



COURT *Orientation*

What you need to know as a Witness in court



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Victim Services

The Role of Victim Services in the Criminal Court Process



Victim Services volunteers help victims of crime or witnesses who have been called to testify for the Crown. Volunteers will try to ensure that victims/witnesses get the information about the criminal justice system that they need.

Before court, volunteers will meet with victims/witnesses to prepare them for court. They will provide information on the rules of the courtroom, how to give their testimony, and the court process. A tour of the courtroom can be arranged so that witnesses know who the key people are and where they sit in the court room.

Volunteers will sit in the court room during court proceedings to serve as a reminder of the court preparation victims have received.

After court, volunteers will try to answer any questions that witnesses may have about what happened and what will happen next.

Volunteers will not discuss evidence with witnesses but arrange for them to speak to the Crown or police officer.

Definitions

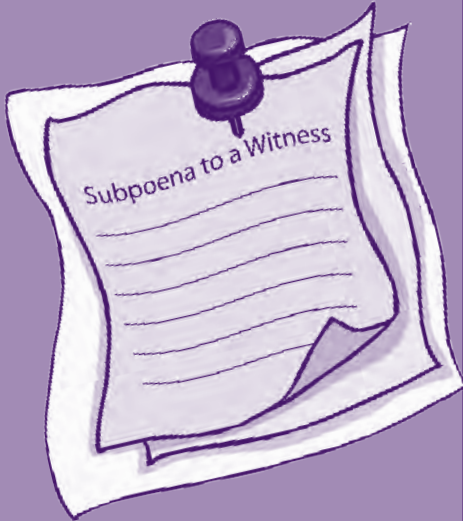
Adjourn	reschedule the trial to another date
Charge	the crime a person is accused of
Cross-examine	questioning of a witness by the defense lawyer
Evidence	testimony and physical items used to try and prove a trial
Objection	concern raised to the Judge by a lawyer regarding points of law
Plea	the accused enters a plea of “guilty” or “not guilty” to the offence he is charged with
Preliminary Inquiry	a hearing where the Judge decides if there is enough evidence to hold a trial
Sentence	consequences imposed by the Judge on someone who had been found “guilty”
Statement	a written account of what the witness experienced
Subpoena	a court document requiring a witness to attend court
Testify	give evidence in court
Transcript	a written record of the trial

Common Courtroom Definitions



Subpoena

The Subpoena



As a witness in a criminal matter, you will receive a subpoena from the Crown prosecutor. A Subpoena is a court order commanding you to appear at a specific courthouse at a specific time and place.

A witness can be subpoenaed anywhere in Canada to attend court concerning a criminal code offense. If you move before your appearance you must notify the Crown prosecutor's office.

The subpoena is "served" upon you when it is delivered to you by a police officer. It can also be left at your home address with someone at least 16 years old. Sometimes you will be asked to pick up your subpoena at the police detachment.

A subpoena takes priority over nearly every other duty. Your employer can't prevent you from attending court. Even if you have serious reasons for not attending court, you must have permission from the Crown prosecutor to be absent from court. If you can't contact the Crown, call the police detachment as soon as possible. Failing to attend court without a lawful excuse could result in criminal charges against you.

Witness

A witness has an important duty to perform in being part of the court process. Without your testimony there can be no trial. You are going to tell the court “what happened”. Your testimony along with that of other witnesses will help determine if an offender is “guilty” or “not guilty”.

Your Role as a Witness



Transportation

Getting to the Courthouse

Your subpoena will tell you what time your case starts. You should be at court at least 15 minutes before court is scheduled to start. You must provide your own transportation to court. If court takes place in a location other than where you live, contact the Crown to make travel arrangements. Make sure you bring your subpoena with you. Record your mileage to the courthouse. You may be entitled to receive compensation for your travel. Also record the time you left home and the time that you arrive at the courthouse.



