

Courtroom Testimony

Preparing to testify in Court
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Courtroom Testimony - Juvenile Cases

- Juvenile Hearings
- Preliminary Hearings
- Grand Jury
- Motion Hearings
- Bond Hearings
- Jury Trials
- Criminal cases when your victim is a juvenile

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Status Offense Hearings

- Only applies to juveniles
- Five Status offenses in Missouri
- Truancy, incorrigible child, runaway child, behaviors injurious to self or others and any offense that is only applicable to juveniles

Delinquency Hearings

- Any offense that if committed by adult would be a crime
- Traffic offenses for 15 ½ are still handled by adult court proceedings
- Basic Constitutional protections still apply

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Certification Hearing

- When a juvenile is being considered to be certified to adult court
- Certain crimes require certification hearing
- Juvenile office will prepare a full report and recommendation

Juvenile victims

- Can have juvenile victims in almost all types of hearings
- Many times law enforcement is the main witness when building a case in court
- Help familiarize juvenile with the process

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Preliminary Hearing

- Focused on Probable Cause
- Varies from Judge to Judge
- May allow hearsay
- Wait if objections to hear ruling
- Typically evidence not needed

Grand Jury

- Similar to Preliminary Hearing
- Focused on Probable Cause
- Typically very informal
- Jurors can ask questions
- Sometimes show evidence

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Motion to Suppress

- Focused on searches
- Both warrant & warrantless
- Focused on probable cause
- Four corners of the affidavit
- Articulating specific facts VERY important – review your report

491 Hearing

- Focused on child testimony
- Only testify if you took the hearsay statements of a child victim
- Only concerned about those statements
- Best practice is to get forensic interviewer immediately involved

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- PRETRIAL MOTIONS – Can have a significant impact on testimony
- Motion in Limine
- Rape/Shield Motions
- Exclusionary Rule Motions
- Even if you talk with attorney about pre-trial motions, be prepared to stop for objections and make sure you understand the Judge's ruling
- If attorney's have a conference with the Judge, you may not be able to hear the conversation so make sure to ask if you need

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JURY TRIAL

- Most important type of testimony you can give
- Once the jury panel is sworn, double jeopardy attaches so important to know your case, the pre-trial rulings and strategy of the attorney
- Review reports, pictures, physical evidence, video and audio
- Check to see if Defendant has new warrants or charges – could make the difference between a trial and plea
- You are the Prosecutor's eyes and ears so make sure they know what you KNOW!

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Criminal cases with juvenile victims or witnesses

- Working with juvenile victims can be challenging
- Especially if suspect a parent, close family or close friend
- If you have someone trained in working with children, get them involved early in the case
- Utilize your video to get early statements of all witnesses – good tool to review for all types of testimony
- Audio can be just as beneficial for documentation and review

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- BE PREPARED!
- READ REPORT BEFORE COURT
- REVIEW ANY EVIDENCE
- WATCH VIDEO
- Tips for talking with Prosecutor – do you know the theory of the case?

Courtroom testimony

- TALKING TO THE ATTORNEY
- If it's a criminal case, it talking with the Prosecutor before trial is important but DON'T expect the Prosecutor to be ready to discuss testimony details weeks in advance
- Ask the Attorney or Prosecutor's theory of the case – your input here can be vital and insightful for preparation
- Ask if there has been any ruling by the Court to keep certain evidence out of the hearing... you may have to adapt what you can say
- What evidence will I need to be prepared to discuss and how will it get into evidence

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- Try to only look at your report if necessary
- Look at the attorney asking you questions
- ANSWER to the Judge or Jury – this builds credibility with your audience if you make eye contact when you answer
- Do be afraid to answer the question that is asked... you will almost always have a way to explain
- Being direct is another way to build credibility

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- TALKING TO THE ATTORNEY
- Is there any evidenced that contradicts my reports or evidence?
- Is there anything specific about the Judge for this hearing?
- Is there anything about the defense attorney I should know?
- Think of how to tell your facts like a story – keeping the Judge or Jury's attention can be a challenge
- Always stick to the truth and the facts not what the attorney wants you to say

