

## HELP! I'M A VICTIM OF CRIME

This fact sheet is about how the legal system can help you if you are the victim of a crime.

This information sheet details laws in Victoria as at **December 2012**.

### SHOULD I GO TO THE POLICE?

**If you are the victim of crime and you are in danger you should contact police on 000.**

If you are no longer in danger, you can make a report to your local police station. To find your local police station, go to [www.police.vic.gov.au](http://www.police.vic.gov.au) or call (03) 9247 6666.

#### *☞ Do I have to make a report to police?*

If you are a victim of crime, you do not have to make a report to police but making a report can:

- help police find the person who committed the crime against you
- help police charge the person
- help police protect you from that person
- help you apply for an intervention order
- help you make an insurance claim
- help you apply for compensation
- make sure the person who committed the crime against you is punished or linked into services so they are less likely to commit a crime against you or someone else in future

Depending on your situation, there may be specially trained police officers available to help you. For example, if you are under 18 and you are the victim of child abuse or a sexual offence, you may be assisted by the Sexual Offences and Child Abuse Investigation Team (SOCIT) in your area.

### WHAT ARE MY RIGHTS?

If you are the victim of a crime in Victoria, there is a Victim's Charter to make sure police, courts and support services:

- treat you with respect

- respond to any special needs you have (e.g. because of your age, religion, disability, cultural or linguistic background)
- update you on the progress of your case
- protect you from an accused person in court as much as possible
- give you the option to make a 'Victim Impact Statement' (see below)
- keep your personal information private
- treat your property with respect and return it to you if possible

### HOW DO I GET HELP?

Many victims of crime experience stress, anxiety and depression. There are free counselling and support services available to help victims of crime in Victoria.

**To find out more or to get a referral, contact the Victims of Crime Helpline on 1800 819 817 (from 8a.m. to 11p.m).**

### WHAT IF I STILL DON'T FEEL SAFE?

If you fear the person who committed the crime might harm you again, you should tell the police officers who are investigating the crime. Police may then decide to keep the person in custody or argue in court that the person should not be released on bail.

#### *☞ What if the person is released on bail?*

If the person is released on bail, you can ask for conditions to be added to keep you safe. For example, police or the courts can make it a condition of that person's release that they must not contact you or go near you, your home, your school or your workplace until the case is over.

#### *☞ What else can I do to keep safe?*

If you are in fear of the person who committed the crime against you, you or police can apply for an intervention order to protect you. If you are

**Disclaimer:** The material in this fact sheet is intended as a general guide only. You should not act on the basis of the information in this fact sheet without first getting legal advice about your own particular situation.

under 25, you should contact Youthlaw for more information and advice.

### DO I HAVE TO MAKE A STATEMENT OR GO TO COURT?

Police may ask you to make a statement. Police usually type up the statement from what you have told them and you can then either swear on the bible or affirm that the statement is true. It is an offence to make a false report to police or to make a false statement.

#### *☞ Do I have to make a statement?*

You do not have to make a statement if you don't want to or if you disagree with how police type your statement up.

#### *☞ Do I have to give evidence in court?*

If the person pleads not guilty to some or all of the charges against them, there will be a trial or a hearing. You may then have to give evidence in court, even if you refused to make a sworn statement.

When you give evidence in court, you must swear on the bible or make an affirmation that your evidence is true. If you give evidence that is not true, you may be charged with a criminal offence.

If you are given a summons (notice) saying you have to go to court to give evidence and you do not go, you may be charged with contempt of court and the court may issue a warrant for your arrest.

#### *☞ What if I'm a victim of sexual assault or family violence?*

There may be special court rules and procedures to protect you, such as not allowing the accused person to question you in court and limits on what questions lawyers can ask you about your previous sexual history.

The court may decide to run the court case in different ways to protect you, such as allowing you to give evidence via video link or having a support person stand in the witness box with you.

#### *☞ What if I'm under 18 or I have a mental illness, brain injury or intellectual disability?*

If you are the victim of a sexual offence, a child pornography offence or assault, there may be

special rules to protect you e.g. the court may pre-record your evidence or allow you to give evidence via video-link so you do not have to see the accused person or go into the court room.

