

20. Sometimes witnesses give inconsistent testimony. Just explain honestly why you were mistaken or what has been misconstrued. The Judge and jury understand that people make mistakes.

21. Stop when the Judge interrupts you, or when you hear an attorney make an objection. Wait for the Judge to tell you to continue.

22. Give positive, definite answers. Avoid saying "I think" or "I believe" if you are certain. If you know, say so. If you do not know, be honest and say so. If you do not remember, then the honest answer is "I do not remember". The system simply wants honest answers no matter what they are. Always be honest as to what you know. Do not guess an answer.

23. When questioned by defense counsel, answer them politely. If the question was improper, the prosecutor will object and the Judge will rule as to whether you answer it or not.

24. Sometimes you will be asked if you have spoken to anyone about the case, the police or the prosecutor interviewing you counts. It is natural to have talked to them, or a family member, or a friend about the case. If you have done so, as always be honest and state so.

25. Lastly, after you have testified, do not discuss your testimony with any other witness.

**\* If you have any questions before the trial, please contact the Victim-Witness Assistance Program at 540-507-7733.**

*Protecting the community takes a team effort. With the efforts of the Commonwealth's Attorney's Office, law enforcement, the Victim-Witness Assistance Program and you, we can continue to work together to protect this community.*

*Hon. Travis D. Bird  
Commonwealth's Attorney*



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## *Being a Witness and Preparing to Testify*



*What to expect when  
you come to Court as a  
witness.*

## 25 Reminders when Testifying

1. You will be asked to take an oath to tell the truth. Do so. Every true fact should be readily admitted. Do not stop to figure if your statement will help or hurt either side. Just answer the questions truthfully to the best of your recollection. If you do not remember or do not know; state so, as that is the truth. Do not guess at answers. **TELL THE TRUTH.**
2. Before testifying, try to picture the scene, objects there, the distances, and exactly what happened so you can recall the facts more accurately when asked. If the question is about distance or time, and if your answer is an estimate, remember to state that it is only an estimate. Beware of suggestions by attorneys regarding distance or time when you cannot remember. Do not agree with their estimate unless you truly agree with it.
3. Speak in your own words. Do not memorize your testimony. Speak naturally.
4. Dress appropriately for Court. The jury should concentrate on your testimony, not your clothing.
5. Speak clearly when on the stand. Speak slowly enough for everyone to understand you and loud enough so that everyone can hear you.
6. Jurors may be in the same public spaces as you. Do not discuss your testimony with anyone as that could cause a mistrial.
7. When called into Court, keep in mind the seriousness of the occasion and act accordingly.

8. Try not to use pronouns such as he/she/they. Refer to people by their correct names.
9. Do not exaggerate. Do not make overbroad statements that you may have to correct. Be careful in responding to questions. The explanation should be in your own words, not the attorney's.
10. When a witness gives testimony, (s)he is first asked a question by the lawyer calling them to the stand. In your case, it will be an employee of the Commonwealth's Attorney's Office (the prosecutor). This is called "Direct Examination." The witness is then questioned by the opposing attorney (defense counsel) in "Cross Examination." Sometimes this process is repeated several times to clear up any confusion. The basic purpose of the 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 defense counsel's job. **DO NOT LOSE YOUR TEMPER.**
11. A witness who is angry may exaggerate or appear to be less objective, or emotionally unstable. So that is why you always should keep your temper. Always be courteous, even if the attorney questioning you is discourteous. Be the better person and do not engage in harmful discourse.
12. Although you are answering an attorney's question, remember that your answers are for the benefit of the Judge or jury. Always speak loudly and clearly so that they can hear you.

13. **DO NOT** nod your head for a "yes" or "no" answer. Speak clearly to the court reporter so that they can notate your answer for the record.
14. Listen carefully to the questions that are asked. Have it repeated if necessary, then give a thoughtful and considered answer. While answers should not be rushed, neither should there be an unnaturally long delay to a simple question.
15. Explain your answer if necessary. Give the answer in your own words, and if a question cannot be answered truthfully with a "yes" or "no", explain your answer.
16. Answer **ONLY** the question asked of 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. It is better to correct your own mistake than have the attorney discover your error. If you realize that you have answered incorrectly, say, "May I correct something I said earlier?"
18. The Judge and jury are interested in what you personally know or observed. Don't give opinions or make conclusions. Do not tell what someone else said unless you are specifically asked.
19. Unless certain, do not say "that is all" or "nothing else happened." State "that is all I remember or recall right now." It may be after more thought or another question, that you remember something else.