

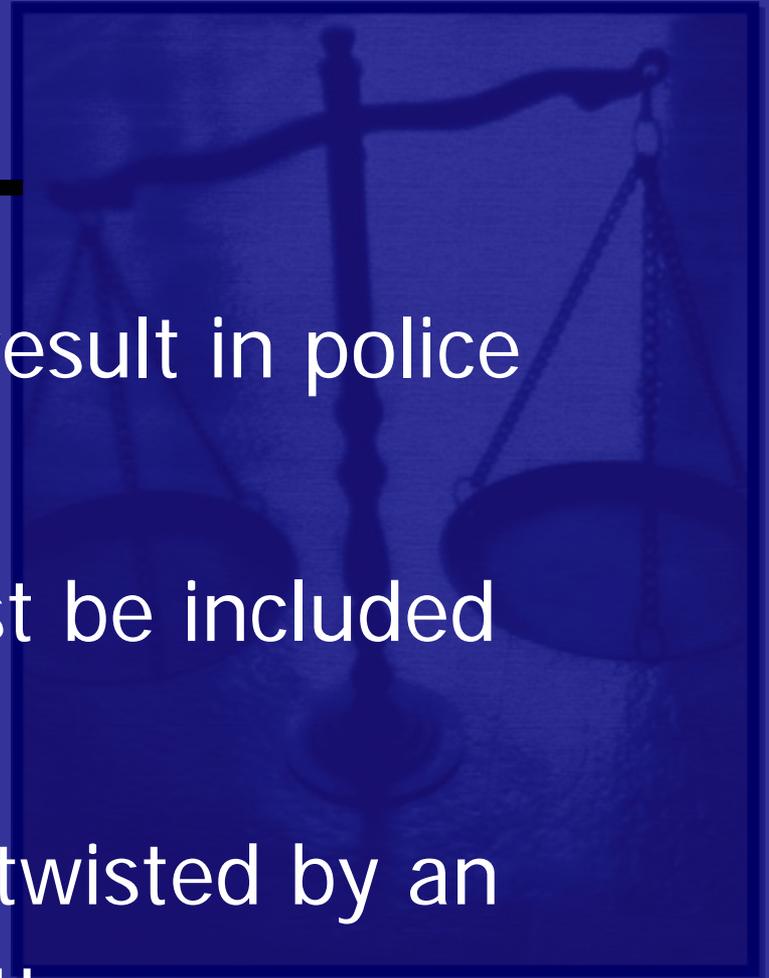


DIRECT EXAMINATION

Prosecuting Attorneys Association
of Michigan

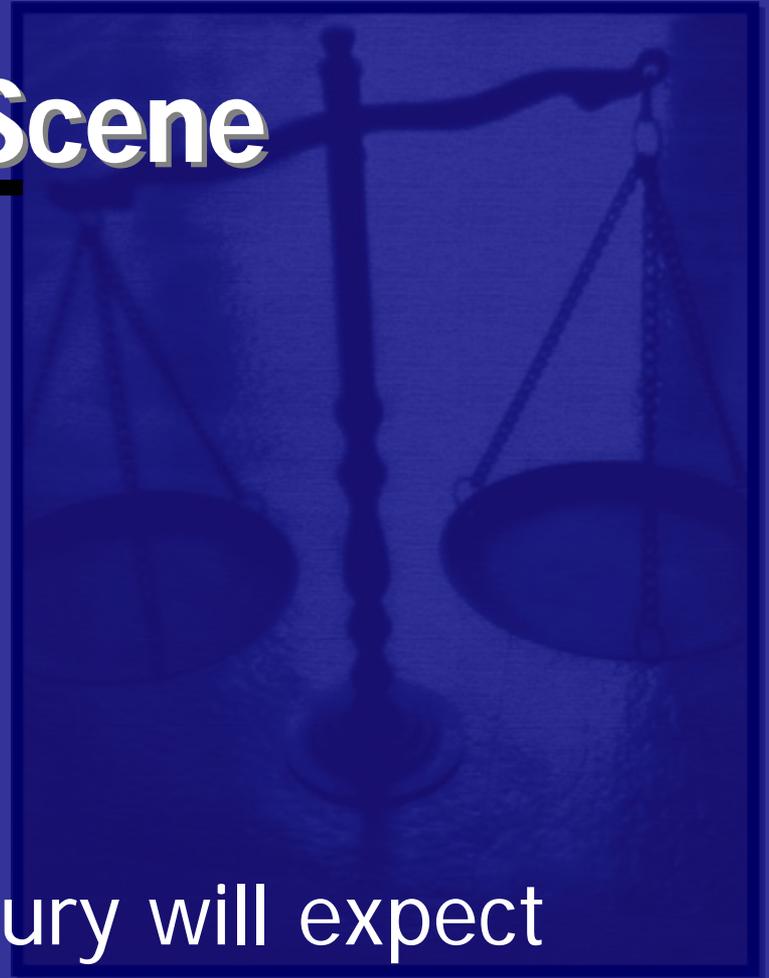
Fact *NOT* Fiction

- Investigations always result in police reports
- Facts not opinions must be included within the report
- Opinions can often be twisted by an experienced defense attorney
- Facts will make or break a case



Your Actions at the Scene

- Be thorough
- Be fair
- Be professional
- Be alert
- Be aware of what the jury will expect



Search for Evidence

- Photographs (always better to have too many than not enough)
- Video
- Tape record or video tape witness statements
- "Negative" Evidence



Protect a Suspects Rights

- Jurors will expect a Defendant/Suspect to be Treated Fairly.
- If it is Perceived by the Jury that the Suspect was Mistreated, then the Officers Credibility will become suspect.
- Use only the Necessary Force Required.

