



# **COURTROOM TESTIMONY**

February 22, 2018

# Purpose of Presentation:

- Convince jurors/judge you are:
  - 1) professional
  - 2) honest (credible)
  - 3) observant
  - 4) likeable

# Trial Preparation

## Meet with the prosecutor

- Communication between prosecutor & officers
  - Email
    - **...but nothing substantive in emails**
- Review the case with the prosecutor
  - *it is permissible to discuss your testimony before trial*
- Educate your prosecutor on subject matter
- Questions, concerns, new information on the case?  
Email the prosecutor!

# Review the Case

- **Review your file multiple times:**
  - re-read every word written about investigation
    - your words
    - co-investigators' words
    - witness statements
- **Prepare a timeline**
  - Should already be in prosecution packet
  - Dates are the facts most frequently forgotten/  
misquoted during testimony

# Know Your Qualifications

- **How many years have you been a Code Enforcement Officer?**
- **What type of training have you received?**
  - Be specific. Say more than “a lot.”
- **Why are you being asked this?**
  - Prosecutor is establishing your credibility with the Judge/Jurors.

# Review the Case

- Review photos, diagrams, etc.
  - Know who took or created photos/diagrams
  - Know what they show (orientation, significance, violations)
- Review weather & temperature data for date(s) of offense
- Review applicable statutes

# Physical Appearance

- Studies: how you look is more important than what you say.
- Under the magnifying glass
  - Jurors notice *everything*

# Physical Appearance

- At the very minimum wear code enforcement shirt and khakis (NO JEANS. EVER.)
- Prefer suit
- Dress conservative
  - Males: bland tie
  - Females: closed-toe shoes, small heels



# Physical Appearance

- All clothing must be:
  - Clean & well-pressed clothing
  - Well-fitted clothing (no tight collars)
    - Nothing too loose
    - Nothing too tight
  - Clean shoes in good repair
  - Socks that match shoes

# Physical Appearance

- **Grooming:**
  - **Males:**
    - no facial hair
      - Studies: sinister and sloppy
      - Shave “five-o-clock shadows”
      - At the very least, keep facial trimmed and neat
    - Short hair for men
  - Women should pull hair back from face
  - No visible piercings on men; one piercing per ear on women

# Courtroom Etiquette

- No food. No drink.
- No phone calls in courtroom. Turn cell phone on vibrate. Resist the urge to “play” on your phone.
- Minimalize nervous habits.
  - “Clicking” pen
  - Shaking foot
  - Tapping table
  - “Playing” with paper

# Courtroom Etiquette

- No talking unless attorney is talking to you or court personnel.
- Respect the Judge's space.
- Always refer to Judge as "Your Honor."
- No cursing.
- No matter how comfortable you get, always follow the above.
  - Even if you are friends with attorneys, always maintain professionalism.

# The Day of Trial

- Arrive 30 minutes early
- Release nervous energy
  - Push-ups
  - Stairs
  - ...but no sweat!
- Make the courtroom your own
- Sit where you can be quickly found
- BE AWARE OF WHOSE BY YOU
- Comply with separation of witnesses order

# Testifying

- From this point forward, you are on stage: the trier of fact is scrutinizing your every action and reaction
- Non-verbal communication is probably more important than anything you say on the stand

# Testifying

You are the professional, the “Giver of Truth” — behave accordingly

# Testifying

- Always tell the truth
- Render your oath confidently
- Posture:
  - Point one foot toward trier of fact
  - Keep your chin up
  - Keep your hands on your knees
  - Maintain comfortable eye contact with fact trier



# Testifying

- **Posture (continued):**
  - Keep hands away from face
  - Do not cross arms or legs
  - Do not rock in or swivel your chair
- **“Gum” & “courtroom” are mutually exclusive**
- **Take your time when answering questions**
- **DO NOT GUESS AT AN ANSWER**
- **Admit when you’ve made a mistake**

# Testifying

- Don't let defense attorney put words in your mouth
- If defense attorney cuts off your answer, *politely* ask to finish your answer
  - "May I finish my answer?"
  - "Yes, but..."
  - "I cannot answer your question with just 'yes' or 'no'"

# Testifying

- Don't be helpful to the defense attorney
- Answer only the question that is *asked*
- Do NOT over-explain – the less said, the better
- Beware the pregnant pause...

# Automatic Mistrial Statements:

- Defendant's prior criminal record
- Defendant's prior bad acts
- Defendant's request for an attorney
- Defendant's previous trial...

# Defense Attorney Tactics

Do not *ever* argue with, or be sarcastic to, the defense attorney, the prosecutor, the Judge, the court reporter, the bailiff, etc.

- loss of temper, defensiveness, and/or display of sarcasm causes the witness to lose credibility with the trier of fact

# Defense Attorney Tactics

- Putting words in your mouth
- Controlling your answer: “yes” or “no”

# Defense Attorney Tactics

- Your “buddy” the defense attorney
- What *not* to say:
  - “I’m sorry I had to charge you—I really didn’t want to.”
  - “I don’t think your house is that bad.”
  - “I don’t think this is a big deal, but it’s a *technical violation* of our regs, so I have to charge you.”

# Modern Communication Issues

- Assume everything you type, text, or email about a case will be seen by the defense attorney
- Assume you are being recorded/videotaped by:
  - The defendant
  - The defendant's family & friends
  - Every witness, every time you speak to them
  - The defense attorney
- *You* should not record the attorneys
- **Social Networking**





**Questions?**