

# VICTIM IMPACT STATEMENT

## *Information and form*



**Government of South Australia**  
Commissioner for Victims' Rights

### Office use only

Name of the police officer in charge of the matter: .....

Contact Details: Tel: ..... Mobile: .....

Mailing address on completion of the form:

.....  
.....  
.....

Name of convicted person: .....

Criminal charge(s): .....

Is this an Indictable Offence? **YES/NO** (circle whichever is appropriate)

If Yes, advise the victim that they may read their personal victim impact statement to the court during the sentencing process, or the court might ask someone to read the victim impact statement on the victim's behalf.

## **What is the purpose of the victim impact statement?**

A victim impact statement (VIS) is an important document. It gives you an opportunity to tell the offender and the court how the crime has affected (or is affecting) you.

The judge or magistrate can take this information into account when sentencing the convicted person. It can also take into account your personal circumstances.

The judge or magistrate may order the offender to pay you compensation. If you want the Judge or Magistrate to consider ordering compensation directly from the offender you should complete a VIS (see section on compensation).

## **Do I have to provide a victim impact statement?**

You do not have to provide a VIS if you do not want to. It is entirely your choice. You can change your mind at any time before submissions on sentence begin.

## **Who can submit a victim impact statement?**

A victim is any person who suffers harm as a result of the offence for which the offender has been convicted. A victim is entitled to have any injury (physical or mental), loss or damage suffered as a result of the offence considered by the court.

If you are a victim you are entitled to make a VIS. If you are unsure, however, you can ask the investigating officer or the prosecutor.

A form is enclosed that you can complete or use to guide you as you write your own VIS. You may prefer to write a letter or a poem.

## **What if the victim is a child?**

A child who is a victim of crime is entitled to make a VIS. A form is enclosed for children and young people. He or she may prefer to write a letter or poem, do a drawing or express themselves in some other written work.

## **When should I complete a victim impact statement?**

You should discuss this with the police investigating officer or prosecutor. If you have been dealing with a Witness Assistance Officer (DPP) you should ask them this question.

If a matter takes some time to reach the sentencing stage you may be asked to update your VIS and provide more recent information about the effects of the crime on you.

You should keep a copy of your VIS for future reference and to assist you should any updates be required.

# **What do I need to know before I decide whether or not to submit a victim impact statement?**

## **Who sees my victim impact statement?**

The prosecution, defence counsel, the offender and the judge or magistrate need to see your VIS before it can be presented to the court. The offender is entitled to know about the contents and read it, but is rarely given a copy to keep.

## **Can my statement be questioned?**

You must check your statement to make sure it is accurate. You might be asked questions about the content of your statement by the judge, magistrate or the lawyer representing the convicted person, however this is uncommon. The prosecutor involved will advise you in advance if this is required.

## **Who presents the victim impact statement to the court?**

The prosecutor will give your written VIS to the judge or magistrate, or they might speak about your statement when making submissions on the sentence. Unless you are told to come to the court, you do not have to attend court for your VIS to be presented and taken into account by the judge or magistrate.

If you are a victim of an indictable\* offence you can ask to read your VIS to the court. Alternatively, you can ask that someone else be allowed to read your statement to the court.

If you want to know more about reading your statement to a court, please ask the investigating officer or prosecutor. You can also talk to someone at one of the victim services listed on page 5.

\*The investigating officer, a Police Victim Contact Officer or a Witness Assistance Officer (DPP), or prosecutor can explain the meaning of an indictable offence

## **What happens to a victim impact statement after it has been used in the court?**

If your statement is read out in the court, it can be reported in the media. If you do not want this to happen, you should talk with the prosecutor. If you have a Witness Assistance Officer helping you, you should also talk with that officer. The prosecutor might ask the judge or magistrate to order that information from your statement not be reported by the media.

If your statement is not read out, your VIS goes on the court's file. Unless the court gives permission, a member of the public (including the media) may not inspect or obtain a copy of your written statement. Even if the court allows someone to inspect or copy all or part of your statement, the court can prohibit the publication or use of your statement.

## How do I prepare a victim impact statement?

Anybody can help you with it, but it is important that the VIS is written in your own words (the way you talk and write). You can write your own victim impact statement or use the form enclosed. You may like to use the headings in this form to guide you as you write a statement or a letter. You could write a poem or draw a picture instead or include these with your written VIS.

