

FACTSHEET 5A

Giving evidence in the criminal court

As a victim of the crime you have a vital role to play in the criminal justice system. Giving your evidence about what happened can be a part of this role.

If you are required to give evidence, you will be given a court notice called a subpoena or an undertaking telling you the date for court and which court to go to. If you receive one of these notices, you must attend court.

It is important that you do not discuss your evidence with other potential witnesses as this could affect the case.

You can take a support person into the court room when you give evidence.

You must wait outside the court room or in a witness waiting room until you are called in to the court room to give your evidence.

You will give your evidence from the witness box in the court room. Before you start giving your evidence, you will be asked to take an oath or make an affirmation to tell the truth. If you require a holy book other than the Bible, advise the prosecutor prior to the court date.

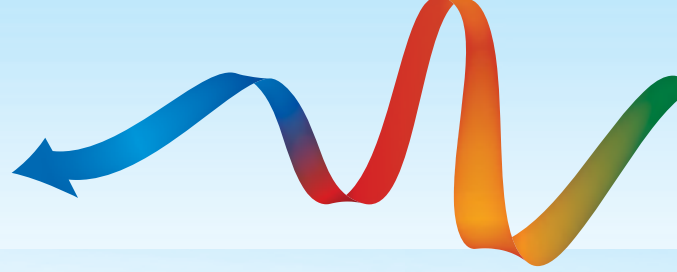
The prosecution lawyer is the first to ask you questions about your evidence. Another lawyer, called the defence lawyer, who represents the defendant/accused then has the right to ask you questions. This is called a cross-examination.

It is natural to feel nervous about giving evidence. There are some things that you can do to be better prepared:

- think about the events that you are giving evidence about. Try to remember the details of the incident like the times, dates, descriptions and actions.
- before you come to court, you should read the statement you had made to police about what happened.
- if English is not your first language and you find it difficult to speak or understand English, you can speak to the prosecutor about having an interpreter.
- if you have any special needs, such as a hearing difficulty you should advise the prosecutor prior to the commencement of the proceedings.
- you can speak to the DPP Witness Assistance Service about taking a familiarisation tour of the court prior to the date you are giving evidence.
- if you have concerns about seeing the defendant, speak to the police officer, Witness Assistant or the prosecutor about this.

Some tips to help you give evidence in the witness box:

- consider each question;
- take your time to answer;
- if you don't understand the question, you can say so or ask for the question to be repeated;
- if you don't know the answer to a question, you can say so;



- only answer the question;
- if you become distressed, you can ask for a break;
- speak clearly;
- don't go into unnecessary explanation;
- remember to keep breathing.

If the defendant/accused is unrepresented by a lawyer, they will be the person asking you questions about what happened. This can be an intimidating experience for a victim of crime. The judge/magistrate will explain the law and procedures to the defendant/accused but they will not help them to run their case. If the person asks questions that are insulting or irrelevant, the prosecutor can object. The magistrate or judge ensures that the defendant/accused behaves in an appropriate manner. For victims and some other witnesses in sexual assault or violence cases, the court can appoint another person to ask the questions for the defendant/accused.

When you are asked questions by the defendant/accused or by the defence lawyer, you can direct your answers to the magistrate/judge.

The ACT Law Society has issued guidelines for defence solicitors outlining how they are to communicate with victims of domestic violence and sexual assault.

A solicitor for the defendant/accused may contact you. It is up to you whether you speak to them but you are not obliged to do so. If you decide to speak to them, it is a good idea to take a support person with you. A solicitor is not allowed to influence or coerce you in any way. It is also a good idea to tell the police officer or prosecutor if you have been contacted by the defence solicitor or by the defendant.

If you have incurred expenses or lost wages because you had to come to court, you are entitled to claim these expenses back. Speak to the investigating police officer or the DPP Witness Assistance Service about how you can recover these expenses.

More information including a dictionary of legal terms is available at www.victimsandjustice.act.gov.au