

ODPP Response to QSAC¹

Overview

Child homicide matters are handled by a highly qualified team of Consultant Crown Prosecutors and Principal Crown Prosecutors within the Office of the Director of Public Prosecutions (ODPP).

When a child homicide matter is received by the ODPP, it is allocated to a Consultant or Principal Crown Prosecutor together with a Senior Legal Officer and a Victim Liaison Officer (VLO).

The Prosecutors assigned to child homicide matters are highly experienced advocates and trained in engaging with victims' families.

The ODPP makes every effort to have the same Prosecutor allocated to a matter from the outset through to the end of the Prosecution.

The ODPP do not take carriage of all homicide matters from committal stage. QPS have carriage of some child homicide matters at committal stage until they are committed to the Supreme Court.

The ODPP have processes in place to ensure the family is kept informed throughout the prosecution in accordance with the *Directors' Guidelines* (which are currently under review) and the *Charter of Victims' Rights*, set out in the *Victims of Crime Assistance Act 2009*.

The ODPP also have internal time frames set for when correspondence must be sent to a family during the course of the prosecution (see attached).

Generally, child homicide prosecutions take a lengthy period of time to move through the court system. There can be long periods of time between court appearances, while matters are progressing. The ODPP may not necessarily contact the family during these periods which may lead to a perception that the prosecution is not progressing.

The ODPP are aware that victims are a very diverse group, with some wanting no contact or information, to others who seek continual contact. The ODPP attempts to consider the unique needs of each family, or individual family members as much as it is able.

Below is a brief outline of how a child homicide matter would usually be handled by the ODPP at various stages.

Initial Contact

The VLO is the first point of contact the family establishes with the ODPP. When that occurs on the timeline of the prosecution depends on locality and whether the ODPP are involved prior to or after committal.

On receipt of a child homicide prosecution by the VLO, it is incumbent on the VLO to make contact with the family within 2 business days and establish an ongoing relationship. This includes sending brochures on the court process, support services available etc.

At the initial contact stage, the family are provided with the details of the VLO so they are able to contact the VLO at any stage during the prosecution of a matter.

¹ Response in relation to email from Victoria Moore – Manager – Policy – QSAC – dated 17 September 2018. ODPP Response approved by Michael Byrne QC (Director of Public Prosecutions) – 20 September 2018.

The initial letter which is sent to the family also includes the following attachments –

- Consent form to be completed by Victims family – this allows the victim to consent to other parties (eg QHVSG) being kept updated in relation to the matter.
- Brochure about QHVSG
- Brochure about the Court Process
- Brochure about the ODPP – ‘About Us’
- Information re: financial assistance and Victim Assists Queensland

Management of a child homicide by the ODPP

Committal Hearing / Hand up / Handover to the ODPP

If the ODPP is involved prior to committal the VLO must keep the family informed in relation to the following -

- Bail proceedings – if applicable;
- Committal Hearing dates and outcomes;
- When the matter is committed to the Higher Courts;

When a file is received by the ODPP from the QPS, the ODPP requires time to receive the entire brief of evidence and review that brief.

At the initial committal stage, if the ODPP is then involved, it is difficult for the ODPP to provide advice around the matter in relation to the charges, and information is usually limited to the Court process, court dates and support groups available to the family.

Higher Courts

Once a child homicide prosecution has been committed to the Supreme Court, the VLO must keep the family informed in relation to -

- When an indictment is presented;
- Mention dates (on some occasions);
- Bail hearings and outcomes (if applicable);
- Trial listing dates and outcomes;
- If a trial matter is adjourned or de-listed for any reason, the family will be advised either by the ODPP or the QPS;
- Information pertaining to Victim Impact Statements;
- Sentence hearing dates and outcomes.

In addition, the family is also provided with information relating to;

- Support available from various groups including (not limited to) QHVSG and VAQ
- Information in relation to Victim Impact Statements.

The family have the details of the VLO and can contact the ODPP with questions at any point during the Prosecution.

The Prosecutor allocated to the child homicide must contact the family closer in time to significant Court events – for instance in the lead up to a trial, a sentence, an appeal or bail hearing, to discuss the process and various legal issues with them and to allow the family the opportunity to discuss issues and concerns.

Sentencing

If an offender is to be sentenced in relation to a child homicide matter, the family will be provided with the opportunity to prepare a Victim Impact Statement (VIS) for the sentence hearing.

If a VIS/s is provided, the ODPP will provide a copy of the VIS/s to the defence counsel, in accordance with the ODPP's ongoing disclosure obligations.

