

SUPPORTING VICTIMS AND WITNESSES AT COURT



Information for court support persons

This information has been prepared by the Witness Assistance Service (WAS) at the Office of the Director of Public Prosecutions (ODPP) for people who are providing support to victims of crime and witnesses in prosecutions conducted by the ODPP.

A support person might be required to provide court support for a victim of crime or witness in a hearing in the Local Court or a hearing or trial in the District or Supreme Court. This information sheet refers to both these proceedings as "hearings".

What is a support person?

A support person is a person who assists and supports a witness, when that person gives evidence at court. A support person might also provide support for the family in matters where the primary victim died as a result of the crime.

Who can be a support person for a witness?

A witness can say who they would like their support person to be. A support person should be an adult and can be a friend or family member, a worker or volunteer from a support group or court support service or a professional counsellor or WAS Officer.

A support person cannot be someone who is going to give evidence in the case. Sometimes if the defence object to the choice of support person, the Judge or Magistrate may have to make decisions about who the support person will be. In some specific cases there can be two court support persons.

What is your role as a support person?

Your role as a support person is to assist and support the witness before, during and after they give their evidence. This might include being with the witness while they are waiting at court, sitting and listening while the witness gives evidence, giving emotional support, reassuring the witness and explaining what is happening.

Once they have finished giving their evidence and have been allowed to leave the witness box by the Court the witness can leave the court and go home or if they wish they can sit in court and hear other evidence.

In some cases a support person might provide support for a victim, witness or family member who wishes to sit in court and listen to the proceedings or at critical times such as the Crown closing address, the Judge or Magistrate's summing up, when the jury give their verdict, or for the sentencing judgment.

Supporting victims and witnesses who are giving evidence

Before the court hearing:

Before the court hearing you should ask the witness how they would like you to assist and support them when they give evidence in court. Prior to the court hearing the witness usually meets with the ODPP Lawyer and the Crown Prosecutor to discuss their

evidence. You can accompany the witness to this meeting and, if the witness and ODPP Lawyer agree, you can sit in the meeting to support the witness or wait outside and provide support after the meeting.



PRACTICAL CONSIDERATIONS FOR COURT

Court times:

Generally court sits between 10.00am and 4.00pm but this can vary. Check with the solicitor what time you should be at court.

Court breaks:

Morning Tea generally around 11.30am.
Lunch break generally between 1.00pm – 2.00pm.
Afternoon Tea break is optional but generally around 3.00pm.

Court lists:

A daily court list is located at each court with a list of cases, the courtroom, and the Judge or Magistrate.

PLANNING

- When and where will you meet the witness?
- Is there an arrangement for the witness to meet the Police or the Prosecutor?
- Has the witness let the Police or Prosecutor know where you will be waiting or given them a mobile number so they can contact you or the witness urgently?
- At some courts there may be a special witness room where you and the witness can wait.
- Be prepared to do some waiting at court. Sometimes the witness will have to come back to court for more than one day.
- It is a good idea for the witness to bring something along to read or do while waiting at court. Some people also bring something to eat and drink with them. If the witness has a medical condition they might need to bring along any medications that they have to take during the time at court.



Supporting victims and witnesses who are giving evidence

At the court hearing:

When providing support for a witness giving evidence, you may be sitting in the courtroom, or in some specific cases, you will be in a separate witness room where the witness gives evidence via closed circuit television (CCTV) or Audio Visual Link (AVL) from another location.

Make sure you tell the ODPP lawyer and Crown Prosecutor that you are the support person for the witness. If the court hearing is a 'closed court' (i.e. closed to the public) the ODPP Lawyer or Crown Prosecutor will need to seek permission from the court, for you to stay in the courtroom or CCTV room.

If the witness is giving their evidence from the courtroom, check that you are allowed into the courtroom and determine the best place to sit so that the witness can see you easily and you are not close to the accused person. Often a good place to sit is in the public gallery on the side of the courtroom that the prosecutor is sitting. If there is a good reason for you to sit closer to the witness then discuss this with the ODPP Lawyer or Crown Prosecutor so they can seek permission from the Judge or Magistrate.