Arrival

When you arrive at the courthouse, check in at the information counter. In larger centers there may be more than one courtroom. If you do not know which courtroom to go to, ask at the information counter. The Crown may wish to speak to you before the trial.

Victim Services volunteers can arrange to meet you at the courthouse. Volunteers will make sure that you get checked in and that Crown is notified that you are there. They will make sure that you find a safe place to wait before it is time to give your testimony and that you get a copy of your statement to look at.

When You Arrive



Time

How Long Will You Be There

You should plan to spend at least a half a day at the courthouse. Sometimes you will be there longer. You may wish to bring a book or quiet activity to help pass the time. You can also bring a snack and something to drink while you are waiting. It is a good idea to bring money for lunch.



Clerk of the Court

Judge



In the Courtroom

Judge

The **Judge** listens to all of the evidence given in court and decides if a person is guilty or not guilty. The judge also decides the sentencing (punishment) according to the law. When the judge comes into the courtroom everyone must stand up as a sign of respect. The clerk will tell you when to sit down. You may address the judge as “Your Honour”.

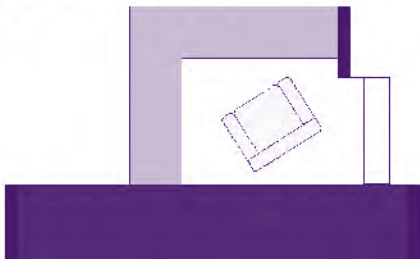
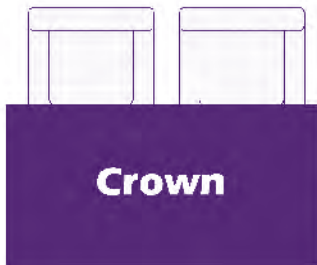
Clerk of the Court

The **Clerk of the Court’s** job is to help the judge. When the judge comes into the courtroom the clerk says, “all rise”. The clerk reads out the charge at the beginning of the trial. Once you are in the witness box you will be asked to swear an oath. The clerk will ask you to take the Bible in your right hand and repeat an oath to tell the truth. If you wish to affirm instead of using the Bible, the clerk will ask you to make a promise to the court that you will tell the truth. The clerk manages the records of the court and keeps track of exhibits.

Court Reporter

A **Court Reporter** is not always present at every trial. If a Court Reporter is required he or she will be seated near the Clerk in front of the Judge. It is the court reporter’s job to record everything that is said in court using a variety of recording devices. It is important that witnesses speak loudly and clearly so their testimony can be recorded. Do not nod your head for “yes” or “no”. You must answer out loud.





