



MINISTRY OF
JUSTICE
Tabu o te Ture

LET'S TALK COURT

A young person's guide to being
a witness



For young people aged 13 to 17 years

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Note: Some of the information in this book may seem more relevant to young people who are witnesses for a police case. A lot of the information will also be relevant to other young people who are witnesses in court.



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CHAPTER 1

WHAT'S THIS BOOK ABOUT?

LET'S TALK COURT is a book about what happens when you go to court. It will help you if you 're going to court as a 'complainant' (you've told the police about something that's happened to you), or as a 'witness' (you've seen or heard something happen to someone else).

You may know people who have gone to court as '**defendants**'. A defendant is someone who the police have accused of breaking the law.

If you're going to court as a complainant, read on to find out:

- **why you're going to court**
- **what will happen before you go to court**
- **who will be at court**
- **what will happen at court, and**
- **what will happen after you've been to court.**

Your parents, matua, family, whānau, friends or other supportive adults may want to read this booklet to understand

what will happen when you go to court so they can help and support you.

You might have talked with your friends or family/whānau about what's happened. Sometimes this can affect what you say at court.

It's important you don't let anyone tell you what to say in court.

If you want to talk in detail about the case, it's best if you talk to the police officer dealing with your case, the prosecutor or your counsellor.

If someone wants to talk about the case in detail with you, you can tell them to talk to the police officer in charge of the case.

Lots of young people, rangatahi go to court as witnesses. It takes courage to go to court. It helps if you know what you'll be asked to do, who will be there and how it all works.

We hope this book answers any questions you might have and helps give you the confidence to take this step.

Kia Kaha!



What's it like being in COURT?

"I was really upset in court. I cried heaps, but I was myself and answered the questions how they were – how it happened in my mind. I had a good adult friend with me. The court attendant got a chair for me so she could sit right beside me. I could look at her but not talk to her.

"I felt relieved I guess, after it – free. It just feels freeing you know, just to put everything behind you.

"I am still relieved and free cos I went through the experience. It frees you in a way. You get to tell them how it was for you."

CHAPTER 2

WHY DO PEOPLE GO TO COURT?

Our society has laws (rules) that say what people can and can't do. There are laws about not stealing, not harming other people, not taking drugs and so on. If someone breaks these rules, the police may 'charge' them. This means that the police accuse them of committing an offence and take them to court. This is called a 'prosecution'.

The person charged with committing an offence is called the 'defendant' or the 'accused'. A 'defendant' or 'accused' goes to court and has a 'Judge Alone Trial' or a 'trial'.

In New Zealand, people aged 18 years and over who are charged with committing an offence are dealt with in the District Court or High Court. Most defendants who are aged 17 years or under are dealt with in the Youth Court.

I have told the police about something that happened. Why am I going to court?

The police may want you to go to court as a 'witness' if you've told them about something that has happened to you or

someone else. You will be going to court to tell a judge/jury what happened. This is called 'giving evidence'.

You may know someone who has gone to court and ended up in prison. He/she was a defendant. If you are a witness at court, you are not the person who is on trial and you can't go to prison. You're only there to help tell the judge/jury what happened.

Will I always have to go to court if I am a witness?

No. If the defendant agrees that they have committed the offence (pleads guilty), you will not have to go to court. You also won't have to go to court if it's agreed that your written statement, video, or 'brief of evidence' (a document that contains the

information from your statement/s) can be used as evidence without you needing to go to court.

What happens at court?

At court a person called a judge listens to what everyone says about what happened and decides whether the defendant is guilty of the offence beyond reasonable doubt.

‘Guilty beyond reasonable doubt’ means that the judge is sure that the defendant committed the offence. He/she has to be sure, not 100% sure, but so sure, that there is no reasonable doubt that the defendant is guilty. A person cannot be convicted of a serious crime unless the judge is sure he/she did it. If there is a doubt, which is a reasonable one, then the judge will decide the defendant is not guilty. If the judge decides the defendant is guilty beyond

reasonable doubt, the judge then decides what is to happen to the defendant (the sentence or punishment).

Sometimes there is also a jury at the court that decides whether the defendant is guilty beyond reasonable doubt, instead of the judge (a ‘jury trial’).

The jury is made up of 12 adults. The judge still decides on the sentence. See chapter 3 for more information on judges and juries.

Do I only go to court once?

Before you go to court for the trial, you may have to go to court for a ‘committal hearing’. At the committal hearing the judge (or two ‘justices of the peace’ (JPs)), listens to what everyone says happened (the evidence) and works out whether there is enough evidence for a trial, or if the case shouldn’t go any further.

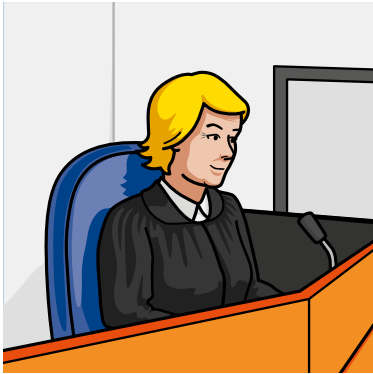
You don’t usually have to go to the committal hearing if you are a complainant in a case involving sexual assault. The police may need you to go to the committal hearing if you are a witness who is not a complainant.



CHAPTER 3

WHO ARE THE PEOPLE AT COURT?





The Judge

The judge is in charge of the court. They sit at the front of the court and make sure everyone is doing their job properly. The judge will listen to what everyone says about what has happened. If there is no jury, the judge will decide whether the defendant is guilty of committing the offence 'beyond reasonable doubt'.

The judge always decides what happens to the defendant if he/she is guilty beyond reasonable doubt (the punishment).



The Prosecutor

The prosecutor's job is to prove that the defendant is guilty of the crime. Their job is to ask all the witnesses to tell the court what happened.

This includes what the witnesses heard, what the witnesses saw or what was done to them. The prosecutor questions you, the defendant and any other people who have anything to say about what happened. The prosecutor will be the first person to ask you questions in court. They may be:

A Crown Prosecutor

They will be a crown prosecutor if it's a jury trial. They are the police's lawyer and are often called 'crown counsel'. In this booklet they are called the 'crown lawyer'.

A Police Prosecutor

They will be a police officer, instead of a crown lawyer, if it isn't a jury trial. They are often called the 'police prosecutor'. In this booklet 'prosecutor' means both types of prosecutor.



“The defendant isn’t allowed to come near you while you’re at court.”

