

GOING TO COURT:

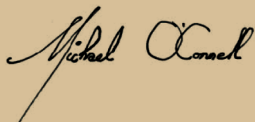
AN IMPORTANT JOB



You have been given this booklet because you might be a witness in a court case. Something may have happened to you, so you are the victim of crime, or you may be someone who knows something important about a crime. You may be worried about being asked to be a witness. You may not know what being a witness means. This book tells you about going to court as a witness. It answers some questions. You have probably spoken to the police or a lawyer, and told them about what you know. You might have heard words that you have not heard before. These words are also used in courts. To help you understand, these words are explained in the book. Your job is to tell the court what you know, which is called your 'evidence'. The court's job is to decide whether the person accused of committing a crime against you or another person is guilty. The court makes can only make a decision with the help of information from witnesses like you. Your job is therefore very important - thank you for being brave enough to do your job.

Michael O'Connell APM

Commissioner for Victims' Rights



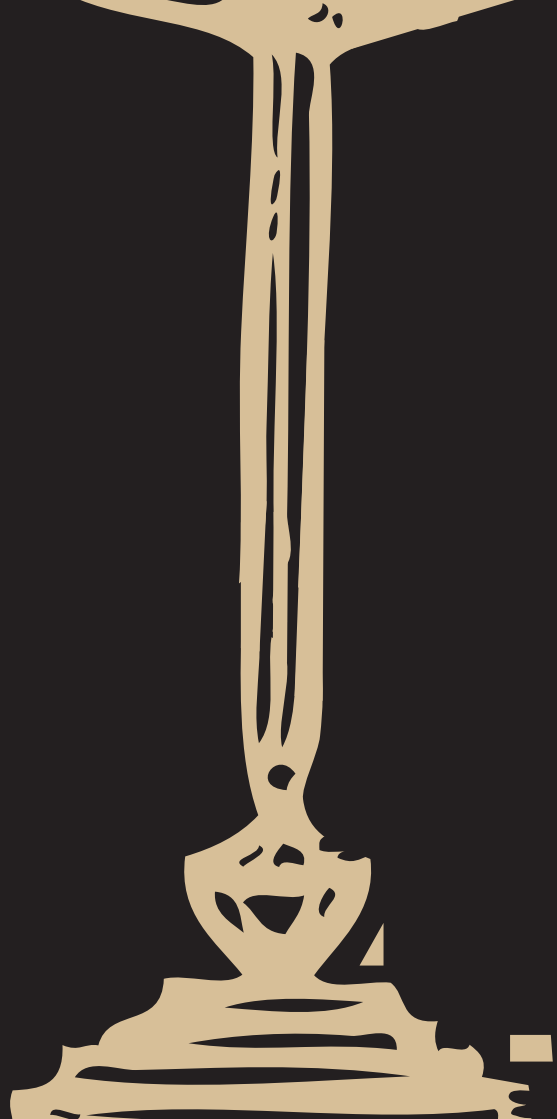
Government of South Australia

Commissioner for Victims' Rights

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GOING TO COURT: AN IMPORTANT JOB

AN IMPORTANT
JOB TO DO





Courts have an important job to do. The court's job is to decide if someone has **broken the law**.

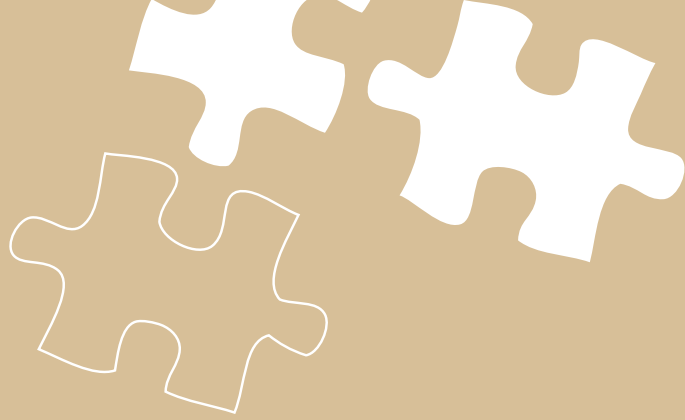
Laws are important rules that everyone should follow. If someone does not follow these rules they are breaking the law. An example of a law is that we cannot hit other people or steal their property. It is a crime to break the law.

The court decides if someone has broken the law by holding a trial. A trial is like building a giant puzzle. When you put a puzzle together, you need all of the pieces if you want to see what picture they make.