In the Courtroom

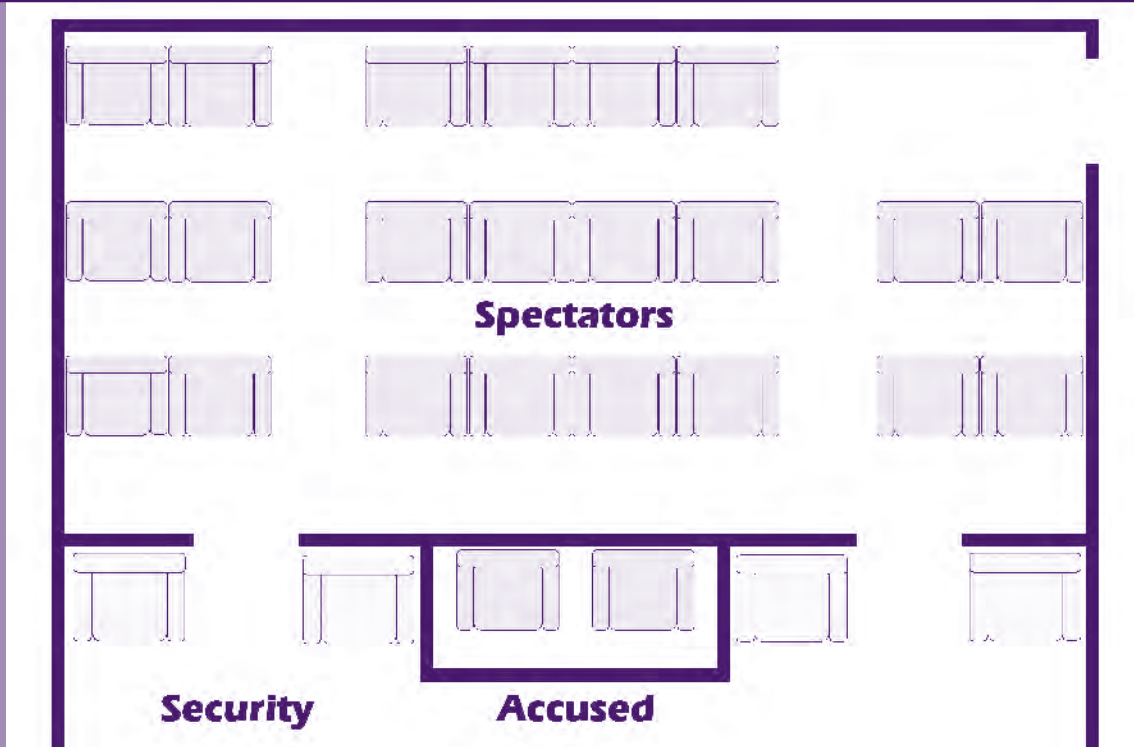
Crown

The **Crown** (also called the Crown Attorney or Prosecutor) is a lawyer for the province. It is their job to present all of the evidence to the Judge. The Crown does this by asking the witnesses questions. The Crown is not your lawyer. You do not need a lawyer. You have not been charged with a crime. It is your job as a witness to help the Crown prove their case.

Defense Lawyer

The **Defense Lawyer's** job is to assist the person who has been charged with breaking the law. The defense lawyer will ask questions after the Crown has finished asking questions of a witness. The defense lawyer also tries to determine if there have been any mistakes made during the trial. They may also try to determine the accuracy of testimony given by the witnesses.





In the Courtroom

Accused

The person that the police charged with breaking the law is the **accused**. The accused will be present in the courtroom. You may be asked to identify the accused by pointing out where they are in the courtroom.

