

Probation Training Courtroom Demeanor:

Making the best out of the
loneliest place on Earth.



PARTICIPANT GUIDE

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Ground Rules

Any presentation or training you attend takes work by both the trainer and the participant. To get the most out of this webinar experience please take a moment to read the following suggestions. Remember that you are responsible for your own learning. During the webinar you can ask questions by raising your hand or typing. This handout is for your benefit. Follow along as the webinar progresses.



Performance Objectives

Participants will be able to use the following when they are in a courtroom.

Understand the expectations when you are in a courtroom setting.

Understand the rules relating to testifying in court.

Develop a personal plan to prepare and reduce nervousness when you are testifying in court.

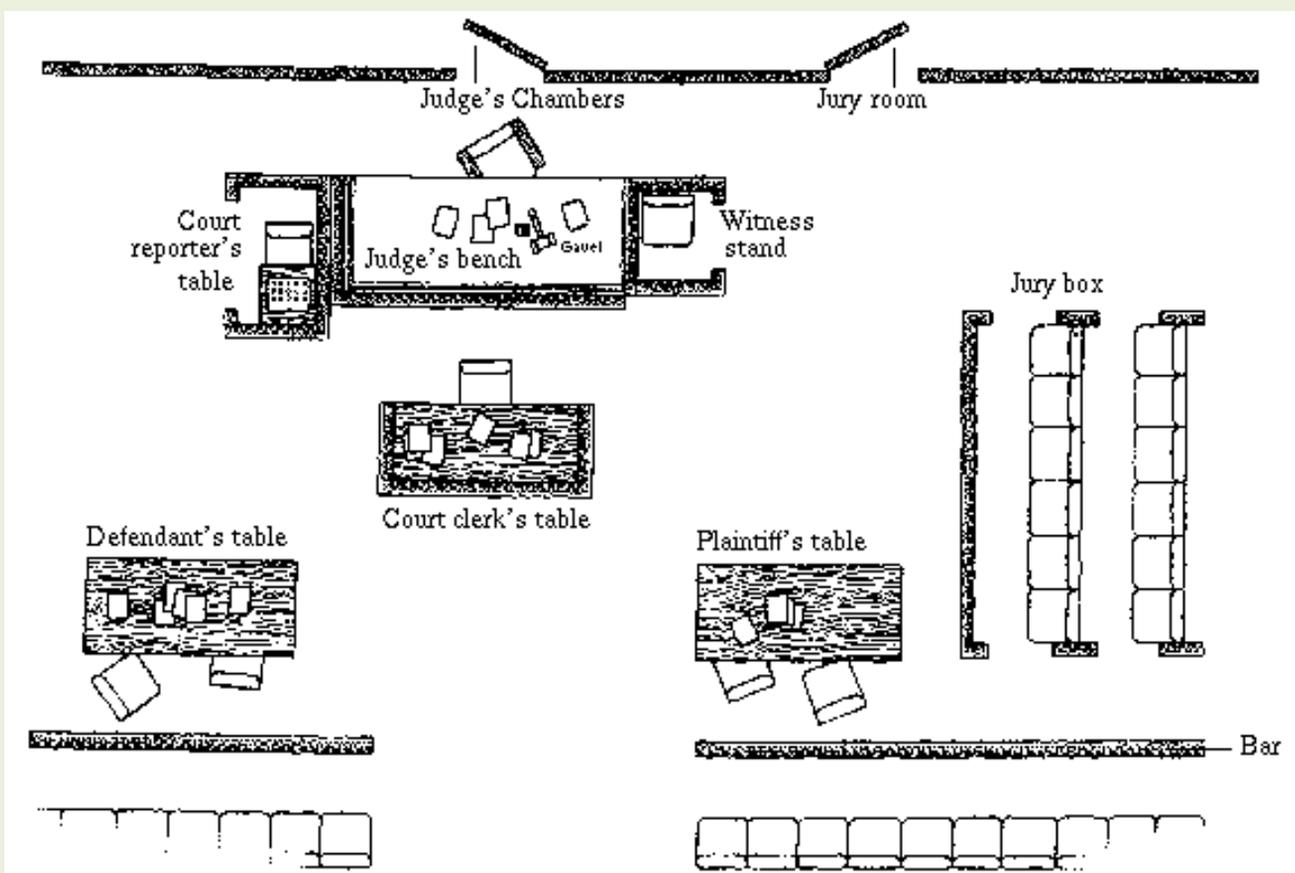
Take a short quiz!
Follow along as the questions appear on the slides.