S15A Victims of Crime Assistance Act 2009 allows for a VIS to be read aloud during sentencing.

At the completion of a prosecution, the Crown Prosecutor and/or the VLO will provide the family with details of the outcome of the matter and explain the outcome to the family.

If the offender in a child homicide matter is sentenced, in addition to informing the family of the outcome, the VLO will provide families with the following –

- A brochure explaining sentences imposed; and/or
- Information and an application in relation to the Victims Register – if the offender is sentenced to a period of imprisonment.

The family will also be provided with a link to the ODPP Victim Liaison Service (VLS) survey and a brochure about the survey.

Early Plea to a lesser charge

Pursuant to the *Director's Guidelines* (which are currently under review) and the *Charter of Victims' Rights*, set out in the *Victims of Crime Assistance Act 2009* it is incumbent on the Crown Prosecutor to consult with both the family and the QPS when considering;

- Plea of guilty to an alternate charge in a homicide matter; or
- The discontinuance of a homicide matter.

Once the consultation process has occurred, a memo is prepared for consideration by the Director of Public Prosecution.

During the consultation process, the Crown Prosecutor will explain the legal issues surrounding the matter and must give the family the opportunity to ask questions and provide their view on the matter.

Appeal

Appeal matters involving homicide prosecutions are conducted by the Director of Public Prosecutions or a Deputy Director of Public Prosecutions or a Consultant Crown Prosecutor or a Principal Crown Prosecutor.

If an appeal is lodged, the VLO will notify the family of the appeal. Once an appeal is heard, in most instances in homicide matters, the Prosecutor with carriage of the appeal will notify the family of the outcome of the appeal and explain the outcome to them.

The VLO will advise the family in writing of the appeal outcome.

Comments/Complaints/Training

Training

The ODPP continuously strive to improve processes and provide training to staff particularly when feedback is provided about current processes or changes.

Training is often provided by internal staff or external stakeholders on varying issues as they arise.

A meeting with all VLOs is conducted on a monthly basis with the Directorate Practice Manager. This is a forum where;

- current issues are discussed; and/or
- new processes are introduced; and/or
- Stakeholders attend and conduct training for the VLOs; and/or
- Results from the VLS Survey are discussed.

VLS Survey

The VLS Survey was introduced by the ODPP for victims to complete at the end of a prosecution. This is an anonymous survey which allows the family to provide feedback about the ODPP throughout the prosecution of the matter.

The feedback is then compiled by the ODPP and used as a training tool where necessary to improve the services of the ODPP. The feedback from the survey is also shared with all ODPP staff on a monthly basis.

Meeting with Stakeholders

Stakeholders are often in contact with ODPP Directorate staff to provide feedback and training material for ODPP staff.

ODPP Directorate staff encourage the opportunity to meet with stakeholders to discuss existing issues.

Complaints/Comments

If a stakeholder or family raises any issues with the conduct of a prosecution, this can be sent to the ODPP Directorate. The issues or concerns are investigated by the Directorate and responded to.

The complaints process at the ODPP is being reviewed in light of the recommendations by the Royal Commission into Institutional Responses to Child Sexual Abuse. What process will be implemented will partly depend on what level of funding is provided to design and implement.

CORRESPONDENCE

TIMEFRAMES FOR CORRESPONDENCE



Daily Tasks
Menu



Correspondence

Due By

Initial Letters

Within **2 business days** of receipt of the new file

Presentation of indictment

Within **2 business days** of presentation

Court Listings including:

- Trial date listing
- 21AK date listing
- Sentence date listing

Within **1 business day** of the matter being listed in Court

Court listings including:

- Matter committed to Superior Court
- Matter referred to Mental Health Court

Within **2 business days** of the matter being committed to the Superior Court

Follow up letter/phone call in relation to providing a Victim Impact Statement for sentence

At least **1 week** prior to the sentence date

Sentence and Trial Result

As soon as the result is known. This must be conveyed to the victim **by phone**. A follow up letter outlining the result must be sent within **1 business day** of the result being known.

Bail results (granted or denied)

As soon as result known, it must be conveyed to the victim **by phone** – particularly if the defendant had been in prison and is now granted bail. Letter must also be sent within **1 business day**.

Appeals

Appeal lodged = within **2 business days** of the appeal being lodged.
Appeal result = **As soon as result known**, it must be conveyed to the victim **by phone** – particularly if as a result the defendant is released from prison.