The court listens to each witness and decides if the law has been broken.

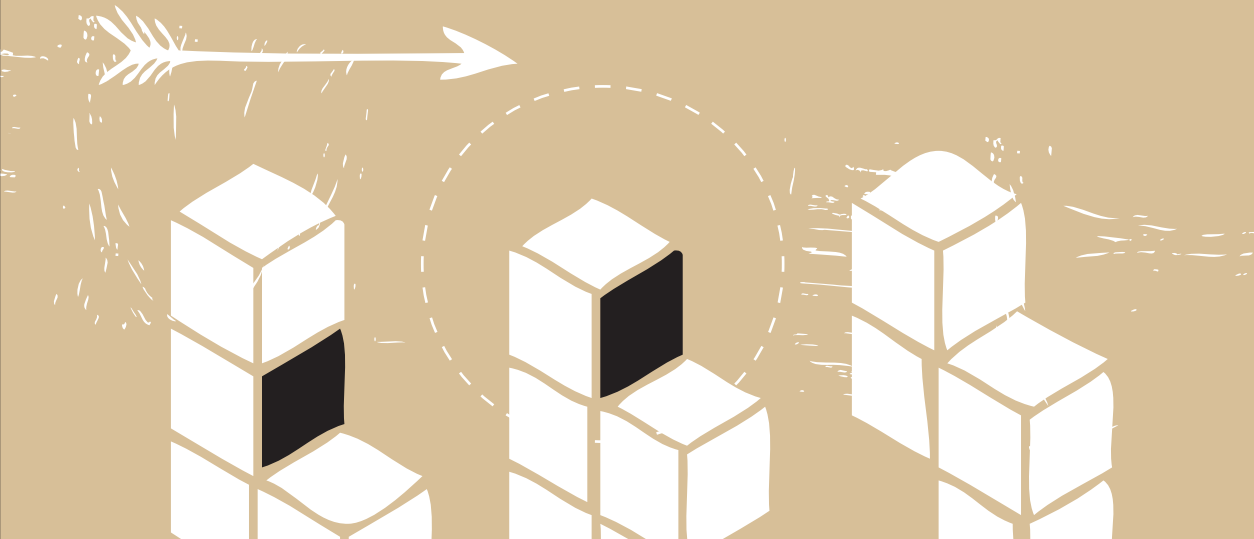
If someone has broken the law the court will decide what happens.

WHY AM I GOING TO
COURT?



You may have seen the crime or know something about it. You may not think this is very important but even small pieces of information can be very important. What you know is one piece of the puzzle. Your job as a witness is to tell the court about what you saw, what you heard or what you know.

As a witness you are making a very important contribution. Without you the puzzle may not be completed.



WHAT IS A WITNESS?



A witness is a person who knows something about what happened or may have seen something that happened.

For example, a victim of crime, might be called as a witness to explain what happened to him/her.

You have already told the police about what you know. What you said was very important and now you have been asked to tell the court about what you saw, what you heard or what you know. You do this by answering questions. **This is called being a witness and giving evidence.**

If you are asked to be a witness, it does not mean you have done anything wrong.



HOW MIGHT I FEEL?

Going to court may make you feel nervous. It is a hard job being a witness. You may feel upset, tired or confused. Most witnesses feel the same about going to court. Being in a strange place and being asked questions can be hard. You may feel upset if you know the accused or scared if the accused hurt you. It is important to tell the court what happened even though this is difficult.



WHAT HAPPENS IN
COURT?



The accused is asked by the Judge if he/she broke the law. If the accused **pleads guilty**, he/she is saying “**Yes, I did break the law**”. If this happens you will not need to be a witness.

If the accused pleads **not guilty** he or she is saying “**I did not break the law**”. This means there will be a trial. All witnesses, including you, will give evidence by answering questions.



THE TRIAL

The trial will be held in the Magistrates Court, District Court or Supreme Court.

Trials in the Magistrates Court are in front of a Magistrate. The Magistrate decides if the person has broken the law and what should happen to the person or how they should be punished.

Trials in the District or Supreme Court can be in front of a Judge alone or a Judge and Jury. If the trial is by Judge alone, he or she decides if the person has broken the law and what should happen to the person or how they should be punished.

If the trial is in front of a Judge and Jury, the Jury will decide if the person has broken the law and the Judge will decide what should happen to the person or how they should be punished.



WHO WILL BE IN THE COURT ROOM?

When you are giving evidence there will be other people in court. These people, like you, have important jobs to do and special places to sit. Turn over the page to see who may be in the court room.