Generally a prosecution witness gives their evidence to the court with the prosecutor asking questions. They will then be cross examined by the defence lawyer. The prosecutor can then ask a few more questions if they need to which is called re-examination. The Judge or Magistrate will then excuse the witness which means they have finished giving their evidence and they are free to leave the witness box.

To see a courtroom layout and understand the roles of the people in court visit the interactive courtroom at Justicejourney www.lawlink.nsw.gov.au/vs

After the witness has finished giving evidence:

After a witness has finished giving their evidence they might want to talk with you as their support person about how they are feeling. The witness can stay in touch with the prosecutor, Police Officer-in-Charge (OIC) or WAS Officer as to the progress or

outcome of the hearing. The witness may wish to claim witness expenses while they are at court. The Police OIC can assist with completing and signing these forms. If a witness is distressed and you are concerned for their wellbeing you can speak to the WAS Officer or contact the Witness Assistance Service for assistance.



Supporting victims and witnesses who are giving evidence

What if the witness gives evidence via closed circuit television?

When closed circuit television (CCTV) is used, the witness gives evidence from a separate witness room to the courtroom. The ODPP Lawyer or Crown Prosecutor can seek permission for a support person to sit with the witness in the CCTV room.

While separated from the court the CCTV room is still part of the Court and the same rules apply as in the courtroom. A court officer should be in the CCTV room with you and the witness. You will be guided by the Judge / Magistrate and court officer as to where to sit and generally this will be to the side of the witness.

The court officer ensures that the CCTV room functions as part of the Court and will assist with providing tissues and water for the witness and showing the witness any exhibits requested by the Court. There is a phone in the CCTV room so the court officer can speak with the Court. The witness will give an oath or affirmation to promise to tell the truth from the CCTV room. The witness can be seen by all the people sitting in the courtroom on a larger TV screen. In some courts the Judge or Magistrate also has a small TV screen so they can see everyone in the CCTV room.

To see the CCTV room and the TV screen inside the courtroom visit Justicejourney www.lawlink.nsw.gov.au/vs



THINGS TO KNOW ABOUT CCTV

- When the equipment is turned on, everyone present in the court can see and hear the witness on the TV screens in the courtroom;
- The witness in the CCTV room should be able to see and hear the lawyer asking questions or the Judge or Magistrate on one of the screens;
- The witness should not be able to see the accused person on any of the screens;
- The witness should not see themselves on the screens. If this is the case, this image can be turned off by the court officer;
- The witness should be able to clearly hear and see the Judge or Magistrate and the lawyers asking questions, and their taped evidence if relevant.
- The witness can ask for a break e.g. if they need to use the toilet.
- If there is a short adjournment the equipment is usually turned off. However this is not always the case and the court may still be able to see and hear the witness even though the witness cannot see anything on their screen;
- When the equipment is turned off, is not transmitting or breaks down, you may assist or comfort the witness, however you must not talk about the case, the evidence or the questions they are being asked.

Some witnesses might have their electronically recorded statement played to the court as part or all of their evidence. In this case they will watch their tape on one of the screens in the CCTV room while it is played to the court. The court can not see the witness whilst they are watching their recorded evidence. They will then will be cross-examined by the defence and possibly re-examined by the prosecutor.

Before going into the CCTV room, it is a good idea to discuss with either the prosecutor or court officer, what will happen if there are any problems with the technology while the witness is giving evidence. If you notice any problems such as the witness not hearing very well or the accused can be seen on the screen, you can quietly bring this to the attention of the court officer who will inform the Court. Witnesses can also tell the Judge or Magistrate if there is a problem with technology. If there is still a problem, you or the witness can tell the prosecutor during the break.

Supporting family victims

A support person may be supporting family members in a case where the primary victim died as a result of the crime. Sometimes family members are witnesses and the information about supporting witnesses will be relevant. The family of a deceased victim may also want to be at court to hear the court proceedings for some or all of the case. Attending court and listening to the evidence can at times be stressful, upsetting and draining and the family may appreciate some contact with a support person during the court proceedings. If you are the support person in this type of case it is important to check with the family what type of support they would like and how often they would like you to come to court.



