in a separate room for police witnesses.

## If The Accused Is Found Guilty, Do I Have A Say In The Sentence They Receive?

As a victim, you can prepare a Victim Impact Statement for the court, which will tell the Judge how the crime has affected you. However, you will have no say as to what sort of punishment or sentence the offender should receive. The Judge will decide on the sentence by taking into account many factors, including but not limited to the impact of the crime on you.

## When Can I Get My Property Back From The Police?

If the Police have any of your personal property (e.g. items that were stolen), they will return them after 28 days from the conviction date.



## What Can I Do If The Accused Is Found Not Guilty?

Very little. There may not have been enough evidence to find the accused guilty beyond a reasonable doubt.

However, if there is enough evidence to find the accused guilty on the balance of probabilities, you can consider taking civil action against the accused to recover for loss or damage. You would need to get legal advice about this.

## Can I Get Compensation From The Offender For Damage Or Loss?

If the accused (called the offender if found guilty) is under 18 and was referred to the Juvenile Justice Team or referred for court conferencing, then a meeting will be held that you or your parents can attend. At this meeting, an agreement can be made for the offender to repay you for the loss you have suffered.

Victim-Offender Mediation is a process that can take place where an agreement can be made to return property, pay compensation or pay the victim's out-of-pocket expenses. This applies to juvenile and adult offenders.

If the accused is in the Children's Court or an adult court, you can also speak to the Police or Prosecutor about getting a Compensation Order or a Restitution Order.

## What Is A Compensation Order?

A compensation order is an order made by the court that the offender must pay an amount of money to you as compensation for loss of or damage to your property and expenses that you reasonably incurred. If the offender does not pay the compensation amount, you can seek enforcement of the order through the Magistrates Civil Court.

## What Is A Restitution Order?

A restitution order is an order for the offender or a third party to return property to you. If your property is not returned, you can seek enforcement of the order through the Magistrates Civil Court.



## What If No Compensation Or Restitution Order Is Made?

You may be able to take civil action against the offender to recover costs and damages. Civil action against another party can be costly and can also be a long process if the offender is not insured or does not have any income or assets with which to make payment to you. You should seek legal advice to determine whether legal action is likely to be successful based on the facts of your case.

## How Can I Find Out What Is Happening With The Case?

You can ask the investigating police officer to keep you informed. Alternatively, as a victim of crime, the Victim Support Service can keep you informed about the progress of the matter.

## How Can I Keep The Accused/Offender Away From Me?

If the accused is violent towards you, threatens you or your property, harasses you or intimidates you and you are concerned that it will continue, you can speak to the Police, who may impose bail conditions on the accused that he/she not contact you. If the accused disobeys this condition, they can be remanded in prison or detention until the matter is finalised.

If you continue to experience threatening behaviour after the matter is finalised, you can apply to have a restraining order taken out against the offender. If a restraining order is made and the offender disobeys the order, then they can be charged.

## More Information

Government of Western Australia, Victims of Crime: [https://www.victimsofcrime.wa.gov.au/A/about\\_us.aspx?uid=2460-2277-2132-8163](https://www.victimsofcrime.wa.gov.au/A/about_us.aspx?uid=2460-2277-2132-8163)

Commissioner for Victims of Crime: email [cvoc@justice.wa.gov.au](mailto:cvoc@justice.wa.gov.au) or phone (08) 9264 9877

Victim Support Services: email [vss@justice.wa.gov.au](mailto:vss@justice.wa.gov.au) or phone (08) 9425 2850

**Please note:** Laws are subject to change. Last updated July 2020.

**Important:** The information provided in this infosheet is for information only.

It should not be relied on as legal advice.

Please seek legal advice about your particular circumstances.