

Your Day in Court

A guide for victims of crime
who are witnesses in court



Victims Services
Attorney General's
department of nsw

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ABOUT THIS BOOKLET

This booklet and video form a kit called Your Day in Court, which is aimed at victims of crime who are required to be witnesses in court. The kit outlines the court process and highlights some particular issues for victims as witnesses. It explains your role as a witness and where you fit in from the arrest of the suspect to the final decision about the case.

Most people are unfamiliar with how the criminal law operates. Giving evidence in court can be a very stressful experience for any witness. Some victims of crime, especially violent crime, may find the court experience almost as traumatic as the crime itself. Others find it empowering or are relieved that there will be a resolution to the crime.

In recent years there has been an increasing recognition of the rights and needs of victims of crime. There are now legislative measures and victims services designed to inform, protect and support you as a victim of crime (see pages 36-43).

Going to court is rarely easy, but reading this booklet and watching the video may help give you some idea of what to expect. It is hoped that this information will assist you with the experience of being a witness. Because of space constraints the booklet can only give an overview of the criminal justice system, although every effort has been made to ensure its accuracy at the time of publication. The law is constantly evolving, and advice should always be sought on particular matters.

WORDS IN COURT

Affidavit:

A statement, which is signed before a judicial officer, solicitor or barrister. The person signing the legal document states that the contents are, to the best of their knowledge, true.

Acquitted:

When the magistrate, judge or jury find that a person is not guilty of the crime.

Accused (defendant):

The person charged with committing the crime. Accused is used in the Local, District and the Supreme Court. Prior to 7 July 2003, the accused was previously referred to as the defendant in the Local Court.

Adjournment:

When the case is put off to another day.

Admissible:

Used to describe evidence that is allowed to be given in court.

Affirmation:

A promise to tell the truth in court. Used by people who do not wish to swear on the Bible or other religious book.

Alleged:

Until a person is proved to be guilty of a crime, the person is an alleged offender.

Antecedents:

A person's criminal record that is not disclosed to the jury, but may become relevant at sentencing.

Arraignment:

Where the details of the charge (called an indictment) are read out to the accused in court. The accused will then plead guilty or not guilty.

Bail:

An agreement to turn up to court. The accused may be given bail by the police or the court. A person on bail is allowed to go free until their case is decided at court.

Balance of probability:

The test (or standard of proof) used by a court in civil claims and children's care matters.

Bar table:

A long table near the front of the courtroom where the lawyers sit.

Bench:

Where the judge or magistrate sits.

Barrister:

A lawyer who specialises in court presentation. Usually wears a wig and gown in court.

Beyond reasonable doubt:

The test (or standard of proof) used by a jury, judge or magistrate to decide if the accused is guilty or not guilty of each criminal charge.

Brief:

The evidence in written form, including the charge/s, witness statements, photographs etc. that the prosecution intends to use to prove the case.

Children's Court:

This is a special court (generally closed), which is used in most instances for hearings involving offenders under 18 years and for child protection matters.

Court Attendance Notice (CANs):

The notice issued to those accused of an offence requiring them to attend court.

Charge:

The allegation that a person has committed a specific crime.

Closed Circuit Television (CCTV):

This is a provision available to child witnesses and adult complainants in sexual assault matters so they can give evidence to the court from a remote location. In special situations CCTV is used for adult witnesses at the discretion of the court.

Circle sentencing:

An alternative sentencing court for Aboriginal people, which involves taking the court to community settings where Aboriginal Elders and community members, and the Magistrate sit in a circle to discuss the offence and the offender. It can involve victims, as well as the offender's families and other respected community people. It is a new justice program to ensure that the impact on victims and broader Aboriginal community is recognised by the offender and reflected in sentencing decisions.

Committal hearing:

A hearing of all the evidence at the local court by a magistrate who then decides if there is enough evidence for the case to go to trial.

Counsel:

Another word to describe barristers acting for the defence or the prosecution.

Complainant:

Used to describe victims of crime in court.

Conference:

A meeting with the solicitor or barrister (or both) to talk about the case.

Court:

The building where the case is heard. Also used to describe in general terms the judicial officer hearing the case, such as a magistrate or judge.

Court officer:

A person employed to assist with the running of the court. Generally this person will call your name when you are required by the court to give evidence. They can answer queries about when your matter is likely to be heard.

Cross-examination:

When the lawyer for the accused (other side) asks questions of the witness about the evidence they have given and other matters.

Crown prosecutor:

A barrister who presents the prosecution case in court.

Defence:

The accused person's case and the lawyers who represent them.

Defence counsel:

A barrister who presents the accused person's case in court.

Deposition:

A typed copy of the evidence recorded in court.

DPP:

The Office of the Director of Public Prosecutions (ODPP). An independent body established by the State government to prosecute serious criminal offences. The ODPP provides a solicitor and/or Crown Prosecutor to prepare and present the case at court.

Evidence:

This is information provided to the court. Your statement forms the basis of the information or evidence that you will give in court, i.e., what you saw, heard or experienced.

Examination-in-chief/evidence-in-chief:

When the prosecutor asks the witness questions so that they can tell the court what happened.

Exhibits:

All the other evidence (apart from statements from witnesses) needed to help present the case, such as documents, photographs, clothing or other items relevant to the case.

Forensic Patient:

An accused person suffering from a mental illness so severe that at the time the crime was committed, the person could not form the intent to commit the crime. This term also refers to an accused person whose mental condition **at the time of the trial** renders him or her unfit to be tried after an evaluation of the capacity of the person to understand the proceedings, to be able to commence instructions, to be able to formulate a plea to the charge and to follow to a sufficient extent what is actually taking place in the trial. The accused is not unfit simply because he or she is unable to remember the events and unable to give a version to his or her counsel.

Forensic evidence:

Comprehensive evidence detailing minute details regarding crime scenes and may include DNA evidence. Such evidence can be graphic and distressing.

Forensic procedure:

The victim and/or accused may be requested to undergo an examination e.g. mouth swab, in order to provide possible evidence for the case.

Hung jury:

The situation where a jury cannot reach a unanimous (agreed by everyone) decision about the accused person's guilt or innocence.

Indictable offence:

A serious criminal offence that is usually heard in a higher court before a judge and jury (or judge alone). Less serious indictable offences are heard in a lower court.

Indictment:

The formal charge for more serious cases. Used in the District and Supreme Courts.

Instructing solicitor:

A solicitor who helps with the preparation of the case and helps the barrister in court.

Judge:

The judge is the presiding officer of the court and is in charge of the trial. The judge's role is to make sure the trial is run fairly.

Judge's associate:

A person who helps the judge in court with documents used in the case, such as exhibits.

Legal argument:

Submissions by the lawyers about legal points such as precedents from other cases or the value and relevance of particular evidence in the case. A disagreement about legal points in the case. The magistrate or judge decides the argument. The jury will be excluded during some legal argument.

Magistrate:

A judicial officer presiding in the Local Court exercising some of the functions of a judge.

Mention:

A brief hearing to sort out what will happen with the case, such as setting a date for the committal hearing or deciding bail. It is not a full hearing of the case.

Parties:

There are two parties to the proceedings in a criminal matter, the crown and the accused (defence). Victims are not a party in the proceedings.

Plea:

When the accused tells the court whether they are guilty or not guilty of the charge.

Pre-trial disclosure:

An outline of the intended direction of the prosecution's or defence's case occurs in specific cases where the case has been classified as complex by the court.

Prosecutor/prosecution:

A police officer (Children's or Local Courts) or trial lawyer representing the government in a criminal case and the interests of the crown in a court. In criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.

Oath:

A promise to tell the truth in court by swearing on a religious book that is important to the person making the promise.