## What information should I provide?

If you believe it is relevant, you can provide any of the following details:

- Details of the full effects of the crime including financial, social, emotional, psychological and physical harm done or suffered by you or your family.
- Where the crime has resulted in death, you may wish to write about your loved one who was killed - who that person was to you, the life they led, your relationship, and how your life has now changed. You may also include a photograph of the loved one and their date and place of birth.
- If you were injured, a description of those injuries and details of any physical effects the crime has had on you and your family.
- You may wish to comment about changes in lifestyle. For instance, how have your social commitments changed? How has the crime affected your employment/education? Have you had any changes in accommodation?
- You may wish to include details of the financial or economic impact of the crime, for example, lost wages, medical or other treatment expenses and transport costs.
- In the case of property damage, the cost of repairs/replacement.
- Outline any request for compensation directly from the offender that you wish the judge or magistrate to consider (see section on compensation).
- Any other important information related to the offence that you would like the judge or magistrate to consider during sentencing.

## Can I comment on sentence?

Sometimes the victim's view on a fair and appropriate sentence is useful. However, this is for the court to determine. If you want to make a statement about the sentence you would like to see the judge or magistrate impose on the offender, you should talk with the prosecutor and/or the Witness Assistance Officer.

Sentencing usually takes place on a separate day to the court hearing at which the offender pleaded guilty or was found guilty. As a victim, you have a right to be present at the sentencing hearing. At the sentencing hearing the prosecutor presents its case on the sentence and helps the court to avoid making an appealable error when sentencing (that is an error that might encourage the defendant or the prosecution to appeal to a superior court for another sentence). The prosecutor, where appropriate, will provide the court with information on any injury, loss or damage suffered by you, as the victim; and, information on the offender's relevant criminal record, if any. The prosecutor will also provide information on the law and appropriate sentencing options, including non-custodial options.

The offender, or the offender's lawyer, has the opportunity as well to present information to help the judge or magistrate. The offender or lawyer can put forward evidence (such as statements of the offender's previous good character and psychological and other reports) and arguments about what the sentence should be.

# VICTIM IMPACT STATEMENT FORM - ADULT

Please detach the signed form and mail it to the address shown on the front page.

Police Incident Report No: .....

Apprehension Report/Police Reference No: .....

Defendant's name: .....

Convicted person's name: .....

Name of victim: ..... Date of birth: .....

## Part A

Do you wish the prosecutor to tell the court how the offence has affected you? **YES/NO**

If you are a victim of an indictable offence, you can ask to have your victim impact statement read out to the court

If you are entitled to give your victim impact statement verbally to the court:

Do you want to attend court and read it aloud yourself **YES/NO**

Or

Do you want someone else appointed by the court to read it out aloud **YES/NO**

## Part B

Do you wish the court to consider ordering offender-paid compensation **YES/NO**

If yes, what is the total amount of offender-paid compensation you seek to claim (please attach information to verify costs, eg estimates, accounts, receipts.) \$ .....



# Victim Impact Statement for children and young people

## Information for assisting children and young people to complete a victim impact statement.

Young children will need help to fill out their statement. The child should tell the judge or magistrate in their own words how they feel about what has happened to them. It is important that you do not tell the child specifically what to do or say. You could give a simple description about what feelings are; eg, sad, happy, angry etc. and ask the child to explain his or her own feelings about the crime. It is also acceptable for the child to draw a picture to help explain their feelings about what has happened. You should explain to the child what the victim impact statement will be used for and make sure that they understand that the offender will be given an opportunity to read or see their completed victim impact statement. If the child does not want to complete a statement, reassure them that this is OK and that this is their choice.

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## VICTIM IMPACT STATEMENT

What is your name? .....

How old are you? .....

If you go to school, what grade are you in? .....

Please write or draw anything you would like the judge or magistrate to know about how you feel because of what has happened to you. You may want to write about anything that has changed in your life or in your family. You can even tell a story or write a poem if you would like. You can add more paper if you run out of room. If you don't want to write or draw anything here, that's OK, it is your choice.

Your signature: .....

Date: ..... / ..... / .....







A large, empty white rectangular area intended for writing a victim impact statement. The area is framed by a light purple border.



**Did you have insurance to cover any of the costs?**

**YES/NO**

Name of insurance company: ..... Policy No: .....

Please explain what was covered by insurance and indicate any payments which you had to make (including insurance excess).

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**Other relevant information**

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To the best of my knowledge, this statement is true.

Victim's signature: ..... Date: ..... / ..... / .....

Sometimes the offender will ask the judge or magistrate to take into account another offence or other offences for which he or she has been charged and admits but has not been convicted. If you are the victim of such an offence, you also have the right to make a victim impact statement.

The judge or magistrate can ask for a pre-sentence report, which includes information on the offender's background and any appropriate sentencing options.

You should note that the offender can only be sentenced for the offence of which he or she has pleaded guilty or been found guilty. As well, in determining an appropriate sentence, the judge or magistrate should take into account a number of factors, such as: the facts and circumstances of the offence; the effects of the offence (for instance, the impact on you and your family); and the personal circumstances of the victim. The judge or magistrate should also take into account any contrition or remorse shown by the offender.