Magistrate/Judge

The Magistrate or Judge is in charge of the court. It is their job to make sure that everyone follows the rules of court and understands what is happening. The Magistrate or Judge listens carefully to what everyone has to say including the witnesses. If a person has been found guilty of breaking the law, they decide how that person should be punished.

The Magistrate or Judge sits at the front of the court.



You can call the Magistrate or Judge 'Your Honour', 'Sir' or 'Madam'



The Associate

The Associate helps the Judge in the court. The Associate sits in front of the Judge.

Witness

A witness has to tell the court what happened or what they know, saw or heard. There may be many witnesses at court who have to tell their story.

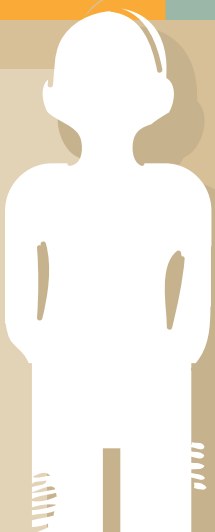


Support Person

A support person is someone who is there for you while you are at court. A support person cannot speak to you in the courtroom but will be able to sit near you. Some people find this very helpful. A support person may be someone from your family who is not a witness or an adult friend. Some people prefer to have a support person who isn't a family member or friend. There are people who volunteer as Court Companions and will be your support person if you prefer. Your support person cannot be another witness. The Magistrate or Judge has to approve your choice of support person.

Accused

This is the person that may have broken the law and has been charged with a crime. This person will sit in the court and listen to what everyone has to say. The accused sits in a part of the court called 'the dock'. The accused is not allowed to speak to you or come near you. Sometimes the accused is called the Defendant.



Defence Lawyer

The Defence Lawyer is the accused person's lawyer. The Defence Lawyer will help the accused to tell the court what he or she says happened. This lawyer will ask you questions after the Prosecutor.

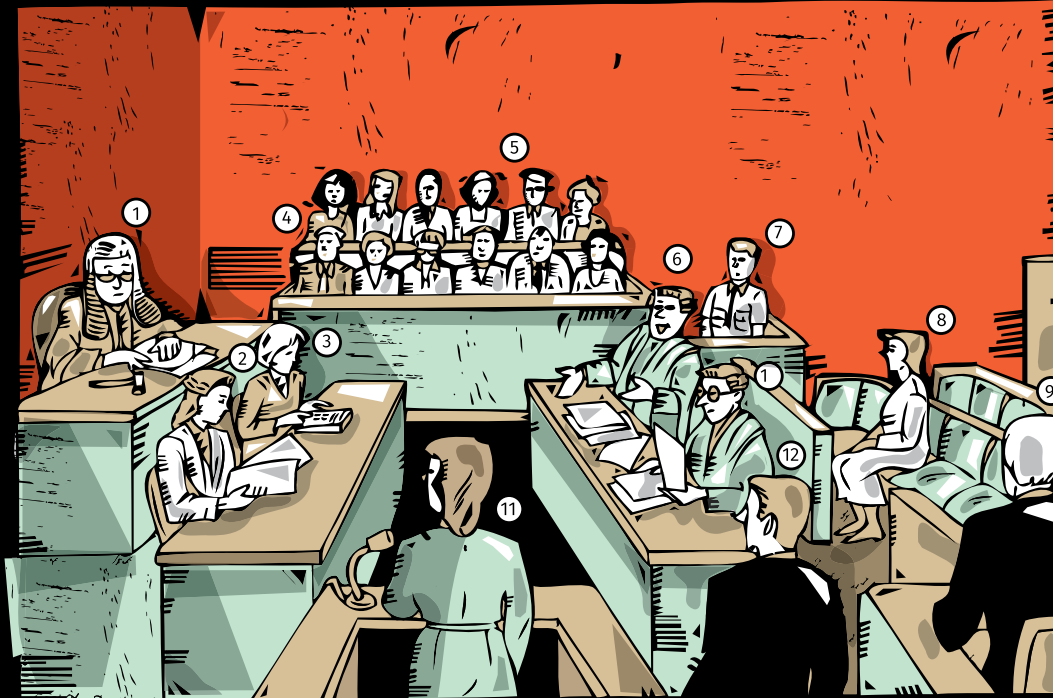


Magistrates Court



- 1) Magistrate 2) Defendant 3) Magistrate Clerk 4) Court Orderly
5) You, The Witness 6) Police Prosecutor 7) Defence Solicitor

District or Supreme Court



- 1) Judge 2) Associate 3) Court Reporter 4) Foreperson 5) Jury 6) Prosecutor
7) Court Orderly 8) Court Companion 9) Accused 10) Defence Counsel 11) You, The Witness
12) Sheriff's Officer



WHAT DO PEOPLE
WEAR IN COURT?