Office of the Director of Public Prosecutions (ODPP):

See DPP on page 5.

Statement:

A written document that sets out the evidence of a witness or an accused.

Sheriff's officer:

An officer responsible for security of all parties at court. You should advise the Sheriff's officer if you have any concerns for your safety.

Subpoena:

A court order to summon (make) a witness come to court to give evidence and/or bring documents to court.

Summary offence:

A less serious charge that is dealt with in the local court.

Summons:

An order from the local court requiring the accused to come to court to answer a charge.

Transcript:

A typed copy of what was said in the court.

Victim Impact Statement:

A written or verbal statement presented to the court on the effect of a violent crime on the victim written by the victim, by a family member in matters involving death, or by a professional. It can be read out to the court.

Voir dire:

Legal argument about the admissibility of a particular piece of evidence in court. The jury is sent out of court while this argument takes place.

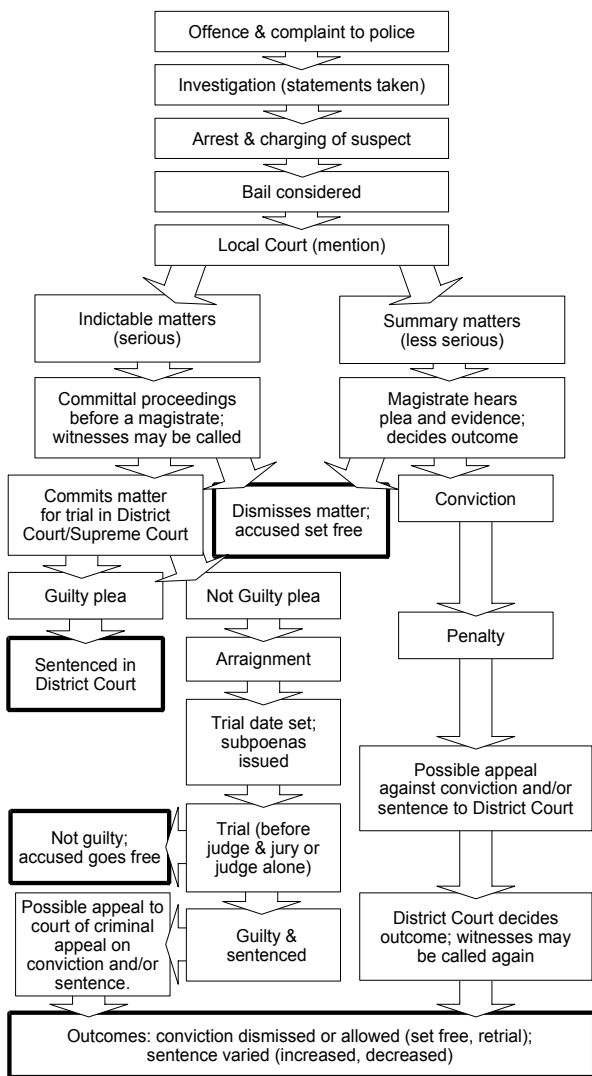
WHEN A CRIME IS COMMITTED

Overview

When a crime is committed against a person, our society regards the offence as a crime against the community. In our legal system, the State or Commonwealth government represents the community by prosecuting and punishing offenders.

Our elected governments make the laws and establish the courts that deal with criminal behaviour. They establish police services and prosecuting bodies to investigate crimes and prosecute cases in the courts. The prosecution process is independent of government.

**Figure 1:
What happens when a crime is committed**



The role of a victim of crime in the criminal justice system is that of a witness. Witnesses play an important part in the process, but they have no other rights beyond that role. Unlike the Accused, witnesses are not entitled to legal representation. Prosecutors act for the State and not for individual victims or other witnesses.

However, it is acknowledged that victims of crime have needs and certain rights including the right to be treated with compassion and respect throughout the court proceedings. The Charter of Victims Rights sets out these rights (see page 45).

Police investigation

When a crime is reported to the police they will usually start investigating it by talking to the victim of the crime and other witnesses. The details of what is said are typed up as statements and form part of the prosecution evidence. The police may also examine the crime scene for other evidence.

Victims cards

These are cards given out by police officers to victims of crime or people closely related to or involved with the victim. The card shows the officer's name and details to make it easy to contact them. The card also has information about victims rights and how to contact the Victims of Crime Bureau for information, support or referral.

Young offenders

Police also have booklets containing information on what may happen if the offender is under 18 and they are diverted from court and dealt with under the *Young Offenders Act 1997*, by way of a warning, a caution or a youth justice conference.

Arrest and identification

When someone is suspected of committing a serious crime, they may be asked to attend an interview, or may be arrested and taken to a police station. The suspect may then be questioned and, if there is enough evidence,

they will be charged. The police will interview the suspect and can record the questions and answers in writing. In serious matters, they may record the interview on audio or video tape. As part of the investigation, a victim or other witness may be asked to identify the person who is suspected of committing the crime. In most cases this is done by looking at photographs, but sometimes police use an identification parade.

Bail

After a person has been charged, the police decide if the person should stay in custody or be released on bail. Where a crime of violence has occurred, the decision to grant bail will consider community safety and whether the accused, if given bail, agrees to turn up to court at the nominated time. Bail can be considered at two points – either by the police when a person is charged or at court by a magistrate. An application for bail or review of bail can also be made to the Supreme Court. If they don't turn up they can be arrested. Bail may be granted on certain conditions. For example, it is usual to ask the accused or some other person to pay or agree to pay some money to the court to make sure the accused turns up. In other cases, it may be a condition of bail that the accused does not contact the victim or other witnesses. If bail is refused, the police must take the person to court as soon as practicable for bail to be reconsidered. In most cases the person is taken to the nearest local court.

You should tell the police or the prosecutor if you have fears for your safety; this is one of the issues considered when decisions about bail are made.

First court appearance

The accused person's first court appearance is at the local court. This is a brief appearance and is called a mention. There is usually no need for victims or witnesses to attend on the first court date, unless they wish to see each stage of the legal process. The question of bail may be reconsidered by the magistrate, who will decide if bail should be continued, changed, granted or refused. A magistrate has to consider a number of different matters before deciding to grant bail. One important matter is

the protection of the community, particularly when the accused is charged with a serious and/or violent offence. Bail can be reviewed at any time before the case is finished. Both the defence and the prosecution can ask for changes to be made. For example, if an accused breaks one of the conditions of bail, then the prosecution can ask the court to refuse bail or apply different conditions. Sometimes a higher court (usually the Supreme Court) may be asked to reconsider a bail decision. A victim has the right to be informed of any changes to bail conditions.

After the first court appearance

The case may go back to court a number of times for further mention to sort out what is to happen with the case. At some stage the accused will be asked to make a plea of guilty or not guilty to the charge. If the plea is not guilty then the case will be set down for hearing at a later date. Less serious crimes (summary offences) can be dealt with by a magistrate who decides the case alone. There is no right to a jury trial in local court cases. Serious cases (indictable offences) are usually sent to the District or Supreme Court, even if the accused pleads guilty.

The committal hearing

If the accused pleads not guilty to a serious offence at the local court, there must be a committal hearing. In many committal hearings only the written statements of evidence (the brief of evidence) are presented by the prosecution. The defence does not usually call evidence at this stage. If the defence wishes to cross-examine witnesses they must make a written request. Where the offence involves violence (including sexual assault) the defence must show special reasons why it is in the interests of justice for a witness to give evidence or be cross-examined at a committal hearing. In matters involving child victims of sexual assault, the child victim cannot be called to give evidence or be cross-examined at a committal hearing. After hearing or reading the evidence, the magistrate decides if there is enough evidence to go before a jury. If not, the accused is discharged and this is the end of the case. If there is enough evidence then the case is sent (committed) to hearing or trial.

