

Twenty Two Reminders About Preparing To Testify

1. REFRESH YOUR MEMORY

Before you testify, try to picture the scene, the objects, the area, the distances and exactly what happened. This will assist you in recalling the facts more accurately when asked a question. If the question is about distances or time, and if your answer is only an estimate, be sure you say it is only an estimate. Beware of suggestions by attorneys as to distance or times when you do not recall the actual time or distance. Do not agree with their estimate unless you independently arrive at the same estimate.

2. SPEAK IN YOUR OWN WORDS

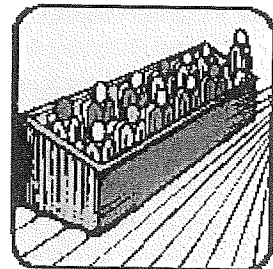
Don't try to memorize what you are going to say. Doing so will make your testimony sound "pat" and unconvincing. Instead, be yourself, and prior to trial go over in your own mind those matters about which you will be questioned.

3. APPEARANCE IS IMPORTANT

A neat appearance and proper dress in court are important. The trouble with an appearance that seems very casual or very dressy is that it will distract the jury during the brief time you're on the stand and they won't concentrate on your testimony.

4. SPEAK CLEARLY

Present your testimony clearly, slowly, and loud enough so that the juror farthest away can easily hear and understand everything you say. Avoid distracting mannerisms such as chewing gum while testifying. Although you are responding to the questions of a lawyer, remember that the questions are really for the jury's benefit. Additionally, smoking is not allowed.



5. DO NOT DISCUSS THE CASE

Jurors who are or will be sitting on the case in which you are a witness may be present in the same public areas where you will be. For that reason, you **MUST NOT** discuss the case with anyone. Remember too, that jurors may have an opportunity to observe how you act outside of the courtroom.

6. BE A RESPONSIBLE WITNESS

When you are called into court for any reason, be serious, avoid laughing, and avoid saying anything about the case until you are actually on the witness stand. Also, do not read in the courtroom.

7. BEING SWORN IN AS A WITNESS

When you are called to testify, you will first be sworn in. When you take the oath, stand up straight, pay attention to the clerk, and say "I do" clearly.

8. TELL THE TRUTH

Most important of all, you are sworn to TELL THE TRUTH. Tell it. Every true fact should be readily admitted. Do not stop to figure out whether your answer will help or hurt either side. Just answer the questions to the best of your memory.

9. DO NOT EXAGGERATE

Don't make overly broad statements that you may have to correct. Be particularly careful in responding to a question that begins, "Wouldn't you agree that...?" The explanation should be in your own words. Do not allow an attorney to put words in your mouth.

10. LISTEN CAREFULLY TO AVOID CONFUSION

When a witness gives testimony, he/she is first asked some questions by the lawyer who called him/her to the stand. For you, this is an Assistant U.S. Attorney. The questions asked are for the purpose of "direct examination." When you are questioned by the opposing attorney, it is called "cross examination." This process is sometimes repeated several times in order to clearly address all aspects of the questions and answers. The basic purpose of direct examination is for you to tell the judge and jury what you know about the case. The basic purpose of cross examination is to raise doubts about the accuracy of your testimony. Don't get mad if you feel you are being doubted during the cross examination. The defense counsel is just doing their job.

11. DO NOT LOSE YOUR TEMPER

A witness who is angry may exaggerate or appear to be less than objective, or emotionally unstable. Keep your temper. Always be courteous, even if the lawyer questioning you appears discourteous. Don't appear to be a "wise guy" or you will lose the respect of the judge and jury.

12. RESPOND ORALLY TO THE QUESTIONS

Do not nod your head for a "yes" or "no" answer. Speak aloud so that the court reporter or recording device can hear and record your answer.

13. THINK BEFORE YOU SPEAK

Listen carefully to the questions you are asked. If you don't understand the question, have it repeated, then give a thoughtful, considered answer. DO NOT GIVE AN ANSWER WITHOUT THINKING. While answers should not be rushed, neither should there be any unnaturally long delay to a simple question if you know the answer.

14. EXPLAIN YOUR ANSWER

Explain your answer if necessary. Give the answer in your own words, and if a question can't be truthfully answered with a "yes" or "no," it's O.K. to explain your answer.

15. CORRECT YOUR MISTAKES

If your answer was not correctly stated, correct it immediately. If your answer was not clear, clarify it immediately. It is better to correct a mistake yourself than to have the attorney discover an error in your testimony. If you realize you have answered incorrectly, say, "May I correct something I said earlier?" Sometimes witnesses give inconsistent testimony - something they said before doesn't agree with something they said later. If this happens to you, don't get flustered. Just explain honestly why you were mistaken. The jury, like the rest of us, understands that people make honest mistakes.

16. DO NOT VOLUNTEER INFORMATION

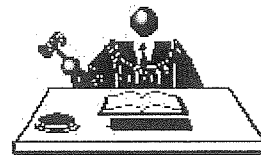
Answer ONLY the questions asked of you. Do not volunteer information that is not actually asked for. Additionally, the judge and the jury are interested in the facts that you have observed or personally know about. Therefore, don't give your conclusions and opinions, and don't state what someone else told you, unless you are specifically asked.

17. DON'T SET YOURSELF UP FOR ERROR

Unless certain, don't say "That's all of the conversation" or "Nothing else happened." Instead say, "That's all I recall," or "That's all I remember happening." It may be that after more thought or another question, you will remember something important.

18. OBJECTIONS BY COUNSEL

Stop speaking instantly when the judge interrupts you, or when an attorney objects to a question. Wait for the judge to tell you to continue before answering any further.



19. BE POSITIVE AND CONFIDENT

Give positive, definite answers when at all possible. Avoid saying, "I think," "I believe," or "In my opinion" if you can answer positively. If you do know, then say so. You can be positive about important things which you would naturally remember. If you are asked about little details which a person naturally would not remember, it is best just to say so if you don't remember. Don't make up an answer.

20. FOLLOW COURTROOM RULES

When being questioned by defense counsel, don't look at the Assistant U.S. Attorney or at the Judge for help in answering the question. If the question is improper, the Assistant U.S. Attorney will object. If a question is asked and there is no objection, answer it. Never substitute your ideas of what you believe the rules of evidence are.

21. TALKING TO OTHERS ABOUT CASE

Sometimes an attorney may ask this question: "Have you talked to anybody about this case?" If you say "no," the judge knows that doesn't seem right, because a prosecutor usually tries to talk to a witness before he/she takes the stand and many witnesses have previously talked to one or more police officers, or federal law enforcement agents. It is perfectly proper for you to have talked with the prosecutor, police or family members before you testify, and you should, of course, respond truthfully to this question. Say very frankly that you have talked with whomever you have talked with—the Assistant U.S. Attorney, the victim, other witnesses, relatives and anyone else whom you have spoken with. The important thing is that you tell the truth as clearly as possible.

22. DO NOT DISCUSS YOUR TESTIMONY

After a witness has testified in court, he/she should not tell other witnesses what was said during the testimony until after the case is completely over. Thus, do not ask other witnesses about their testimony and do not volunteer information about your own testimony.

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