



What to Expect: Information for Witnesses

Your Role as a Witness in a Criminal Case

The criminal justice system cannot function without the participation of witnesses like you.

The information you provide is evidence that helps police solve crimes and judges make decisions.

The role of a witness in court is to tell the judge (or jury) what happened. Your role is not to “help” the prosecution or the defence; your duty is to tell the truth.

Being a Witness for the Crown

Even though you may have already provided a written statement to police, you may be required to testify in court. In most circumstances, the information in your statement cannot become evidence at trial, unless you also provide it to the court through oral testimony.

If Crown Counsel requires you to testify, a police officer will serve you with a document called a subpoena (or it may be sent to you by mail). A subpoena is a court order that requires you to appear in court at a specific time and place. If you have been served a subpoena and do not attend, the court can issue a warrant for your arrest.

If you are unable to attend court on any of the dates specified in the subpoena because of an irreconcilable conflict, you should contact the Crown Counsel office immediately at the phone number listed on the subpoena to discuss whether other arrangements can be made.

If you are working, you should provide the subpoena to your employer. By law, all employers must allow their employees to take time off work to attend court if they are subpoenaed as a witness.

In longer trials, Crown Counsel should be able to give you an estimate of when you will be needed to attend court. However, trials can sometimes proceed more quickly or slowly than anticipated. Please keep your schedule reasonably flexible to allow for the fact that you may need to come on a different day or days than originally anticipated.

Level of Court

Criminal trials can be held in two different levels of court in British Columbia: Provincial

Court and Supreme Court. If the trial will be in Supreme Court, a preliminary inquiry may first be held in Provincial Court to determine if there is sufficient evidence for the case to go to trial. In this situation, you may be required to give evidence at both the preliminary inquiry and the trial.

Preparing for Court

Prior to appearing as a witness in court, you will have an opportunity to meet with Crown Counsel for an interview. The interview may be scheduled for a date prior to the trial, or for the hour just prior to the trial commencing. If you have any questions or concerns regarding your testimony that you would like to discuss with Crown Counsel before your interview date, contact the Crown Counsel office and ask to arrange for an earlier appointment with Crown Counsel. If you require an interpreter, you should advise the Crown Counsel office prior to your appointment.

In order to prepare for your pre-trial interview, you may wish to review any statements you provided to the police. You can obtain a copy of your previous statements from Crown Counsel. If you made any mistakes or left anything out of your statement, you should advise Crown Counsel at your interview. If you have any questions or concerns, be sure to raise those as well.

You may find it helpful to visit a courthouse prior to your court date or to review information about appearing as a witness that is available online. This will allow you to gain some familiarity with the court process and how a trial is conducted generally.

Testimonial Accommodations

Witnesses who are required to testify for the prosecution may qualify for certain testimonial accommodations. More information on testimonial accommodations is available online. Applications for these accommodations can be made by the prosecutor or yourself and should be made at the earliest date possible in advance of the court date. If you believe that you would benefit from any of these testimonial accommodations, please contact the Crown Counsel office.

The Day of Court

There is no specific dress code, but try to dress neatly and comfortably. Most courthouses do not have a play area for children, so please arrange childcare rather than bringing children to court. Check with the Crown Counsel office about reimbursement for childcare expenses.

Bring your subpoena as well as any other documents that Crown Counsel has asked you to bring. If the Crown Counsel office is in the courthouse, check in at the Crown Counsel

reception desk as soon as you arrive at the courthouse. Otherwise, when you speak with Crown Counsel, ask where you should go when you arrive at the courthouse.

Prepare for unexpected delays in court. Although it may not be required, plan to be at the court the entire day. Sometimes your testimony may not be completed by the end of the court day. If this happens, you will be asked to return on another day (often the next morning) to complete your testimony.

Bring a book or magazine with you to pass the time. You may wish to have a friend, family member, or other support person accompany you to court.

People in the Courtroom

The judge is responsible for the way the courtroom is run and (when there is no jury) for making decisions in the case based on the evidence presented to the court including the information provided by you and other witnesses. In Provincial Court, you should address the judge as “Your Honour”; in Supreme Court, you should address the judge as “My Lord” or “My Lady.”

The lawyer for the prosecution is called Crown Counsel. Crown Counsel is responsible for proving the case against the accused beyond a reasonable doubt. More information about Crown Counsel is available at www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/information-sheets/infosheet_role-crowncounsel.pdf.