Some people who work in court have to wear special clothes.

The Judge, the Prosecutor, the Defence Lawyer and the Associate wear wigs and robes. Sometimes the Judge allows these to be removed.

The Magistrate does not wear any special wig or robes. The Sheriff's officers wear a uniform



What should I wear in court?

A witness does not have to wear a uniform but you should wear something you feel comfortable in and that looks neat and tidy.

It is a good idea to visit a court before you have to be a witness. It will help you to know where everyone will sit on the day and what a court room looks like.

You can organise a court visit by contacting:

For Magistrates Court matters

Victim Support Service Court Companion Service

The Victim Support Service (VSS) provides free and confidential help to adult victims of crime, witnesses, their family and friends across South Australia. The VSS is a non-government, non-profit organisation that provides many services including counselling, provision of information about victims' rights and victim compensation, court support and referral to other agencies where appropriate.

For the Court Companion Service or support call the Helpdesk: 1800 VICTIM (1800 842 846) or email helpdesk@victimsa.org

For District Court Matters

Witness Assistance Service Office of the Director of Public Prosecutions

The Witness Assistance Service is part of the Office of the Director of Public Prosecutions (DPP). It provides information about, and support during, the legal process, and referral to relevant services for victims of crime and their close family or carers. The Witness Assistance Service is only involved where the DPP has involvement in the case.

Phone 8207 1529 during office hours or email dpp@agd.sa.gov.au

WHAT HAPPENS AT
THE TRIAL?

The trial begins with the Magistrate or Judge telling the court what the matter is about.

The Prosecutor will then outline what happened. This is known as the opening address. It is the Prosecutor's job to show the court that the accused has broken the law. The Prosecutor calls witnesses to help them do this.

The Prosecutor asks each witness to tell the court what they saw or heard or what they think happened. When you are a witness the Prosecutor will ask you questions first. This is called **evidence-in-chief**.

The defence lawyer will then ask you questions. This is called **cross-examination**.

Sometimes the Magistrate or Judge will also ask questions. All witnesses are important. Your job as a witness is very important.

The Magistrate or Judge and the Jury need to listen to what you and other witnesses say to help them decide if the accused has broken the law.

When all the witnesses are finished the Magistrate or Judge or Jury will decide if the accused broke the law.



WHAT WILL I HAVE TO
DO IN COURT?

Giving Evidence

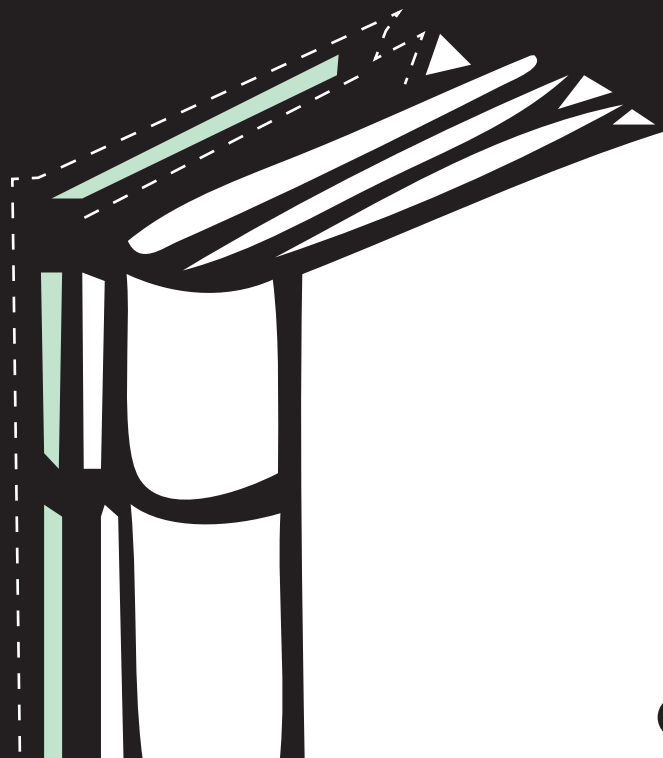
All witnesses must tell the truth in court. This is the most important thing you should do when answering questions in court.

