

# FROM THE PROSECUTOR'S DESK

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## TESTIFYING IN COURT

Prosecutors depend a great deal on police officer testimony when a case goes to trial. In fact, it is a key element to successfully prosecuting a criminal case. Most often, officers do a fantastic job of properly conveying the facts and circumstances which lead to the Defendant's arrest and the subsequent prosecution.

However, there are times when an officer's testimony is not as clean and concise as they would like it to appear to the jury. Whether the officer is brand new to the force, is a little rusty because they have not testified in some time, or if they are just generally nervous in court, the following are some tips to help when preparing to testify in court.

1. **Good investigation** — This is the foundation of your testimony in court.
2. **Write a detailed report** — Be certain to include any statements from the suspect or witnesses.
3. **Prepare with the prosecutor** — Know what kind of hearing you are preparing for. Is it a suppression hearing or a trial?
4. **Proper demeanor on the witness stand, at the trial table, and in the courthouse** — The jurors are always watching you. Sit up straight and do not fidget. Always keep your personal opinions at bay. Jurors love to listen in on your hallway conversations.
5. **Prepare to testify by reading your report** — Oftentimes, you will be questioned by the State or Defense about specifics from your report. Reading it before taking the stand will eliminate any embarrassing oversights.
6. **Answer the question that is asked of you** — If you do not understand what is being asked, let the attorney know. Do not try to give an answer that you think will help. Just tell the truth.
7. **Speak in "plain English"; try not to use occupational lingo** — Juries do not know what a "geeker" or a "43" is. If you use a term like that, try to define it for the jury.
8. **Look for open doors in the questions** — Occasionally, an attorney will throw you a "softball." This is an opportunity to insert your qualifications and experience to better explain your answer.

9. **Take responsibility for what you did and did not do** — If something was missed in an investigation, you have already discussed it with the prosecutor by the time you testify. Do not try to downplay what happened. Just answer the question and move on.

10. **Be confident, but not defensive** — Defense attorneys love to paint police officers as the bad guys. Do not give them the opportunity to do so in your case. Be polite and cordial. Answer their questions, but do not let them bait you into an argument.

This is just my top ten tips compiled from personal experience and that of my assistant prosecutors. Be sure to watch other officers testify when you have the chance and always make sure to ask questions of the prosecutor with whom you are working. We are here to help you in any way we can; that includes helping you with whatever concerns you may have about testifying.

### Are They Crazy?

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Weisbarth. So if you thought she was crazy, why did you promote her? The employer never could adequately explain this. Instead, they changed the dates. The anonymous "chronology" given to doctor number 3 showed the promotion occurring two weeks prior rather than two weeks after the warning shot incident. Actual time cards from the relevant period showed this "chronology" to be a fraud.

The arbitrator endured three full days of testimony and took in hundreds of pages of exhibits. In the end he saw the employer's case for the fraud that it was and ordered Weisbarth's reinstatement with back pay.

What lesson can be learned from this? This case certainly illustrates the extraordinary lengths some employers will go to in order to terminate someone. It also demonstrates how susceptible mental health professionals are to manipulation and bias. Indeed, the whole "fit-for-duty" evaluation process is fraught with peril for the officer. After all, even in cases where the doctor has not been purposely tainted, isn't it logical for the doctor to assume there must be a problem, otherwise the employer would not spend the money for the evaluation?