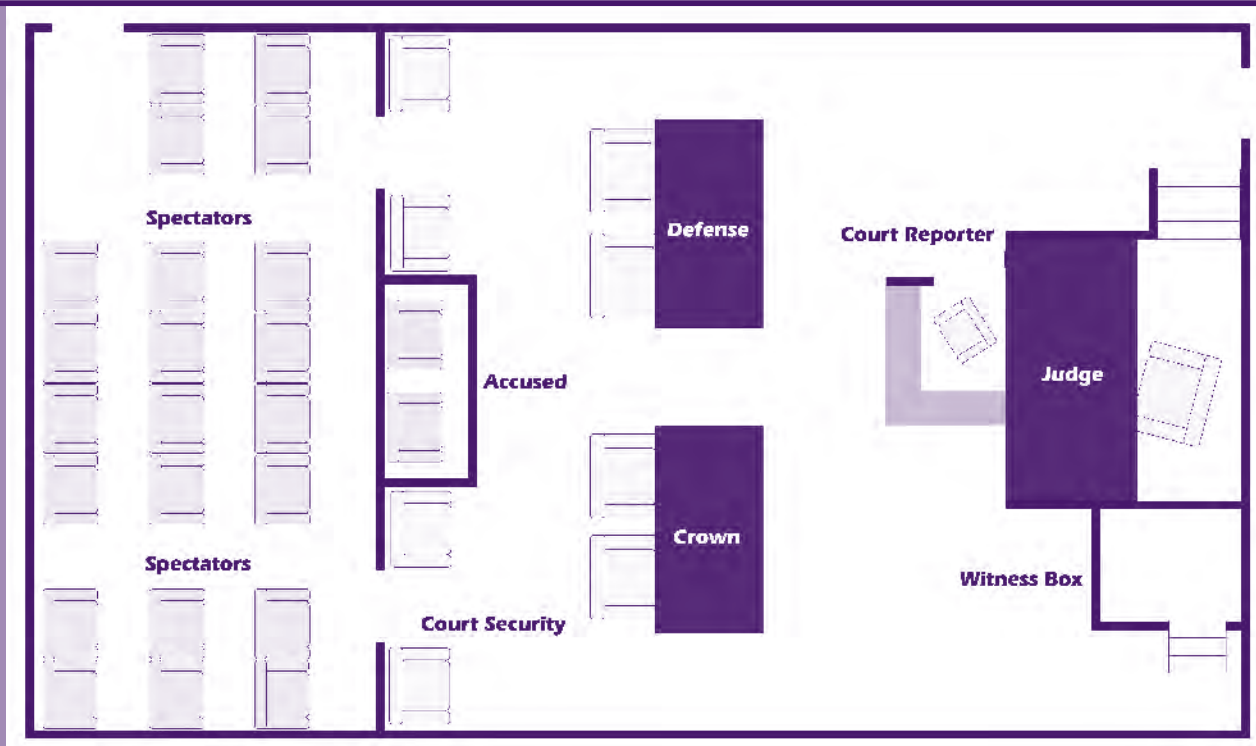
Court Security Officer

It is the **Court Security Officer's** job to keep everyone safe in the courtroom. Sometimes the Court security Officer will be a police officer.

Spectators

In Canada almost all trials are open to the public so there may be people in the courtroom watching what happens.

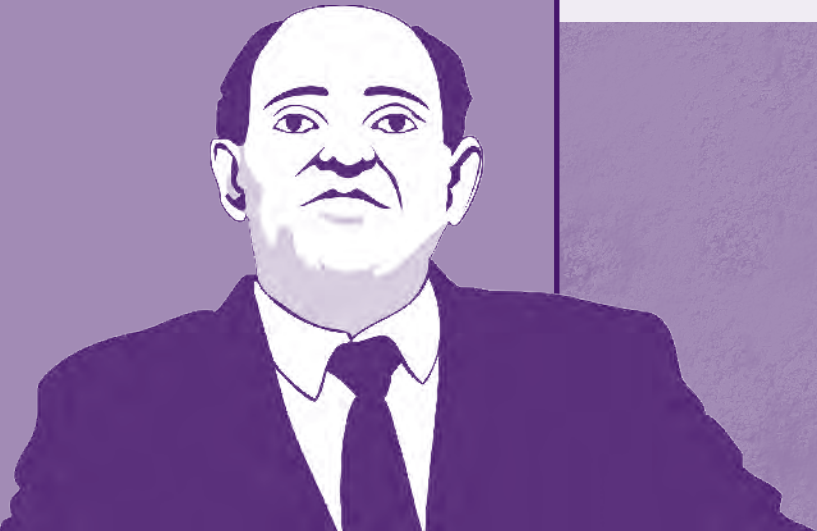




Trial

The Trial

Once your case starts, the judge may order all witnesses to wait outside of the courtroom until they are called to testify. This is called "exclusion of witnesses". Victim Services volunteers will wait with you until you are called to come into the courtroom. While you are waiting outside of the courtroom, do not discuss your testimony with anyone else except the Crown or the investigating police officer. When your name is called you will go into the courtroom and stand in the witness box beside the judge.



Testify

You may review the statement that you gave to the police before you testify. Do not try to memorize your testimony but instead try to remember facts about the situation and what happened. You will be questioned on what you know, so try going over what happened in your mind.