The lawyer for the accused is called the defence counsel (although the accused may choose not to have a lawyer and instead represent themselves). Defence counsel’s role is to defend their client to the fullest extent of the law. Crown Counsel and defence counsel may refer to each other as “my friend,” which is a court tradition and not an indication that the lawyers are necessarily friends.

Other court officials who will be present in the courtroom include the court clerk who is responsible for swearing in or affirming witnesses, recording the court proceedings, and controlling the exhibits (physical evidence); and the sheriff who is responsible for the safety and security of everyone in the courtroom.

Testifying

Usually an order is made excluding witnesses from the courtroom until they testify. This is done so that each witness tells the judge what they remember and are not influenced by what others may say. When the court is ready to hear your testimony, you will be paged to attend the courtroom. You should not chew gum, or bring food or drink into the courtroom. Hats are

to be removed before you enter the courtroom (except for religious headwear) and cellular phones and other electronic devices must be turned off.

When you enter the courtroom, you will be directed to go directly to the witness box. You can take your belongings with you. Remain standing, and the court clerk will ask you to state your first and last name, and to spell your last name. You will then be asked if you would like to “swear an oath” (on the Bible or other religious book) or “affirm to tell the truth.” It is for you to decide which is appropriate for you. Please advise Crown Counsel, in advance of the trial date, if you would like to swear on a religious book other than the Bible so that arrangements can be made to have that book in court.

Speak clearly and loudly as the microphone does not amplify sound, it simply records your testimony. Answer questions by speaking rather than by gesturing or nodding your head. Your answer must be audible for the recording. Say “yes” or “no” rather than “uh-huh” so that your answer is clear. If you need a drink of water, or if you need to take a break at any point, just ask the judge.

This is your time to participate in these very important proceedings.

Crown Counsel will begin by asking you questions. This is called direct-examination. Listen carefully and take the time you need to respond to each question. If you do not understand the question, ask for clarification. The judge has not been told about what you saw or experienced, or been provided a copy of your statement, so you have to explain everything carefully. Try to make eye contact with the judge as you speak. If the judge is writing, take short pauses to permit the judge to write notes about your testimony.

If you do not understand the question, say so. If you do not remember, say so. Do not guess. If you make an error, advise the judge that you have done so, and correct the error as soon as possible.

While one lawyer is asking you questions, the other lawyer may stand up and object to a question. If that happens, do not answer the question until the objection is dealt with. In some cases, you may be asked to step outside while the objection is discussed. An objection is not a reflection on you or your testimony, so do not let it concern you if it happens. Often objections are about points of law which require the judge to provide guidance to the lawyers (or the jury if one is present).

Once Crown Counsel has finished asking you questions, defense counsel (or the accused if they do not have a lawyer) has the opportunity to ask you questions. This is called cross-examination. In circumstances where an accused does not have a lawyer, the court may make an order that the accused not personally cross-examine a witness, and may appoint a lawyer to conduct the cross-examination. Again, listen carefully to the questions, ask for clarification

if you require it, and take your time in answering. If you agree with the question, say so. If you disagree, say so. If you partly agree and partly disagree, say so and explain.

During cross-examination, it may feel like you are on trial. The judge has the responsibility to determine what happened, so your memory, ability to observe, accuracy, and potential bias must be tested. If you do not agree with what is said or asked, do not argue; just say you do not agree. It is the accused's right to test what you have said. Do your best not to get angry. Try to focus on the content of the question, and not the tone or way in which it was asked.

Your answers should be directed to the judge. You are providing evidence at a solemn inquiry, so you should avoid making jokes or using sarcasm. You are not having a "conversation" with the lawyers; you are providing the judge your answers to the questions posed by the lawyers.

The judge may also have some questions for you. This is a normal part of the process and you do not need to be concerned if it happens.

After You Have Testified

The judge will tell you when you are finished in court and are allowed to leave. You may be allowed to stay to watch the remainder of the trial unless you are testifying at a preliminary inquiry, or there is a possibility that you will be recalled to give testimony again later in the trial. Ask Crown Counsel or the judge if you wish to remain in court after you are finished testifying. Feel free to contact Crown Counsel after the trial if you would like to know the outcome.

Information for Victims

If you have been the victim of a crime, you may find it helpful to speak with a victim service worker. Please contact VictimLink at 1.800.563.0808, or online at:

www2.gov.bc.ca/gov/content/justice/criminal-justice/victims-of-crime/victimlinkbc