The Field of Play

Notes

Activity



The Field of Play
Notes

The Players

Bailiff: More and more this is a law enforcement officer who maintains order in the court.

Counsel: A name for the lawyer engaged in the trial. Both the plaintiff and the defendant have counsel.

Court Clerk: The person who helps with administrative duties and stores the physical exhibits introduced as evidence at the trial.

Court Reporter: A person who types every word said during the trial. The typewritten document is a permanent record of the trial.

Defendant: The person who is accused of a crime and is being tried.

Defense attorney or public defender: The lawyer who defends the accused person. A public defender is appointed if the accused is unable to pay for an attorney.

Foreperson: The foreperson of the jury speaks for the entire jury.

Judge: The legal officer who presides over the courtroom and directs and controls the trial.

Plaintiff: The person who accuses another and brings the lawsuit to court.

Notes

The Players

Prosecutor: A public official who brings the government's case against a person accused of a crime and asks the court to convict that person.

Trial Jury: Usually made up of six to twelve people, the jury listens to testimony from both the plaintiff and defendant's side and decides the verdict of a case.

Witness: A person who gives the jury information about the case.

Talking like a lawyer!



Notes

Talking like a Lawyer

Acquittal: A legal determination that a person who has been charged with a crime is innocent.

Appeal: A request for a higher court to review a decision made by a lower court.

Arraignment: When the accused is brought before the court to hear the charges against the person to plead guilty or not guilty

Conviction: The result of a criminal trial in which a person is found guilty.

Cross-examination: The questioning of a witness by the lawyer for the opposing side.

Direct-examination: The first questioning in a trial of a witness by the lawyer who called that witness.

Indictment: An accusation of a crime, made against a person by a grand jury upon the request of a prosecutor.



Notes

Talking like a Lawyer



Information: An accusation of a crime, made against a person by the prosecutor.

Mistrial: A trial that becomes invalid, is essentially canceled, because of a mistake in procedure.

Motion: How a lawyer asks the judge to make a decision.

Objection: The opposing side finds fault with the question being asked the witness.

Overruled: The judge, following an objection, decides the questions may continue.

Sentence: The punishment given to a person who has been convicted of a crime.

Sustained: The judge, following an objection, agrees that the line of questioning should not continue.

Verdict: A verdict of guilty or not guilty is handed down by the jury.

Your Honor: The way a judge is addressed in court.