WHAT HAPPENS BETWEEN THE CRIME AND THE COURT HEARING

Gathering evidence

After the accused person's first appearance in court, the police will prepare a brief-of-evidence for the local or district court if the accused has pleaded not guilty. A brief of evidence is all the written statements, charges and exhibits that the prosecution relies on to prove the case against the accused, including any statement made by the accused. The police may also collect physical evidence about the crime, such as items of clothing, fingerprints, blood samples, documents, weapons or other things, which might help prove the case against the accused. These are called exhibits. Sometimes experts are used to examine the crime scene or other evidence or give an opinion about some part of the case, i.e., producing DNA samples, especially in forensic procedures. Their evidence may also form part of the brief. All these investigations can take time but it is important that the police do their job properly. They have to act fairly in getting the evidence, or the magistrate or judge may refuse to allow it to be given in court. A victim has the right to obtain information about the police investigation of the crime, the prosecution of the accused and the trial process, through the police or Office of the Director of Public Prosecutions (ODPP). This information should be made available, except where it could harm the investigation and progress of the case.

Preparing the case

The lawyers also use the time between court appearances to work on the case. A case may have to go back to court a number of times for mention before it is finally set down for hearing. If the case is sent to a higher court for trial or sentence then all the evidence given at the local court is considered by the ODPP to see whether the case should go to trial. The ODPP also decides what the formal charge (indictment) should be. Sometimes for a number of reasons, the ODPP may decide to discontinue the case and the accused does not have to go to trial.

The accused may be charged with more than one crime. The police and the prosecution may decide not to proceed with all these charges. Some charges may be held back in the local court while the more serious charges are heard in a higher court.

Waiting

Because courts are very busy, every case has to wait its turn to be heard. It can be many months before the case is finally heard. This can be a very frustrating and anxious time for witnesses. Even when the day for the hearing arrives, it may suddenly have to be cancelled if, for example, a witness or the accused is ill. Sometimes the court runs out of time to hear the case on that day. However, even though the case might not go ahead it is important to be prepared to give your evidence.

PREPARING FOR COURT

Most witnesses have never had to go to court before. It is natural to feel nervous about giving evidence in court. Courthouses are often large and old, and the courtroom environment may feel uncomfortable or intimidating. The formality and the legal language can be confusing. Witnesses may feel anxious about giving evidence in front of the accused and other people they do not know in an open court. The prosecution should provide you with information about your role as a witness. All adult courts are generally open to the public, and members of the media may be in court to report on any newsworthy cases. In cases involving personal violence you will have to describe the physical details of what happened during the assault.

In matters related to sexual assault, you will be required to tell the court in precise detail about the sexual assault including the explicit and detailed parts of what happened. This can be embarrassing and humiliating. You may feel frightened, especially as the accused is in court when you give your evidence. Sexual assault victims also have the right to give evidence via CCTV, or if that is not

available then a screen may be used in court, (see page 31). In some situations it is possible that your evidence can be given in a closed court. It is best to speak to the prosecutor about these options.

You may also have to wait outside the courtroom for some hours or days before you finally give your evidence. Several courts have witness rooms where you can wait. Speak to the police officer, prosecutor or witness/victim support service about the availability of these rooms. There are some things you can do to help you cope:

- Ask a friend or relative to attend court with you as a support person. Their main role is to give you emotional support. This person should not be a witness, otherwise they will not be able to sit in court with you when you give your evidence. They cannot sit next to you, but they may be able to sit where you can see them. They should not try to prompt you or help you when you are giving evidence. Court support can also be provided by a number of services and victim support groups depending on your needs. You can also speak to the prosecutor about the role of the support person.
- Read your statement over a few times before you go to court. Normally you won't be able to read from your written statement when giving evidence although you may be asked to refer to it in some circumstances. The prosecutor will probably want to talk to you about your statement beforehand. If you don't have a copy of your statement ask the police or the solicitor from the ODPP to give you a copy well before you go to court. You are not allowed to see statements made by other witnesses or to enter court while their evidence is being given until after you have given your evidence.
- Visit a courthouse before the case to see what a court looks like or see how other cases that are open to the public and observe how a case is managed and how witnesses are required to give evidence. Contact one of the victims' support services listed on page 40 to see if they can arrange for someone to go with you.

- Be prepared to speak loudly and clearly. The microphone on the witness box does not always amplify; sometimes it is only used to record proceedings.

Keep in touch with the police or the solicitor from the ODPP to discuss any concerns you have about the case. You have the right to be kept informed about the progress of your matter, so make arrangements with the police officer or the ODPP officer responsible for your case about how often you should contact them.

Don't forget to tell the police or the ODPP if you change your address or telephone number or if you are going away for more than a few days.

Protection for witnesses

If you have fears for your safety or the safety of others you should tell the police or the ODPP. They can then bring these concerns before a magistrate or judge during any bail application. If the court is satisfied that there is real danger to the community or an individual then it may impose conditions on bail, including a direction not to approach or contact any witnesses in the case. You may also be able to apply for an Apprehended Violence Order (AVO – see page 31) or ask the police to apply for you. If the accused breaks a condition of bail or an AVO, then the police may arrest them and take them into custody. The question of bail will then be reconsidered.

You can ask that your address not be given in open court. If you have concerns tell the prosecutor before the case begins.

Interpreters

If English is not your first language, you may need to use an interpreter to help you give evidence. They can also interpret when a witness is making a statement. If you feel you need an interpreter, talk to the police prosecutor or the ODPP solicitor. As there are a limited number of interpreters available, it is important to let the prosecution know well in advance if one is needed. The courts arrange for interpreters, who are provided by

the Community Relations Commission For a multicultural NSW. Courts only use professional interpreters who are properly trained and accredited. Courts will not allow friends or relatives to interpret during court proceedings unless it is just to pass on simple information and no other interpreter is available for that purpose. Professional interpreters are bound by rules not to tell other people about the case unless the court requires it. They are also required to take an oath where they promise to properly interpret what is said. If you believe the interpreter is not interpreting your evidence accurately you should complain to the prosecutor or tell the magistrate or judge. Witnesses do not have to pay for interpreters. Interpreters can also be used by people with a hearing or speech impairment or other disability that may make it difficult to communicate.

IN COURT

People in court

In the local court – The judicial officer who presides over the local court is called a magistrate. They have legal qualifications and have a similar role to a judge except there is no jury in the local court. They do not wear wigs and gowns, and they are called ‘Your Honour’. They sit behind a large raised desk called the bench. Magistrates hear less serious (summary) cases.

If the case is defended they hear all the evidence and decide if the accused is guilty or not guilty. If the offence is proven or the accused pleads guilty, the magistrate decides what penalty to impose. They also decide if there is enough evidence for more serious cases to be heard by a higher court after a committal hearing.

The magistrate is assisted by court staff. Some help record the proceedings on tape while others assist with paperwork and the general running of the court. Prosecutors in the local court are usually specially trained police officers. More serious cases are often prosecuted by a solicitor from the ODPP. Both types of prosecutor represent the State (not the victim) in the prosecution of criminal cases. The accused is represented by a solicitor

or barrister, often referred to as 'the defence'. Solicitors are more likely to represent people in the local court, while barristers tend to concentrate on higher court matters. Lawyers for both sides sit at the bar table, which is usually in front of the bench. The accused will also be in court. Where there is more than one accused, each accused person may be represented by a different lawyer and you could be asked questions by each defence counsel. Generally the accused will be present in court and located in the dock; or sitting behind their lawyer.

