



OFFICE OF THE
DIRECTOR OF PUBLIC
PROSECUTIONS

INFORMATION BROCHURE



VICTIMS OF CRIME

GIVING EVIDENCE

Judges sit in the High Courts and are addressed as *My Lord* or *My Lady*. Magistrates sit in the Lower Court and are addressed as *Sir* or *Ma'am*.

If you find understanding or speaking English difficult, an interpreter can be made available for you. You can then speak in your own language and the interpreter will repeat your answers in English for the court.

When you give evidence in court:

- Consider each question before you answer.
- If you do not understand a question, please say so.
- Take your time so you can give a complete answer.
- **Do not guess.** If you are not sure about an answer, say so.
- Do not repeat what someone else has told you unless you are asked to by the lawyer or the court.
- Speak clearly and loud enough so that your evidence can be understood and heard.

After you have given your evidence and are excused by the court you are free to leave. You may remain in the courtroom, unless you are told not to by the Judge, Magistrate, or the Prosecutor.

Witness Expenses

You will be paid, in accordance with a set scale, a contribution to your travelling expenses. The Prosecutor can advise you of this.



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VICTIMS OF CRIME

INTRODUCTION

Victims are key stakeholders in the fight against crime. The Office of the Director of Public Prosecutions ('ODPP') has clear policies that governs its interactions with victims of crime. These policies are articulated in documents like the Prosecution Code 2003 and the Child Protection Guidelines 2009.

DEFINITIONS

Victim of Crime: an individual who suffers direct or threatened physical, emotional or financial harm as a result of a crime.

Witnesses: an individual who is summonsed to appear in Court to speak to what they know about a crime.

Note: It is important to note that **victims of crime** are **witnesses** in respect of criminal cases.

THE ODPP AND CRIMINAL COMPLAINTS

The Director of Public Prosecutions ('DPP') is constitutionally mandated to consider the complaints made by victims of crime to the Police, and decide whether or not there is sufficient evidence to prove the complaint beyond reasonable doubt in Court.

If the DPP is not satisfied that the evidence is sufficient to prove the complaint beyond reasonable doubt, the DPP will not institute criminal proceedings. It is the DPP and the DPP alone who decides whether or not to withdraw a charge or complaint that has been made in Court.

The DPP will first consider the evidence in its totality, the reasons for the victim's request for a withdrawal of the complaint, and the impact on the victim as well as the wider interests of justice before making his decision.

LEGITIMATE EXPECTATIONS

- Victims of crime have a right to expect to be heard.
- Victims of crime have a right to expect progress reports from the Police and the DPP regarding the investigations of a criminal complaint, or the progress of a criminal action instituted by the DPP.
- Victims of crime have a right to expect to be notified of the results of a criminal action instituted by the DPP.
- Victims of crime have a right to expect courtesy and respect from Prosecutors, Defence Counsel and the Court.
- Victims of crime have a right to expect their adverse experiences, injuries, and emotional or financial harm as a result of a crime represented in the sentence imposed against an offender.



PROTECTIONS

Child victims, and other vulnerable witnesses are entitled to specially mandated protections under the Criminal Procedure Decree 2009. In addition, in certain circumstances the DPP can apply for a trial to be heard in closed court. This means that the public will not be allowed entry into the courtroom. The DPP may also apply for a name suppression order, which means that no-one is allowed to publish your name in connection with a criminal case. These orders are ordinarily made in respect of child victims and witnesses but they can also be made for adults. The decision whether or not to grant the applications rests with the Court. Please do not

hesitate to speak to the Prosecutor if you are concerned about your safety or feel intimidated about the Court process.

The DPP wishes to assure men and women that are victims of sexual assault that there are procedures under Fijian laws such as the Criminal Procedure Decree and the Domestic Violence Decree that can be implemented to protect you. The State is also able to assist victims in terms of witness allowances and referrals to counsellors.

GIVING EVIDENCE

1. Preparing for Court: Think about the events you will be giving evidence about e.g. what happened first? What happened next? Try to remember details like times, dates, descriptions, actions and exact words used. Your recollection has to be accurate.

2. Do Not Discuss Your Evidence with Other Witnesses. Your testimony is your own. You can ask the Prosecutor or the Investigating Officer for a copy of your Statement either before the trial, or while you are giving evidence in order to refresh your memory.

3. In Court: You will not be allowed inside the Courtroom before you give your evidence. Sometimes the Police or the Prosecution may ask you to wait in a common area with other witnesses. Please remember Rule 2. When giving evidence, please speak in a loud voice and be clear. Please direct your answers to the Magistrate or the Judge who is hearing the case and be truthful in the answers that you give in Court. Evidence must be given on oath. A court officer will read out the oath and ask you to swear on the holy book of your choice. If you do not wish to swear on a holy book tell the court officer and another form of taking oath will be used. You will be asked to state your name and occupation. If you do not wish to state your address in public, tell the Prosecutor beforehand. You will then be allowed to be seated whilst giving evidence. The Prosecutor will ask you questions about what happened. The Defence lawyer may cross-examine you by asking you additional questions. The Judge or Magistrate may also ask you questions.