Police Reports

- Be Complete
- Simply Gather the Facts
(Don't be Judge/Jury)
- Don't Inject Personal Opinion
- Consider Need for Supplemental Reports
 - Forward Supps. to APA if Prepared ASAP
 - Scene Sketch, Key Measurements, Follow Up Interviews, Lab Reports etc.



Supplemental Reports

- Follow up of investigation
- Contact agencies MSP or Sheriff's Dept. Crime Lab, etc. and make sure they are proceeding with examinations
- Make note and preserve 911 tapes
- Obtain supplemental reports and *immediately* forward a copy

Consequences of Failure to Provide Reports to Defense

- Excuse that Prosecutor never got the report from the police, IT DOESN'T MATTER
- Valuable evidence *will* be suppressed

Do's and Don'ts

DO

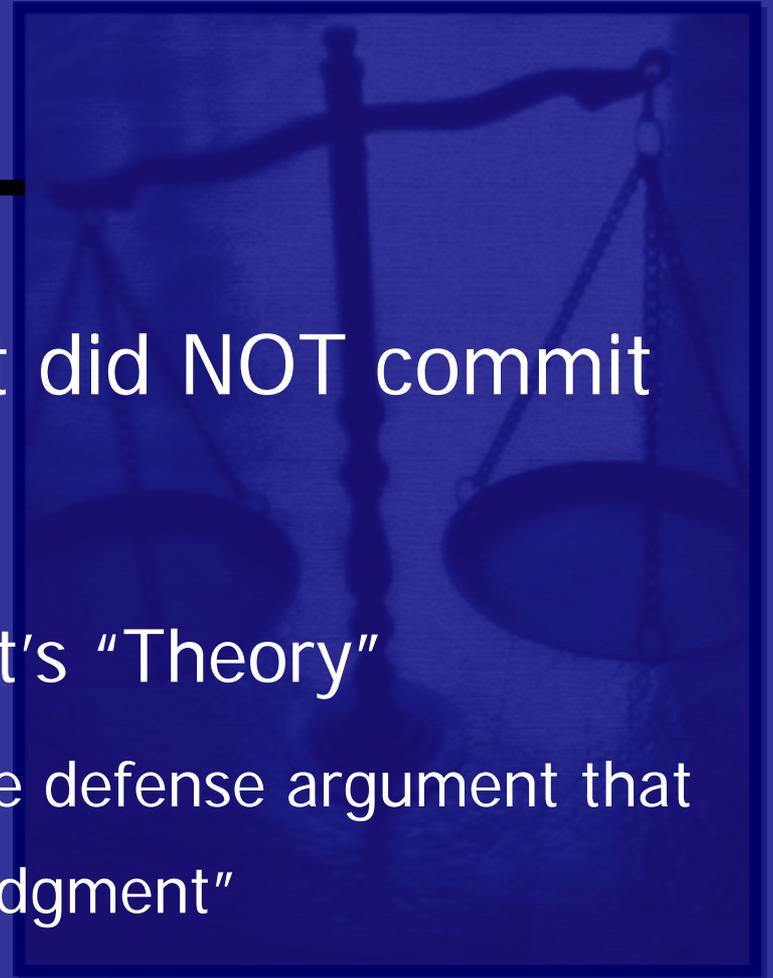
- Be factual
- Be accurate
- Be careful
- Document demeanor and injuries upon arrival
- Document all of Defendant's statements

