
Trial Preparation and Note Taking Skills

- Spend time preparing your case before the trial.
- Preparation does not end when the trial starts.
- Be alert and organised during the trial.
- Take accurate notes.

Here are some suggestions and ideas that may help you in your day in court.

TRIAL PREPARATION

(1) Disclosure

- At your first appearance the Crown should give you copies of the material they have about your charges.
- If information is missing then send Crown a letter asking for it. (See form letter on last page of the brochure: *“Representing Yourself in a Criminal Trial”* printed by the Legal Services Society.)
- Read everything and write down what you received and when you received it.

(2) Analysis

- Make notes of any discrepancies, mistakes, or gaps in the witness statements or police reports.
- Make a note of anything that might suggest bias, inaccuracy or weakness in a Crown witness.
- Think about what information or detail may be used against you, and what you may need to explain.

(3) Preparation

- Write down your version of events.
- Speak others who may be witnesses.

- ❑ Ask those who could be helpful to write a statement setting out their names, addresses, telephone numbers, and observations.
- ❑ Take this information to your consulting lawyer along with copies of the *Information* and *particulars* from the Crown and any other materials that may help explain your case, including pictures, diagrams, and maps.
- ❑ USE THE LAWYER'S SUGGESTIONS to prepare an outline for your final submissions. (See Legal Research/Resources - Law Centres, Lawyer Referral Service, etc) This outline must be logical and there must be evidence to support each point.
- ❑ LIST THE WITNESSES, their addresses, their telephone numbers, and the evidence each will give. GO OVER with each witness the evidence that you expect them to give. Tell them that they will be subpoenaed and arrange to subpoena them through the Court Registry.
- ❑ PREPARE AN OUTLINE OF THE EVIDENCE and how you will present it. Any evidence that does not add support to your final submission is unnecessary and should be discarded.
- ❑ DISCUSS WITH THE LAWYER the advantages and disadvantages of testifying. If you decide to testify then make an outline of what you want to say.
- ❑ PREPARE AN OUTLINE IN POINT FORM of your cross-examination of the crown witnesses. List your version of the events alongside the points of their evidence that you intend to challenge. Include any helpful evidence that the witness may admit.

(4) **Get Ready for Court**

- ❑ PREPARE YOUR WITNESSES by going over the questions you will ask them and the purpose of their evidence. Go over with them the questions that Crown might ask them.
- ❑ TELL THEM to dress neatly and to wait outside the courtroom until they are called.
- ❑ ORGANIZE YOUR MATERIAL including pictures, maps, sketches and outlines. Make enough copies for the Judge, the witness, and the Crown Counsel.

NOTE TAKING

An accurate and complete note of the evidence is very important. A mis-statement of the evidence would be a serious error that could undermine the reliability the Judge attaches to your submissions as well as your evidence.

- ❑ **Writing Instruments:** have two comfortable pens or mechanical pencils. Take a different coloured pen for highlighting or emphasising.
- ❑ **Paper:** Take 2 pads or about 100 sheets of paper for each day of trial.
- ❑ **Set-Up:**
 - ❑ number the pages. This will help you to find items in you notes.
 - ❑ draw a line down the centre of each page.
 - ❑ Use the Right Column to record the evidence.
 - ❑ Use the Left Column for comments, reminders, and physical descriptions and general impressions of witnesses. If something contradicts another witness then you might want to remind yourself to put this in your submissions.
 - ❑ Use the Left Column for all significant non-verbal behaviour of the witness like “slow to answer”, “could not remember without notes”, or “face reddened”, etc.
 - ❑ Use the Left Column to record explanations of labels and abbreviations used in your notes.
- ❑ **Notes when you are testifying:** list the points you wish to make during your testimony. Do not write out your testimony because it will sound prepared, stilted, and unconvincing. Give your evidence then ask the judge to let you look at your notes to make sure that you have covered all the points you wanted to make.
- ❑ **Notes when you are questioning your Witness:** List of points you want to establish. As each topic is covered, mark whether you established [*check mark*] or did not establish [*cross*] each point or make a short note if something else happened. Before ending your questions make sure you have covered everything.
- ❑ **Notes when you are cross-examining a Crown Witness:** List the points you wish to establish and a short note on how you may approach each point. The note may include a reference to a previous statement or how the topic may be approached to

best ensure the correct response. Use these notes as a guide to your examination and, as each topic is covered, mark whether you established [*check mark*] or did not establish [*cross*] each point or make a short note if something else happened.

- **Do not make comprehensive notes** when you are questioning. This will make your witness boring and difficult to follow and will allow the opposing witness to consider the last answer and prepare for the next question. A slow tempo makes you lose the rhythm that can make your questioning more effective.
- **Recording the Evidence:** it will be difficult to write as fast as witnesses talk, or to keep all the information straight if you try to record everything longhand.
 - a. Prepare a list of abbreviations like F= Father, M= Mother, C= Crown, dnr= did not remember; dnr= did not know, etc.
 - b. Identify witnesses by their initials: Alan Ball=AB, Tom Jones=TJ. If you use short forms, record them in the left column to remind yourself of what/who they are.
 - c. Label the events: often, different events will be referred to in the evidence. For example, if there were two assaults, you could name them "Assault 1 and Assault 2", or "Kitchen Assault and Bedroom Assault". This will keep you from confusing events and the testimony.
 - d. Number and record the order of witnesses with a short description. For example, beside the name of the witness you could write: youngish, long blond hair, etc. This will help you picture the witness when you try to remember his or her evidence.
 - e. Number and record a short description of each Exhibit.
- **Make an index of witnesses and exhibits:** on a separate piece of paper, record the name and number of each witness and the page where his or her evidence begins. Do the same for exhibits. This will help when you review the evidence.
- **Record the evidence word for word:** if the witness testifies about the *exact words* someone said, or if you intend to contradict the witness on that part of the evidence.
- **Review the evidence:** after each witness testifies, or as soon as you can, record in your impressions of the witness. If the hearing does not finish that day, summarise each witness's testimony along with comments on how they presented themselves.

- **Final Submissions:** cross-reference your final submission with the witness and page of your notes. Your submissions will be given greater weight if you can demonstrate that you have accurately recorded the proceedings and that you can reliably support your submissions with specific references to the evidence.