Both the Crown and the Defense lawyers will ask you questions. You must answer their questions even if they make you uncomfortable. You might get upset talking about what happened to you. Remember not to get angry. Take a deep breath and give your answers calmly. Try to be courteous and do not argue with lawyers. It's okay to cry in court. There will be tissues available and you can ask to take a break if you need one. If you need a glass of water or a washroom break, you can ask the judge. The judge will let you know when you can leave the courtroom.

When it's your turn to Testify



Rules

Rules for Witnesses



The most important rule for testifying in court is to **TELL THE TRUTH.**

- If you can't remember something, say "I don't remember".
- If you don't know the answer to a question say so. Don't guess or make up answers.
- If you don't understand the question, have it repeated or re-phrased so you can understand it.
- If you are asked more than one question at a time, you can ask which question you should answer first.
- You can answer a question by saying "yes" or "no" but you can't just shake your head.
- Try to keep answers simple. If the lawyers need more information, they will ask you another question.
- Answer only the question that is asked. Do not give your opinion unless asked to do so. Do not exaggerate.
- No special clothing is necessary. Dress comfortably but neatly. Do not wear a hat.
- Food, beverages and gum are not permitted in the courtroom.
- Cell phones and pagers must be turned off.

Delays

Because they deal with serious matters, court often proceeds slowly and with caution which may result in delays. Sometimes lawyers get detained in other courts. Often there is more than one trial taking place and it may take longer than planned so there might not be time to complete your matter. These delays or adjournments could be anywhere from a few hours to several months. If the case is set over to a new date you will be advised of the new date. You may be served with a new subpoena. Even if you don't receive a new subpoena you must attend court on the new date. If you don't understand the reason for the delay, ask Crown.

Delays and Adjournments



Sentencing

Guilty or Not Guilty

The judge listens to all of the witnesses and assesses the evidence as well as considering points of law. Sometimes the judge may have questions because some of the testimony or evidence is unclear or incomplete. Unless it is clear that the accused broke the law, the judge must find the accused “not guilty”. This doesn’t mean that the judge didn’t believe you but that the Crown may not have proven the case beyond a “reasonable doubt”. The important thing to remember is that by testifying, you have done everything you can to let the court know what happened.



Jury

Most of the time a judge decides whether the accused broke the law. Sometimes a jury is chosen to do this. A jury is made up of 12 men and women from the community. There is a selection process to determine who sits on the jury. The jury's job is to listen to all of the evidence and bring a verdict of "guilty" or "not guilty" to the judge.

The Jury



Expenses

When the Trial is Over

If the accused is found “not guilty”, the accused is free to go. If the accused is found “guilty”, there is a wide range of consequences a judge may use in sentencing. These could include paying a fine, a period of probation, a jail sentence or some combination of these options.

Claiming Expenses

As a witness for the Crown, you are entitled to reasonable travel, mileage and meal expenses. You can ask for an expense form at the courthouse and will be required to show your subpoena. You should record your mileage from your home to the courthouse. Complete the expense form and turn it in to the courthouse administration before you leave for the day. A cheque will be mailed to you so make sure you have the correct mailing address on your expense claim. You are not paid to attend court.





Statement

Victim Impact Statements

If you are a victim of a crime you may wish to have some input into sentencing by preparing a Victim Impact Statement.

Under Section 722 of the Criminal Code of Canada, a victim impact statement allows you to express in writing to a judge how being a victim of crime had affected you and the people close to you.

Your victim impact statement should describe the harm done, the loss suffered by you and the emotional impact you have experienced. In other words, the victim impact statement should tell how your life has changed because of the incident making you a victim. The statement should not include evidence, criticisms of the offender or recommendations as to the severity of punishment.

Once completed, your victim impact statement is provided to the court and will be considered by the judge at the time of sentencing. A copy of your victim impact statement is given to the Crown and defense lawyer and you may be questioned on the contents of your statement. You may also wish to read your victim impact statement out loud in court.

For further information about Victim Impact Statement or to obtain a Victim Impact Statement package contact the Victim Services Unit or go to the police detachment.



Contact us at:



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