Before you tell the court what you saw, what you heard or what you know (this is giving evidence), you will be given a chance to read your statement or view your video recorded statement to refresh your memory about what you told the police.

You will be called when it is your turn to give evidence. You will be shown where to sit.

Before you sit down you will be asked to promise to tell the truth in court. You may do this by holding the Bible or the Qur'an and repeating a simple statement (called an oath) which will be read to you. If you are not religious you can make a promise to tell the truth and this is called an affirmation.

Sometimes the Magistrate or Judge may start by asking you some questions to make sure you know the difference between telling the truth and telling a lie.



WHAT SHOULD
I REMEMBER
WHEN GIVING
EVIDENCE?



Here is some important information to help you answer the questions in court.

- **Listen carefully** to the questions before you answer.
- Speak clearly and in a loud voice.
- It is a good idea to look at the Judge or Jury when you answer your questions.
- If you don't hear a question, it is OK to say "**can you please repeat the question**".
- If you do not understand the questions, it is OK to say "**I don't understand**".
- Sometimes lawyers use special language in court and it can be hard to understand. If you do not understand it is important to say "**I don't understand**".
- If you are asked the question again but still don't understand, it is OK to say "**I still don't understand**".
- **Take your time** before answering a questions and really think before you give your answer.
- If you need some time to think about your answer, then say "**I need more time**".



**I AM
SURE**

**I DON'T
AGREE**

**I DON'T
REMEMBER**

**I DON'T
KNOW**

- Never guess the answer to a question. If you do not know the answer, it is OK to say **“I don’t know”**.
- If you do not remember something, it is OK to say **“I don’t remember”**.
- If you don’t agree with something, it is OK to say **“I don’t agree”**.
- If you are sure, you can say **“I am sure”**.
- Sometimes you may be asked two questions at once. You may agree with one part of the question but think the other part is wrong. It is OK to say which part you agree with and which part you don’t.
- You may be asked the same question twice. This does not mean that your first answer was wrong; **just keep telling the truth**.
- Some of the questions will be about what you said to the Police. This may have been a long time ago and you may find it hard to remember. It is OK to say **“I don’t remember what I said to the Police”**.

- You may also be asked about the first person you told about what happened. You may be asked why you told this person and what you told them. Again, if you don't remember, just say so.
- If you are answering a question and someone interrupts you, it is OK to say "I'm not finished".
- There will be water for you, where you are sitting; It is OK to have a drink before you answer questions.
- If you are upset, stop for a minute. You might find it helpful to have a drink of water or to take some deep breaths.
- If the questions have taken a long time you may need a rest, a drink or to go to the toilet. It is OK to ask the Judge if you can have a break.
- Expect interruptions (e.g. lunch breaks, objections).
- You may find it helpful to hold a tissue, tiny toy or special item in your hand or your pocket when you are being a witness.



Remember, you do not have to look at the accused or talk to him/her. Your support person will be with you when you give evidence and with you while you wait.

WHAT IF THE
QUESTIONS MAKE
ME FEEL UPSET OR
EMBARRASSED?



You may be asked questions that are upsetting or embarrassing or have to talk about things that make you feel uncomfortable. The people in court know that answering these type of questions can be very hard but you must answer any question you are asked. The questions you are asked are very important and help the Magistrate, Judge or Judge and Jury decide if the accused broke the law. The people in court will not think badly of you when you answer these questions. They will think that you are very brave to come to court and give evidence.



It is important that you tell everyone in the court what happened, even if it is embarrassing or means telling a secret



WHAT WILL HAPPEN
ON THE DAY I GIVE
EVIDENCE?



How do I prepare for court?

- Ask for a tour of the court. This needs to be arranged before the date of the court sitting to hear your matter.
- Make sure you know where the court is and what time you need to be there.
- Arrive well before the time and check the notice board to see what court room you will be in.
- If you have children, you will need to arrange for someone else to care for them on the day of court.
- If you are driving to court, make sure you can access all-day parking to avoid fines.
- Bring a jumper or a coat in case you get cold.
- Bring something to do while you are waiting to give evidence: a book to read or a game to play.
- You may wish to bring a snack and/or drink as you might be at court for several hours.
- Turn off your mobile phone before going into court.





“ ” “ ”



WHERE DO
I WAIT?

You are not allowed to sit in the courtroom and listen to the other witnesses before you give your evidence.

You can wait in a room where you will be away from the accused person and where you will be safe.