DON'T

- Don't give an opinion unless you're an expert
- Don't overstate the facts
- Don't have a biased report
- Don't appear heavy handed

Defendant's Story

- Try to prove defendant did NOT commit crime
 - Follow Up on Defendant's "Theory"
 - This will defeat inevitable defense argument that the police "Rushed to Judgment"
 - Inconsistencies should reveal more evidence of Defendant's guilt



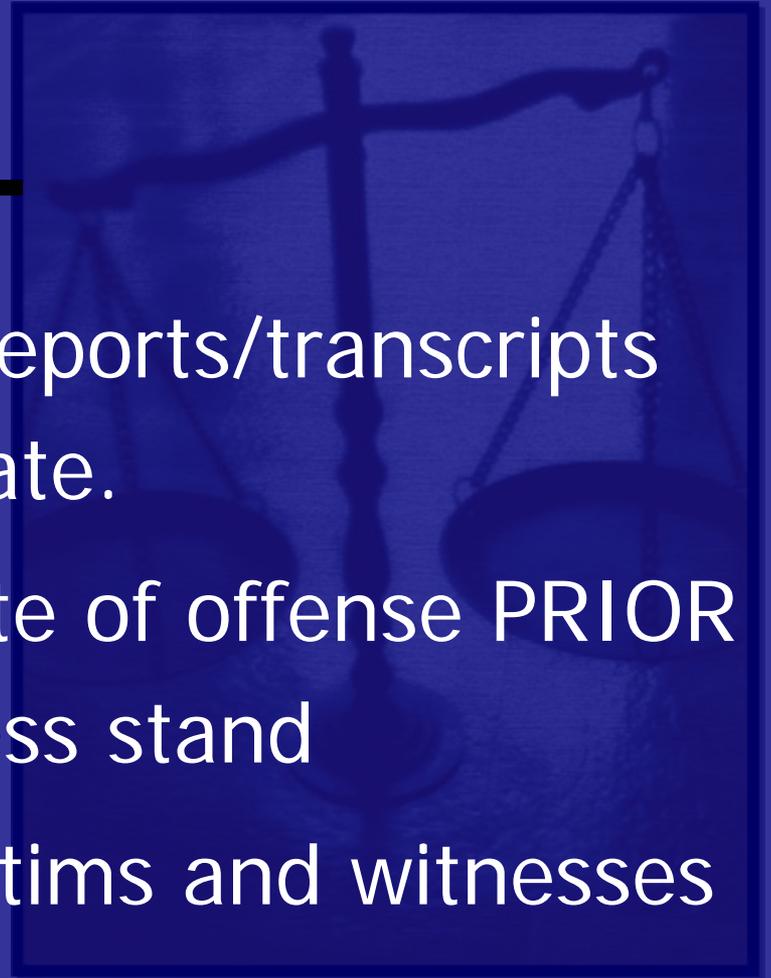
Defendant's Story

- Try to prove defendant did NOT commit crime
 - Check out all of Defendant's alibi witnesses
 - Obtain written statements from all alibi witnesses