Notes

Attire

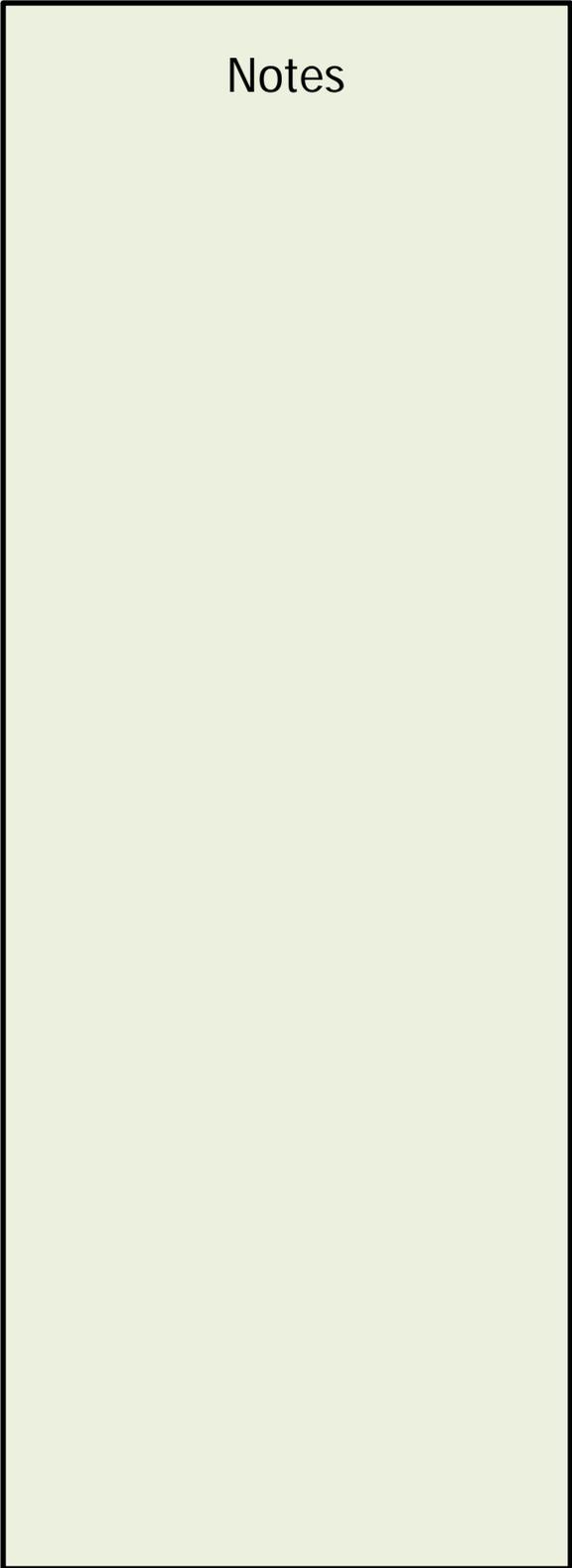


Things not to wear include open toed shoes, _____ tops, mini-skirts, T-shirts, _____ jeans, or any other non-business attire.

You also should not wear a hat unless it is for business reasons. The _____ uniform is important but what you do while in that uniform is often observed as well.

Notes

Body Language



Notes

Appear and behave professionally at all times. Gum chewing, consuming food and beverages and reading the newspaper are not allowed. This applies to the courtroom, hallways and outside the courtroom. Whether in the witness stand or not you never know when someone is “sizing you up.” Stand and sit tall in the courtroom.

Types of Questions

Leading Question: suggests by its wording that the answer should either be “yes” or “no.”

Rapid Fire: a string of leading questions in rapid succession, hoping to confuse or upset the witness.

Biased: attempts by an attorney to try to discredit the witnesses’ credibility by insinuating that the witness is biased or hostile towards the individual the attorney is representing.

Notes

Styles of Questions

Badgering is where an attorney stands close to the witness’ face and shouts.

Lulling the witness is where the attorney gives a false sense of security by being overly friendly and familiar.

Staring at the witness is a tactic used to pressure the witness to say more during the silence.

Notes

Texas Rules of Evidence: RULE 801. DEFINITIONS

This will help you understand what types of statements there are while on the witness stand. There are some additional terms to help with your understanding as well. The following definitions apply under this article:

(a) Statement. A "statement" is (1) an oral or written verbal expression or (2) nonverbal conduct of a person, if it is intended by the person as a substitute for verbal expression.

(b) Declarant. A "declarant" is a person who makes a statement

(c) Matter Asserted. "Matter asserted" includes any matter explicitly asserted, and any matter implied by a statement, if the probative value of the statement as offered flows from declarant's belief as to the matter.

(d) Hearsay. "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(e) Statements Which Are Not Hearsay. A statement is not hearsay if:

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:

(A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding except a grand jury proceeding in a criminal case, or in a deposition;

(B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive;

(C) one of identification of a person made after perceiving the person; or

(D) taken and offered in a criminal case in accordance with Code of Criminal Procedure article 38.071.

Texas Rules of Evidence: RULE 801. DEFINITIONS

(2) Admission by party-opponent. The statement is offered against a party and is:

(A) the party's own statement in either an individual or representative capacity;

(B) a statement of which the party has manifested an adoption or belief in its truth;

(C) a statement by a person authorized by the party to make a statement concerning the subject;

(D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship; or

(E) a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy.