You may have to wait some time before it is your turn to be a witness. This can be stressful. It might help to talk to your support person. You can talk to your support person about anything as long as you do not talk about the court case or your evidence.

A Sheriff's Officer will let you know when it is your turn to be a witness and will show you where to sit.





WHERE WILL I SIT?

There are two different ways you can give evidence. You can sit in the court room or in a special witness room that has a TV and camera.

Most people give evidence in the court room. If you have any concerns about giving evidence in the court room you should talk to the Prosecutor or your Witness Assistance Officer.

The Judge will decide where you will sit to give your evidence, which you can read more about below.

In the court room

If you give evidence in the court room you will sit in the witness box. You can have your support person in court near you whilst you answer questions. If you are concerned about seeing the accused you should tell the Investigating Police Officer, Prosecutor or your Witness Assistance Officer. You may be able to have a screen between you and the accused so you cannot see that person when you are answering the questions. You will still be able to see the rest of the court room.

The Magistrate or Judge will decide if you can have a screen.

Special witness room

You may be able to give evidence from a special witness room via a closed-circuit television (a TV and a camera). The camera makes sure the people in the court can see you and hear what you are saying. You will be able to see the Magistrate or Judge and the Prosecutor or defence lawyer who is asking you questions on the TV screen. You will not be able to see the accused but he/she will be able to see you on a TV screen in the court room.

The Magistrate/Judge can still see you, so if you need help or a break you can ask the Magistrate or Judge. You can have your support person with you in the special witness room whilst you give evidence

The Magistrate or Judge will decide if you can give evidence from the special witness room.



WHAT IF I NEED
SPECIAL HELP?

Witnesses are all different. Some witnesses speak different languages. Some need special help because of a disability. The Prosecutor, Magistrate or Judge and Witness Assistance Officer understand that some witnesses need help.



If you need any help you should talk to the Investigating Police Officer, Prosecutor or your Witness Assistance Officer.



HOW LONG WILL
IT TAKE?

Once a trial starts it can take days or weeks to complete. The time it takes to give evidence is different for each witness. You may need to attend court more than once.

It is important to remember that a trial can be delayed (adjourned) to another day for lots of different reasons. The Investigating Police Officer, Prosecutor or Witness Assistance Officer will do their best to tell you if the trial has been delayed but sometimes you may not find out until the day of court.



HOW WILL I KNOW
WHEN I HAVE FINISHED
GIVING EVIDENCE?



When the Prosecutor and Defence Lawyer have finished asking you questions the Judge will tell you that you can go home. Your job as a witness is finished.

Well done, you have done an important job and it took courage.






GUILTY

NOT GUILTY

A MIXED VERDICT



WHAT HAPPENS AT THE
END OF THE TRIAL?



When the court has finished listening to all the witnesses a decision is made as to whether the accused is guilty or not guilty.

If there is a Jury, it is their job to decide if the accused is guilty or not guilty of breaking the law. This is called the **verdict**. There is no time limit for how long the Jury can take to make a decision.

The Jury needs to reach a decision in relation to each charge against the accused person.

Usually all members of the Jury must agree about what happened (this is called a unanimous verdict). In certain cases a Judge may not require all members of the Jury to agree (this is called a majority verdict). This means that ten of the twelve jurors agree. This can only happen if the Jury has been trying to reach a decision for a long time.

Guilty

The Jury has to be sure that the accused broke the law to say that he/she is guilty. If the Jury are sure, they will tell the Judge that the accused is guilty.

The Judge will decide how to punish the accused. The punishment is also called the **sentence**. The Judge will probably decide on the sentence at a separate hearing on another day.

Not Guilty

If the Jury are not sure that the accused has broken the law, they have to tell the Judge that he/she is not guilty. The accused will then be free to go.

If the Jury says the accused is not guilty, it does not mean they did not believe you. It may mean that they could not be sure of what happened and so they have to say not guilty. It may mean they did not have all of the puzzle pieces they needed to say the accused broke the law.

