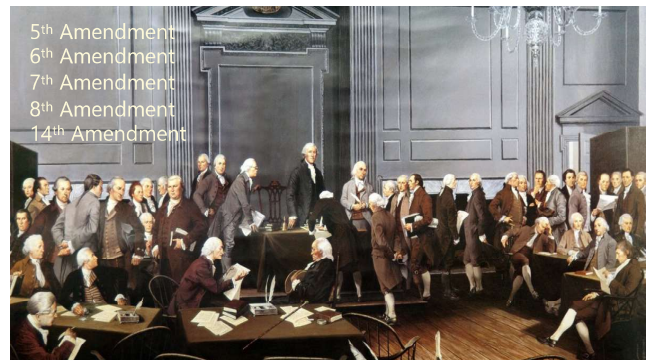
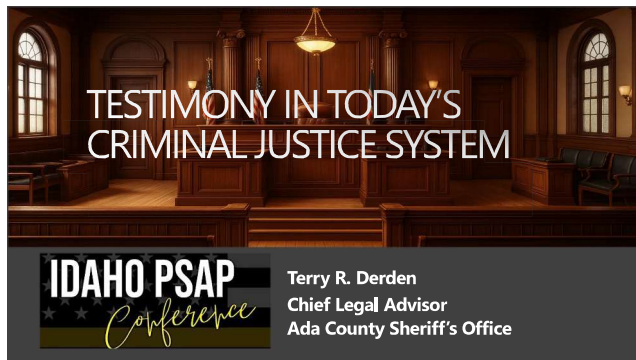




CASE TYPES Criminal v. Civil	Purpose
	Party Starting the Case
	Burden of Proof
	Penalties
	Legal Representation

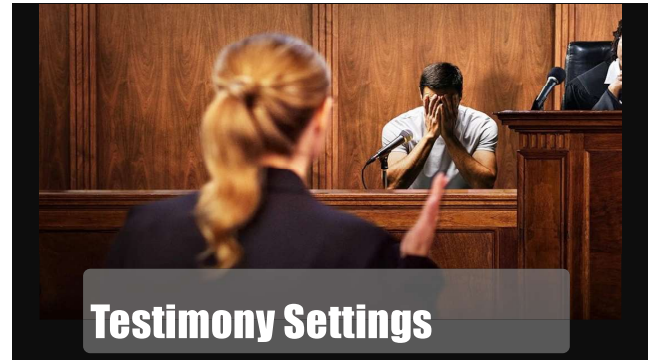
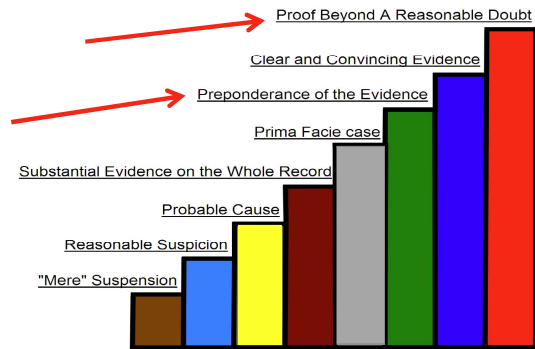
CRIMINAL CASES

- Initiated by the government (prosecutor) against an accused criminal
- Prove criminal behavior, such as murder, kidnapping, assault, drug offenses, theft, or fraud
- Determines guilt or innocence of accused
- Guilt impose penalties such as fines, imprisonment, or probation



CIVIL CASES

- Lawsuits brought by individuals or entities to resolve disputes.
- The party to initiate is called the plaintiff. Plaintiff alleges a harm by the defendant (aka "respondent") and seeks a remedy.
- Contracts, property dispute, personal injury, family matters (e.g., divorce or child custody), and torts (e.g., negligence or defamation).
- The primary goal of a civil case is to obtain a remedy or compensation usually in monetary damages or an injunction.