**The prosecutor of the case should explain to you what to expect at court and if there are any special rules to protect you as a witness. For more information and support, you should contact the Witness Assistance Program on 1800 641 927 or the Child Witness Service on 1300 790 540.**

### WHAT'S A VICTIM IMPACT STATEMENT?

When sentencing someone for a crime, courts must take into account the impact of the crime on any victims.

If you choose, you can make a Victim Impact Statement so you can tell the court about any injuries, loss or damage you have suffered. The court may ask you to come into court to give evidence about your statement but this is unusual.

#### *☞ What if I'm under 18 or I have a mental illness, brain injury or an intellectual disability?*

You can make your own Victim Impact Statement but if you find it difficult, someone else can make one on your behalf.

### CAN I CLAIM COMPENSATION?

If you are a victim of crime, you can seek compensation by:

1. Asking police or the prosecutor to apply for an order as part of the criminal case
2. Making an application to the Victims of Crime Assistance Tribunal (VOCAT)
3. Suing the person who committed the crime directly

#### **1. Asking for a court order**

If the person who committed the crime against you is found guilty, the police or the prosecutor can ask the court to make an order for them to pay you money as compensation or restitution for any loss, damage or injury you suffered.

The court will look at the information in your Victim Impact Statement and it can order the guilty person to pay for any money or property you lost (e.g. theft), your costs (e.g. medical bills or repairs to property) or for your pain and suffering.

An application for a compensation order must be made within 12 months of the court finding the person guilty of the offence.

**CAUTION:** if the person who committed the crime has no income, property or assets, the court may not be able to force them to pay you.

## 2. Making an application to VOCAT

If you are the victim of a violent crime (e.g. assault or sexual assault) you can apply to VOCAT for financial assistance to help you recover.

To be eligible for financial assistance, you must prove to VOCAT that:

- a person committed a violent crime against you in Victoria
- you were injured (physical or psychological)

**What if I wasn't the victim but I witnessed a crime or the victim was my partner/family member?**

You may be eligible for VOCAT assistance if you suffer injury or harm because you witnessed a violent crime or you found out a violent crime has happened to your child. You may also be eligible for assistance if your partner or close family member dies as a result of a violent crime.

**What can I get compensation for?**

You can seek compensation of up to \$60,000 for costs such as:

- counselling or medical expenses
- safety-related expenses (e.g. moving house)
- loss or damage to clothing worn at the time
- loss of earnings of up to \$20,000
- financial support if you were a dependent
- funeral expenses
- other expenses to help you recover

You can also seek a lump sum payment of up to \$10,000 if you suffered severe injury, grief, distress or trauma as a result of the crime.

The amount of compensation you get depends on the crime and how badly you have been affected.

VOCAT can take into account your criminal history or attitude before, during and after the crime and it may reduce your award on that basis. VOCAT may also refuse to make an order if it you did not report the crime to police within a reasonable time.

**Can I apply if I am under 18?**

If you are under 18, you can make your own application or a parent/guardian can apply on your behalf. If your parent/guardian is unwilling or unable to apply on your behalf, you can ask VOCAT to give permission for someone else to make the application.

**What if I don't know who hurt me, police didn't charge the person or they were found not guilty in court?**

VOCAT can still make an order in your favour as long as the Tribunal member is satisfied that it is more likely than not an act of violence happened.

**Are there time limits?**

You must make a VOCAT application within **two years** of the crime (or within two years of death if the victim of crime dies). VOCAT may allow an extension of time however you should seek legal advice before making an application out of time.

## 3. Suing the person directly

You may be able to sue the person who committed the crime against you directly. It can be difficult for courts to collect money from that person if they have no income, property or other assets and strict time limits apply. If you are under 25, you should contact Youthlaw for more information.

## GETTING LEGAL HELP

### Youthlaw

If you are under 25, you can get free and confidential legal advice.

☎: (03) 9611 2412 (9am-5pm, Mon-Fri)  
🌐: [www.youthlaw.asn.au](http://www.youthlaw.asn.au)

### Victoria Legal Aid - Legal Help

For legal information, referrals or appointments.

☎: (03) 9269 0120 or 1800 677 402 (country)  
🌐: [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)