The Witnesses

This is you! Witnesses are the people who have seen or heard anything that will help the judge or jury decide what has happened. You may be a complainant who has told the police about something that the defendant did to you, or you may be a witness who has seen or heard something.

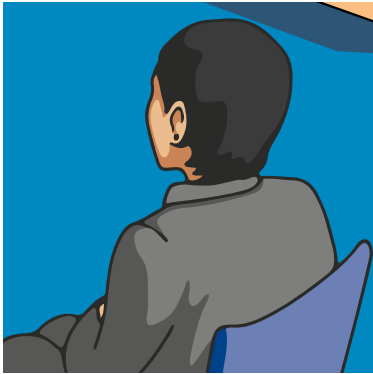
Anyone who knows anything about what happened may be a witness, such as parents, matua, doctors, police officers, video unit interviewers, social workers, teachers, therapists or counsellors.

The person who the complainant first told about the crime, or a friend of the complainant, may also be witnesses.

The prosecutor, the defence lawyer and the judge will ask the witnesses questions about what happened. What they say helps the judge/jury decide whether or not the defendant is guilty of committing the offence beyond reasonable doubt.

You may be asked if you’ve talked to anybody else about the case. **It’s important that you haven’t let anyone tell you what to say in court.** See chapter 1 for more information.

Witnesses give evidence by CCTV in a room away from the courtroom. You’ll be able to see the judge and the lawyers asking you questions, but not the defendant. You won’t be alone - someone from the court will be with you in the room and someone you know can sit with you so you feel safe. You can stay in the courtroom after you’ve given evidence if you want to. You’re not allowed to talk about what is said in court to other witnesses until after the case is completely finished.



The Witness' Support Person

This is the person who the judge usually lets you have with you.

Everyone is entitled to a support person.

Your support person may be one of your parents or matua, a member of your family or whānau, a counsellor, or friend. They must be an adult and can't be a witness in the case.

“Witnesses are the people who have seen or heard anything that will help the judge or jury decide what has happened.”

They usually sit beside or just behind you while you're giving your evidence. You're not allowed to have physical contact with your support person or talk to each other while you're giving evidence. If you have more support people, you'll need to ask the police before you go to court whether your other support people can sit in the seats at the back of the courtroom while you give your evidence.



The Jury

If it is a jury trial there will be a jury. The jury is made up of 12 adults ('jurors') you will not know. They are chosen at random and sit together at the side of the courtroom in the

'jury box'. If there is a jury, they watch and listen to everyone before deciding whether the defendant is guilty of committing the offence beyond reasonable doubt.



The Defence Lawyer

The defence lawyer's job is to give the defendant's response to the prosecutor's case in court. When you are finished they may later ask the defendant questions. The defence lawyer is the second person to ask you questions in court. They will probably test you by asking you questions that may suggest that you've forgotten something, made a mistake, confused something or that you've lied. *See page 22 for more information on questioning.*

If there are a number of defendants they will probably each have a defence lawyer. Each defence lawyer may ask you questions.



The Defendant

The defendant or accused is the person who the police say has committed the offence. They may tell the judge/jury their side of the story about what happened. The prosecutor, defence lawyer and the judge may ask them questions about what happened. The judge/jury will decide whether or not the defendant is guilty of committing the offence beyond reasonable doubt after listening to all the evidence.

If it's decided that the defendant has committed the offence, the judge decides what their sentence will be. *See page 23 for more information on what the judge may decide.*

The defendant isn't allowed to speak to you or come near you while you're at court. They stay in the courtroom while everyone gives their evidence.

Other people who may be in the courtroom:

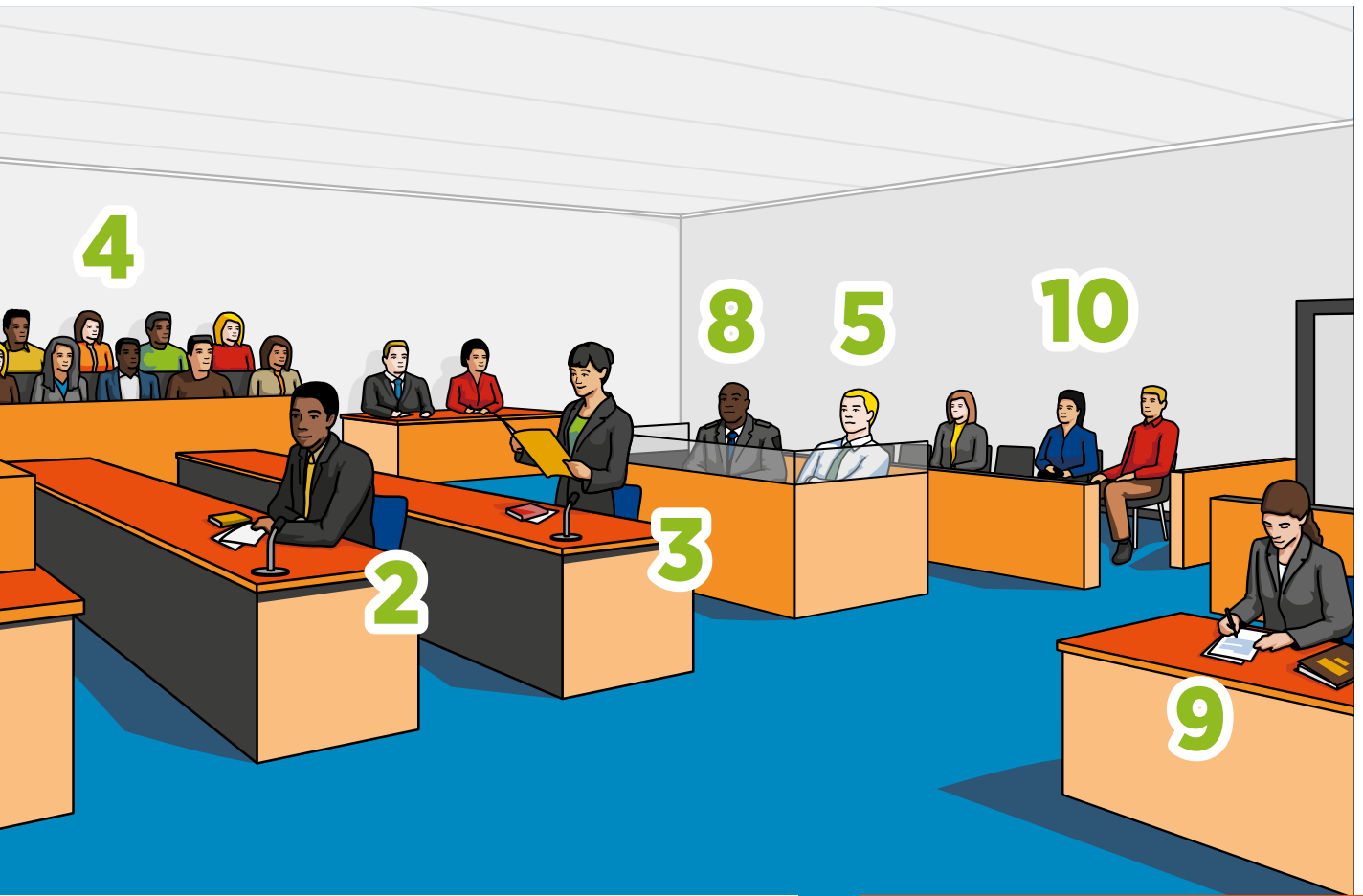
- Police Officer in charge of the case (O/C)– usually sits in court for some of the case and may talk with you and the prosecutor during the breaks.
- Court Victim Advisor – may sit in court for some of the case and help you or the people supporting you. You can ask them any questions you have about going to court. They can also assist you to find the best person to support you in court. *See chapter 6, helpful contacts for their contact details.*
- Registrar/Court Taker– sits in front of the judge. They ask people giving evidence to swear or state that they are telling the truth and are responsible for the paperwork.
- Court Attendant/Crier– calls out the names of the witnesses, and helps the jurors and members of the public. They look after the court papers, carry messages, hand things to the prosecutor, defence lawyer, witnesses and the defendant and let people know when it's their turn to give evidence.
- Court Security– often sits or stands at the door of the courtroom. They help keep order and make sure people keep quiet. They make sure the court room is safe.
- Court Orderly– may be a police officer in uniform and is usually in and out of the courtroom during the case.
- Security Officer– sits with the defendant in court if it's a jury trial. The security officer stays with the defendant while they are at court and makes sure that they don't leave the court and don't talk to the witnesses. In some places this person is a prison officer.
- Press – are reporters from newspapers, TV, social media etc. They sometimes sit at the side of the courtroom and report on those things that happen in court that they are allowed to. If you're a complainant in a case about a sexual assault, they aren't allowed to publish your name or any evidence that may identify you. In other cases, usually they can't publish this information if you're 17 years old or under. You can't be identified on TV and social media if you don't want to be, at any age. See chapter 5, some common questions? for more information.
- Court Reporter – sometimes sits beside the judge or in another room and types up what everyone says (the record).