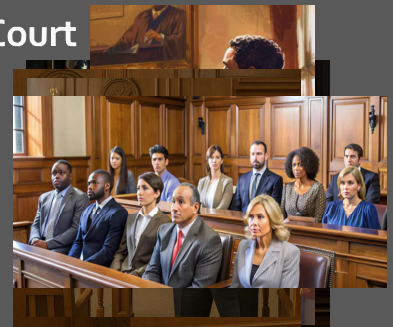
Affidavit Or Deposition

- Written or recorded statements made outside of the courtroom, typically before a court reporter.
- Affidavits are sworn statements, while depositions involve witnesses being questioned under oath by attorneys.
- Both can be used as evidence in court proceedings.

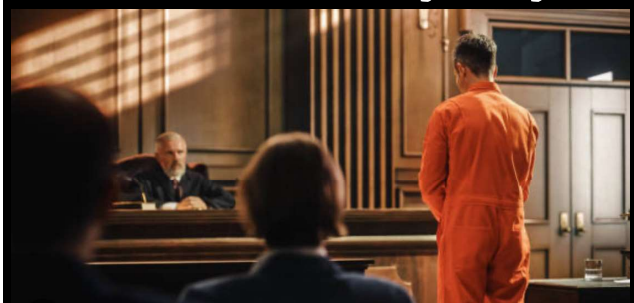


Members of Court

- The Judge
- The Lawyers
- The Court Clerk
- The Bailiff
- The Jury



Probation/Parole or Sentencing Hearings



Why do you need to testify in person in court?

- The Sixth Amendment
 - The Confrontation Clause
- Laying Foundation
- Deal with Hearsay Rules



Hearsay

Hearsay is a statement that:

- (1) is made outside of court or deposition...
- (2) And is being offered in evidence to prove the truth of the matter asserted in the statement.

Hearsay is generally inadmissible because the person who made the original statement cannot be cross-examined.

Tommy testifies, "John told me he saw the defendant shoot Gary," and this is offered to prove the defendant shot Gary then it is hearsay because John's statement to Tommy is now being offered by Tommy for its truth.

But John is not testifying... Tommy is. So if John cannot be cross-examined then Tommy's testimony is not normally allowed.

However, if it's offered to show only that the witness heard something or to explain the witness's later actions, it might be **non-hearsay**.

OR... If it is a statement that is so powerful, its truthfulness is inherently reliable it may be hearsay, but it is still allowed!

"My husband came home drunk and thinks there was another man in my house and lost his mind and stabbed me, and now I am locked in my bath room and I am bleeding. I may be dying. Send help."

911, WHAT'S YOUR EMERGENCY?

TESTIMONY

You are a Professional Witness.

Excellent performance of this function is as essential to your ability to answer the phone and work the radio.

Part of your job as a professional witness is to ensure that the facts you present tell the complete story and that your delivery of these facts is clear, credible, and convincing to the judge or jury.

You are a credible witness for the State.

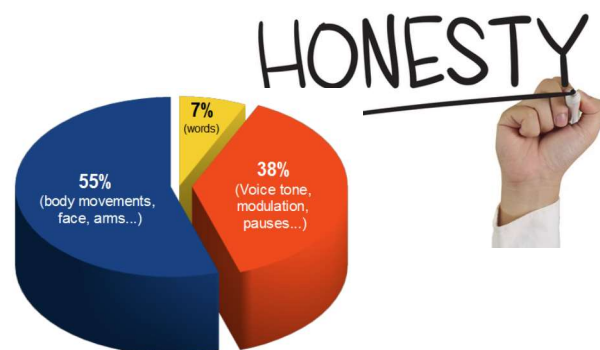
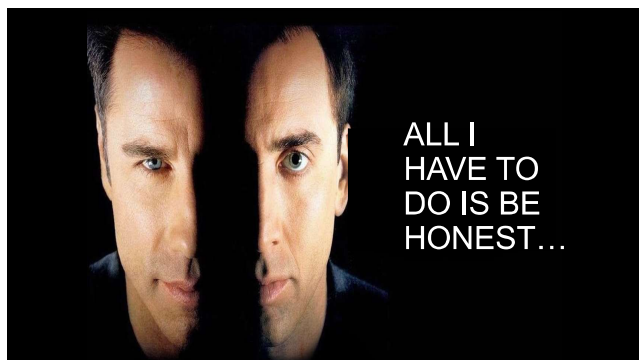
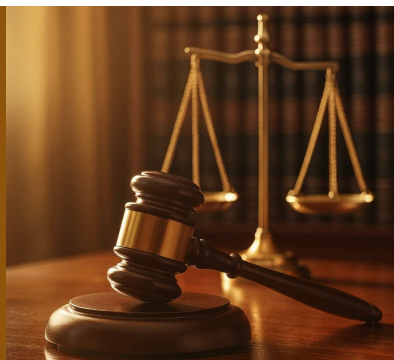
- Your attitude should be one of confidence, but not arrogance.
- To the average juror, you convey an air of authority and respect; use this to your advantage.
- Maintain composure and dignity at all times.
- Your job is to present the facts and evidence and let the legal process do its job.
- As with all aspects of your job, always remember that *you are a professional* and behave accordingly.