The higher courts such as the District or Supreme Court are more formal than the local court and are presided over by judges, who wear wigs and gowns and are called 'Your Honour'. The judge decides questions of law and sums up the case for the jury. It is their job to make sure a trial is run fairly. They are assisted in court by an associate who helps with the paperwork and exhibits. The judge's associate reads out the formal charges (indictment) against the accused. Both barristers and solicitors can appear in these courts, although it is more usual for barristers to do the talking. Instructing solicitors sit next to them and help the barrister in preparing and running the case.

Any person charged with an offence appearing before the Local, District or Supreme Court is called 'the accused'. If the accused has pleaded not guilty there will be a jury of twelve people who have been chosen at random from the jury roll. They represent the community and decide if the accused is guilty or not guilty. Sometimes only a judge will hear the case. The prosecution and the defence must both agree to a judge-only trial.

Rules for court

There are many different things that can happen in court, depending on the type of case. There are, however, some basic principles and rules that apply to all courts and criminal procedures.

- **Presumption of innocence** – means that a person charged with a criminal offence is innocent until proven guilty in a court of law. This is an essential principle of our criminal justice system.

- Proof beyond reasonable doubt – For a person to be convicted of a crime, the magistrate, judge or jury has to be satisfied ‘beyond reasonable doubt’ that the accused committed the crime. This is called the burden of proof. The prosecution is said to carry the burden of proof, which means it is up to them to establish that the accused committed the crime. The prosecution must prove a person’s guilt. If there are a number of different charges then each charge must be proved beyond reasonable doubt.
- Right to remain silent – There is a long-standing principle of law that an accused person has the right to remain silent. This principle protects a person from self-incrimination. The defence does not have to prove the accused is innocent. In practice, most accused persons give evidence or call other evidence as part of their case.
- Rules of evidence – These rules have been made by the courts and Parliament to make sure that criminal cases are conducted fairly and without bias. They say what evidence is allowed to be given and how it may be given. They are too complicated to explain in detail. The main thing to know is that witnesses can only give evidence about what they actually heard, saw or experienced.

Behaviour in court

Courts are formal places where everyone is expected to follow some basic rules of behaviour. It is usual for anyone entering or leaving the courtroom to bow in the direction of the judge or magistrate. When giving evidence it is important to remember the correct way to address the judge or the magistrate (Your Honour).

Eating, drinking or smoking is not allowed. Mobile phones must be switched off before entering the court. Talking with people around you is not encouraged and you should go outside if you wish to have a conversation. Taking notes is generally not permitted and making loud comments or noises or other distracting behaviour when someone is giving evidence is not acceptable. Court officers will approach people and let them know that certain behaviour is not acceptable and may ask the person to

leave the court. Such behaviour might also impact on the outcome of the case.

If you are attending a courthouse where there are security checks you make have to pass through a metal detector, have your bags checked, and/or place your belongings placed on a conveyor belt for scanning. Sometimes you can be requested to leave certain belongings with the sheriffs until you leave the court (such as camera phones, spray cans, sharp objects).

In the Local Court

The majority of criminal cases are finalised in the local court and are decided by a magistrate. If the accused pleads guilty, there is generally no hearing. The case will proceed to sentencing, which witnesses may attend. In some cases a victim of personal violence or a family victim in case of a death may decide to make a victim impact statement before the sentencing.

When an accused pleads not guilty, the case is set down for hearing. The prosecution starts the case by calling witnesses. The defence has been given a copy of the written statements or transcripts of the electronic statements of witnesses in the prosecution brief. Although the evidence of a victim of crime is important, victims are not usually called as the first witness. This means that victims often have to wait around outside the court before getting their chance to tell what happened.

It is important that witnesses do not discuss or read the evidence of other witnesses involved in the case. Firstly, it may lead to confusion in your own evidence; secondly, the defence may suggest that you have made up the evidence together.

After the prosecution witness has given evidence (examination-in-chief), the defence lawyer is allowed to cross-examine the witness. This can be a challenging experience for witnesses. It is helpful to remember that the defence lawyer is just doing their job. Sometimes the lawyer may decide not to cross-examine. When all the prosecution evidence has been given, the defence may ask the magistrate to find that the accused has no case to answer. If the magistrate agrees with this submission, the charge will be dismissed.

If the magistrate disagrees with the submission, then it is the accused persons turn to present their case. As mentioned above, the defence does not have to call any evidence, but in most cases the accused gives evidence. Any witnesses called by the defence can be cross-examined by the prosecution.

In the District Court and Supreme Court

More serious criminal cases are heard in the District and Supreme Courts. The procedure in these courts is very similar to the Local Court, but there is an important difference. Unlike a magistrate, the judge does not normally make decisions about an accused person's guilt unless it is a judge alone trial. Judges are there to decide questions of law and procedure. In these courts, an accused person's guilt or innocence is usually decided by a jury.

A jury trial starts with the formal reading of the charge (indictment). If there is a plea of not guilty then a jury of 12 is empanelled. The jury members are chosen at random from a jury list. Both the defence and the prosecution may challenge up to three jurors. The judge will excuse these jurors from the trial. This process is called empanelling the jury. The trial then proceeds in much the same way as a hearing in the local court, although these courts tend to be a bit more formal and the trial process can be more involved. As a result they can be more daunting. Usually, when all the evidence has been given, both the crown prosecutor and defence counsel will address the jury. The judge will then sum-up the evidence and give instructions to the jury on how the law applies to the case. The jury then retires to consider its verdict. If the accused is found guilty the judge may impose a penalty on that day, but usually sentencing is put off to another day. Some trials may be different, if you are unsure speak to the prosecutor.

When the accused pleads guilty

The accused may plead guilty at any stage, even after the hearing or trial has started. Sometimes the plea of guilty will be to a less serious or different charge. Where there are negotiations about the charge the victim has a right to be consulted.

Giving evidence and cross-examination

It is important to remember that the evidence of a victim of crime is only part of the whole case against the accused. It is not up to you to prove the crime. This is the role of the prosecution. You can only give the best evidence you can on the day. It can help if you know what to expect. Usually a witness gives evidence in person in the courtroom. However, CCTV or a screen may be used such as for child witnesses and adult victims of sexual assault. These facilities can be used in special circumstances for other witnesses at the discretion of the judge.

When giving evidence you could be asked a number of questions by both the prosecution and the defence. The Judge or Magistrate might also ask you some things. The prosecutor and defence remain behind the bar table when asking the witness questions. They may occasionally approach a witness in the witness box to show them something but they must ask the Judge or magistrate for permission to do this.

Examination-in-chief

You will be asked to wait outside the court until it is your turn to give evidence. You cannot sit in court when other people are giving evidence as this may influence your own account of what happened.

Remember! Do not discuss your evidence with other witnesses.

When your name is called you will be shown to the witness box. You will be asked to take an oath or, if you prefer, to make an affirmation. By taking an oath or affirmation, you are making a promise to tell the truth in court.

Examination-in-chief is your opportunity to say what happened in your own words. The prosecutor will ask you a series of questions to help you through your evidence. You can only tell the court what you saw, heard or experienced. If you are giving evidence about a conversation, you should try to use words that were

actually spoken. For example, if someone said 'Take me to the shops' then the correct way to give this evidence is to say, 'She said: "Take me to the shops"' not 'She told me to take her to the shops'. You may be asked to identify items such as clothing, jewellery or other personal effects when you are giving evidence. These items will form part of the exhibits. You may also have to identify the accused in court. You should ask the solicitor from the ODPP if you have to do this beforehand.