THE COURTROOM

1. Judge
2. Prosecutor
3. Defence Lawyer
4. Jury
5. The Defendant or Accused
6. Witness
7. Witness' Support Person
8. Prison Officer
9. Court victim advisor
10. Public gallery

If you're a witness, read on to find out the ways that you can tell the judge or jury what happened.





“You’ll be going to court to tell a judge or jury what’s happened.”

CHAPTER 4

HOW WILL I GIVE EVIDENCE?

THE WAYS YOU GIVE EVIDENCE are called 'modes of evidence'. There are a few ways you can give evidence such as on closed circuit television or in the witness box in the courtroom.



On Closed Circuit Television (CCTV)

You'll sit in a room near the courtroom in front of two screens, a camera and a microphone. Your support person will sit with you so you can feel safe. A court attendant will also be in the room with you.

You'll see the judge on one of the screens at all times. You'll see the prosecutor or defence lawyer on the other screen whenever they are asking you questions.

You'll speak into the microphone and answer the judge, prosecutor and defence lawyer's questions. The people in the courtroom will see you on a TV screen. You can also give evidence by a recording made before the hearing.

There are other ways of giving evidence, including giving evidence in the witness box in the courtroom. You can talk to your Court Victim Advisor to find out about the other ways of giving evidence.

WHAT HAPPENS BEFORE I GIVE EVIDENCE?

A step by step guide to giving EVIDENCE

How long will it take before the case gets to court?

It can take a long time for a case to get to court, sometimes more than a year. During this time the police gather evidence for the case, question people who may have heard or seen anything, see whether any medical examination backs up a complainant's story and prepare for court. Because there are a lot of cases that go to court, each case has to wait for its turn on the court waiting list. Some priority is given to cases where a young person, rangatahi under 17 years old is giving evidence.

A Court Victim Advisor will contact you/ your parent, family, whanau and offer you the court education for young witnesses service. This is a service that will help you find out what will happen at court and support you and your family, whanau through the court process. *See chapter 5, some extra ideas?.* The police and the Court Victim Advisor have to keep you informed about what's happening with the case. If you're concerned about how long it's taking, ask the police or the Court Victim Advisor what is going on.

How will I know if I have to go to court?

The police officer in charge of the case or the Court Victim Advisor will tell you. They'll tell you whether the defendant has pleaded '**guilty**' or '**not guilty**'. If the defendant pleads 'not guilty', the police officer or Court Victim Advisor will tell you the date of the court hearing and where it will be.

If the defendant pleads guilty, the judge will tell them their sentence on that day or on another day. You won't have to give any more evidence and you won't have to be in court for the sentencing.

If it's a jury trial the police should arrange for you to meet the prosecutor before the court date. The Court Victim Advisor will usually meet with you about 3 weeks before going to court and go through some court education resources with you, show you around the courtroom and explain what will happen at court.

How will I know what I'm meant to say in court?

Remember no one is allowed to tell you what to say in court. The people at court just want to hear what happened in your own words. *See page 21 for more information.* If it's a jury trial **the crown lawyer will talk to you about giving evidence** before you go to court. If it isn't a jury trial, the police officer in charge of the case will do this with you. They will explain what will happen on the day and who'll be there. Ask as many questions you have about what will happen or the types of questions you might be asked. You can read your statement or brief of evidence, or watch your video interview, before you go to court if you want to. Talk to the police about this.

What if I have special needs?

You need to tell the police officer in charge of the case if English is a **second language** for you. If they think this will affect you giving evidence they may arrange for you to have a **translator** at court so you can understand what is being said and answer questions clearly.

If English is your second language it can help to have a translator even if your English is good. It can be stressful in court and you don't need other things to worry about.

If you have a disability including **hearing, sight, intellectual, mental health or physical difficulties**, you or an adult need to tell the police. They can arrange things in the courtroom to help you. This may include an interpreter if you are deaf.

