

A subpoena is a court order requiring an individual to appear in court to provide testimony during a court proceeding such as a trial. Subpoenaed witnesses have personal information about a crime that has been committed. Witnesses often think that what they know about an incident may not be important. Small pieces of information, however, can be critical in determining what actually happened and impact the outcome of a case.

Many victims and witnesses are unfamiliar with court procedures. They may be fearful or feel emotional stress about their role and responsibilities. “Tips on Testifying in Criminal Court” is offered to address some of these concerns.

UPON RECEIVING A SUBPOENA

Read the subpoena carefully. It will give you instructions on when and where to appear in court. If you received a *Subpoena Duces Tecum*, you have been ordered to bring an item, record, or document to court with you. If you have any concerns about what is being requested, you should contact the prosecutor’s office immediately.

Contact the prosecutor’s office if you require the services of an interpreter or need special accommodations due to a disability.

Contact the prosecutor’s office if you have a conflict with the scheduled court date. However, rescheduling a court proceeding can delay a case for weeks or months, so the judge may not be willing to change the date.

Be aware that you may face legal consequences for failing to comply with the subpoena. You can be held in contempt of court, and a judge may issue a warrant for your arrest.

PRIOR TO APPEARING IN COURT

Review written or taped statements you have made about the case. You may request a copy of any statements from the prosecutor’s office. Contact that office if you notice any mistakes in your statement.

There is no need to memorize what you are going to say. Instead, try to visualize what actually happened (e.g., the place, time, persons present, statements made) so you will be confident with your answers.

You are not required to speak with anyone else about your testimony. If someone contacts you regarding your testimony, it is up to you to decide whether or not you wish to discuss it.

If anyone contacts or threatens you in an effort to influence your testimony or keep you from appearing in court, contact the prosecutor’s office and your local law enforcement agency immediately. Tampering with a witness is a crime, and the offender may face criminal charges.

Court proceedings are often rescheduled. Tell the prosecutor’s office of any changes in your address and phone number. The prosecutor’s office is required to notify you of any schedule changes if you have been asked or subpoenaed to testify. However, it is recommended that you call the day before the scheduled proceeding to be sure that the proceeding is still on the calendar and your presence is still needed.

Know where to go. Ask the victim advocate or prosecutor about where to go at the courthouse while waiting to testify.

By law, you can receive limited compensation for lost wages, mileage, and some other expenses related to appearing in court. Look at the back of your subpoena for the form that must be submitted to the court administrator, or ask the court administrator how to request reimbursement.

VICTIM AND WITNESS RIGHTS

Victims and witnesses cannot be compelled to state a home or employment address, telephone number, or date of birth in open court unless the judge finds that this information would be relevant evidence. Victims and witnesses should inform the prosecutor of their wish for this information to remain confidential before the court proceeding.

Certain victims have the right to have a supportive person present during their testimony. These include victims testifying in a delinquency proceeding and minor victims in cases involving child abuse or a crime of violence.

The court may decide to close the courtroom for a minor sexual assault victim’s testimony. Typically, this would be done at the request of the prosecutor. All the parties would have a chance to object before the court decides whether or not to close the courtroom.

The court is required by law to have a separate waiting area for victims, if available, or to provide other safeguards to minimize contact with the defendant and his/her supporters. The prosecutor’s office has information about where you can wait at the courthouse prior to testifying.

By law, your employer cannot penalize you for taking time off from work to attend the court proceeding for which you received the subpoena. If you must take time off from work, you should notify your employer when you receive the subpoena. Keep in mind that court appearance dates and times often change.

TIPS ON TESTIFYING

- Walk confidently to the witness stand and speak clearly so everyone in the courtroom can hear you.
- Sit comfortably in the witness chair and do not make noises with your hands, feet, or chair. Do not chew gum or cover your mouth with your hands.
- State your answers truthfully and accurately in your own words.
- Do not be afraid to say that you have discussed the facts of the crime with other people, such as the law enforcement officer, investigator, or prosecutor.
- Think before you speak. If you do not understand a question, say so and ask to have it repeated or rephrased. Never answer a question you do not understand.
- Correct wrong or unclear answers immediately. If you feel a question cannot be answered “yes” or “no,” tell the attorney and ask for more explanation.
- Give definite answers if possible. If you do not know or recall, say so. Do not speculate. If you must estimate times or distances, state clearly that you are doing so.
- Be polite, serious, and even-tempered. Some attorneys may try to make you angry. Stay calm—do not argue or become sarcastic.
- Stop immediately if the judge interrupts you or an attorney objects. Do not resume until the judge tells you to continue.
- If asked whether you are being paid for coming to court, be straightforward and state that you are being reimbursed for your expenses by the state.

CHILDREN GOING TO COURT

Sometimes children, even very young children, are called to testify at a trial. Like adults, many children feel nervous and apprehensive about this and they may not understand why they have to go to court. Parents and caregivers should explain to children that they are not in trouble or facing punishment or jail. Reassure them that they will be safe and protected in the courtroom. Preparing children for what to expect in court can go a long way towards easing their fears.

Have the child meet the prosecutor before the trial to prepare the child for testifying and to answer questions. Make sure the prosecutor has a clear understanding of the child’s developmental abilities and any special needs. This can also be a good time to tour the courtroom.

Explain to the child that it is okay to say that he or she does not understand or does not know the answer to a question.

Talk to the prosecutor about having a support person present while the child is testifying and the possibility of the child bringing a comfort object (e.g., a teddy bear) with them to the stand.

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TIPS ON TESTIFYING IN CRIMINAL COURT



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MINNESOTA DEPARTMENT OF PUBLIC SAFETY