Sometimes the defence may object to the way the crown prosecutor is letting you give your evidence. This can be off-putting, but don't take it personally. Their role is to ensure the rules of evidence are being followed so their client is not disadvantaged. When an objection is made, stop answering the question until the judge or magistrate tells you whether or not to continue.

If you are asked to leave the courtroom while still giving evidence, or while legal argument takes place, it is important that you don't discuss your evidence with anyone while waiting to go back into court.

Where there is a jury, they may be asked to leave the courtroom while counsel make submissions to the judge about the admissibility of the evidence. If the judge decides the evidence is admissible, the jury returns and hears the evidence. If the judge decides the evidence is inadmissible then it cannot be presented to the jury. The trial continues without that evidence being heard. Some tips for giving evidence:

- Speak clearly and slowly. In some courts the microphones only record what is said and do not make your words louder.
- Listen carefully to the questions.
- Only answer what you have been asked.
- If you do not understand a question ask for it to be repeated.
- If you can't remember or don't know, then say so.

Audiotape or video evidence for children

In cases where there is a child witness, their evidence (evidence-in-chief) might be given wholly or partly by video or audio tape. If a child's evidence has been taken by audio/video tape, this can become their 'evidence-in-chief'. Otherwise, the child will give evidence and be cross-examined usually by way of CCTV unless the child does not wish to use that facility.

Cross-examination

This is the part of giving evidence people often worry most about. The role of the police prosecutor, prosecuting lawyer or defence lawyer is to test the evidence, especially where it is inconsistent with the information the accused has given. The defence aims to convince the magistrate, or judge and jury, that there is a reasonable doubt. This is what they try to do in cross-examination. During cross-examination it may be suggested that your memory of events is not clear, or that you are not telling the whole story, that you are unreliable or lying. The defence may test your credibility as a witness. This can be quite distressing and confronting. The defence counsel is bound by rules of law when asking questions. They should not ask questions that are intended to insult or annoy a witness, or are offensive. The crown prosecutor may object if this happens, and the magistrate or judge may disallow the question. The magistrate or judge can also stop counsel from asking questions that are misleading, unduly annoying, harassing, intimidating, offensive, oppressive or repetitive. If the Judge does not automatically stop questioning that has become abusive, the witness may appeal to the judge to intervene.

Remember, it is your job to tell the truth about what you know.

Some tips for cross-examination

- You don't have to look at the accused or at the defence barrister unless you are asked to identify of the accused person in court as part of your evidence. Generally you can look wherever you feel comfortable, such as your support person or jury. Don't forget that it is natural to feel nervous. Answer the question without going into unnecessary explanation.

- If your answer does need further explanation, ask if you can explain it.
- Only give answers about things you know.
- If you are becoming upset, ask for a break or have a drink of water.
- If you have a support person, keep in mind that they are in the courtroom. When you are giving evidence you may feel as if you are re-living the events. If you do become upset don't blame yourself. A magistrate or judge will usually stop (adjourn) the case for a short time if you become too distressed.

Re-examination

After cross-examination, the crown prosecutor may ask further questions on any issues that came up during cross-examination which need further explanation.

Unrepresented accused

Sometimes the accused may not be represented in court by a lawyer. When the accused is unrepresented, they are allowed to appear for themselves. This means they can question witnesses and talk to the judge or magistrate. Sometimes the judge or magistrate will help them by explaining the law or court procedure, but they do not run the case for the accused. In matters involving sexual assault, the unrepresented accused cannot cross-examine the complainant. Instead an intermediary will be appointed by the court to ask questions for the accused.

The judge or magistrate will also make sure the accused behaves properly in court and doesn't ask questions that are offensive, insulting or irrelevant.

Can you be in court after giving evidence?

Once the judge has excused you and you are no longer required as a witness you may observe the rest of the case. However, it is probably better not to because in some trials witnesses can be recalled to give further evidence. Check with the prosecution first before you go back into court. After all the evidence has been given, witnesses may wish to hear the submissions of the

prosecution and defence, especially if they are involved in a jury trial. It may also help to hear the magistrate's decision or the judge's summing up, plus any remarks made when sentencing an offender.

When the judge or magistrate says 'You are excused', this means you will no longer be required to give evidence, and can leave or sit in court and listen to the proceedings.

The verdict

After hearing all the evidence the prosecution and the defence will present their arguments to the court on why the accused should be found guilty or not guilty. The magistrate, judge or jury will make a decision based only on the evidence given in court and the relevant law. If the magistrate, judge or jury has any reasonable doubt about the accused person's guilt, the charge is dismissed and the accused is set free. If, however, they are satisfied beyond reasonable doubt, then the charge is proven and the accused is found guilty.

Sentencing Process

If the accused is convicted of the crime, the magistrate or judge will then sentence them. The magistrate or judge will ask if the accused has any criminal record (antecedents). If so, the prosecutor will give them to the court. The magistrate or judge will then ask the defence lawyer if they wish to say anything to lessen (mitigate) the penalty that may be given. The defence may call other evidence or hand references or reports to the court. The sentencing process may take place straight after the verdict or can be adjourned to another date for a sentencing hearing. Sometimes the process will take place over a number of different dates.

Victim Impact Statements (VIS)

In some situations a primary victim or family victim may choose to make a written statement detailing the personal harm suffered as a direct result of the crime. This is presented to the court by the prosecutor after conviction and before sentencing. If accepted by the court a copy

will be given to defence counsel. However, while the accused is allowed to read the VIS, they are not permitted to keep a copy of the VIS. Speak to the prosecutor if you have any questions or concerns about the accused keeping a copy of the VIS.

It is an important to remember that once the VIS is given to the court it becomes part of the public record and can be accessed by and reported on by the media unless a non-publication order has been made by the judge or magistrate.

A victim or victim's representative may also read a VIS in part or whole to the court once the VIS has been accepted by the court. A victim impact statement is optional, you do not have to do one if you do not wish to.

To obtain a copy of the Victim Impact Statement Information Package or any other information about Victim Impact Statements, you can speak to the police or prosecutor, or contact the ODPP Witness Assistance Service, the Victims of Crime Bureau or seek assistance from one of the victims support groups which are listed near the back of this booklet.

Penalties

There are many different penalties, ranging from good behaviour bonds, fines, community service orders and periodic detention to full-time jail. The court will take into account several different factors, including the seriousness of the crime, the circumstances in which it was committed, and the accused's record and personal circumstances when deciding the appropriate penalty. In some cases a magistrate or judge may dismiss a charge under section 10 of the *Crimes (Sentencing Procedure) Act 1999* even though the offence was proven. This means no conviction is recorded against the person and no penalty imposed. This option is only used in special cases, for example, when the person is of previously good character, it is a minor offence and the person is unlikely to be in trouble again. If you would like to find out more information about the sentencing process, contact the Victims of Crime Bureau to obtain a copy of the Sentencing Information Package (see page 40 for contact details).

Other important things to know about trials

Not all trials end with a verdict of guilty or not guilty. Our law requires all twelve jurors to come to a unanimous (agreed) verdict. If they cannot agree then it is called a hung jury and there is no verdict. The accused may then face a retrial at a later date with a different jury. In some cases the prosecution may decide that the evidence isn't strong enough to proceed with a further trial. More serious crimes are likely to be retried. If so, you will probably have to give evidence at the second trial. In rare cases, the evidence may be so weak that a judge will direct the jury to find the accused not guilty. This is called a verdict by direction. In other cases the trial may be stopped (aborted). This can happen for a number of reasons, but most commonly because the jury hears inadmissible or prejudicial evidence. It can also happen when certain information about the trial or the accused is broadcast on television or radio, or is reported in newspapers. The law prohibits the publication of material, which may influence the outcome of a trial. For example, a media report may give details about an accused's prior convictions or an opinion about an accused or witness that would not be allowed to be heard by the jury in court. Where a trial is aborted it will have to be stood over to another day. You will have to give your evidence again.