What if I want the defendant to stay away from me before I go to court?

If the defendant has been arrested for a serious physical or sexual assault they may have to stay in prison until the court case. They can ask for **'bail'** so they don't have to stay in prison until they go to court. If you're a complainant and have fears for your safety, you can tell the police that you don't want the defendant to contact you, or ask the police to say **no to bail**.

The defendant may be refused bail, be given bail, or be given bail with the **condition that he/she stays away from you**.

If you're a complainant in a case about serious physical or sexual assault, you, the police or Oranga Tamariki - Ministry for Children can ask the court for an order to stop the defendant from having contact with you. If you've been living in the same house as the defendant and one of you has had to leave for you to be safe, it's the defendant who should be made to leave wherever possible, not you.

I am going to court today. What should I wear?

You should wear something neat and tidy that you feel comfortable in. You can ask the police, who have been helping you, if you have any questions about what you want to wear.

What should I take with me?

Because you'll probably be at the court buildings for a long time waiting for your turn to give evidence, it's good to make sure you have something to **eat and drink**. Take some lunch and food to eat during the day. You might want to take a **book or magazine, music to listen to, a game** or something else to do while you wait.

When do I have to be at court?

It depends whether you're a witness who's a complainant or not. If you are a complainant, you need to be there when the case starts on the **first day**. Most courts start at **10am**. Ask the police officer in charge of the case what time you have to be there. The police will usually pick you up to take you to court. You can check that it will be in an unmarked police vehicle.

How long do I have to wait?

It depends on how long the prosecutor and the defence lawyer take to introduce the case. If you're the complainant in a sexual assault case you should be one of the first people to give evidence so hopefully, you won't have to wait too long.

But, **sometimes it may take almost the whole day** or more before the people in the courtroom are ready for you to give your evidence. You'll need to wait at the court buildings (or police station). The police officer in charge of the case should keep you informed about what's happening while you're waiting.

If you aren't the complainant, you'll be told what time you need to be at court to give your evidence. Even though you're given a time, you may still have to wait for other people to finish giving their evidence before it's your turn.

Who can I speak to?

Try not to talk to anyone about the case while you're waiting at court. A witness or juror may overhear you and the case could be cancelled. If you're giving evidence and there's a break before the defence lawyer has asked you any questions, it's really important that you don't talk to anyone else about the case during the break. If you do, what you say may not be believed or the case may be cancelled.

Where do I wait?

There'll be a waiting room that you can sit in with your support people that's away from where the defendant is. The victim advisor can show you where it is when you arrive. Some witnesses wait at the police station or another safe place before they're taken to court to give evidence. Talk to the police or victim advisor if you want to do this instead. It's the victim advisor's job to make sure you know where to go and where to wait when you go to court.

Who waits with me?

Anyone who's not another witness in the case can wait with you. You may want to ask your parents, matua, members of your family or whānau, friends, and anyone else who has come along to support and help you, if they are not witnesses, to wait with you. But only your support person/people will come with you when it's your turn to give evidence.

What's it like giving evidence?

“What made me want to go to court was thinking that when people do stuff like that they should be locked away for what they've done. A lot of support from the police, family members and counselling helped me get ready to go to court.

“I felt scared and nervous, frightened, shaken when I first went into the courtroom. I forgot about everyone that was in the room and just kept focused. People in the room that I knew – support people – helped me do this while I was in the room and before. I felt safe while they were there. I turned around to see if my support person who was sitting just behind me was there and it made me feel better.

“I was happy as, I was clapping when I came out of there cos I'd finished giving evidence and wouldn't have to go back in and confront everybody again.

“Now it's finished I just want to get out of this place and go home.

“I'd say to other young people going to court as witnesses, stay focused and just remember that you've got heaps of people out there who are supporting you. Tell the truth and don't worry at all because you've got people on your side. And just remember, you're not the bad person, they are.” Tarneka

WHAT HAPPENS WHEN I GIVE EVIDENCE?

A step by step guide to giving EVIDENCE

I've made a statement to the police about what happened. What will happen when I give evidence?

A 'statement' is what you've told a police officer. It's written by a police officer and read and signed by you.

IF YOU:

- **have made a statement**
- **haven't made a video (or your video isn't going to be used) and**
- **are giving evidence**

the court attendant will come and tell you that it's your turn to give evidence.

If the case is about a sexual assault, before you go into the courtroom the attendant will announce that it's a 'closed court'. This means that everyone other than you, your support person, the prosecutor, the defence lawyer, the judge, the jury, the court staff and the defendant, have to leave the courtroom so that you can give your evidence without anyone else being there.

Only those people who have to be in court are allowed in court while you're giving your evidence.

You'll be taken to a room near the courtroom instead, where you'll sit in front of two TV screens, a camera and microphone to give your evidence.

The court attendant will then show you where you are to sit with your support person. The judge will say hello to you.

If you're under 12 years old, the judge will ask you if you know the difference between truth and lies and ask you to promise to tell the truth.

If you're 12 years old or over, the court attendant will ask you if you promise to tell the truth. You can either swear on the bible or say out loud that you promise to tell the truth. This is called an affirmation.

Because you've given your evidence to the police in a 'statement', the prosecutor will then ask you questions to help you tell the judge or jury what you've already said in your statement.

Tell the prosecutor if you think you made a mistake in your statement or now remember something that you didn't say in your statement.



I've made a video at the Evidential Video Unit about what happened. What will happen when I give evidence?

If you're under 12 years old and a complainant in a case that is about sexual assault, you'll probably have been interviewed by an Evidential Interviewer on video, instead of making a written statement to the police.

IF YOU:

- **have given your evidence to the police in a video that is going to be used and**
- **are giving your evidence by closed circuit TV (CCTV),**

the court attendant will come and tell you when it's your turn to give evidence.

They will take you into a room near the courtroom where you'll sit in front of two TV screens, a camera and microphone with your support person. You'll see the judge on the TV screen saying hello to you.

If you're under 12 years old, they'll ask you if you know the difference between truth and lies and ask you to promise to tell the truth.

If you're 12 years old or over, the court attendant will ask you to swear on the bible or make an affirmation that you promise to tell the truth.

Then everyone in the court and you, sitting in the other room with your support person, will watch the video.

Because you've made a video, the prosecutor will usually only ask you a few questions, or may not ask you any questions, after the video.

What happens next?

