

You may have been asked to testify at a court-martial or civilian criminal proceeding by the government, the defense, or both. You may not have testified before and are not accustomed to public speaking. It's quite natural for you to be nervous. Court proceedings are serious and it can be overwhelming when you enter the courtroom. Remember, you are not the only nervous person; quite frequently, the attorneys are nervous, too. However, it is their job to alleviate your nervousness as much as possible by telling you what to expect so you won't be embarrassed, surprised, or scared. The most important thing about being a good witness is to tell the truth, the whole truth, and nothing but the truth.

Getting Ready for Trial

You will probably talk more than once to the attorneys from both sides about your testimony. It's okay to discuss the case with the attorney and, if asked about it in court, to say you discussed the case. Be sure to go over any written statements you may have given concerning your testimony or any reports or memos you may have written. Often you wrote them some time ago and to fully answer questions at trial you may have to refresh your memory. If you have questions, ask the attorney who is calling you to testify. Even if you think the question is dumb, ask it.

When you come to court, wear all your military badges and ribbons. Remember that service members instinctively judge other service members by appearance. You will create a good first impression with a proper haircut, shined shoes, and a fresh uniform with all badges and ribbons properly placed.

What to Do When You Enter a Courtroom

You will wait outside the courtroom in the waiting room until you are called by the bailiff. When you enter the courtroom, you will see the government representative standing by the witness chair. Walk up to the witness chair and stand facing the government representative. You don't have to

march in, salute, or square corners. You should not report to or salute the president of the court. The government representative will tell you to raise your right hand, and then will administer the oath to you: **"Do you solemnly swear that the evidence you will give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?"** Create a good first impression by standing tall for the oath, and saying "I do" positively and convincingly.

Sit down in the chair provided for you. The government representative will ask you to state your name, rank, and organization. The court reporter will be positioned near the witness box. He or she takes everything down verbatim. You must speak clearly and loudly enough for the court reporter, the judge, and the court members, if any, to hear you. Sometimes the court reporter will ask you to repeat something you have said; this is a cue for you to speak more clearly or louder. When you sit in the witness box, sit comfortably, but with both feet on the floor. You don't want to appear too casual or too stiff. Try to project your voice in the direction of the court members as much as possible and to look at the court members or judge as much as possible; they are the ones who must carefully evaluate your testimony.

Testimony

The attorney who asked you to testify will question you first. This is called direct examination. The first few questions will be general things such as your name, rank, unit, how long you have been in the Air Force, and what your job is. These questions help witnesses relax, and give the judge and the court members some background information about you before listening to your testimony.

Listen carefully to all questions. If you don't understand the question, say so. The attorney will ask you the question in a different way. The questions may be somewhat vague. This is necessary to prevent the lawyer from asking "leading" questions and putting words in your mouth. If you don't know the answer to a question, say so. Don't volunteer information, just answer the question asked.

If you give an answer that is incorrect, correct yourself immediately. An answer that didn't come

out right by being inaccurate or misleading must be corrected. Explain or clarify an answer when it is necessary. Avoid blurting out everything you know in a long narrative. You may need to explain technical terms to the court members.

Remember that you are testifying about what you saw and what you heard. For example, if you observed that an accused was angry, you will need to tell the jury why you thought he was angry, such as "he turned red and slammed his fist into the wall." Try not to exaggerate or make overly broad generalizations. The judge or jury will discount exaggerated testimony.

Stop talking if a judge interrupts or an attorney objects, even if you are in the middle of a sentence. If the question is allowed, the judge will tell you when to continue.

Judges and court members are interested in facts, so give positive, definite answers when at all possible. Avoid saying, "I think," or "I believe" or "in my opinion." If you do know a fact, say so. You can be positive about important things, which you naturally would remember. However, there is nothing wrong with admitting that you really can't remember.

After direct examination, the opposing lawyer can ask you questions. This is called cross-examination. On cross-examination, the attorney is permitted to ask leading questions, and will do so. During cross-examination be firm, but polite, even if the attorney questioning you may appear to be discourteous. Don't use sarcasm or appear arrogant. Don't forget military customs and courtesies and answer the questions "Yes, Ma'am" or "No, Sir." Nothing will do more damage to your credibility than to forget your military bearing, especially in front of a panel of officers and NCOs.

Don't try to outwit the opposing attorney. Don't be bullied into a "yes" or "no" answer if the question cannot be answered "yes" or "no." If the lawyer asks you more than one question at a time, answer each one individually. If you need to explain an answer, do it, but don't volunteer information. This explanation is particularly important if the answer to the question is a "qualified" yes or no. Tell the truth. It's the best defense to cross-examination.

Remember that the first lawyer will often ask you more questions to clarify matters brought up on cross-examination. **THE MOST IMPORTANT THING TO REMEMBER DURING CROSS-EXAMINATION IS TO LISTEN CAREFULLY TO EACH QUESTION AND ANSWER THE QUESTION AS ASKED.**

Form of Your Answer

The court reporter will be transcribing your testimony; therefore, try to minimize visual responses. For instance, it is better to say “yes” or “no” than to simply shake or nod your head. Also, don’t use the phrase, “uh huh.” This phrase can be easily confused. It is better to say “yes” or “no.” Also, try to describe your visual cues. For instance, imagine the attorney asks you, “How big was the fish?” You could simply spread your arms and say, “It was about this big.” It would make a better court record if you also guessed at the size; for instance, “It was about 3 feet long.”

Conduct outside the Courtroom

If you are not “excused,” you may be asked to return to the witness stand. You should remain outside the courtroom until all evidence has been presented. Don’t talk to others about the case or your testimony. Court members might overhear you. This could discredit your testimony and may result in a mistrial. At the least, it will be extremely embarrassing and project an unprofessional and frivolous image. Be serious in and around the courtroom. All cases are serious matters; therefore, laughter and frivolous conduct are inappropriate.

This handout is for basic information on topic covered as it relates to military personnel stationed in the United Kingdom. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the Legal Office for questions and further information. You may view more information on various legal topics at the Air Force Legal Assistance website found at <https://aflegalassistance.law.af.mil>. Additionally, complete legal worksheets for Wills, Living Wills, Powers of Attorney (General, Special, and for Health Care), and access to the Online Survey are found on the Air Force Legal Assistance website.

Scan Below to Access the:

RAF Mildenhall Legal Office Website
www.mildenhall.af.mil/Info/Legal-Office



Legal Assistance Website
<https://aflegalassistance.law.af.mil>



Legal Assistance Information Series COURT WITNESS



Hours of Operation (Walk-ins)
Notary Public & Powers of Attorney
Monday – Friday: 800-1630 hrs

Legal Assistance
By Appointment Only

100 ARW/JA
APO AE 09459
DSN 314-238-2028
COMM (0)1638-54-2028
E-mail: 100ARW.JAV3@mildenhall.af.mil

Scan Below to Access Our Website
www.mildenhall.af.mil/Info/Legal-Office