DIRECT TESTIMONY



DIRECT TESTIMONY THE BASICS

- Answer truthfully
- Answer out loud – no nodding
- Answer affirmatively
- Don't guess at answers
- Take time to answer appropriately



State v. Munoz, Idaho Court of Appeals, unpublished opinion, March 2009

Officers were hunting for a suspect who was wanted on a felony probation violation and eluding charges. Officers took a photograph to a local trailer park and showed it to a resident who said he believed the suspect lived in the park. Officers waited near the entrance in their unmarked vehicle. A vehicle drove by and officers believed the suspect was the back seat passenger. The suspect was considered dangerous so officers conducted a high-risk stop. Three other officers arrived to assist. The occupants were removed at gunpoint, handcuffed, and frisked. The back seat passenger turned out not to be the wanted suspect but instead the driver's friend, Pfisterer, who was also wanted. At some point during the contact, an officer discovered a chunk of marijuana in the vehicle and the driver admitted it was his. The driver raised several challenges to the constitutionality of the stop, the search, the interrogation, and the seizure of the drugs.

The officer's testimony about how and when he located the marijuana became the deciding factor in the case. Here's the officer's testimony at the prelim during cross-examination:

Q: All right. Well, I want to make sure I am understanding what your theory was. And I think you're telling me now that the only reason you go back to the vehicle to conduct a search is your belief it is a search incident to arrest of Mr. Pfisterer.

A: Absolutely.

Q: All right. So, we're tracking on that. There is no other reason. Correct?

A: At which-the actual physical search of the car, when I found the marijuana? Yes, that's incident to Mr. Pfisterer's arrest.

Q: All right. Now, the marijuana you say you found in the vehicle, I believe, you said was on the floor board?

A: The front seat floor board, yes, sir, on the passenger's side.

Q: Are you telling me it was in a plain view?

A: Oh, absolutely.

Q: And you then-did you look in through the window, or did you open the door as though you were going to climb in?

A: Oh, I opened the door and began searching. I looked above the visor, looked on the dashboard. At some point, I looked on the passenger floor and then found the marijuana.

Here's the officer's testimony at the suppression hearing on direct examination:

Q: Okay. So in the time between talking to Mr. Pfisterer-well, excuse me, the time that the occupants were pulled out of the vehicle and the time that Mr. Pfisterer (sic) was arrested on the warrant, you went back to the vehicle just to make sure everybody was out of the vehicle?

A: Correct.

Q: Did you notice anything inside the vehicle of evidentiary value at that time?

A: Yes, I did.

Q: What did you notice?

A: Yes, there was a large piece of green dried marijuana that was on the front passenger side floorboard.

Q: Was it in plain view at the time?

A: Oh, absolutely. It was in the middle of the floorboard.

Q: Now, did you have to open the windows or the cars or anything to view that?

A: No, the door-on the passenger's side the door was open and on the driver's side the door was closed.

Q: So you could view that standing from the street where you were?

A: Yes.

Q: Did you-what, if anything, did you do at that time upon seeing the marijuana?

A: Nothing at that time. I believed that we had Mr. Marsh and he was obviously the priority at that time to go back and start speaking with him.

Q: Okay. So you then-you left the marijuana there and went back and spoke with Mr. Pfisterer it turns out?

A: Yes.

Q: And you subsequently arrested Mr. Pfisterer on that warrant?

A: Correct.

