Supporting a young witness in court

A guide for parents, carers, family and whānau

MINISTRY OF JUSTICE
Tāhū o te Ture

Your contact

The police and the victim advisor are always available to help you. They have a responsibility to keep you informed about the case during the court process. You can ask them any questions that you or your young witness have.

YOUR VICTIM ADVISOR IS:

Going to court as a witness is a big deal for anyone but especially for tamariki and taitamariki – children and young people.

Young people can feel nervous or anxious about going to court. Sometimes this can make a difference to what they can remember and say.

This pamphlet will help parents, carers, family and whānau support their young witness during this important time.

About the court process

Why court?

Your child will only have to go to court as a witness if the judge or jury needs to hear from them about what happened. If the person accused of breaking the law (the defendant) says they are not guilty then a jury or judge-alone trial will be held, so that a judge or a jury can decide whether the evidence shows that the defendant has broken the law.

The role of the young witness

Your child who is a witness either saw something or knows something that could help the court decide if the law was broken by the defendant. They may also be the victim or complainant – the person who has told the police about something that has happened to them.

The judge or jury needs to hear the young witness tell what happened in their own words (their evidence). If a video interview was made and it is shown to the court then the young witness may not have to repeat the whole of their evidence again, but they will need to be there to answer questions in their own words. The prosecutor (who is a police officer or a Crown lawyer) and the defendant's lawyer can both ask the young witness questions when they give their evidence.

The court will also hear the evidence of any other witnesses and, sometimes, the defendant.

Giving evidence

A young witness may give evidence:

- in the witness box in full view of the courtroom
- in the witness box with a screen so the young witness can't see the defendant
- in another room using closed circuit tv. The young witness sits in front of a tv screen, video camera and a microphone. They see the judge and the lawyers only. People in court can see the young witness on tv screens in the courtroom
- by video recording made before the trial.

The judge decides how witnesses will give their evidence. However, whatever age your child and whatever the case, you can ask the police to request the use of a screen or closed circuit tv.

Being a support person in court

Young witnesses may have a support person sit with them in court. A support person can help young witnesses remain calm, though they cannot talk with or touch the young witness while they are giving their evidence. The support person cannot be another witness in the case. If your child wants someone to be with them in court, ask the police to seek the judge's permission. The judge also decides where the support person sits.

Your involvement in court matters

As a parent or carer of a young witness you may be asked your views on several matters.

Name suppression (where names are not made public). Usually, newspapers, radio and tv cannot reveal the names of witnesses under the age of 17. A defendant's name would also be suppressed if releasing it could identify the young witness. The police can tell you what is likely to happen.

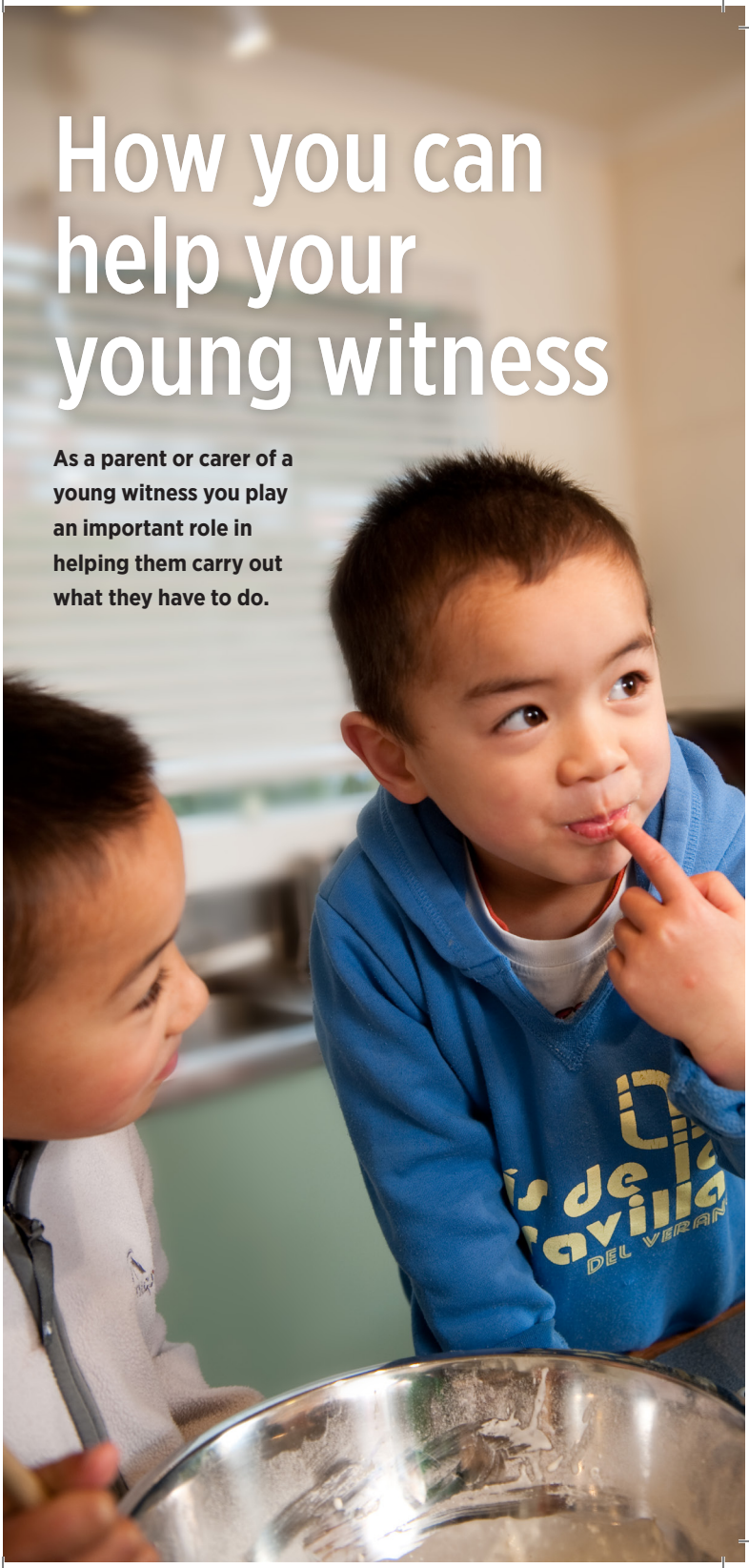
Bail. The judge decides whether the defendant will be allowed to be free while waiting for the court hearing. This is called bail. If your child is the victim or complainant, you can tell the police or the victim advisor if you have any worries about the defendant being on bail. The judge can set conditions or limits on what the defendant can do while they are on bail.