Regardless of how you've given your evidence, **the defence lawyer will usually then ask you questions about what you've said.** This is called 'cross examination'. After you've answered all their questions, the prosecutor may ask you some more questions. The judge may then ask you some questions. The judge may also interrupt the prosecutor or the defence lawyer at any time and ask you questions.

If you're giving evidence, you'll always be able to see the judge on one of the screens. You'll be able to see the prosecutor or the defence lawyer on the other screen when they're asking you questions. After you've finished answering everyone's questions, the judge will tell you that you've finished. Then you can leave.

How should I answer the questions?

Speak **slowly and clearly** into the microphone so everyone can hear. It can help if you look at the person who's talking to you. If you find it hard to speak loud enough, move the microphone closer to you.

When you're answering questions, don't ever guess the answer or say what you think someone wants you to say.

- If you don't know, say, **"I don't know"**.
- If you can't remember, say, **"I can't remember"**.
- If you don't understand the question, say, **"I don't understand the question" and ask them to repeat it, even if they have to repeat it 2 or 3 times.**
- If you get asked more than one question at a time, **ask them which question they want you to answer.**
- If you said something that was wrong or made a mistake, **tell the judge.**
- If you forgot to say something, **tell the judge.**

It's the job of the prosecutor and the defence lawyer to ask you questions in a way that you understand. **Remember, all you need to do is tell the truth.** Take your time.

This is the time to talk about what's happened. You are just there to **answer the questions as best as you can.**

You haven't done anything wrong and aren't going to get into trouble for anything you say in court. If you have to tell the judge or jury embarrassing or painful things or use swear words or rude words, that's OK. **It's OK if you get embarrassed, upset or cry.**

You might have seen court dramas on TV with lawyers walking around the courtroom shouting and bullying witnesses. New Zealand courts aren't like that. But, the defence lawyer will ask questions that are based on what the defendant has told them. **It's their job to test what is being said and put forward the defendant's story.**

They may say things to you that you think aren't true, or act like they don't believe you. You might feel confused or upset by this. Remember, all you have to do is tell the truth. It's the judge's job to make sure that you're treated well.

If you don't like the way you're being spoken to, you can tell the judge or ask the judge for a break.

What if I start to feel upset or need a break?

It can take a long time for the prosecutor, the defence lawyer and the judge to ask you all their questions, sometimes even a few hours. There are usually morning, lunch and afternoon breaks. As well as these, if you're upset, feel tired, or need to go to the toilet, tell the judge you need a break. They can stop what's happening so you can have a break. There should be a glass of water near the microphone that you can drink if you're thirsty. If there isn't, ask for one. If anything happens that you don't understand, tell the judge.

WHAT HAPPENS AFTER I GIVE EVIDENCE?

Where do I go after I've given my evidence?

If you're waiting for anyone else to finish giving evidence, you can wait for them in the waiting room. If you aren't waiting for anyone else, you can leave.

You're allowed to go into the courtroom and sit in the seats at the back of the courtroom to hear the rest of the case if you want to. **You can leave at any time.** If the police are able to, they may take you home.

What happens after I've given my evidence?

After you've given your evidence, the other witnesses, and sometimes the defendant, take turns giving their evidence. **It can take a few days or even a few weeks for all the witnesses and the defendant to finish giving evidence.** When this has happened, if it's a jury trial, the crown lawyer and then the defence lawyer will talk to the jury and the judge about the case. The lawyers will talk about what the evidence is and whether they believe the defendant is guilty of committing the offence. The judge will then explain to the jury what

the law is and that they must be sure that the defendant is guilty of committing the offence beyond reasonable doubt (that there's no doubt, which is reasonable, that the defendant committed the offence).

When the jury has heard everything, they leave the courtroom and go into the 'jury room'. They're the only ones who are allowed in the room. The jurors talk about what everyone has said and decide whether the defendant is guilty of committing the offence beyond reasonable doubt. **Then they come back into the courtroom and tell the court what they have decided.** This is called the 'verdict'. While the jury is deciding a verdict, they're not allowed to have contact with anyone other than the other jurors.

Sometimes juries can't agree on the verdict. Some are sure that the defendant committed the offence, while others are not sure. This is called a '**hung jury**'. If this happens, the case will usually be held again to see if a different jury can agree on a verdict. This doesn't happen very often. The police will tell you if this happens because you'll have to give your evidence again.

If it isn't a jury trial, after everyone has finished giving their evidence, the judge takes a break and then sums up the case. If the judge isn't going to decide the verdict that day, he/she will tell the people in court when the decision will be announced.

What does the judge do then?

If the verdict is 'not guilty', the defendant is allowed to leave the courtroom. If the verdict is 'guilty', it's up to the judge to decide where the defendant is to stay while the judge is deciding on the sentence (what the defendant's sentence will be).

How will the judge know how I feel about things?

If you're a complainant, before the defendant is sentenced the judge will read your '**Victim Impact Statement**'. **This is a report that shows the judge how you've been affected by what the defendant has done.** It includes information about whether you've been physically or emotionally affected and if any of your property has been damaged or lost.

The police, psychologist, counsellor or social worker will usually interview you so they can help write your Victim Impact Statement. You can write some or all of it yourself if you want. Sometimes members of your family will be asked to make a Victim Impact Statement.

The defendant and their lawyer see your Victim Impact Statement, so only put in information you don't mind them knowing. Ask to check it before it's given to the court so you can make any changes and, in particular, make sure that your address and other personal details aren't in it.

The judge may ask for other reports as well, for example, an Emotional Harm Report prepared by a Probation Officer.

How will the judge work out the sentence?

The judge will consider what the offence is and what the usual punishment is. They'll look at the defendant's situation and whether he/she has been convicted of breaking the law before. The judge will also read your Victim Impact Statement.

The defendant's sentence may include going to prison, supervision, community work, reparation (paying compensation) and/or paying a fine.

The victim advisor or police officer in charge of the case should tell you whether the defendant was found guilty or not guilty, what the sentence was and what it means. They should also tell you whether the defendant is going to appeal the decision. This is when the defendant asks to have their case or sentence considered again.

You may feel like talking to someone after the case has finished. You could talk to the police officer in charge of the case or the victim advisor. The victim advisor can also give you information about other people you can talk with.

If the defendant goes to prison and you were a complainant in the case, you can fill out a form asking to be told when the defendant gets out of prison. Ask the police or the victim advisor to sort this out for you.

“The jury, or the judge if there is no jury, decides if the defendant is guilty or not guilty.”



