INTRODUCTION

The U.S. Attorney's Office of the Northern District of West Virginia is committed to assisting victims and witnesses of crime.

If you are a victim of or a witness to a crime, the Victim-Witness Assistance Program is designed to provide you with services while you are involved in the criminal justice system.

As a victim of a crime, you may be experiencing feelings of confusion, frustration, fear and anger. Our staff can help you deal with these feelings. We also will explain your rights as a victim or witness, and help you better understand how the criminal justice system works.

One of the responsibilities of citizenship for those who have knowledge about the commission of a crime is to serve as witnesses at the criminal trial or one of the other hearings held in conjunction with the criminal prosecution. The federal criminal justice system cannot function without the participation of witnesses. The complete cooperation and truthful testimony of all witnesses are essential to the proper determination of guilt or innocence in a criminal case.

Our office is concerned that victims and witnesses of crime are treated fairly throughout their contact with the criminal justice system.

The United States Department of Justice and the United States Attorney's Office in this district have taken several steps to make the participation by victims of crime and witnesses more effective and meaningful. One of those steps is the preparation of this handbook. We hope that it will provide the answers to many of your questions and will give you sufficient general information to understand your rights and responsibilities.

GENERAL INFORMATION FOR VICTIMS AND WITNESSES

The United States Attorney is the chief prosecutor of crimes against the laws of the United States. There is a United States Attorney's Office for each federal judicial district.

1. YOU ARE ENTITLED TO UNDERSTAND WHAT IS HAPPENING IN THE CASE IN WHICH YOU ARE INVOLVED
If you have questions about the case in which you are involved, you should feel free to call the Victim Witness Coordinator and ask questions. Also, the Assistant United States Attorney or the law enforcement agent handling your case may be contacting you throughout the case regarding various stages of the proceeding.

2. YOU ARE ENTITLED TO A WITNESS FEE FOR EVERY DAY THAT YOU APPEAR IN COURT IN CONNECTION WITH THE CASE
If you are not a federal government employee, you will receive a witness fee for each day that you are required to attend court about the case, including time spent waiting to testify. Out-of-town witnesses receive reimbursement for certain travel expenses in addition to their daily witness fee. At the c onclusion of your testimony, you will be assisted in completing a witness voucher to make a claim for your fees. Generally, a check for all fees will be mailed to you by the U.S. Marshals Service a week to ten days after your appearance.

If you are a federal government employee, the United States Attorney's Office will submit a "Certificate of Attendance" that will enable you to receive your regular salary, not withstanding your absence from your job. You will not collect a witness fee in addition to that salary.

3. YOU HAVE THE RIGHT TO BE FREE FROM ANY THREATS
If anyone threatens you, or you feel that you are being harassed because of your contribution to the case being tried, you should immediately notify the United States Attorney's Office in Fairview Heights at (618) 628-3700 or in Benton at (618) 439-3808, or the law enforcement agency conducting the investigation. It is a federal offense to threaten, intimidate, harass, or mislead a witness in a criminal proceeding. Victims and witnesses have the right to be free from harassment or intimidation by the defendant or others.

The court may release the defendant while (s)he is awaiting trial under conditions that satisfy the court that the defendant will appear in court for all hearings and for trial. The court may require the defendant to post a money or property bond pending trial. You should not be surprised if you happen to see the defendant on release prior to trial. Nevertheless, if you have any concerns about the conditions of the defendant's release, please discuss them with the Assistant United States Attorney handling the case.

Of course, if you are threatened or harassed while you are attending court proceedings, you should report that fact immediately to the investigator or the Assistant United States Attorney assigned to the case.

4. DISCUSSING THE CASE WITH OTHERS
United States Attorney's Offices often receive calls from witnesses asking about their rights if a defense attorney or a defense investigator contacts them. Witnesses do not belong to either side of a criminal case. Thus, even though you may first be subpoenaed by the prosecution or by the defense, it is proper for the other side to try to talk to you. While it is the prosecution that is asking for your cooperation in this case, you may be contacted by the defense lawyer or an investigator for the defendant for an interview. While you may discuss the case with them if you wish to do so, you also have t he right not to talk to them. The choice is entirely yours.