DID YOU CATCH IT?

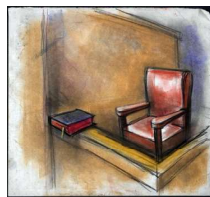
The officer testified at the prelim that he arrested Pfisterer on the warrant then went back to the vehicle to conduct a search incident arrest, opened the door, and discovered the marijuana on the floorboard.

He then later testified at the suppression hearing that *before* speaking to and arresting Pfisterer, he visually checked the vehicle to make sure no one was left inside, and without opening any doors or windows or entering the car, saw the chunk of marijuana from outside the vehicle in plain view through an open door.

The Court of Appeals did not like this discrepancy in testimony and said: "It is impossible to determine whether (the officer) suffered a mere lapse in memory or whether he intentionally sought to validate the discovery of the marijuana on different grounds in the two hearings. In the end...it does not matter, for the inconsistency compels the question whether (the officer) can be believed at all."

The Court concluded that a witness who testifies under oath to two patently inconsistent descriptions of events cannot be deemed credible in either instance. The Court determined that the lack of credibility undermined the officer's entire testimony and suppressed all of the evidence.

ALL ABOUT CREDIBILITY



"No amount of money can buy someone credibility."

"Accuracy builds credibility."

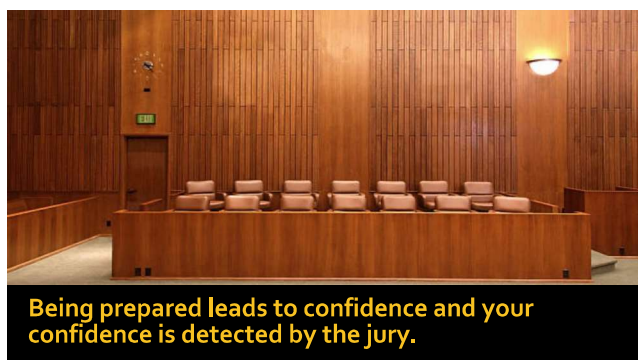
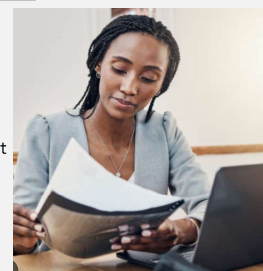
Enhance your credibility...



- *With your knowledge.*
- *With your body language.*
- *With your clothes.*
- *With your mannerisms.*

PREPARE FOR COURT

- Read your report and any affidavits.
- Review audio or video prior to hearing.
- Review training materials if you will be testifying about specialized knowledge.
- Talk to the prosecutor beforehand about what questions will be asked.
- Avoid surprises!



Being prepared leads to confidence and your confidence is detected by the jury.

Behavior that enhances credibility:

- Even temperament through direct and cross exam.
- Do not become angry/defensive even when being badgered.
- Appear at ease.
- Be likeable and polite.
- Maintain eye contact with attorneys and jurors in a conversational/professional tone.

Enhancing Credibility includes:

1. Be accurate with your words.
2. Don't say "I think" or "I suppose."
3. Don't say things you can't back-up.
4. Make sure you honestly remember what you said/did.

Behavior that weakens credibility:

- Defensive/evasive tone
- Appearing nervous
- Indirect eye contact
- Crossing arms defensively
- Quibbling over unimportant details
- Arguing over common terminology
- Sitting stiffly
- Looking to prosecutor during cross

100% OK to admit you don't know, or are not qualified to answer question.

By answering "I don't know" or "that is out of my area of expertise" once in a while shows that you are being honest. Answering this way several times in a long direct exam is not a bad thing.

Doing it too much will make you look incompetent.

Remember that talking to the Prosecutor is 100% OK

OFFICE OF
THE
PROSECUTING
ATTORNEY

Body Language



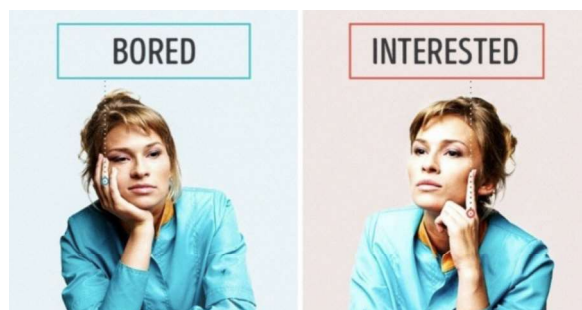
Body language and demeanor are important.