APPEALS

The accused has a right to appeal against conviction and sentence. The prosecution can appeal sentence. When a person makes an appeal to another court they are called an appellant. Whether you will be required to give evidence again depends on a number of factors including:

- whether the Local, District or Supreme Court originally heard the case
- what the appeal is about
- whether the court only uses a transcript (see page 29) of the original hearing, rather than calling witnesses again.

Local Court decisions

An accused may appeal to the District Court against a magistrate's decision. The appeal can be against the finding of guilt (conviction), the severity of the penalty or both. An appeal to the District Court against conviction involves a rehearing of the case by a single judge. The person appealing (appellant) can ask for all the witnesses who gave evidence in the local court to attend the appeal. Sometimes both parties - the crown and the appellant - may agree to evidence being given by deposition only. A deposition is a typed copy of the recorded evidence from the local court. A witness does not have to give evidence again if depositions are used. Apart from the use of depositions, the appeal is heard in the same way as the local court hearing except the question of guilt is now decided by a District Court judge. An appellant can also appeal against the severity of the sentence. Witnesses are not required for appeals on the severity of a sentence. A judge can decide to vary the sentence. An appellant can also appeal to the Supreme Court on questions of law. Witnesses are not called at these appeals.

District and Supreme Courts decisions

A person who has pleaded guilty or has been found guilty by a jury in the District or Supreme Court has a right of appeal to the Court of Criminal Appeal. The appeal can be against the conviction or sentence or both. This appeal is not a rehearing and witnesses are rarely called. Instead, the judge and the lawyers look at the typed copy (transcript) of the trial evidence and the judge's summing-up to see whether the judge or jury made a mistake about the law or the facts of the case. The Crown (ODPP) can appeal against the sentence if they think it is too light (lenient). Appeals of this nature are fairly rare and occur only when a judge has gone well outside sentences for similar cases.

Appeal to the High Court

The High Court is the highest court in Australia and its decisions are final. It only considers questions of law

and witnesses are not called. The court looks at the transcript and the written arguments presented to the court by the lawyers. If the High Court finds that there has been a serious mistake in the law then it can order a retrial. In some cases it may decide that the appellant should be acquitted.

Bail

An appellant may have bail continued or granted while waiting for the appeal even if they were given a prison sentence. A victim has the right to protection in these circumstances. If you have fears for your safety, you should notify police or the ODPP.

SPECIAL CASES

Sometimes the age or other circumstances of the victim or accused will alter the way a case is dealt with. It is recognised that victims of violent crimes, including sexual assault and domestic violence, have special needs and require extra support during court proceedings. There are a number of specialist services for victims of sexual assault and domestic violence and victims support groups will try to provide this assistance if they are contacted by the victim. Our legal system also recognises the need to protect children when they are involved with the courts, whether as a victim, witness or accused.

Sexual assault

Victims of sexual assault are usually referred to as the complainant. There have been recent changes to the law to further protect victims of sexual assault. Defence counsel are limited in some of the questions that may be put to a complainant. For example, they can no longer ask questions about a complainant's sexual reputation (although there are some exceptions), history or culture/race.

In matters related to sexual assault, you will be required to tell the court in precise detail about the sexual assault including the explicit and detailed parts of what happened.

The complainant should be informed by the ODP solicitors or Crown prosecutors of this requirement, prior to the case being heard. A complainant can ask the Prosecutor to make a request to the judge or magistrate that the case, or at least their evidence, be given in a closed court, where members of the public are excluded. They can also ask that certain people such as family or friends remain in court to give support. A decision to close the court and to allow support people remain with the witness is at the discretion of the magistrate or judge. A judge or magistrate can prohibit the publication of any details about the case. The law prohibits publication of the complainant's name and address, or any other information, which might identify the complainant. In addition, there are a number of specialist support services available to help victims of sexual assault and other people affected by the crime to prepare for court and in other related matters through the legal process (see pages 41-43).

Domestic violence

There are special provisions of the *NSW Crimes Act 1900* that deal with domestic violence. Apprehended domestic violence orders (ADVOs) are court orders to protect people from violence or the threat of violence (including intimidation and stalking).

An AVO is not a criminal charge although a person may face a criminal charge if they break a condition of an AVO. This is called a 'breach' of the AVO. Any breach must be proved in a court. In serious matters the police have a responsibility to seek orders on the victim's behalf. A person can ask the police to apply for an AVO on their behalf or apply to the local court themselves. The conditions of the AVO are tailor-made to each situation. The AVO may include that a person cannot contact or come within a certain distance of the person or their relatives or specific friends. There is a range of specialist services that can help with legal representation, advice and support in domestic violence matters (see pages 41-43).

Children

Both child witnesses and accused children are treated differently by our legal system in recognition of their special needs. There are specific provisions for child witnesses to help them through the court process such as CCTV, screens and video/audio evidence. For more information contact the ODPP (see page 40).

Children's Court

A significant number of more serious crimes are dealt within Children's Courts. These specialist courts deal with crimes committed by young offenders (i.e. under 18). One major difference between a Children's Court and all other courts is that they are closed courts. In these situations a victim appearing as a witness would not be able to observe the remainder of the proceedings without seeking permission from the court.

Crimes committed by children and young people

The majority of crimes committed by children or young people are dealt with outside the court system, by way of warning, caution youth justice conference and infringement notices.

Intellectual disability

Victims who have an intellectual disability may have some particular support needs as they go through the legal process.

Police are required to attempt to contact a support person when they are interviewing any 'vulnerable' person. Support people can ensure that vulnerable people are not further disadvantaged because of their disability. This includes ensuring the person understands their right to have legal representation, and their right not to talk to police. People with an intellectual disability may contact the Criminal Justice Support Network (CJSN), which is part of the Intellectual Disability Rights Services, NSW (IDRS).

The aim of the Criminal Justice Support Network is to make sure that people with an intellectual disability who are in contact with the criminal justice system understand their rights and have the ability to exercise them. The Network will offer support at police interviews and at court to people with an intellectual disability who are victims and witnesses.

The ODPP Witness Assistance Service can also assist people prepare for court and make sure they have support when giving evidence in cases prosecuted by the ODPP.

The video “So you have to go to court” is a video produced for people with an intellectual disability who have to go to court.

Indigenous victims of crime

There are a number of specialist services that can assist victims from Aboriginal and Torres Strait Islander background. The police have Aboriginal Community Liaison Officers, the ODPP has the Aboriginal Witness Assistance Officers and the courts have Aboriginal Client Service Specialists.

There are also a number of community-based services and information lines such as the Indigenous Women’s Legal Contact Line 1800 639 784 and Wirringa Baiya Aboriginal Legal Centre 1800 686 587 which can provide legal advice and information.

VICTIMS COMPENSATION

A victim of a violent crime may apply for compensation to the Victims Compensation Tribunal. People who suffered an injury as a result of actually witnessing the violent crime may also seek compensation. There does not need to be an arrest or a conviction for an award of compensation to be made. However, it is advisable to report the crime to the police and give reasonable assistance in the investigation of the crime. An application for compensation must be lodged within two years from when the crime occurred. Compensation can include payment for financial loss

and for personal harm. Under current legislation minor injuries such as cuts and bruising will not be compensated – the injury must be specified in Schedule 1 of the Victims Support and Rehabilitation Act 1996. The total amount of compensation for injuries must equal or be greater than \$7,500. Compensation may also be available to family members (as defined in legislation) whose family member has died as a result of a violent crime. For help in making a claim, see page 40.