If you do agree to an interview with a representative of the government or defense, here are some suggestions on how to deal with it.

First and foremost, you should always tell "the truth, the whole truth, and nothing but the truth."

If you are asked to give a statement or to discuss the case, you have the right to know if the person asking you is working for the prosecution or the defendant. You have the right to see and keep a copy of that person's business card.

If you give a statement to a lawyer or an investigator for the government or the defense, you do not have to sign the statement. However, any statement that you make during an interview, even if not signed, may be used to try to challenge or discredit your testimony in court if your testimony differs from that statement. This applies even to oral statements that are not reduced to writing at all.

If you decide to sign a statement, make sure you read it over very carefully beforehand and correct any mistakes.

Ask to have a copy of any statement that you make. Whether you sign the statement or not, you may tell the lawyer or investigator that you will refuse to give a statement unless you receive a copy of it.

If you elect to have an interview with the defendant's lawyer or investigator, you may want to have present an additional person chosen by you to witness the interview. If you have an interview with the defendant's lawyer or investigator, please let the United States Attorney's Office know about the interview before it happens.

Before the trial begins, you may discuss the case with anyone you wish. The choice is yours. Be sure you know to whom you are talking when you discuss the case. We encourage you not to discuss the case with members of the press, since you are a potential witness in a criminal case and the rights of the government and the defendant to a fair trial could be jeopardized by pretrial publicity.

Once the trial begins, witnesses may not tell each other what was said during the testimony until after the case is over. Thus, do not ask other witnesses about their testimony and do not volunteer information about your own.

5. SCHEDULING YOUR APPEARANCE IN COURT

There are several kinds of court hearings in a case in which you might be asked to testify. These include a preliminary hearing, a grand jury appearance, a motion hearing, and an appearance in court for trial or sentencing. It is difficult to schedule court hearings at a time convenient for everyone involved. Any court hearing requires the presence of witnesses, law enforcement officers, the defendant's lawyer, an Assistant United States Attorney, and the judge, as well as the defendant.

Therefore, WHEN THE COURT SETS A TIME AND PLACE FOR SUCH A HEARING IN THE CASE YOU ARE INVOLVED IN, YOU MUST BE THERE PROMPTLY, unless an emergency prevents it. If you have been sent a subpoena - a formal order to appear - you should know that there are serious penalties for those who do not obey that order.

If you know in advance anything that might keep you from making a court appearance, let the Assistant United States Attorney know immediately so that an attempt may be made to adjust the schedule. However, scheduling is at the discretion of the court. Despite the best efforts of everyone concerned, court hearings do not always take place on schedule - the hearing or trial is sometimes postponed or continued to a new date. When possible, the Assistant United States Attorney handing the case in which you are involved will discuss with you any proposed scheduling change. Also, the United States Attorney's Office will notify you of any postponements in advance of your appearance at court.

6. PLANNING YOUR TRIP TO COURT

As a victim or witness, you may have questions about transportation, the location of the courthouse, food service, or where to go and what time to appear. You should feel free to ask either the case agent, the Assistant United States Attorney, or the Victim-Witness Coordinator about them. If you are an out-of-town witness, you must contact the Victim-Witness Coordinator to make all your travel arrangements, the federal government is very specific on when it can and cannot reimburse witnesses.

7. HOW CASES TURN OUT

Many criminal cases are concluded without a trial being held. In many cases, the evidence of the defendant's guilt is so strong that (s)he pleads guilty to the crime. Guilty pleas and other ways the case may end without a trial are discussed below:

A. Guilty Plea

The defendant may choose to plead guilty. By pleading guilty, the defendant waives his or her right to a trial. Generally, the guilty plea constitutes a conviction.

