

25 Reminders

ABOUT PREPARING TO TESTIFY

1) Before you testify, try to picture the scene, the objects there, the distances and exactly what happened so that you can recall the facts more accurately when you are asked. If the question is about distance 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 distances or times when you do not recall the actual time or distance. So not agree with their estimate unless you independently arrive at the same estimate.

2) **Speak 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) 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 are on the stand and they won't concentrate on your testimony.

4) For the same reason, avoid distracting mannerisms such as chewing gum while testifying. Smoking is not allowed. Present your testimony clearly, slowly, and loud enough so that the juror farthest away can easily hear and understand everything you say.

5) 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 should not discuss the case with anyone. Remember, too, that jurors may have an opportunity to observe how you act outside the courtroom.

Resources

If you have other questions or problems related to the case, please contact the Victim Witness Coordinator or the Deputy District Attorney assigned to the case. Their names, addresses and telephone numbers are listed below:

DEPUTY DISTRICT ATTORNEY
ADDRESS
TELEPHONE
VICTIM WITNESS COORDINATOR
ADDRESS
TELEPHONE

Preparing to TESTIFY



Office of the Tulare County District Attorney
Victim Witness Assistance Bureau
221 S. Mooney Blvd, Room 264
Visalia, CA 93291 (559) 733-6754
Porterville (559) 782-4835

Phillip J. Cline
Tulare County District Attorney



Office of the Tulare County District Attorney
221 S. Mooney Boulevard
Visalia, CA 93291
(559) 733-6411

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6) 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) 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) 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 overbroad 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) When a witness gives testimony, (s)he is first asked some questions by the lawyer calling him or her to the stand; in your case, this is a deputy district attorney. This is called the "direct examination." Then the witness is questioned by the opposing lawyer (the defense counsel) in "cross examination" (Sometimes the process is repeated two or three times to help clear up any confusion.) 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 the cross-examination is to raise doubts about the accuracy of your testimony. Don't get mad if you feel you are being doubted in cross-examination- that is the defense counsel's job. DO NOT LOSE YOUR TEMPER.

11) 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 the jury.

12) Although you are responding to the questions of a lawyer, remember that the questions and answers are really for the jury's benefit. Always speak clearly and loudly so that every juror can easily hear you.

13) Do not nod your head for a 'yes' or "no" answer. Speak so that the court reporter (or recording device) can hear the answer.

14) Listen carefully to the questions you are asked. Understand the question, have it repeated if necessary, then give a thoughtful, considered answer. DO NOT GIVE AN ANSWER WITHOUT THINKING. While answers should not be rushed, neither should there be an unnaturally long delay to a simple question if you know the answer.

15) 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", explain the answer.

16) Answer ONLY the question asked you. Do not volunteer information not actually asked for.

17) 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?"

18) 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.

19) 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.

20) 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.

21) Stop instantly when the judge interrupts you, or when an attorney objects to a question, and wait for the judge to tell you to continue.

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

23) When being questioned by defense counsel, don't look at the deputy district attorney or at the judge for help in answering a question. You are on your own. If the question is improper, the deputy district 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.

24) Sometimes an attorney may ask this question: "Have you talked to anybody about the case?" If you say "no", the judge or jury knows that doesn't seem right, because a prosecutor usually tries to talk to a witness before (s)he 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 deputy district attorney, the victim, other witnesses, relatives or anyone else. All that we want you to do is to tell the truth as clearly as possible.

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