CHAPTER 5

SOME EXTRA IDEAS

YOU MIGHT HAVE all sorts of feelings when you go to court. However you feel is OK. If you feel extremely upset, it's really important to talk to someone about it.

How do I feel about going to court?

You might have all sorts of feelings about going to court.

You may feel:

- scared
- like you don't feel like eating, hanging out with friends, etc.
- tense
- worried
- anxious
- depressed
- like you can't sleep or you're having nightmares
- upset
- embarrassed
- confident
- like you want to run away
- OK
- unsettled
- annoyed you can't just get on with your life
- numb
- resentful
- angry
- like you can't get on with your life until it's all over
- like you don't want to go to school or work
- strong
- proud
- empowered

Most people feel some of these things when they're going to court. Some young people, taitamariki feel scared because they have never been to court and there are hard things they have to talk about in front of other people. Others feel empowered because something is being done about what's happened. **Just remember, after the case is finished it will usually all be over and you can get on with your life.** If you feel extremely upset, suicidal or want to harm yourself in any way, it's really important you talk with someone about it.

Some common questions

What about counselling?

It's often helpful to talk to someone about what's happened and how you're feeling.

A counsellor or therapist can help you deal with your feelings about what's happened to you and how you can overcome any effects of what's happened in a way that's best for you. They have helped people who have gone to court before and can support you through the court process and answer any questions you have.

When a crime has been committed against you, there may be a lot of changes to your life (some people may not believe you, some people might have to move from your home, you may feel lonely, depressed or scared). **Remember, you don't have to do this by yourself.** Your parents, matua, family, whānau or friends may be able to support you, or there are people in the community who are there to help. Call one of the counselling and support agencies in *chapter 6 helpful contacts?* for help.

What if I get upset when I'm giving evidence?

Take a deep breath and pause. You can ask the judge for a break. It can help to drink a glass of water before you go back in to finish giving your evidence.

People often cry in court and it's OK.

Can I have someone with me when I give my evidence?

Yes you can have someone sit with you as your support person when you give evidence.

When you're choosing someone as your support person, remember that you need to feel comfortable about them hearing all the details of your evidence. They must be an adult and they can't be someone who is a witness in the case. **If you choose your support person early, they can visit the court with you and get prepared for their role at court.**

You will need to ask the police before you go to court, whether your other support people can sit in the seats at the back of the courtroom while you give your evidence.

If I'm the person the defendant assaulted, why is it the police's case and not mine?

Even though it happened to you, the community, your school, kura, family, whānau and friends are all interested in whether people are breaking the law, making sure they're held responsible for what they've done and keeping the community safe.

Because of this, **the police bring the court case against the defendant on the community's behalf.** Because they bring it instead of you, it's their case. You become a witness (someone who has seen, heard or experienced something) in support of their case. This means that a prosecutor runs the case in court and as a witness you don't usually have your own lawyer.

What can I do if the verdict is 'not guilty'?

A judge or jury may sometimes decide that a defendant is 'not guilty' because there's not enough evidence that makes the judge or jury sure that the defendant has committed the offence. In a few cases there's an appeal. You can talk to the police about whether this is likely to happen in your case. You may want to talk with someone like a counsellor about the case and how you feel, if the verdict is 'not guilty'. A "not guilty" verdict does not mean you weren't believed.

Will I be in the newspapers or on TV?

You can't be identified on TV if you don't want to be. **If you're a complainant of any age in a case about a sexual assault, TV, radio, social media and newspapers can't publish your name or any evidence that**

may identify you. Usually newspapers, the TV etc., aren't allowed to publish the names and identities of witnesses who are under 17 in any other types of cases either. Check with the police if you're worried about this.

My rights?

Your right to be treated well

If you're the victim of a criminal offence you have the right to be treated with courtesy (politeness), compassion (caring) and respect for your personal dignity (mana) and privacy by anyone who's dealing with your case. This includes the police, the judge, the prosecutor, the defence lawyer, the victim advisor and other court staff and Oranga Tamariki - Ministry for Children staff.

You can expect to be treated as a real person rather than a number or a name and **should be able to get counselling, welfare, healthcare, legal and medical help.** The agencies you deal with should tell you what services they have to help you. If you feel like you're not being treated well, or no one is listening to you, call one of the agencies in the next chapter for help.

ALWAYS REMEMBER

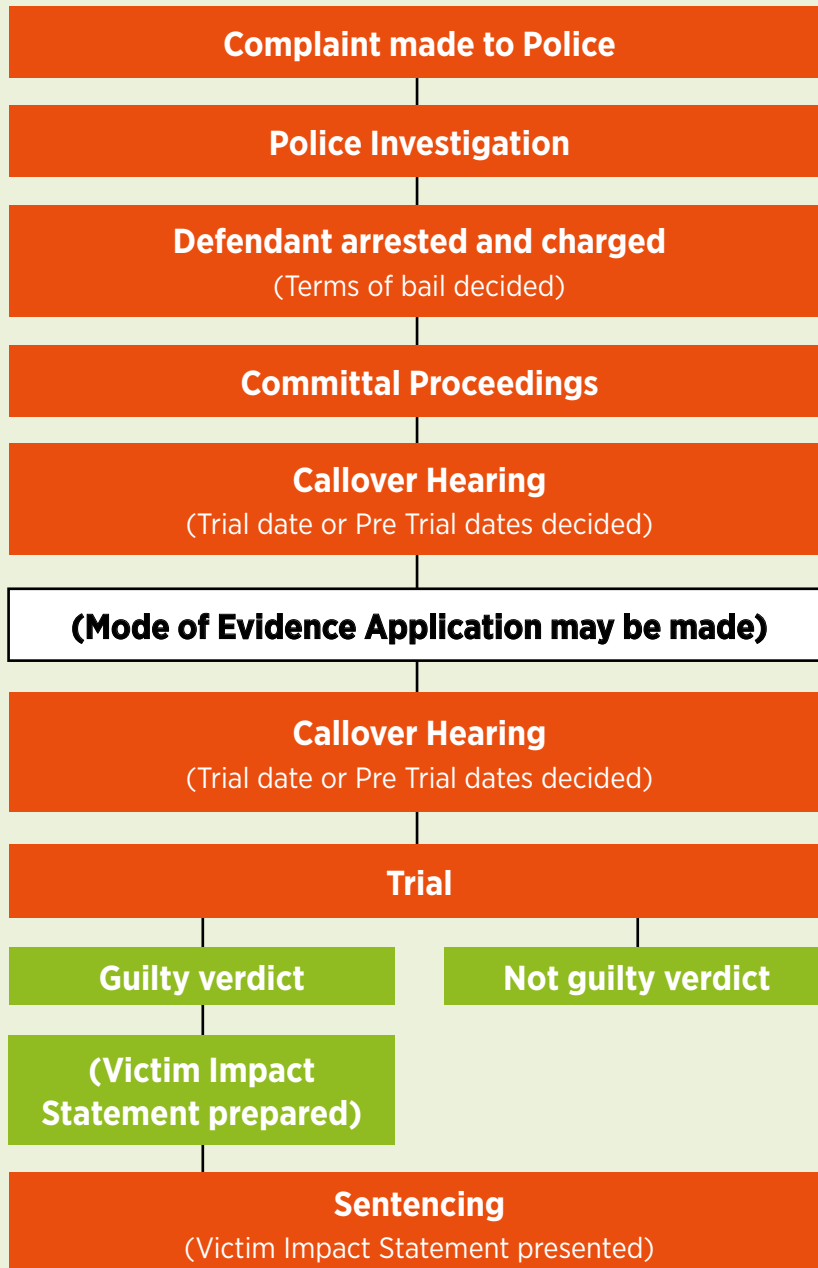
For most people, going to court is something they haven't done before. They don't know what they'll have to do or who'll be there. It can take a lot of courage to do something you haven't done before. You're only there to help the decisionmakers work out what happened. They listen to all the evidence, including yours, and decide whether they're sure that the defendant is guilty of committing the offence.