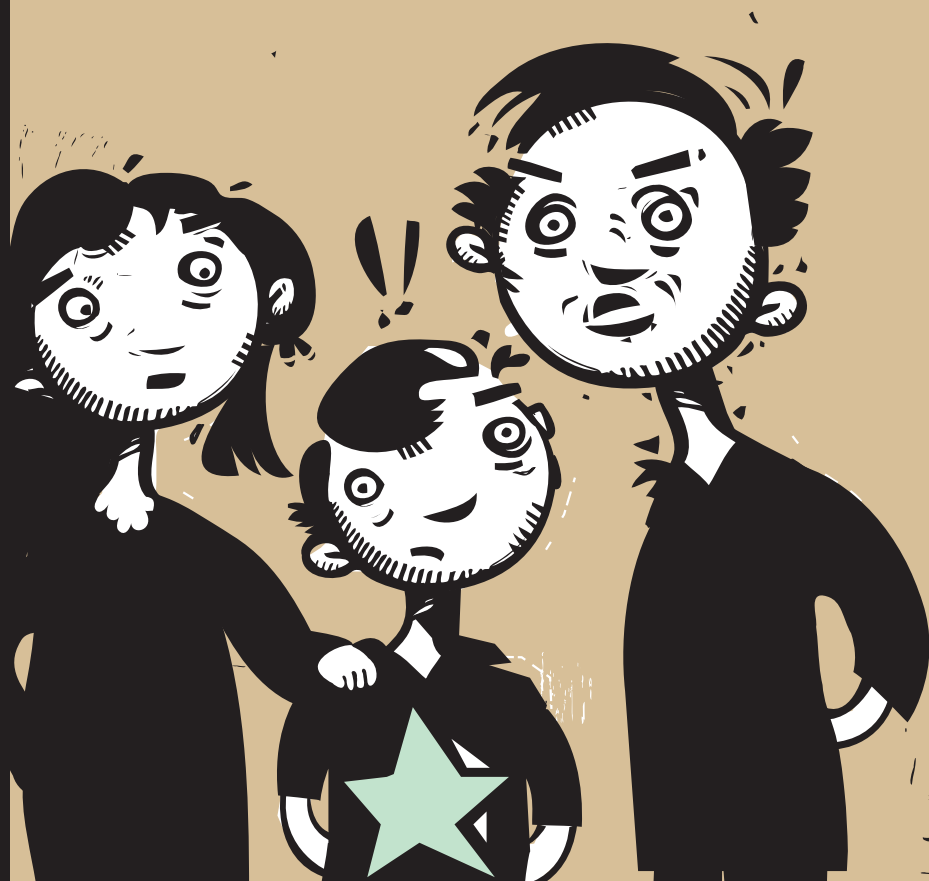
A Mixed Verdict

The accused person is found guilty of some things and not guilty of others.

If there is no Jury, it is the Magistrate or Judge's job to decide if the accused is guilty or not guilty of breaking the law.

CAN I FIND OUT WHAT
THE JURY DECIDED?





If you would like to know the decision, you can ask the Investigating Police Officer, Prosecutor or Witness Assistance Officer. If you are a child, you could ask your parent/guardian to tell you the court's decision.

HOW WILL I FEEL
ABOUT THE JURY'S
DECISION?

There is no right or wrong way to feel about the verdict. If the accused is found guilty, you may feel very relieved. You may feel like a weight has been taken off your shoulders.

If the accused is someone you know, you may feel upset if they are found guilty. You are not to blame. The accused broke the law and they are responsible for what has happened.

You may feel let down if the Jury decided the accused is not guilty. **Try to remember that it does not mean you were not believed. It means the Jury could not be completely sure about what happened.**

You may find it helps to talk to someone after you have given evidence or after the trial. You can talk to your support person or Witness Assistance Officer about how you feel. They may also be able to help you understand what happened.



WHAT NOW?

It can be good to celebrate your courage after being a witness.
Think about something special you could do afterwards, like
having a treat or going out for tea.

If you have any questions or need someone to speak to.
This is your contact person:

The person I can speak to is

Contact number





HOW DO I
DEAL WITH
THE MEDIA?



There may be media interest in the court case. Sometimes reporters may be waiting outside the courthouse. Remember the media have a job to do.

Can the media take photos or footage of me?

Children and victims of sexual assault cannot be identified by the media but this does not mean that the media cannot photograph or film you.

Other victim/witnesses may be filmed arriving or leaving court. Reporters can take photos or footage of people if they are in public places.

If you are worried about dealing with the media it might help to have a support person with you. You can also talk to Police Investigators, the Prosecutor or the Witness Assistance Service about the media.

What if the media want to talk to me?

The media may want to talk to you, your parent or other person close to you. They may be interested in what happened in court. They may want to ask you some questions about the crime and your feelings about the court.

Remember the media cannot show anything that identifies you if you are a child (that is under 18 years of age).