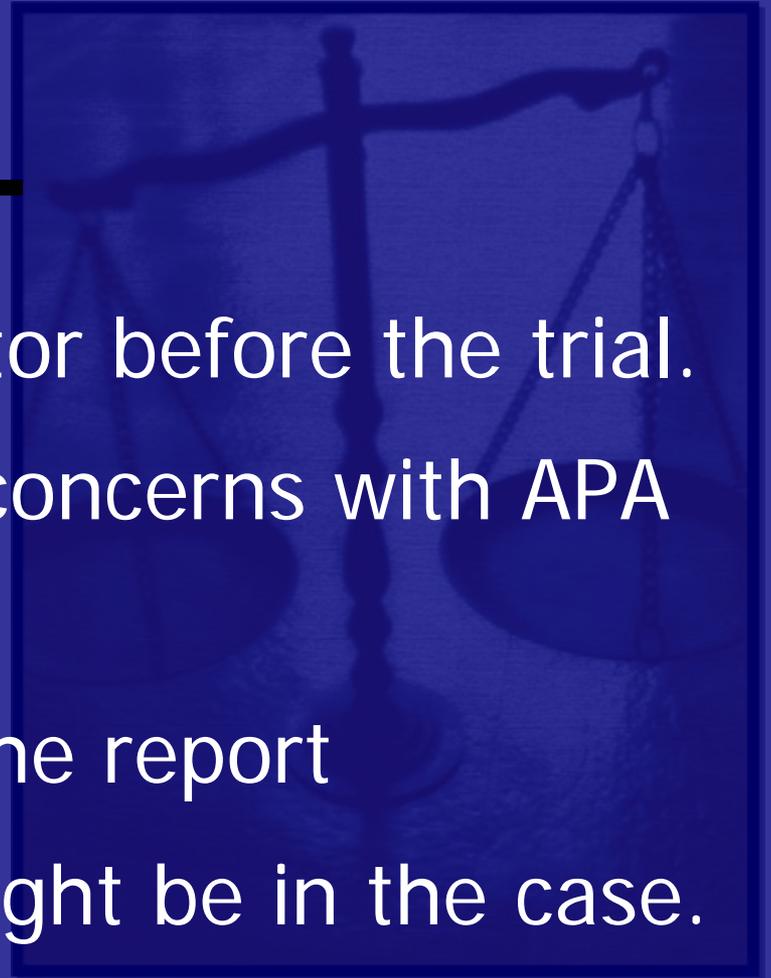
Preparing to Testify

- Obtain and review all reports/transcripts PRIOR to trial/exam Date.
- Know the facts and date of offense PRIOR to getting on the witness stand
- Know the names of victims and witnesses and refer to them by name



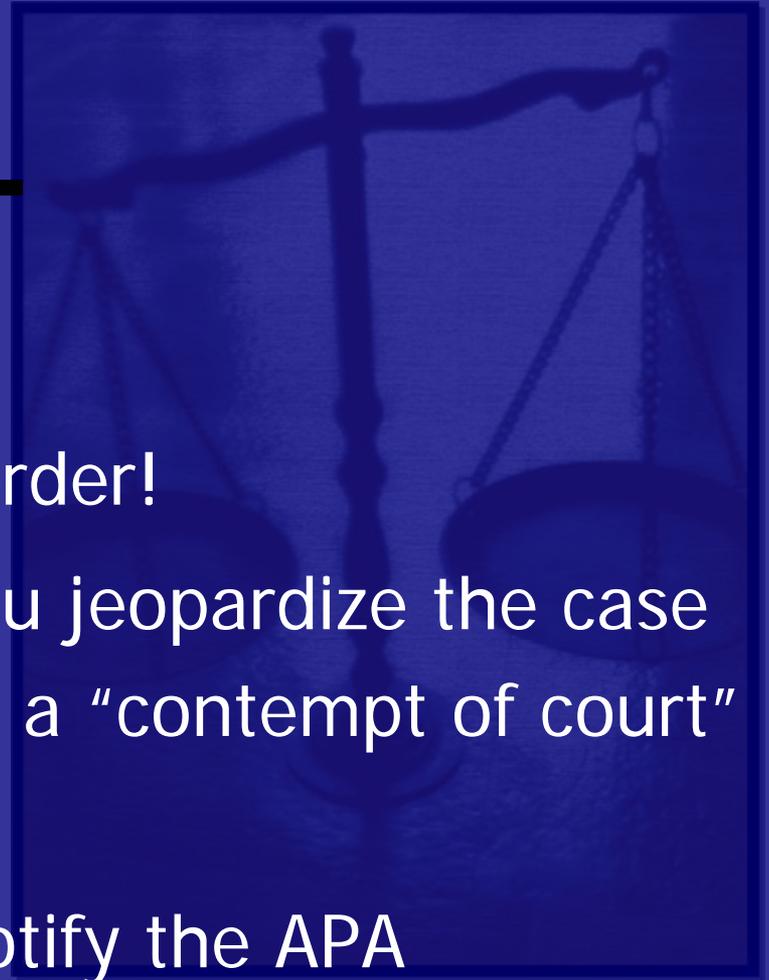
Preparing to Testify

- Meet with the prosecutor before the trial.
- Address All questions/concerns with APA in advance.
- Discuss what's not in the report
- Ask what the issues might be in the case.