HINTS FOR COURT SUPPORT PEOPLE

- Remember as a support person you are there for the witness or victim of crime.
- Even if you have had your own experience at court in another court case, now is not the time to discuss that case or your own experience.
- Allow the victim or witness some space and time while waiting at court – sometimes they just want a bit of timeout on their own.
- In some cases you may hear some distressing evidence so it is also important to take care of yourself and find someone other than the victim or witness to discuss your feelings.
- It is best that you don't show your emotions while the witness is giving evidence
- As a support person it is important to stay calm for the witness.
- If you or the person you are supporting are not sure about what is happening speak to the Police Officer-in-Charge, the prosecutor or a Witness Assistance Service Officer.
- If you or the witness have concerns about safety or security speak to the Police Officer-in-Charge, the prosecutor or a Sheriffs Officer;
- Whether supporting someone giving evidence or someone who is listening to the court proceedings it is important to observe the basic rules and traditions of the Court.



BASIC COURT RULES

- Switch off mobile phones before entering the courtroom
- Be polite
- Maintain a quiet and respectful manner in court
- Sit quietly in the courtroom
- Dress appropriately, this means smart casual, comfortable and warm
- Take off your hat, cap or sunglasses
- Do not eat, drink, chew gum or smoke inside the courtroom
- Remember to bow when you go in or leave the court
- Remember the Magistrate or Judge is the person in charge in the court.

(Excerpt from Justicejourney at the Victims Services website www.lawlink.nsw.gov.au/vs)

The prosecution case must be conducted fairly and the Judge or Magistrate will ensure that basic rules of the court are followed and that each person is carrying out their role correctly.

When you are the support person for a witness there are some additional things you need to know that you cannot do.

THINGS YOU MUST NOT DO WHEN SUPPORTING A WITNESS AT COURT

- You must not talk about the evidence with the witness at any time. You must not help the witness to prepare the evidence and you must not rehearse what he or she is going to say.
- You must not help the witness to answer questions or tell the witness what to say when he or she is giving evidence. You must not give body signals to the witness about the evidence or behave in a way that looks as if you are helping or telling the witness what to say. If you do you may be removed from the courtroom.
- You must not take notes in the court hearing.
- You must not touch the witness during the court hearing.
- If the witness becomes upset, or if you have any concerns, please raise these in the first instance with the court officer, the prosecutor or where necessary, with the Court.
- You must not speak during the court hearing, even if the witness is upset, unless the Judge or Magistrate asks you a question.
- You cannot do anything that might influence or interfere with the court case.

Support for the support person

If you are unsure about your role as a support person, or concerned about the person you are supporting, you can speak to the Witness Assistance Officer, the ODPP solicitor, Police Officer or contact the Victim Access Line on the number below.

If as a support person you feel that you are affected by the court process or what you have heard while the witness is giving evidence it is important to seek out support for yourself. If you need to talk to someone about how you are feeling you can contact one of the following counselling lines:

Lifeline: on 131 114 or go to www.lifeline.org.au for more information

Salvo Care Line: 1300 36 36 22 (Regional NSW) or 02 8736 3292 (Sydney Metro)

More information

Be Courtwise: for more details about the court process visit Justicejourney at the Victims Services website www.lawlink.nsw.gov.au/vs

CONTACTS

NSW Office of the Director of Public Prosecutions (ODPP) Head Office

Reception: 02 9285 8606 or
Toll Free: 1800 814 534 and ask to speak to the solicitor or WAS Officer

Address: 175 Liverpool Street,
Sydney NSW 2000
Postal Address: Locked Bag A8,
Sydney South NSW 1232

www.odpp.nsw.gov.au

Witness Assistance Service (WAS) at the ODPP

Toll Free: 1800 814 534
Tel: 02 9285 2502
(ask to speak to a WAS Officer)

Victims Access Line

Victims Services
Department of Justice and Attorney General NSW

Toll Free: 1800 633 063 or
Tel: 02 8688 5511
T.I.S: 131 450

www.lawlink.nsw.gov.au/vs