

concerns about safety

If you have any concerns about your safety at any time during the appeal process you should immediately contact the police investigator or the ODPP. Arrangements will be made to deal with your concerns.

information on the appeal

As a victim of crime, you have the right to obtain information from the ODPP on the progress of your case. This includes any appeal proceedings. We will keep you informed of key developments during the appeal process - including whether leave to appeal has been granted or denied, any bail applications, the date of the appeal hearing, the outcome of that hearing, the delivery date for a reserved decision and the final outcome of the overall appeal. We will also let you know if the appeal is denied or discontinued at any stage.

If you do not wish to receive this information, or if you would like more detailed information, please contact us and we will try to help you as best we can. If you have special requirements regarding the provision of information, please let us know and we will do our best to accommodate your needs.

useful contacts

Office of the Director Of Public Prosecutions

Ground Floor
55 St Georges Terrace
PERTH WA 6000
Telephone: (08) 9425 3999
Facsimile: (08) 9425 3614
Website: www.dpp.wa.gov.au



OFFICE OF THE DIRECTOR
OF PUBLIC PROSECUTIONS
FOR WESTERN AUSTRALIA

Victim Support Services

VSS offers confidential counselling and support services to victims of crime. VSS can also provide help and information in a variety of other ways, including referrals to other support services, support during the court process, help obtaining information relating to your case, providing information about criminal injuries compensation and helping you understand your rights in the criminal justice system. This is a free service provided by the Department of Justice.

Level 2
District Court Building
500 Hay Street
PERTH WA 6000
Telephone: (08) 9425 2850
Facsimile: (08) 9425 2533
Freecall: **1800 818 988** (country only)
Website: www.justice.wa.gov.au

VSS also has regional offices if you live outside the metro area. Please contact VSS in Perth for details of your nearest VSS office.

Victim Notification Register

VNR is a service run by the Department of Justice. It allows victims of crime access to certain information relating to the offender in his or her case, including information on sentence details, release dates, notification of escape and recapture and advice regarding the appropriate time to contact authorities to relate your viewpoint or opinion. Information can only be received under this scheme if the offender is in custody or subject to a parole/supervision order.

Level 2
District Court Building
500 Hay Street
PERTH WA 6000
Telephone: (08) 9425 2870
Facsimile: (08) 9425 2869
Website: www.justice.wa.gov.au



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information about the appeal process

Please contact the DPP if you wish to obtain this information in alternative formats

appeals - general information

Appeals are heard in the Supreme Court of Western Australia - the highest court in this State. Appeals in criminal matters may be made against a sentence, conviction, decision or order made in a court. Both the person convicted and the prosecutor, usually the Office of the Director of Public Prosecutions ("ODPP") on behalf of the State of Western Australia, can lodge an appeal, although there are limitations on the State's right to appeal.

To appeal, the appellant (party appealing) must demonstrate that:

- (i) there was an error of law and/or fact; or,
- (ii) an error in jurisdiction; or,
- (iii) that the sentence imposed was either manifestly inadequate or excessive.

Leave to appeal must be granted by the court in every case and will only be granted if the court considers there are reasonable prospects of success.



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single judge appeal (SJA)

If the appeal is from a decision made in the Magistrate's Court or by a Magistrate in the Children's Court, the appeal is reviewed by a single Judge of the Supreme Court of Western Australia.

Except in special circumstances, an appeal to a single judge must be lodged within 28 days of the conviction, sentence or the order/decision being made. If the sentence is imposed on a different date to the conviction, the time period for both the appeal against conviction and sentence runs from the date of sentence. If an appeal is lodged out of time, an application must be made to the court for an extension of time in which to appeal.

court of appeal (CA)

If the appeal is from a decision made in the Supreme Court, District Court or by a Judge in the Children's Court, the appeal is to the Court of Appeal (CA), which is a special division of the Supreme Court of Western Australia. In most cases, the appeal will be heard before three Judges from the Court of Appeal. In some rare cases, the appeal will be heard before five Judges of the Court of Appeal.

Except in special circumstances, an appeal to a single judge must be lodged within 21 days of the conviction, sentence or the order/decision being made. If the sentence is imposed on a different date to the conviction, the time period for both the appeal against conviction and sentence runs from the date of sentence. If an appeal is lodged out of time, an application must be made to the court for an extension of time in which to appeal.

bail

If an offender is sentenced to an immediate term of imprisonment, they may be eligible to be released on bail pending the outcome of the appeal.

appeal process

The appeal process (from application to hearing) generally lasts for a period of months. During that time period each party is usually required to file documentation in support of their argument. Not all appeals will proceed to a hearing, because a judge can decide a Single Judge Appeal on the basis of the documentation filed.

If there is a hearing, the appeal is usually heard in open court and members of the public can attend. The convicted person can attend, but it is not compulsory.

Before the hearing, all the members of the court will have read the written submissions. During the hearing, the appellant puts forward his or her oral argument expanding upon those written arguments and the respondent then, if invited by the court, replies. Arguments are generally restricted to legal matters and witnesses are rarely called to give evidence. At the conclusion of submissions the judge or judges may deliver their decision immediately. However, it is more common for the decision to be 'reserved'. This means the judge or judges consider(s) the matter and a decision is delivered at a later date. The DPP will generally be given several days notice before a judgment is delivered. Generally, the judgment will simply be stated in court, and the reasons for the judgment will be handed out in a written form. Those written reasons are published and are, in most cases, publicly available.

At the end of the appeal process an appeal is either allowed, allowed in part or dismissed. If it is dismissed, the original sentence, conviction or decision/order stands. If an appeal is allowed then, depending upon the point on appeal, the court may either substitute its own sentence/verdict/order or send it back to the court where the decision was made to be reconsidered according to law.

If the appellant or respondent is not satisfied with the decision of the appellate court, he or she can appeal. In the case of a Single Judge Appeal, the appeal can be made to the Court of Appeal. In the case of a Court of Appeal judgment, the only legal recourse is to apply for the appeal to be heard in the High Court of Australia (the highest Court in the country). The High Court must grant special leave for the appeal to be heard, and it is usually only granted in rare cases involving significant points of law which require clarification.