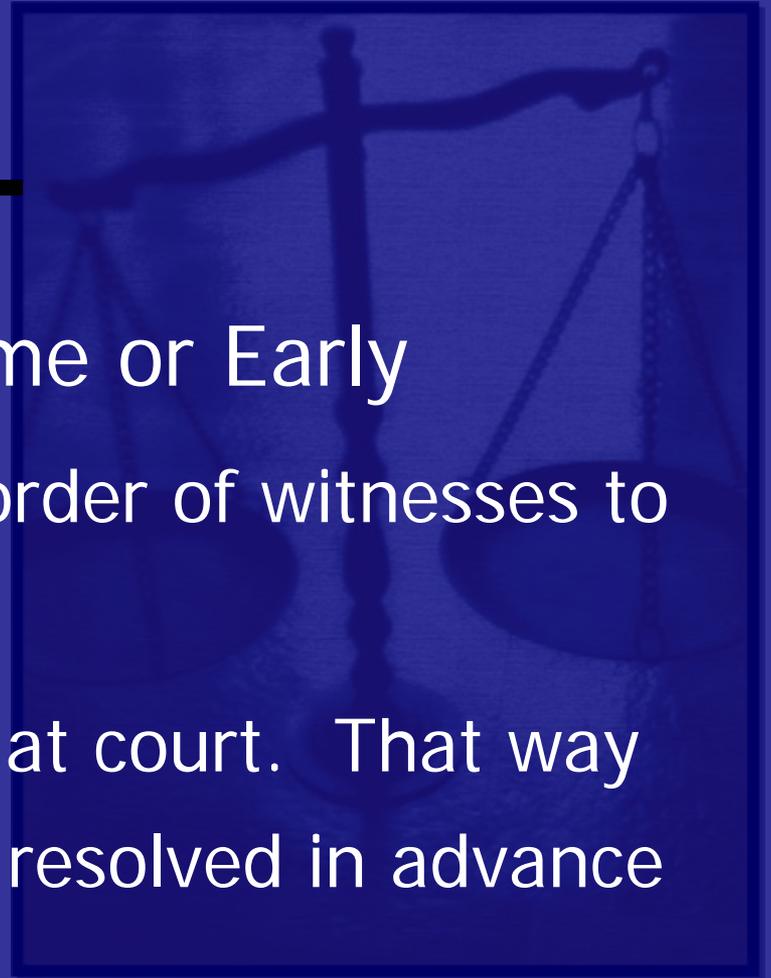
Appearing At Court

- “Honor Thy Subpoena”
 - A subpoena is a court order!
 - If you fail to appear, you jeopardize the case and subject yourself to a “contempt of court” finding
 - If there are conflicts, notify the APA immediately



Appearing At Court

- Appear At Court On Time or Early
 - APA will inform you of order of witnesses to reduce wait time
 - Prepare before arriving at court. That way issues/concerns can be resolved in advance



Demeanor As A Witness

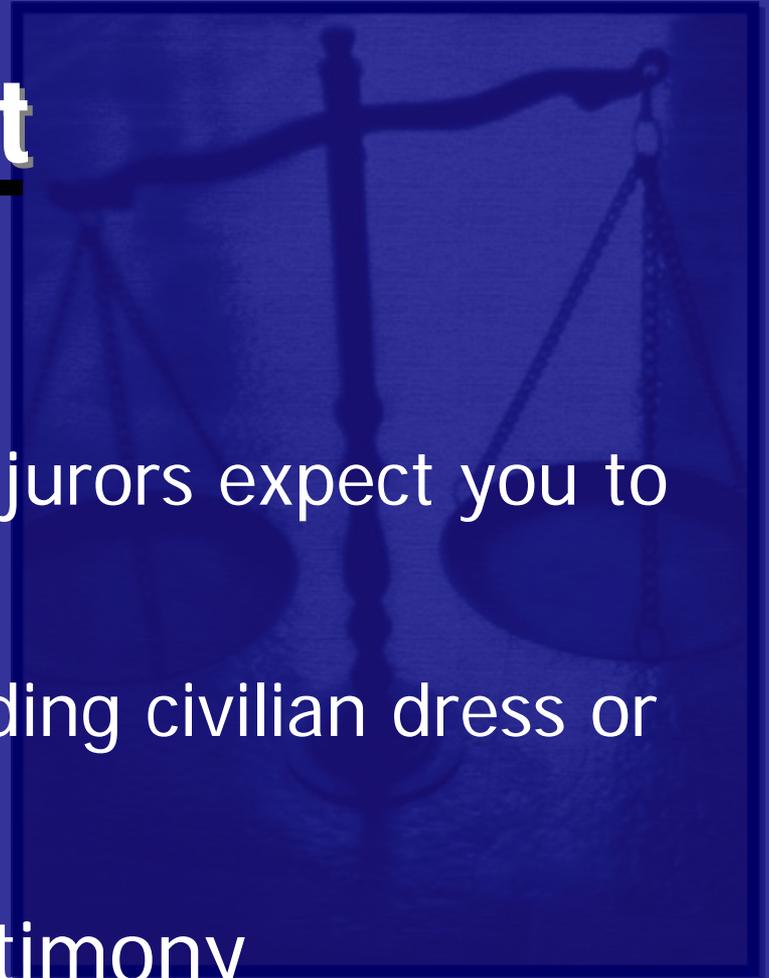
- Jury's perception is critical (if they don't like you, they probably won't believe you).
- Treat the prosecutor and the defense attorney the same while on the stand.
- Remember you are "on trial" the moment you leave your home!

