

## **TESTIFYING IN COURT**

**In the past several years there has been an increased need for training of public safety divers on transferring their dive operation information to the legal arena. Public Safety Divers (PSD) appearing in court to testify on how they performed the dive, what they saw and how the evidence was handled can be a critical piece of any criminal investigation. The modern PSD needs to start thinking about this from the minute they appear on scene. Gone are the days when simply getting in the water and doing your job was enough, the courts now want to know how you performed your job and what makes you qualified to do so.**

### **Every dive is an evidence dive**

As every dive operation is potentially an evidentiary dive, each recovery has the potential of being involved with a legal trial or operation requiring proceedings and hearings. As such, every dive team member may be called upon to present testimony and evidence in those hearings. In fact, the dive operation may not be concluded until the evidence is presented in court.

### **Breaking down the court system**

The court system has been a part of civilizations for thousands of years, and their basic function is to settle disputes of a criminal or civil nature and those are broken into three basic categories: Criminal, Civil or Common Law. Over the many years courts have been in existence they have evolved into the sophisticated machine they are today, and they continue to evolve daily.

Some of the challenges of presenting legal testimony include unfamiliarity with the legal system and the “television effect” that complicates the reality of how courts really work. Most people have never had to sit in a court room and give testimony or defend how they performed the functions they carried out. As a PSD you have accepted the fact that when you entered the water you could see nothing, yet with the help of a team and proper training you were able to locate what you were looking for. This is a very hard concept for a court or jury to understand; how could you go into a large body of water with zero visibility and locate that item? In court, it is your job to explain how.

### **Document, Document, Document**

Do you recall the part we mentioned earlier about remembering the minute you show up on scene? Here is where that becomes important. From the minute your boots hit the ground you need – or an appointed person from the team needs – to start documenting what they see such as: weather conditions, items spotted on land at the scene, witnesses present and water conditions, just to name a few. Once the dive starts they need to document how long the

search took, how many divers entered the water, along with many other critical components. Most cases take years to make it to trial. Reports and thoroughness of the team's records are imperative for professional testimony.

### **Getting notice**

Once an individual receives a subpoena or notice to appear in court, the next step is usually a meeting with the prosecutor and reviewing the reports, as well as understanding what to do when you testify and how to prepare for that occasion. Without good reports the testimony may come across as contrived, fabricated or flawed, thus hurting the diver's reputation and credibility. 80% of a person's credibility isn't based on what the person says, it is instead based on how he looks when he says what he says. Appearance, professionalism and attention to detail are musts.