- The minute you walk into the courtroom, you are the focal point.
- How you dress, walk, sit, and act affects the jurors' decision whether to believe you, even before you testify.
- Do not be overly aloof or overly intense.





- Speak confidently and look at the jury when appropriate
- Don't stare at them creepily if you can help it
- Don't do the seat shift move for each answer.
- Take nothing but yourself to the stand.
- Point at the Defendant when you ID him or her.



Body Language Video - <https://youtu.be/EifLJ-svDCo>

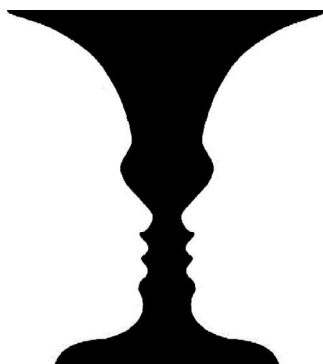
Proper Court Attire

Your policy says...??



Mannerisms

- ❖ Be polite and sincere.
- ❖ Take your time to answer, when needed.
- ❖ Listen carefully to each question before you respond.
- ❖ Speak as clearly and concisely as possible.
- ❖ Answer the question completely, but don't ramble.
- ❖ Don't try to bluff your way out of a tricky question.
- ❖ Above all, be honest.



JUROR PERCEPTION

- Jurors find validity to what you are saying based on your consistency and authenticity.
- Steady pace, audible volume, brief pauses, eye contact, finishing answers all bring them to your credibility.

The First 10 Questions

1. What is your name and please spell your last name?
2. How are you employed?
3. How long have you worked for the Ada County Sheriff?
4. Did you work at any law enforcement agencies before you became an Ada County dispatcher? If so, where?
5. Are you a certified dispatcher?
6. Did you attend the POST Academy?
7. When did you graduate?
8. Do you hold any other certifications besides the your dispatch certificate? If so, what?
9. Do you have any other specialized training?
10. What division do you work for at the Ada County Sheriff?
11. What do you do for the Ada County Sheriff as a dispatcher?



CROSS EXAMINATION



HANDLING DEFENSE ATTORNEYS

- ✓ Be confident and collected
- ✓ Deal with leading and repetitive questions authoritatively
- ✓ Avoid looking at the prosecutor when answering questions
- ✓ Answer only the question asked
- ✓ Don't be afraid to agree

Don't be 2 people...
nice to the prosecutor
and nasty to defense
attorney.



Be respectful to
the defense
attorney.

Don't become
impatient with his
or her questioning.



Can't.

Stop.

Talking.

Don't try to add information.

*The prosecutor is going to
have the opportunity to re-
direct you.*

EFFECTIVE CROSS EXAM STRATEGIES

Make You Look Argumentative...

The attorney will use a leading question you can't disagree with and hope that you do in order to show that you will say anything to support your actions in the case or for this hearing.

Make You Seem Angry...

The attorney wants to characterize you as angry or aggressive or disgruntled and thus unfair.

Do not respond to the attorney's in court soliloquies which are just designed to fire you up. Wait for an objection from the prosecutor.

Make You Look Incompetent...

They find a mistake or omission in your report, including spelling errors to make you admit you made a mistake or don't know your own report.

The only way to beat this is to write a good report and be confident.

Make You Look Biased...

You are biased because of race, gender, sexual orientation, appearance, religion, etc.

Make it clear that suspects actions drives your response and it is his or her choices that matter. You did not decide anything until your fairly considered all the facts.

Make You Look Inexperienced...

Make you seem you are inexperienced so you cannot be be trusted/relied upon.

Usually this is done by getting you to admit that you did not follow your training, policy, or procedure correctly or admitting you didn't know what you were doing in the field or you aren't informed about your testimony now.



Terry R. Derden
Chief Legal Advisor
208-577-8240

tderden@adacounty.id.gov

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