Demeanor As A Witness

- Police officers are held to a higher standard
 - If civilian caught lying, jurors may still believe “other” parts of the testimony
 - If jury “perceives” officer is lying about anything, all testimony from that officer will be disregarded

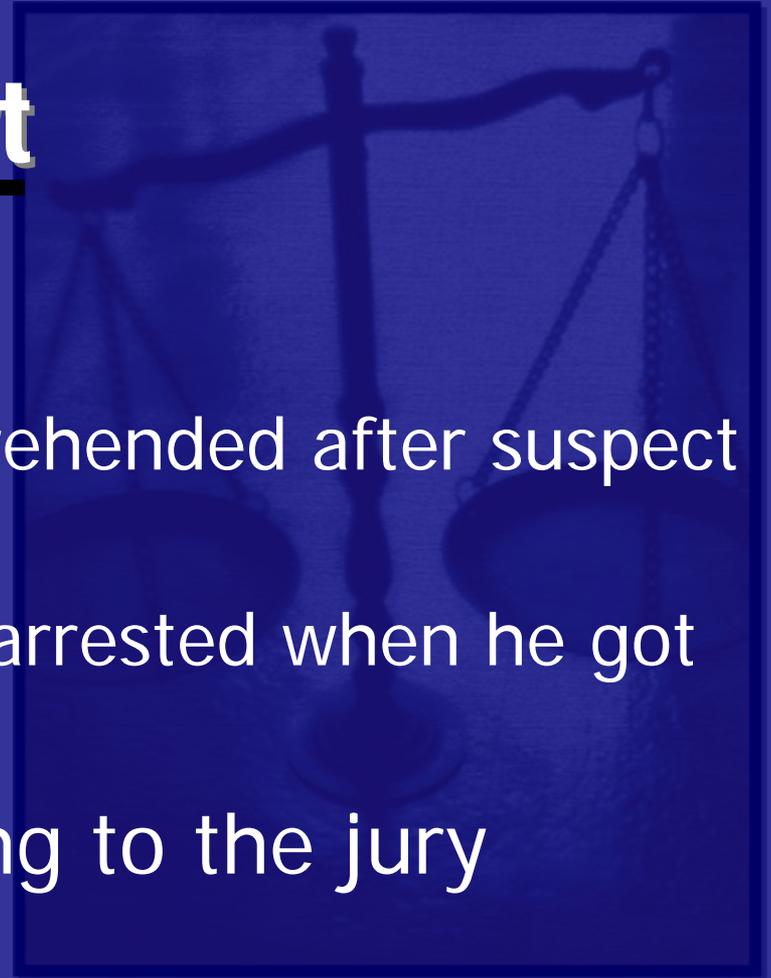
Appearance In Court

- Dress appropriately
 - You are a Professional, jurors expect you to dress like one
 - Consult with APA regarding civilian dress or uniform
- Be confident about testimony



Appearance In Court

- Use "Plain English"
 - **NO** - "suspect was apprehended after suspect exited the vehicle"
 - **YES** - "defendant was arrested when he got out of the car"
- Never be condescending to the jury



Paint a Picture

- People think in images.
- Use descriptive words to describe what you saw.
 - Include your senses in the description
- If they can see it in their mind, they are more apt to believe you.



Direct/Cross Examination

DO

- Be concise (don't volunteer info)
- Be respectful (treat D's atty. the same as APA)

DON'T

- Don't fudge facts
- Don't guess
- Don't favor one side (you are an independent witness)

Direct/Cross Examination

DO

- Listen to questions and think before answering
- Look at jury when testifying

DON'T

- Don't attempt any favors for the prosecution
- Don't argue w/ lawyers
- Don't get "rude" during Cross Examination

*EFFECTIVE
TESTIMONY
WILL RESULT IN
EFFICIENT
JUSTICE*



The End!