- **Tell the truth in your own words**
- **Tell the judge if you want a break**
- **You have the right to be treated well by everyone who deals with you and to get help if you need it.**



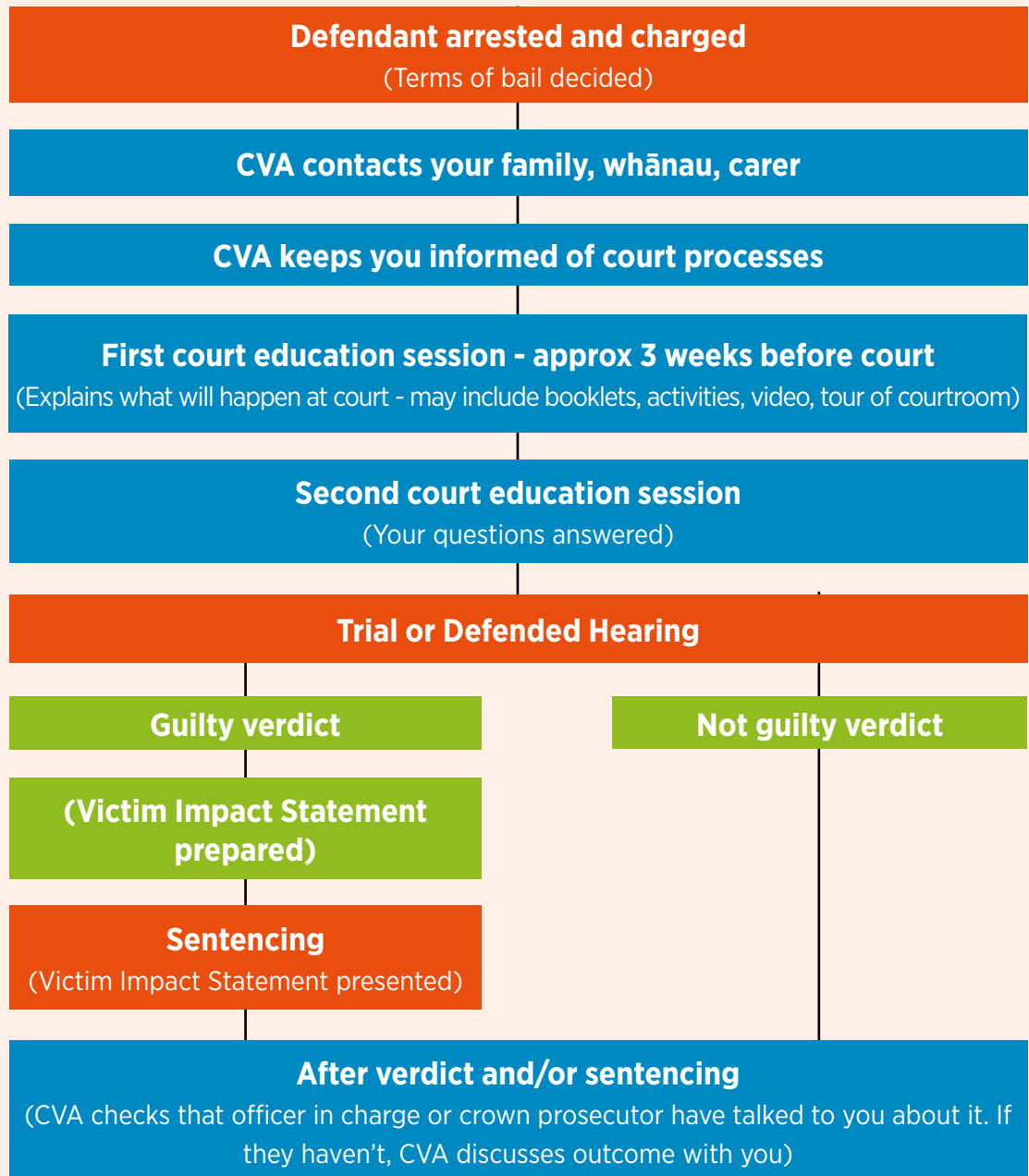
How does the COURT PROCESS work?

This shows the way lots of cases go through the court process. There are many ways different cases go through the court process. You'll need to ask the officer in charge of the case or a victim advisor what stage your case is at and what will happen next.



How does the COURT EDUCATION process work?

Court education is a free service for all young people aged 17 or under who are going to court as witnesses. You'll meet the Court Victim Advisor (CVA) at the court and visit the courtroom. The VA will explain what will happen at court and answer your questions.



CHAPTER 6

HELPFUL CONTACTS

In all emergencies call the police – phone 111

Counselling, crisis and support agencies

YOUTHLINE

Free text: 234
Website: www.youthline.co.nz
Email: talk@youthline.co.nz

LIFELINE

0800 LIFELINE (0800 54 33 54)
or free text HELP to 4357
Website: www.lifeline.org.nz
Email: info@lifeline.org.nz

HELP

Auckland (09) 623 1700
Wellington (04) 801 6655

COURT VICTIM ADVISORS

Call 0800 650 654 and ask to be put through to your Victim Advisor in your court.

