

NOW YOU ARE A WITNESS

Information for witnesses
giving evidence at a criminal trial



OFFICE of
PUBLIC PROSECUTIONS
VICTORIA

What is involved when you give evidence at a criminal trial? How can you prepare?

By giving evidence, you are making a valuable contribution to the criminal justice system. The court system depends on the help of truthful witnesses.

The prosecution service

Serious crimes in Victoria are prosecuted by the Director of Public Prosecutions through the Office of Public Prosecutions (OPP).

The OPP prosecution team works with Victoria Police to prosecute criminal matters.

The OPP prosecution team is made up of a solicitor who prepares the case and a prosecutor who questions witnesses in court and presents the matter to the judge and jury. Sometimes a social worker is also part of the prosecution team.

Witness support

It is normal to feel nervous about giving evidence in court. The OPP's Witness Assistance Service (WAS) can give you information and support throughout the process. WAS is a free, specialist service staffed by qualified professionals who are experienced in supporting witnesses and victims of crime.

WAS staff can:

- explain what happens before, during and after court
- help you access rights and entitlements
- refer you to other agencies and services.

Tips

- If you have any questions about a matter, or need more information, contact the OPP solicitor, the police informant or WAS.
- Organise someone to mind your children as there are no child minding facilities at court.

Dealing with a subpoena

If you are giving evidence at a criminal trial it means you have made a statement to police and received a subpoena.

A subpoena means you must go to court and answer questions (give evidence) about what you have told police. There are serious penalties for not going to court when you have received a subpoena.

The contact details of the police informant, who has investigated the crime, and the OPP solicitor you will be dealing with, will be on the subpoena.

The court date

The subpoena will tell you the first date of the trial, but this may not be the date you need to give evidence.

The police informant will contact you about when you need to attend court.

If you are not contacted, please call the police informant or OPP solicitor.

Arrangements needed

Before your court appearance you will need to arrange time off work or study. You may need to go to court for more than one day.

You need to tell the police informant or the OPP solicitor if you:

- need an interpreter
- have a disability that could make it difficult for you to give evidence
- change your address or telephone number.

Witness expenses

You can claim some of your expenses for attending court. A Witness Expense Claim Form will be sent with the subpoena explaining the amounts that can be claimed. Parking and child care expenses cannot be claimed.

Attending court

Preparing to give evidence

On the day you go to court, read your statement carefully a number of times. This will refresh your memory about what you told police. You will not be able to look at your statement while you are giving evidence.

Do not discuss what you told police with other witnesses, either before going to court or outside the courtroom.

If you do not want your address mentioned in court, you should tell the OPP solicitor or police informant before court begins.

Arriving at court

When you arrive at court (if no previous arrangements have been made with the police informant):

- go through court security, if necessary
- check the daily court list on the foyer notice board
- find the name of the person on trial and the courtroom number
- go to the courtroom and wait for the police informant or OPP solicitor to make contact.

If you are at a regional court, you can go to the Registrar's counter for help.

Tips

- If you are driving to court, make sure you can access all-day parking to avoid fines.
- You are not allowed to sit in the courtroom and listen to the other witnesses before you give your evidence. Take something to read or pass the time while you are waiting.
- The courts normally sit from 10:00am to 4:15pm with a lunch break from 1:00pm to 2:00pm.

Inside the courtroom

A criminal trial is held in front of a judge and a jury. All witnesses involved in a prosecution case, including victims of crime, give evidence by answering questions.

Going into the courtroom

When it is time for you to give evidence, your name will be called. After entering the court, you will be shown to the witness box.

The court officer will ask you:

- whether you want to swear an oath on the Bible or other Holy Book, or make a promise to tell the truth (an affirmation)
- your full name
- to swear an oath or affirmation.

The prosecutor will then ask you:

- your full name
- your occupation.

The evidence process

The prosecutor will ask you questions first. This is called 'evidence-in-chief'.

The defence barrister, who represents the accused person, will then ask you questions. This is called 'cross-examination'.

The prosecutor may then ask you some further questions. This is called 're-examination'.

The judge may also ask you questions.

Tips

- Judges are called 'Your Honour'.
- Contact WAS if you would like a support person with you at court and while you give your evidence.

Giving evidence

Telling the truth is the most important thing to do when answering questions in court.

When giving evidence:

- listen carefully to the question before answering
- take your time answering
- if you don't hear or understand a question, ask for it to be repeated
- if you can't remember or are not sure, you should say so
- if you are sure, you can say so
- when you finish giving evidence, the judge will excuse you and you are free to go.

Tips

- You can ask the judge for a break if you need one.
- The microphone records your answers but does not make your voice louder, so you need to speak clearly.

Sexual assault and family violence matters

If you are a sexual assault victim you can give your evidence away from the court via closed-circuit television. If you are a family violence victim you may also be allowed to use closed-circuit television to give your evidence.

You can also have a support person sit with you in the remote facility while you give evidence. The support person must be approved by the court and cannot be another witness.

WAS can answer your questions about using a remote witness facility to give your evidence.

At the end of the trial

After all witnesses have given evidence, the prosecutor, defence barrister and judge will talk to the jury about the evidence and the law.

The jury will then decide whether the accused is guilty or not guilty. There is no time limit for how long the jury can take to make a decision.

If the accused is found guilty, a victim can prepare a Victim Impact Statement, which will be presented to the court at the plea hearing.

The judge will decide the sentence at a separate hearing on another day.

If the accused is found not guilty, they are free to go.

The police informant, OPP solicitor or WAS will inform you of the outcome of the trial.

Key Points

- If you are served with a subpoena you must attend court to give evidence.
- It is important to tell the truth when giving evidence.
- Never discuss your evidence with other witnesses.
- If you are a sexual assault victim you can give your evidence away from the court via closed-circuit television. If you are a family violence victim you may also be allowed to use closed-circuit television to give your evidence.
- Support is available from the Witness Assistance Service.
- You can ask the police informant or OPP solicitor for information about the matter you are involved in.
- Let the prosecution team know if you change your address or contact details.

Information and assistance

Office of Public Prosecutions

T 03 9603 7666

E info@opp.vic.gov.au

www.opp.vic.gov.au

Witness Assistance Service

Office of Public Prosecutions

565 Lonsdale Street Melbourne 3000

T 03 9603 7425

T 1800 641 927

Victims of Crime Helpline

T 1800 819 817

8:00am – 11:00pm 7 days per week

www.justice.vic.gov.au/victimsofcrime

Vision Australia information line

T 1300 847 466

TTY Services (hearing impaired)

T 13 36 77

Telephone Translating and Interpreting Service

T 13 14 50

Courts

Melbourne Magistrates' Court

233 William Street Melbourne 3000

County Court of Victoria

250 William Street Melbourne 3000

Supreme Court of Victoria

210 William Street Melbourne 3000

Your subpoena will have the address of the court where you need to attend.

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