

## **Helpful Tips for Witnesses**

### **Keep in Touch**

As your case is being prepared for hearing in court, it may be necessary for an Assistant District Attorney to discuss the matter with you. It is important to keep the District Attorney's Office informed of your current address and telephone number. If you move, or are planning to go on vacation, be sure to let us know.

### **Furnishing Statements:**

You have the right to say "no" to an interview request by a reporter for a newspaper, radio or television station. You may be contacted by a defense attorney or investigator. You have the right to say "yes" or "No" to an interview. The choice is yours.

### **Your Testimony:**

As a prosecution witness, you will know that you have done your best to make your community a safe one in which to live and work. The justice process takes time. It often seems tedious. Some of the delays and frustrations you may encounter are part of the system that protects YOUR rights if someone accuses you of a crime. In our country, every person is presumed innocent until proven guilty beyond a reasonable doubt. To protect this right, we have a system of criminal justice with painstaking steps. The system depends on the patience and commitment of citizens like you to make it work. The District Attorney's Office appreciates your determination and your patience. We hope to share with you the satisfaction of a fair and successful prosecution.

### **What Will Happen to Me in Court?**

As a witness for the prosecution, you may be questioned by the District Attorney or one of his Assistants, and then by the defendant's attorney, who will cross-examine you. (ask you additional questions.) You may feel during the questioning that your testimony is under suspicion or that your personal motives are doubted, but the process of cross-examination is not meant as a personal attack towards you. It is to ensure that all sides of the case are told, and to establish the truth. The judge is there to assist you if you do not understand a question, and to see that you are treated respectfully. If you do not understand a question, do not be afraid to say so.

### **Other Helpful Tips for Witnesses**

As a witness, you have a very important job to do.

- Do not try to memorize what you are going to say. Before you testify, do try to go over in your mind the matters on which you are to testify. Try to picture the scene, the objects there, the distances and just what happened so that you can recall more accurately when you are asked.
- A neat appearance and proper dress in court are important.
- Avoid distracting mannerisms, such as placing your hand in front of your mouth.
- While taking the oath, stand upright, pay attention and say "I do" clearly.
- You are sworn TO TELL THE TRUTH. Every fact should be readily admitted. Do not exaggerate or minimize. If the court or jury believes a witness is not being completely

truthful, it can significantly weaken the entire case. Telling the truth, however, means more than merely refraining from telling a deliberate lie. Telling the truth requires that a witness testify accurately about what he/she knows. If you tell the truth and tell it accurately, you have nothing to fear on cross-examination.

- **DO NOT GUESS OR SPECULATE.** If you do not know, say you do not know. On the other hand, give positive, definite, sure answers when you remember positively, definitely and surely. If you are certain, do not say “I think,” or “I believe.”
- **LISTEN CAREFULLY** to the entire question asked. Be sure that you understand the question before you attempt to give an answer. You cannot possibly give a truthful answer unless you understand the question. If you do not understand, ask that the question be re-phrased until you are able to understand. No matter how nice the defense attorney may seem on cross examination, he may be trying to discredit you.
- **TAKE YOUR TIME.** Give the question such thought as it requires to understand it and formulate your answer. Do not give a snap answer without thinking.
- **ANSWER THE QUESTION** that is asked and then stop. Do not volunteer information not actually asked for. If you are interrupted in the middle of your answer, you may ask the judge for permission to finish your answer.
- Explain your answer if the answer cannot be correctly understood on the basis of a simple “yes” or “no.”
- If your answer was not correctly stated, correct it immediately. If you do not realize your error until after leaving the witness stand, advise the prosecutor as soon as possible.
- The judge and the jury are interested only in the facts. Therefore, do not give your conclusions or opinions.
- Be serious in and around the courtroom. Avoid laughing and talking in the presence of the jury or anywhere in the courthouse where you may be observed. You may not be laughing or talking about the case, but the jury may believe that you are. Jurors are aware that criminal prosecutions are and should be serious business.
- Speak clearly and loudly enough so that everyone in the courtroom can hear you easily.
- Always give audible answers so that the court reporter can make an accurate record. Do not merely shake your head indicated “yes” or “no.” Make sure that you clearly say “yes” or “no” not “yeah” or “uh-huh”.
- Look at the person who asked you the question. Do not look at the Assistant District Attorney when a question is asked by the defense attorney. Do not look to the Assistant DA for approval after answering a question.
- Beware of questions involving distances and time. If you make an estimate, make sure that everyone understands that you are estimating. You may use the courtroom dimensions and furnishings to illustrate your estimate, i.e.: “From the jury box to the door.”
- Always be courteous, even if the lawyer questioning you may appear discourteous. Being courteous is one of the best ways to make a good impression on the court and jury. Do not be afraid to answer, “Yes, sir,” and “No, ma’am and to address the judge as “Your Honor.” Do not argue or fence. Do not appear cocky or respond with “smart aleck” remarks. Do not be evasive. Otherwise, you may be reprimanded by the judge and damage your credibility.
- Do not lose your temper no matter how hard you are pressed. Lose your temper and you may appear to exaggerate, appear biased, or appear emotionally unstable. Keep your cool.

If you lose your temper, you have played right into the hands of the cross-examiner. If a defense attorney appears abrasive or argumentative, the prosecutor will point this out to the court and ask that he/she be admonished to address the questions in a proper fashion.

- Stop instantly when the judge interrupts you, or when an attorney objects to a question.
- If you do not want to answer a question, do not ask the judge whether you must answer it. If it is an improper question, the prosecuting attorney trying the case will take it up with the judge. Otherwise, you should answer the question as you would any other.

- A defense attorney may ask whether you have discussed the case with anyone. Do not be afraid of this question. It is absolutely proper for the prosecuting attorney to speak with each witness before presenting testimony. This may include reviewing your testimony, prior statements to police, your previous testimony and other documents. Acknowledge that you have talked with others about the case (the police, the District Attorney, the victim, other witnesses or relatives.) Obviously, the prosecutor will talk to all of the witnesses before calling them to the stand and inquire of them what they know about the case.

- Do not be afraid to look at the jury and tell the story. Jurors are naturally interested in what each witness has to say and are anxious to hear his/her testimony. If you remember you are just talking to some neighbors on the jury, you will do fine. • When coming from the witness stand after testifying, wear a confident expression, but do not smile or appear downcast.

- Feel free to contact your Victim Advocate if you have questions or concerns about testifying. He/she will answer your questions or connect you with the proper person to discuss your concerns with you.