LOOKING AFTER YOURSELF

It is important that you look after yourself before, during and after the court case. How you do this is up to you, but here are some suggestions for you to think about:

- try to get enough rest, eat well and do some sport or other activity you enjoy;
- learn relaxation techniques to help you stay calm;
- get counselling if you need it (see Where to get more information on page 40).

As a victim of crime, counselling can allow you to:

- talk about what happened if you want to
- understand what you are feeling
- find ways to cope in the weeks and months after the crime
- help you gain the supports you need
- deal with the symptoms such as not sleeping, poor concentration, avoiding socialising or being unable to work
- reduce the extent to which your life is changed by the crime.
- reduce the extent to which your life is changed by the crime or over time be able to adjust to the changes that have been made to your life because of the crime.

- talk to someone; a close friend or relative, a counsellor, someone from a victims support group or anyone else you feel you can trust and confide in;
- know your rights as a victim and get as much information as you can about the court process;
- take a support person with you to help you through the experience of going to court;
- have a plan for what you would like to do after the case is over, like going to the movies, taking a holiday, visiting friends or just doing something special for yourself.

When going to court, wear comfortable but appropriate clothing. Take a jacket as some courtrooms can be cool. Take something to read or do while you are waiting at court. You may wish to take your own food and drink. Sometimes it can help if you take a small item with special meaning for you to court, such as a piece of jewellery or a letter from someone close. Remember, it is not your responsibility to prove the case. Your job is to tell the truth as a witness. The outcome of the case does not depend on you alone.

LEGAL INFORMATION

LawAccess

LawAccess NSW is a free service providing a single point of access to legal and related assistance services in New South Wales. It provides help to customers to find the information and services that are best able to assist with legal problems and questions.

Website: <http://www.lawaccess.nsw.gov.au>

Phone: 1300 888 529

TTY: 1300 889 529

Legal Information Access Centre (LIAC)

The Legal Information Access Centre (LIAC) is a statewide service providing free access to information about the law for the community. It is based in the State Library of NSW and operates through public libraries across the state.

All 98 NSW public library services have a LIAC selected collection of plain language resources called the Legal Tool Kit (look for the red and blue display stand). Over 75 of these libraries have additional resources and trained staff to help you find answers to your legal questions, including locating legislation and cases on the Internet.

For help with any legal inquiry you can also contact the specialist staff at the State Library LIAC where you will have access to the Library's comprehensive collection of legal resources.

Website: <http://www.liac.sl.nsw.gov.au>

Phone: 02) 9273 1558

Fax: 02) 9273 1250

Community Legal Centres

Contact LawAccess to obtain contact details for the closest Community Legal Centre to you (see above). Otherwise contact the Secretariat of the Combined Community Legal Centres Group (NSW) Inc. (Please note the Secretariat does not provide legal advice and assistance).

Website: <http://www.nswclc.org.au>

Phone: 02) 9212 7333

Fax: 02) 9212 7332

Office of the Legal Services Commissioner

The Office's main role is to ensure a high standard of ethical legal services in New South Wales. The Office strives to improve consumer satisfaction with legal services by developing and maintaining effective complaint handling processes, promoting a fairer, more accessible and responsive legal service in New South Wales.

Phone: 02) 9377 1800 or 1800 242 958 (free call Aust only)

Fax: 02) 9377 1888

TTY: 02) 9377 1855

Women's Legal Resource Centre

The Women's Legal Resource Centre exists to provide a voice for women in NSW and to promote access to justice, through the provision of legal services, law reform and community legal education, particularly for women who are disadvantaged by their social and economic circumstances.

Website: <http://www.womenslegalnsw.asn.au>

Email: womens_nsw@fcl.fl.asn.au

Telephone Advice Line: 02) 9749 5533

Free call (Rural): 1800 801 501

Free call (Aboriginal Women): 1800 639 784

Fax: 02) 9749 4433

TTY: 1800 674 333

Intellectual Disability Rights Service (IDRS)

The Intellectual Disability Rights Service (IDRS) is a non-government organisation, which specialises in assisting people with intellectual disabilities make representations in court.

Website: <http://www.idrs.org.au>

Email: idrs_nsw@fcl.fl.asn.au

Phone: 02) 9318 0144 / 1800 666 611 (toll free within NSW)

Fax: 02) 9318 2887

Wirringa Baiya Aboriginal Women's Legal Centre

Wirringa Baiya is a statewide service for Aboriginal women and children with a focus on domestic violence, sexual assault, child sexual assault and other issues of violence. Provides legal advice, referral, limited casework and community legal education.

Website: <http://www.wirringabaiya.org.au>

Email: wirringa_baiya@fcl.fl.asn.au

Phone: 02) 9569 3847 / 1800 686 587 (toll free)

Fax: 02) 9569 4210

Postal address: PO Box 785, Marrickville NSW 1475

COMPLAINTS

As a victim of crime you should be treated with courtesy, compassion and respect. You should be kept informed of the progress of the case, and are entitled to safety (see p. 44). If you think your rights are being ignored or you are otherwise unhappy with your treatment as a witness, it is often most effective to raise your concerns with a local representative of the agency concerned. If you are still not satisfied with your treatment, make a formal, written complaint to the relevant agency from the list below:

Complaints or problems with the police

NSW Police Service Customer Assistance Unit

Phone: 1800 622 571 (toll free)

Complaints about your treatment as a victim

Victims of Crime Bureau

Phone: 02) 8688 5511 / 1800 633 063 (rural free call)

Complaints about the NSW courts

Community Relations Division, Attorney General's Department,

Phone: 02) 8688 7586

Complaints or problems with the Office of the Director of Public Prosecutions (ODPP)

First talk to the ODPP lawyer in charge of the case and/or the Witness Assistance Service staff. If you are still not satisfied you can write to:

Office of the Director of Public Prosecutions Locked Bag A8,
Sydney South NSW 1232, or speak to:

Service Relations Officer 02) 9285 8738

WHERE TO GET MORE INFORMATION

Office of the Director of Public Prosecutions (ODPP)

265 Castlereagh Street Sydney NSW 2000,

Postal address - Locked Bag A8, Sydney South NSW 1232

Website: <http://www.odpp.nsw.gov.au>

Email: enquiries@odpp.nsw.gov.au

Phone: 02) 9285 8606

Fax: 02) 9285 8600

ODPP - Witness Assistance Service

265 Castlereagh Street Sydney NSW 2000

Email: was@odpp.nsw.gov.au

Phone: 02) 9285 2502 / 1800 814 534 (toll free)

Fax: 02) 9285 2528 (Head office)

TTY: 02) 9285 8646

Victims of Crime Bureau

Level 1, 160 Marsden Street, Parramatta NSW 2150

Website: <http://www.lawlink.nsw.gov.au/vs>

Email: vcb@agd.nsw.gov.au

Phone: 02) 8688 5511 / 1800 633 063 (rural free call)

Victims Compensation Tribunal

Level 1, 160 Marsden Street, Parramatta NSW 2150,

Postal address - Locked Bag A5118, Parramatta NSW 2124

Website: <http://www.lawlink.nsw.gov.au/vs>

Email: vct@agd.nsw.gov.au

Phone: 02) 8688 5511 / 1800 069 054 (toll free)

Department of Corrective Services - Victims Register

GPO Box 31, Sydney NSW 2001

Website: <http://www.dcs.nsw.gov.au>

Email: restorative.justice@dcs.nsw.gov.au

Phone: 02) 8346 1374

Mental Health Review Tribunal

- Victims Register for Forensic Patients

PO Box 2019, BORONIA PARK NSW 2111,

Postal address - PO Box 150 Matraville 2036

Phone: 02) 9816 5955

Fax: 02)

Centre for Mental Health, Department of Health

Level 4, 73 Miller Street, North Sydney NSW 2060

Postal address - Locked Bag 961, North Sydney NSW 2059

Phone: 02) 9391 9302

Sexual Assault Service

You can get counselling, advice and support from sexual assault centres throughout the State. Contact your local hospital or community health centre for details.