## Is there anything I should not include in my victim impact statement?

You should avoid:

- Any detailed description of the crime — this is unnecessary as the offender has pleaded guilty or been found guilty taking into account the admissible and relevant evidence.
- Any offensive language — the court can only take into account when sentencing, information on the effects of the offence on you and your family and your personal circumstances.
- Abuse or vilification of the offender — your statement should be about the effects of the offence, not your opinion of the offender
- Comment on the police or justice system — the offender can only be sentenced for the offence, including the facts and the circumstances of the offence; he or she cannot be punished for the ways the police, prosecutor, defence lawyer or court staff treated you.

You should concentrate on how the offence has affected you and if appropriate, your family.

## What are the different types of compensation?

### *Compensation directly from the offender*

At the time when the offender is sentenced, the court may order that he or she compensates you. This compensation can be for injury (physical or mental), or for property loss or damage. The prosecutor should make an application on your behalf if you choose to seek compensation directly from the offender. However, it is up to the court whether or not to make an order for compensation. You will probably not receive compensation directly from the offender unless he/she has enough income or assets to pay you in accordance with the order.

If you want the prosecutor to apply for a compensation order you should complete the appropriate sections in the form enclosed.

### *State-funded compensation*

There are some circumstances in which a victim of crime (or the near relative of someone who died as a result of a crime) can claim money from the Government to go some way towards compensating for injury. Injury can include physical injury, mental illness, shock, or pregnancy if they are a result of the crime, but **does not include property loss or damage.**

You should speak to a lawyer for further information or advice on your case. If you are entitled to a compensation payment, the Government will also pay your lawyer's fee and some other costs.

## **Who can help me complete my victim impact statement?**

Please do not be discouraged if you feel that you are unable to complete the form or write your VIS. Whatever method you choose, help is always available. If you need help, the following people will assist you.

### ***The police officer in charge of the investigation***

#### ***Police Victim Contact Officers***

Victim contact officers can provide victims with information about their case or compensation, and can link them to the prosecution authorities and other sections of the police force. They help to protect victims' rights and can provide referrals to victim support agencies.

You can visit the SA Police website at [www.police.sa.gov.au](#) for information on a variety of services, including the Sex Crime Investigation Branch or phone your Police Local Service Area office, listed in the White Pages of the phone book.

#### ***Victim Support Service***

The Victim Support Service is a non-government, non-profit organisation that provides services for victims of crime. These include counselling, provision of information about victims' rights and compensation, court support and support groups. Staff help victims write VISs

#### ***Witness Assistance Service***

The Witness Assistance Service is part of the Office of the Director of Public Prosecutions. It provides information about, and support during, the legal process, and referral to relevant services for victims of crime and their close family members or carers. The Witness Assistance Service (Office of the Director of Public Prosecutions) is only involved where the Director of Public Prosecutions has involvement in the case.

#### ***Yarrow Place, Rape and Sexual Assault Service***

Yarrow Place provides a variety of services for people who have been raped or sexually assaulted and for their partners, families and friends. Services are for people aged 16 years and over at the time of the rape or sexual assault. People aged under 16 years should contact the Child Protection Services at either the Women's and Children's Hospital or the Flinders Medical Centre.

#### ***Child Protection Services, Women's and Children's Hospital or Flinders Medical Centre***

Child Protection Services at the Women's and Children's Hospital or Flinders Medical Centre promote the best outcome for abused and neglected children and young people. The CPS aims to provide the highest quality assessment and treatment services, and make children feel as safe and comfortable as possible when they attend the CPS.

#### ***Homicide Victims Support Group***

The Homicide Victims Support Group is a mutual support group for families and friends whose loved ones have been murdered.

For contact details for these organisations see the Information for Victims of Crime booklet, The Commissioner for Victims' Rights website at [www.voc.sa.gov.au](http://www.voc.sa.gov.au) or the White pages.

## Who do I give the victim impact statement to?

You can give your VIS to

- the police officer investigator (who is the officer that dealt with you during the police investigation)
- the Police victim contact officer
- the prosecutor

Or

- You can mail the form to the police officer in charge of the matter, see mailing address below.

If your case is being prosecuted by the Director for Public Prosecutions, a Witness Assistance Service staff (WAS) might talk to you about making a VIS. The WAS can help you, if you ask, write your impact statement and that person will give your statement to the prosecutor.

## Glossary

Defendant	The person accused of committing the crime. Also known as the
Indictable offence	Criminal offences are divided into two main classes: indictable and non-indictable. An indictable offence is usually prosecuted before a judge or jury, or judge alone, although some indictable offences may be tried summarily in the Magistrates Court.
Judge or Magistrate	Presides over the court and may be addressed as “Sir” or “Madam” or “Your Honour”
Prosecutor	Lawyer or police officer conducting a prosecution.
Summary offence	A minor offence heard and decided in a Magistrates Court and not sent for <i>trial</i> before a judge and jury.