WOMEN'S REFUGE

0800 REFUGE (0800 733 843)
Website: womensrefuge.org.nz
Email: info@refuge.org.nz

VICTIM SUPPORT

Phone 0800 842 846 (0800 VICTIM)
Website: www.victimsupport.org.nz
Email: nationaloffice@victimsupport.org.nz

RAPE CRISIS

Phone: 0800 88 3300
Website: www.rapecrisis.org.nz

CITIZEN'S ADVICE BUREAUX

Phone: 0800 FOR CAB (0800 367 222)
Website: www.cab.org.nz

BARNARDOS

Phone: 0800 227 627
Website: www.barnardos.org.nz

Child and youth advocates

YOUTHLAW

A national community law centre for children and young people. Level One, 219 Federal St, Auckland City
Phone: 0800 YOUTHLAW (0800 884 529)
Website: www.youthlaw.co.nz
Email: nzyouthlaw@gmail.com
Address: Level 3, ParkView Tower
21 Putney Way
Manukau
Auckland

CHILDREN'S COMMISSIONER

PO Box 5610 Wellington
Ph: freephone 0800 224 453
Website: www.occ.org.nz
Email: children@occ.org.n

COMMUNITY LAW CENTRES

Visit the Community Law Centres website to find your local centre.
Website: communitylaw.org.nz

COURT VICTIM ADVISORS

Call 0800 650 654 and ask to be put through to your Victim Advisor in your court.

Child care and protection

ORANGA TAMARIKI - MINISTRY FOR CHILDREN

Phone: 0508 326 459
Website: www.orangatamariki.govt.nz
Email: contact@ot.govt.nz

“It’s often helpful to talk to someone about what’s happened and how you’re feeling.”

Commonly used court words for children 13 years and older

Arrest

When someone is taken by the Police and is charged with breaking the law.

Acquittal

When the court finds the defendant not guilty of breaking the law.

Adjournment or recess

When a case is put off to another date and doesn't continue on the day. This also happens when the court takes a break, for instance for lunch, and everyone leaves the court room. Everybody returns after the break and the case carries on.

Affirmation

A promise in court to tell the truth (instead of swearing on the Bible or on a Holy Book).

Bail

The defendant is released from custody/the cells and is allowed to live at an address in the community. The Judge sets conditions that the defendant has to meet to be able to remain on bail (Bail is not a sentence).

Charge

When arrested the defendant is charged in court. They are told what the law is that the Police believe they have broken.

Closed court

When the Judge decides who can stay in the courtroom and who must leave the court room during a court process.

Community work

A court sentence or punishment where the person that has been found guilty has to do a number of unpaid work hours for the community.

Court Victim Advisor

The person at court who provides information to you and your family about court and who will help you when you come to court.

Courtroom

The room where the court hearing is held.

Closed Circuit TV (CCTV) Monitor (AVL/ video link)

The CCTV room is not in the court room and is usually some distance away from the court room where the trial is being held. The room has a camera and TV monitor you sit in front of while you give evidence. You will be able to see the Judge and the two lawyers, but not the defendant or anybody else in court.

Cross-Examination

When the defence lawyer asks you questions in court about what you say happened.

Defendant

The person who you say did something to you or someone else that is against the law.

Defence lawyer

The lawyer is the person who speaks on behalf of the defendant.

Evidence

When witnesses tell the Judge or Jury what happened.

Expert witness

A person that helps the court by giving special or technical information or evidence. E.g. a doctor, psychiatrist or psychologist.

Examination in Chief

When the Prosecutor helps you to tell your story and to say what happened.

Fine

When the Judge sentences the defendant to pay money for breaking the law.

Foreperson

A member of the Jury who tells the Judge when the Jury is ready to give their verdict/decision.

Guilty plea

When the defendant admits they broke the law.

Guilty verdict

When the Jury or Judge is sure the law has been broken and the defendant is guilty.

Hung Jury

When the Jury can't decide if the defendant is guilty or not guilty.

In chambers

This is when the Judge wants to talk only to the lawyers and everybody else leaves the courtroom.

Jury

A group of twelve people (jurors) who listen to the evidence and decide if the defendant is guilty or not guilty (the verdict).

Jury room

The room where the jurors have their meeting to discuss the evidence and decide whether the defendant is guilty or not guilty. They also wait there before they go to court and take the tea break and sometimes lunch break in the room.

Laws

The rules which everyone in New Zealand must obey. Laws are important rules. They tell us for instance not to steal from or hurt somebody else. When someone doesn't follow these rules, it's called breaking the law.

Legal Argument

When the lawyers have discussions about legal matters.

Not guilty plea

When the defendant says they didn't break the law.

Not guilty verdict

When the Jury or Judge find that the law hasn't been broken.

Oath

When a person puts their hand on the Bible and promises to tell the truth.

Offence

Something that is against the law. Offence is another word for crime.

Probation officer

Someone who works for the Department of Corrections who will talk to the defendant and write a probation report.

Probation report or pre-sentence report (Provisional Advice to Court or PAC report)

A report written by a Probation Officer to assist the Judge when deciding on an appropriate sentence.

Prosecutor

The lawyer for the Police.

Sentence

The court's penalty. (a sentence isn't always a punishment) The Judge decides what the sentence is. It could be a sentence in the community such as community work, or the defendant can be sentenced to pay a fine

or be given a sentence of imprisonment.

Support person

A support person comes to court with a child or young person or adult witness when they are a witness in court. A support person must be over 18 years old and can't be a witness in the case.

Trial

The time at court when everyone says what happened or what they saw and at the end of the trial the Judge or Jury decides whether the defendant is guilty or not guilty (verdict).

Video statement or video evidence

A video of what you said on your video to the Police interviewer before the trial.

Victim impact statement

A statement written with help from the Police that tells the Judge how what happened has affected you. This statement is done before the defendant is sentenced and is different from your statement about what happened.

Written statement

The Police write down what the person says happened and it is typed up, checked and signed on each page to make sure it is correct.

Notes and dates

A large white rounded rectangle containing 12 horizontal dotted lines for writing notes and dates.

**You'll be going to court to
tell a judge or jury what's
happened. Remember, all you
need to do is tell the truth.**

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