(3) Depositions. In a civil case, it is a deposition taken in the same proceeding, as same proceeding is defined in Rule of Civil Procedure 207. Unavailability of deponent is not a requirement for admissibility.

RULE 612. WRITING USED TO REFRESH MEMORY

If a witness uses a writing to refresh memory for the purpose of testifying either

(1) while testifying;

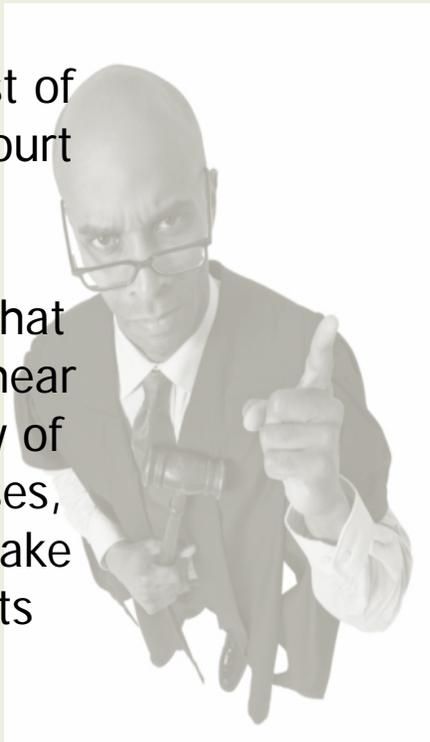
(2) before testifying, in civil cases, if the court in its discretion determines it is necessary in the interests of justice; or

(3) before testifying, in criminal cases;

an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

RULE 614. EXCLUSION OF WITNESSES

At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion.



Notes

Workplace Jargon



List of Objections

“Vague” Could also be called “ambiguous” or “confusing.” The question is unclear. The question might be too long, some of the key words in the question might have more than one meaning, or the period of time to which the questioner is referring might be unclear.

“Compound” The question is actually two questions. Example: “Did you find the cancelled check on the ground and take it with you?”

“Argumentative” Though it might be a question grammatically, the questioner is asking it not to get an answer, but to communicate some other message to the witness. Example: “When you arrived at the disposition this morning, had you already decided not to give me your full attention?”

“Asked and Answered” The questioning lawyer is covering the same ground a second time, asking a question to which he has already received an answer.

“Assumes facts not in evidence” The question contains a factual statement that has not been established. Example: “Did you interview the employee before firing him?” (asked when there is no testimony that the employee was fired.)

Notes

List of Objections

“Misstates the evidence” or “misstates the witness’s testimony” The question contains a factual assumption for which there is no evidence in the case, or the question incorrectly quotes or paraphrases what the witness has testified to in the deposition.

“Leading” The lawyer is asking a leading question to a witness to which he is not permitted to ask leading questions. Example: “When you proceeded into the intersection, the light was green, correct?”

“Lacks a question.” Sometimes a lawyer will make a statement rather than ask a question. The defending lawyer can object by saying something like, “objection, that’s not a question,” or “Objection, the question was preceded by a statement that wasn’t a question.” (However, it’s likely that you could get the offending comments removed from the transcript before trial even without a timely objection at the deposition.)

“Lacks foundation” The questioning lawyer is asking the witness concerning a fact or topic about which the witness lacks personal knowledge. Example: “What warnings were contained on the package insert?” (without establishing that the witness received and read the package insert.)

Notes

What you say...



Always tell the TRUTH!

Most important of all, tell the truth, the whole truth and nothing but the truth. Do not embellish, spice up or exaggerate for effect your testimony in any way whatsoever. Once your credibility has been impeached it will be hard to win back the jury and judge.

Notes

What you say...

Perfect Answer List

"Yes"

"No"

"I don't know"

"I don't recall"

"Can you rephrase the question"

Always remember to
PLEASE the court.

Prepare

Listen

Exercise Control

Accept the obvious

Seek Understanding

Emotion is acceptable

Notes

What you say...

I don't _____ = you have no factual knowledge pertaining to the question.

I don't _____ = you may have previously had information or knowledge pertaining to the question, but do not remember.

Please help us to create more effective training opportunities by completing any evaluations.

Notes