

- Usually the letter of the court (“writ of summons”) will be delivered to you by the police, a sheriff, bailiff or other court official.

What are your obligations if called as a witness?

- You **MUST** comply with the invitation of the court. Appearing as a witness is an obligation under the law. Failing to appear, when summoned to court, is a punishable offence (known as CONTEMPT OF COURT);
- If you should be unable to appear, **INFORM** the court;
- If you appear as a witness, you are obliged to tell the **TRUTH**. Lying to the court or not fully responding to the questions of the prosecution or the defence council is a punishable offence (known as PERJURY);
- The registrar of the court will make you take an oath before the court hears your statement.

What are your rights as a witness?

- You are entitled to a **WITNESS FEE**; that is a sum of money determined by the law to compensate you for your time and travel costs and payable by the court (court registrar);
- Be aware that in many States the **WITNESS FEES** determined by the law are grossly inadequate to cover your costs;
- If you are the spouse (married under the Marriage Act) of the accused, you **CAN** be called to appear as a witness, but you **CANNOT** be forced to do so, even if you have been summoned.
- If you decide to appear in court as witness in a case against your spouse, you have to answer all questions truthfully.

Can children appear as witnesses?

Under-aged persons (under 18 years old) and mentally challenged persons can be called to

appear as witnesses. The judge will hear them only if they understand the questions and are able to answer intelligently. The judge may also determine how to weigh the statement of a child after hearing the child.

If the witness is below 14 years, the court will conduct a statutory test; that is a test which determines whether the child:

- understands the questions;
- can give rational answers;
- understands the concept of truth.

Courts use this statutory test mostly in rape cases.

Protection of Victims and Witnesses:

The Nigerian Legal System only provides very limited protection for witnesses and victims against reprisal and revenge by the offender or his or her associates.

There are no means to keep the accused from finding out your identity and your address once the matter comes to court.

You can protect your identity during the police investigation (until the arrest of the offender) by, for example, having a lawyer or a representative of a legal aid organisation report the crime on your behalf, without revealing your identity.

Some of the specialised law enforcement agencies, such as EFCC, ICPC, NAPTIP, and NDLEA provide for witness protection during and beyond trial.

As a witness in court you are obliged to tell the truth . It is an offence to lie to the court..



Victims & WITNESSES

C O U R T U S E R S G U I D E 4



UNODC

United Nations Office on Drugs and Crime



V I C T I M S

Who is a Victim?

- Someone who has been threatened, attacked, injured or killed in the context or as a result of a crime;
- whose property, assets, or other financial or economic interests have been damaged in the context or as the result of the commission of a crime;
- whose reputation has been damaged in the context or as a result of the commission of a crime?

What do you do FIRST when you have been a victim of a crime?

- Do not tamper with the scene of crime until the police arrives (do not clean up broken items, keep torn or stained clothes);
- Take photographs and make sketches of the crime scene (this is particularly relevant in the case of traffic offences);
- If you have been victim of a violent crime, **EVEN WHEN YOU FEEL FINE**, obtain medical treatment first. This is both to ensure your own well-being as well as for the purpose of proper documentation of your physical injuries;
- If you have been the victim of a minor offence and the damage is of negligible nature, consider whether there are alternative avenues to settle the issue other than reporting the crime to the police (e.g. obtaining compensation from the offender or his or her family).

Why is it important to report the crime to the police?

It is the duty of the State (the Police, the Attorney

General) to protect you, your family and your property against crime. It is only if you report a crime that the State can fulfil its obligation and ensure that offenders are arrested and prosecuted.

In the case of crimes against your property, and when you have insurance for such property (e.g. some car insurances include also theft), reporting the theft is a necessary condition for you to claim compensation.

Where to report the crime?

Report the crime to the nearest police station.

What happens at the Police Station?

- At the police station, the police will take your statement;
- You may be required to identify the offender – if so, be sure that you are ready to do so, and inform the police if you are not ready to do so;
- Investigating and prosecuting the case is an **OBLIGATION** for the Police – they must not turn you away or ask you to pay for transport or other means to take your statement, arrest the offender, or investigate the matter;

Where can you get help?

If you need a legal advise or legal representation but cannot afford a lawyer , there are many public sector agencies, such as the Office of the Public Defender, the Legal Aid Council, the Human Rights Commission, as well as civil society organisations (CSOs) and professional associations, such as the Nigerian Bar Association, the International Federation of Womend Lawyers (FIDA), the Legal Defence and Assistance Programme (LEDAP) who provide free legal advise and legal representation, in particular to persons with a low income, women and children, ethnic minorities and victims of crime (see court user guide – contacts for court users).

How can you get compensation of damages?

Be aware that the criminal investigation and prosecution will not determine any compensation for the damages you suffered (e.g. for stolen or damaged property, financial losses, medical bills, psychological damages, damages to your reputation).

The compensation of such damages can be pursued through:

- a **DIRECT AGREEMENT** with the offender or his or her family to pay compensation;
- a **TRADITIONAL RULER**;
- an **ALTERNATIVE DISPUTE RESOLUTION (ADR)** mechanism, e.g. a mediation centre or a multi-door court house (see court user guide on Alternative Dispute Resolution)
- the filing of a **CIVIL CASE** in court.

W I T N E S S E S

Who is a witness in a court case?

- Any person having been invited by the court (summoned) to come and give evidence on a case based on what he or she saw or knows about a case.

Who can be called as a witness?

- Any person who saw something happen and is able to describe it.

How would you be invited as a witness?

- The court writes to you and orders you to appear in court (summons you) on a certain date to give witness testimony in a criminal or civil case?