

COUNTY OF KENOSHA

DISTRICT ATTORNEY

Robert D. Zapf
District Attorney

Michael D. Graveley
Deputy District Attorney

GUIDE TO WITNESS TESTIMONY

TESTIMONY

1. TELL THE TRUTH.
2. If you don't understand a question, ask for clarification, or ask the lawyer to rephrase or repeat the question.
3. The judge and/or jury will be more likely to believe you if you testify in a positive and straightforward manner. Attempt to appear confident of your answers.
4. If you don't know the answer to a question, it's perfectly acceptable to say, "I don't remember". Don't guess at an answer.
5. If you hear one of the attorney's say the word "Objection", it means that he doesn't want you to answer the question. Please stop talking for a moment and let the judge decide whether or not the question should be answered. If you are unsure of whether to answer, look to the judge, and he will instruct you.
6. When answering a question, don't offer any additional information, other than what you've been asked about. If a question can be answered with a yes or no, then do so. If you are unable to answer with a yes or no, you have a right to explain your answer in more depth.
7. Try to be as descriptive as possible. Think of it as relaying the story of a movie that no one has ever seen before. Take us there visually. Let the judge and lawyers know what things looked like and felt like.
8. If your answer was not clear, clarify it. If your answer was wrong, correct it immediately.
9. You may be asked questions about distance or time. If your answer is only an estimate, be sure to say so.
10. You may not testify to hearsay statements. Hearsay is what someone else told you. i.e., "He said", "She said", "They said".
11. There are a few trick questions, which may cause the jury to form a lesser opinion of you.

A. "Have you discussed your testimony with the District Attorney or a Victim/Witness Advocate before testifying today?" If you say yes, the lawyer questioning you may try to imply that you were told what to say. Admit that you have discussed the facts of the case, and you were told to tell the truth.

B. "The victim is a friend or relative of yours, isn't he/she?" A defense attorney can imply that you would lie for your friend or relative. You should answer this question with a simple and truthful yes or no. Later, the prosecutor can ask you if you are willing to commit perjury for your friend or relative. Your honest and forceful "NO" will be all the judge or jury needs to hear to overcome any negative implication in the original question.

(OVER)

BODY LANGUAGE AND PERFORMANCE

1. Speak slowly, loudly and distinctly. Please enunciate your words. Peripheral courtroom noise can make it

difficult to hear a witnesses' testimony.

2. When asked a question, don't shake your head up or down in the affirmative or the negative. The court reporter who is typing what you say, will not be able to interpret your body motions into words. Please answer all questions with a vocal yes or no.
3. No matter what the defense attorney may say to you or ask you, be respectful and kind, even if you feel threatened or feel like the defense attorney is attacking you. Testifying can be tiring. Defense attorneys will try to wear you down until you do lose your temper, which will discredit you in the eyes of the jury. **DO NOT ARGUE WITH THE JUDGE OR DEFENSE ATTORNEY. DO NOT LOSE YOUR TEMPER!**
4. If you come into contact with any of the defendant or his/her family, do not make eye contact; do not talk to them. Do not engage them in any way if they try to harass you. If this should happen, notify law enforcement or the bailiff immediately. They are always present in the courtroom.
5. Do not discuss your testimony with any of the other witnesses. In most trials or preliminary hearings, the judge orders a "sequestration order". This means that witnesses may not hear other witnesses testimony, or discuss the case amongst themselves.
6. Be serious all the time. Avoid laughing and talking about the case in the halls, restrooms, or any place in or around the courthouse. Otherwise, jurors, defense council, or other witnesses may observe or overhear what you say.
7. Look the judge in the eye when you take the oath. Speak loudly and clearly when saying, "I do".
8. Use your own words. Do not attempt to repeat technical or legal words you are not comfortable with. Do not exaggerate. Be Yourself!
9. While testifying at a trial, talk to the jury. Look at the jury. Speak openly and frankly as you would to any friend or neighbor. Speak clearly and loudly so that the farthest juror can hear you.
10. Before you testify, try to visit a courtroom and listen to other witnesses testifying. This experience will familiarize you with a courtroom and it's standard procedures. A victim/witness advocate or your Assistant District Attorney can assist you in accomplishing this.

PERSONAL APPEARANCE

1. Dress appropriately. No sandals, shorts, tank tops, heavy makeup, or excessive jewelry. Dress with respect for the court.
2. Dispose of all gum or candy before taking the stand.
3. **TRY TO RELAX. TAKE DEEP BREATHS.**

IN CONCLUSION

If you have any further questions about testifying you have several resources available to you. You can ask the prosecutor who is handling your case, the Victim/Witness Specialist in your branch of court, or the paralegal assigned to your branch of court. Any of these people can be reached by calling 262-653-2400.

Thank you for taking the time to read these instructions. We hope they can help ease some of the stress and worry you feel prior to testimony.