Women's Domestic Violence Court Assistance Scheme

Support, referral, advocacy and, in some cases, legal representation for victims of domestic violence seeking an apprehended violence order. For further information contact the following services:

Domestic Violence Advocacy Service:

Phone: 02) 8745 6999 or 1800 810 784 (toll free)

TTY 1800 626 267

Domestic Violence Line; Department of Community Services

The trained, all female staff provide telephone counselling, information and referrals for people affected by domestic violence, including referral to emergency and longer term accommodation. Telephone interpreters are used to assist callers when needed. Court support and Information.

Open 24 hours a day, seven days a week.

Phone 1800 656 463 (Rural free call)

TTY 1800 671 442

LawAccess NSW

LawAccess NSW is a free service providing a single point of access to legal and related assistance services in New South Wales. The main job is to help customers to find the information and services that are best able to assist with legal problems and questions.

Website: <http://www.lawaccess.nsw.gov.au>

Phone: 1300 888 529

Fax: 02) 8833 3101

TTY: 1300 889 529

The **Department of Community Services** assists people with intellectual disabilities who have high support needs to achieve greater independence, involvement in the community and a better quality of life.

The **Disability Complaints Service** is a non-government organisation, which provides a free service to help people with a disability who wish to make a complaint about their rights being infringed.

Phone: 02) 9319 6549 or 1800 424 007 (toll free)

TTY: 02) 9318 2138

Community Justice Support Network

Suite 2c, 199 Regent Street Redfern NSW 2016

Email: cjsn@idrs.org.au

Phone: 02) 9318 0144

Fax: 02) 9318 2887

VICTIM SUPPORT GROUPS

Homicide Victims Support Group

24-hour information and support when someone has been murdered and support groups for family members who have lost a family member through homicide.

Email: hvsg@bigpond.com

Phone: 02) 8274 8900 or 1800 191 777 (toll free)

Fax: 02) 9251 0486

Victims of Crime Assistance League Inc

Support, guidance, referral, strategies for all victims of any crime including car related crime injuries, court preparation, community education and referral.

Email: ceo@vocal.org.au

Phone: 02) 4926 5826

Fax: 02) 4926 5866

Enough is Enough

Support and counselling for all victims of crime, including road trauma, addiction and cooperative justice education.

Email: team@enoughisenough.org.au

Phone: 02) 9542 4029

Fax: 02) 9542 4036

Mission Australia's Court Support Service

Phone: 02) 9356 0604

THINGS TO READ

Information for Victims of Crime

Available from **Victims of Crime Bureau**

Level 1, 160 Marsden Street Parramatta NSW 2150

Phone: 02 8688 5511 or 1800 633 063 (rural free call)

The Law Handbook: Your practical guide to the law in NSW

The latest edition is in the Legal Tool Kit in your public library.

For details, contact the **Legal Information Access Centre (LIAC):**

Phone: 02 9273 1558

Information for women who are victims of domestic violence or sexual assault and are going to court

Available from the **Office for Women, NSW Premier's Dept.**

Level 13, Bligh House 4-6 Bligh Street Sydney NSW 2000

Postal address - GPO Box 5341 Sydney NSW 2001

Website: <http://www.women.nsw.gov.au/>

Email: ofw@premiers.nsw.gov.au

Phone: 02 9228 3141 / 02 9228 3317 / 02 9228 5555

Fax: 02 9228 3571

(This information can be downloaded from the website)

Information for court support persons

Available from the **Office of the Director of Public Prosecutions** and **NSW Health**. Contact the **Witness Assistance Service (ODPP):**

Phone: 02 9285 8949 / 1800 814 534 (rural free call)

Information for children as witnesses

About Court: Activity book for kids who are going to court as witnesses *(Available from Tunra for \$5 plus postage)*

Phone: 02 4921 8777

Information for Aboriginal and Torres Strait Islander People
Report of an Interagency Forum held on 13 March 2001 by the **Aboriginal Justice Advisory Council** in partnership with the **Victims of Crime Bureau**.

Website: www.lawlink.nsw.gov.au/ajac

CHARTER OF VICTIMS RIGHTS

(VICTIMS RIGHTS ACT 1996)

Courtesy, compassion and respect

A victim should be treated with courtesy, compassion, and respect for the victim's rights and dignity.

Information about services and remedies

A victim should be informed at the earliest practical opportunity, by relevant agencies and officials, of the services and remedies available to the victim.

Access to services

A victim should have access where necessary to available welfare, health, counselling and legal assistance responsive to the victim's needs.

Information about investigation of the crime

A victim should, on request, be informed of the progress of the investigation of the crime, unless the disclosure might jeopardise the investigation. In that case, the victim should be informed accordingly.

Information about prosecution of accused

1. A victim should be informed in a timely manner of the following:
 - (a) the charges laid against the accused or the reasons for not laying charges,
 - (b) any decision of the prosecution to modify or not to proceed with charges laid against the accused, including any decision for the accused to accept a plea of guilty to a less serious charge in return for a full discharge with respect to the other charges,
 - (c) the date and place of hearing of any charge laid against the accused,
 - (d) the outcome of the criminal proceedings against the accused (including proceedings on appeal) and the sentence (if any) imposed.

2. A victim should be consulted before a decision referred to in paragraph (1) (b) is taken if the accused has been charged with a serious crime that involves sexual violence or that results in actual bodily harm, mental illness or nervous shock to the victim, unless:
 - (a) the victim has indicated that he or she does not wish to be consulted, or
 - (b) the whereabouts of the victim cannot be ascertained after reasonable inquiry.

Information about trial process and role as witness

A victim who is a witness in the trial for the crime should be informed about the trial process and the role of the victim as a witness in the prosecution of the accused.

Protection from contact with accused

A victim should be protected from unnecessary contact with the accused and the defence witnesses during the course of court proceedings.

Protection of identity of victim

A victim's residential address and telephone number should not be disclosed unless a court otherwise directs.

Attendance at preliminary hearings

A victim should be relieved from appearing at preliminary hearings or committal hearings unless the court otherwise directs.

Return of property of victim held by State

If any property of a victim is held by the State for the purpose of investigation or evidence, the inconvenience to the victim should be minimised and the property returned promptly.

Protection from accused

A victim's need or perceived need for protection should be put before a bail authority by the prosecutor in any bail application by the accused.

Information about special bail conditions

A victim should be informed about any special bail conditions imposed on the accused that are designed to protect the victim or the victim's family.

Information about outcome of bail application

A victim should be informed of the outcome of a bail application if the accused has been charged with sexual assault or other serious personal violence.

Victim impact statement

A relevant victim should have access to information and assistance for the preparation of any victim impact statement authorised by law to ensure that the full effect of the crime on the victim is placed before the court.

Information about impending release, escape or eligibility for absence from custody

A victim should, on request, be kept informed of the offender's impending release, or escape from custody, or of any change in security classification that results in the offender being eligible for unescorted absence from custody.

Submissions on parole and eligibility for absence from custody of serious offenders

A victim should, on request, be provided with the opportunity to make submissions concerning the granting of parole to a serious offender or any change in security classification that would result in a serious offender being eligible for unescorted absence from custody.

Compensation for victims of personal violence

A victim of a crime involving sexual or other serious personal violence should be entitled to make a claim under a statutory scheme for victims compensation.

