

Testifying in a Criminal Trial

In addition to the 500 felonies, the DA's office also files about 800 misdemeanors each year.

There is no Grand Jury for misdemeanors, so the subpoena you receive either for a hearing or a trial will contain the defendant's name. It will also have the name of the Deputy DA who is responsible for that case. Questions should be directed to that Deputy D.A., who may then refer you to their Trial Assistant or to the Victims Assistance Unit.

Many people do not want to be a witness, but a subpoena is a court order and your help is needed to fairly resolve a case. Most cases resolve before trial, and it is more likely that a case will resolve when the trial lawyers, both the district attorney and the defense attorney, know that you as a witness are available.

Trials are frequently postponed for many reasons, mostly outside the DA's office control. Therefore, you may receive more than one subpoena. A subpoena is a court order and, unless you are excused by the issuing lawyer or a judge, you could be held in contempt if you willfully refuse to attend after receiving a subpoena. Sometimes personal emergencies arise.

If you believe you cannot attend, call the DA's office as soon as possible after you receive your subpoena or the issue arises.

The District Attorney's office cannot reimburse you for lost wages or gasoline costs. The state legislature sets witness fees, which are far too low.

Dress comfortably for court, keeping in mind that you'll be in front of a judge and 6 or 12 jurors who will weigh your testimony.

Usually, if the district attorney has called you to testify, the district attorney will ask questions first (direct examination), then the defense attorney (cross examination), and then back for re-direct examination from the district attorney.

It is very important that you testify absolutely truthfully. Don't speculate or guess about what you think the lawyer asking you might want to hear.

Make sure the jury can hear you speak, and note that some of our courtrooms are hard to hear in.

Answer only what you are asked. Don't volunteer information not asked of you. Some answers, such as talking about a defendant's prior criminal record, might cause a mistrial.

After you testify, you may leave the courtroom or you may remain and watch.

If you are the victim in the case, you can remain in the courtroom at all times and watch the trial proceedings. The exception is if the judge has ordered "witnesses excluded," when you may have to wait outside the courtroom for a brief period.

If you want to know how the trial turns out, let the DA's staff know and someone will call you.