Changing charges. In the lead up to the court hearing, the police may decide to change the charges they lay against the defendant. The charges say which laws the police think have been broken. They may ask you what you think before making the change.

Victim impact statement. If your child is the victim you may be asked to help prepare a victim impact statement. The statement tells the judge how the victim's life has been affected by the crime. If the defendant is found guilty or pleads guilty the victim impact statement will be prepared just before sentencing. Usually the police, social worker or counsellor will interview the young witness, and sometimes you, before writing the statement. You might find it useful to keep notes of how your child and your family and whānau are affected as the court case progresses. The defendant gets to see the victim impact statement.

How you can help your young witness

As a parent or carer of a young witness you play an important role in helping them carry out what they have to do.



Waiting, waiting, waiting ...

Be aware that the courts are very busy so it can be a long time before you get to court.

Learning about court

Children and young people can feel less worried about important events if they know what's going to happen. The court's victim advisor and the police are responsible for keeping you informed about what is happening at court. You can ask them at any time about any questions that you or your child may have.

About three weeks before the court date the victim advisor will offer to work with you and your child to give you detailed information about:

- where to go
- what happens inside the courtroom
- who all the people are and what they do
- what your child will be asked to do as a witness.

This information includes booklets and a video designed specially for young people, as part of the Court Education for Young Witnesses service which explains what happens in court. You can help your child by working through the material with them.

You can ask the victim advisor any questions that you or your young witness have at any time.

Talking things over

It's okay for your child to tell you about what they witnessed. It's very important though, that no-one tells your child what to say, even if they think they're being helpful. The court wants to hear what your child or young person witnessed in their own words.

Keeping a watch

Many young people cope very well with the court process and want to participate. Others may feel anxious or guilty or angry about coming to court. And their emotions may be even more confused if the defendant is a member of their family or whānau, or someone else they know.

As they get closer to the court hearing your child may be:

- anxious
- withdrawn, quiet, thoughtful
- not sleeping as well at night
- having lots of headaches, stomach aches, etc
- really angry
- fighting with brothers and sisters more than usual
- having up and down moods.

Sometimes children and young people think they may shock their parents and carers by talking about their feelings. You need to take the lead and talk to them, especially if they show any of the above signs.

Whatever your child is feeling it will help them if they can talk about it. You can then reassure them that it's going to be okay, that there will be people helping them on the day. And don't forget to give them extra hugs!

You may need to think about taking them to a counsellor. This is especially important if your young witness has seen or experienced serious violence. They may need extra help to deal with their feelings. In some cases ACC may pay for counselling. You can discuss this with the victim advisor, who can also help you find a counsellor.

Respecting your young witness

While talking about what's happening is good, try not to talk about it to all your friends, family and whānau, especially in front of your child. This could embarrass them or cause them worry or hurt. If you do need to talk to other adults about them, it's a good idea to ask your child if that is okay. It helps them to feel they have some control over what's happening.

Brothers and sisters

Brothers and sisters could feel left out, angry or jealous when family and whānau attention is focused on the young witness. They may misbehave to get your attention.

Some children will try to be especially good or helpful, again to get your attention. It's important that you look after the needs of the young witness, but the needs of your other tamariki or children are also important. It might help to hold a whānau/family meeting to talk about what's happening and how you each feel.

After the court case

Your child may need to talk to someone after the court process ends – whether or not the defendant is found guilty. They may be upset, or feel down or angry. They may have very different feelings to everyone else and this may be something that you need to talk to someone about. The information you'll receive from the victim advisor has a list of people in your community who are specially trained to help them. The police and victim advisor can also help you find someone.

What happens if the defendant pleads guilty?

At any time the defendant may decide to plead guilty – say that, yes, they did break the law. This means there will be no court case. Your child may feel happy and relieved. However, they may have wanted to tell what happened. If they're a victim, the young witness will still get to tell the judge how the offence affected them - in the victim impact statement. The judge may require other reports to be done, such as a report by a probation officer that suggests how the defendant should be dealt with. The defendant sees all these reports.

Need help?

As a parent or carer of a child or young person who is a witness in court, you too are likely to experience all sorts of feelings from worry and guilt to hurt and anger. And it's not unusual for each parent to feel differently. As you are the main support for the young witness it is important you take care of yourself – your child will be depending on you.

You especially need to take care of yourself if you are also a witness. Seek help if you are not managing as well as you'd like. Having people around you who care about you and who can support you such as friends, family and whānau is important.

Organisations such as Lifeline, Victim Support and Women's Refuge can be of help. The victim advisor can help you find support.

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