The media cannot publish anything that identifies a victim of sexual assault no matter how old they are, but an adult victim may give permission for this to happen. Some victims/witnesses are happy to answer questions. They feel it is a good opportunity to tell their story. Others don't want to talk to the media.

You can choose to talk to the media or not.

Here are some things you might want to think about before you decide:

- Talking to the media might affect the case. You should not talk to the media about the case if the police are still investigating or even if someone has been arrested.
- You should not talk to the media if there are any legal proceedings still happening. If you are uncertain, check before you give any information to the media. You can ask Police Investigators, the Prosecutor or the Witness Assistance Service.

- The media report may be different from what you expect. The media gets information from lots of different sources. The media might present information in a way you do not agree with. This can be upsetting.
- Once information is made public by the media you might get unwanted attention. It might mean that people you know talk about you. This can be hurtful.
- It is not a good idea to talk to the media when you are feeling confused or overwhelmed which can be common after going to court.
- Be careful of casual or 'off the record' chats with journalists or television reporters. Anything you say to the media can be used.

Remember you do not have to speak to the media even if they keep asking you.

You can:

- Say "no" to an interview .
- Ask anyone who visits your home uninvited to leave. Call the police if they refuse to leave.

- Say "no" to an interview with a specific reporter even if you have spoken to other reporters.
- Say "no" to an interview even if you have said yes to an interview before.
- Choose the time and place for interviews.
- Not answer any question you do not want to answer.
- Speak to one reporter at a time.
- Ask for something to be corrected if the media get it wrong.
- Ask the media to stop using photographs or images that upset you.
- Ask for things to protect your privacy and safety. For example, you could ask your face to be blurred, your name not to be used or your voice altered.

You can also give information to the media in different ways. You could give an interview, read out a statement or give the media a written statement.

You should think about what is best for you. If you do decide on an interview, before you start, think about what you want to say and what you do not want to say. You might make some notes to remind you of things you feel are important. You might ask someone else to talk to the media for you. You might ask someone with experience in dealing with the media.

Be careful about what is filmed or recorded. Once an interview is recorded, a photograph taken or something filmed, you have little say over how it may be used.





Social Media

You should also think carefully about what you say or post on social media such as Facebook, Twitter, YouTube, Snapchat, blogs etc.

What you say and post may be used in ways you have not thought about. For example, journalists often look for personal information on social media and might use this in their stories.

The person who committed the crime might look through your posts, including photographs. You may be asked questions in court about things you post on social media. For example, if you say the crime caused you to become sad and give up playing sport but posts on Facebook show you happy and playing soccer, the Defence Lawyer might ask you if you are a liar or ask the court to doubt your evidence.

If you post anything that is threatening or abusive to a person, it may be a criminal offence. It may also be bullying.

People may not respond in the way you expect.

They may post hurtful comments.

Information you post may remain on the web even if you think you have removed it.



WHO CAN HELP?

If you want more information about going to court or feel like you need some support, you can ask the person who gave you this book. You could also talk to:

Child Protection Services

Women's and Children's Hospital
72 King William Street
NORTH ADELAIDE SA 5006
Phone: 8204 7346

Child Protection Services

Flinders Medical Centre
Flinders Drive
BEDFORD PARK SA 5042
Phone: 8204 5511

Commissioner for Victims' Rights

Phone: 8204 9635
Email: Victimsofcrime@sa.gov.au

Kids Helpline

Phone: 1800 551 800

Police Victim Contact Officer

Phone your Police Local Service Area office and ask for the Victim Contact Officer.

Numbers are listed in the White Pages or on the South Australia Police website at www.police.sa.gov.au/contact-us

Victim Support Service

(Aged over 16 years)
Phone: 1800 VICTIM (1800 842 846)
Email: helpdesk@victimsa.org

Witness Assistance Service

Office of Director of Public Prosecutions
Phone: 8207 1529

Yarrow Place Rape and Sexual Assault Service

(Aged over 16 years)
Norwich Centre,
Level 2
55 King William Street
NORTH ADELAIDE SA 5006
Phone: 8226 8777
24hr Emergency Phone: 8226 8787
Toll Free Phone: 1800 817 421

“YOU’RE”
BRAVER
THAN YOU
BELIEVE
STRONGER **THAN**
YOU SEEM

A.A.Milne



If you are going to court as a witness, you might be wondering what it will be like.

You might have lots of questions. You may feel nervous, frightened or confused. It is very normal for witnesses to have questions and feel this way.

A witness has a very important job to do.

This book will help explain what it will be like, what you need to do and what you can expect.