Courtroom Testimony

- TIPS FOR SUCCESS
- Try to set your own pace and don't let an attorney speed you up or slow you down... setting the pace shifts the control
- Try to be mindful of your tone and volume
- If you feel you are going to loose your temper, take a moment to calm down. This would be a good opportunity to request to review your report or just calmly think
- It's opposing counsels job to poke holes in your testimony so the better you do, the harder counsel will be on you so try not to take it personally or get offended

Courtroom Testimony – Examples

- "Mr. Smith's head hit the cement when you tackled him to the ground, didn't it?"
- Assuming all that is true, you may be tempted to answer: "I tackled Mr. Smith because he tried to punch me!"
- However, the better answer is: "Yes, it did." This answer does several things.
- First, it illustrates your commitment to truth. Second, it shows the Court you are taking responsibility for your actions and not attempting to rationalize. If you are defensive about the question, the Court will assume you did something wrong. Third, the first answer example, "I tackled Mr. Smith because he tried to punch me!" could buy you many more unpleasant questions on that topic. Counsel will likely move to the next topic if you simply agree to a true statement. But arguing and rationalizing provides more fodder to make you look bad.

Courtroom Testimony - Examples

- "Officer, are you testifying, under oath, that smashing and bloodying my client's head on cement, causing a gash which required 40 stitches and still causes him to suffer from frequent migraines and ringing ears, was a rational response to a mere attempted punch, even though he was unarmed, you are bigger than he is, and other officers were close by to assist you?"
- You have no good answer to this question. Certainly, these combative questions could be asked regardless of your answer, but they will appear far less justified, and you will have the advantage, if you did not start the fight.

Courtroom Testimony - Examples

- Q: "Mr. Smith's head hit the cement when you tackled him to the ground, didn't it?" (leading question)
- A: "That is not correct."
- Q: "Are you saying his head did not hit the ground?"
- A: "No, ma'am, I am not saying that."
- Q: "Then what are you saying?" (open-ended question)
- A: "When the defendant broke free from Officer Peterson and took off running south on Main Street, I chased him, just a few feet behind, yelling Stop! Police! The defendant did not stop, but kept running until he hit a pedestrian on the sidewalk and they both fell to the ground. It was this fall that caused the defendant's head to hit the ground."

Courtroom Testimony - Examples

- Q: "Officer, you are acquainted with the location of Oscar's Liquor Store, aren't you?"
- A: "I am, because that store has been located in my regular patrol area for the past 10 years."
- Q: "Would you agree that Oscar's is located about ½ mile from Copland Park?"
- A: "No, I actually measured the distance as part of my robbery investigation. The exact distance is .68 miles."
- Q: "And the robbery occurred at Oscar's at about 1:30 a.m., correct?"
- A: "According to the security camera logs, the robbery began at 1:26 a.m. and ended at 1:34 a.m. when the defendant fled from the store."¹¹
- Q: "But you didn't see my client, Mr. Johnson, at Copland Park until 2:15, correct?"
- A: "I can't say the exact time I saw him first, because I saw several people at the park and it took me at least 5 minutes to positively identify him from the description I was given by the liquor store manager."

Courtroom Testimony - Examples

- Q: "If a person walks average speed, wouldn't he arrive at the park at about 1:40 a.m.?"
- A: "I can't really say, because that would depend on several factors. People walk at different rates of speed, and there are a few different routes he could have taken."
- Q: "And 1:40 a.m. is 50 minutes earlier than when you saw Mr. Johnson at the park, would you agree?" A: "I would say it is approximately that, yes."
- Q: "Would you also agree with me that you don't know where Mr. Johnson was for at least 50 minutes before you went to the park?" A: "I agree that I do not know where the defendant was between the time he robbed the store and when I saw him at the park, but I can't agree that the time was 'at least 50 minutes.'"

Courtroom Testimony

- MISTAKES HAPPEN!
- If you realize you have made a mistake correct
- Don't shy away from saying you made a mistake and that you want to correct it or corrected it
- Don't get too caught up in explaining why you made the mistake
- Most Courts understand that mistakes happen... your reaction may be more important than the mistake

THANK YOU!

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