B. Plea Agreement

The Assistant United States Attorney may enter into an agreement with the defendant whereby if the defendant pleads guilty to certain charges, the government will ask the court to dismiss other charges, or will take another position with respect to the sentence imposed or some other action.

Sometimes, the defendant will agree to plead guilty to one or more of the charges or to a less serious or related offense. This process of obtaining a defendant's agreement to plead is recognized by the courts as a proper way of disposing of criminal cases. In fact, the United States Supreme Court held that agreed-upon pleas are to be encouraged.

The government usually benefits in several ways by entering into an agreement for a guilty plea to certain charges rather than going to trial against a defendant on all charges. One benefit is the guarantee of a conviction. Criminal cases always involve risks and uncertainties. Even a case that appears to be very strong may not result in a conviction if there is a trial. In many cases, there is a possibility that certain evidence may not be admitted. The Assistant United States Attorney will consider this in deciding to agree to a plea to certain charges. Another benefit of plea agreements is the prompt and certain imposition of the sentence, which is a major goal of the criminal justice system. A third benefit is that they help to obtain pleas and convictions of other defendants. Often, the Assistant United States Attorney will require, as a condition of a plea, cooperation of the defendant in further investigation or prosecution of others. Also, since there is no trial and no witnesses are called to testify, the identity of informants and witnesses can remain undisclosed. This preserves an informant's usefulness in other investigations, and prevents inconvenience and emotional stress that witnesses might experience when they have to testify.

In deciding to accept certain pleas, the Assistant United States Attorney considers the effect of the criminal offense on the victims, the criminal history of the defendant, the seriousness of the offense, and the interest of society in seeing all crimes punished with certainty. The Assistant United States Attorney will also consider whether the proposed plea will expose the defendant to a maximum punishment that is appropriate even though the defendant may not plead guilty to all charges.

C. Declination and Dismissal
A case referred to the United States Attorney may not be acted upon, which is called a declination, or may be dismissed after it has been filed with the court. There are several reasons why cases may be declined or dismissed.

An Assistant United States Attorney has discretion to decline to prosecute a case based on several considerations. The Assistant United States Attorney must decline if the evidence is too weak. The Assistant United States Attorney is ethically bound not to bring criminal charges unless the admissible evidence will probably be sufficient to obtain a conviction. However, even when the evidence is sufficient, the Assistant United States Attorney may consider that there is not a sufficient federal interest served by prosecution, but that the defendant is subject to prosecution in another state or local court (including a state court for the prosecution of juvenile delinquents).

A dismissal may occur when the Assistant United States Attorney asks the court to do so. The Assistant United States Attorney may do so because the court has excluded critical evidence or witnesses have become unavailable. In other situations, evidence which weakens the case may come to light after the case has started. The court may dismiss a case over the objection of the Assistant United States Attorney when it determines that the evidence is insufficient to find the defendant guilty.

8. IF YOUR PROPERTY IS BEING HELD AS EVIDENCE
Sometimes law enforcement officers take and store property belonging to witnesses as evidence in a trial. This might be property taken by law enforcement officers at the crime scene or that was stolen. If your property is being held as evidence by law enforcement officers and you would like to regain your property before the case is over, you should notify the law enforcement officer who is handling the case in which you are involved. Often arrangements can be made for early release of property. That is a determination to be made considering the value of the property as evidence at trial. In any event, when the case is over, you should be able to have your property returned to you promptly.

9. RECOVERING FINANCIAL LOSSES
Often, crime means a real financial loss for the victim. Perhaps you had cash or valuable property stolen (and not recovered), have property that was damaged, medical expenses, or a loss of income because you could not work, or the nature of the crime may be that you have been defrauded of money belonging to you. If any of these things have happened to you, please check to see if you have insurance that will cover the loss. If you have no insurance or only partial coverage, there are three possible ways of trying to recover your losses. Unfortunately these three ways, described below, are not always effective in many cases.

A. Compensation
Crime victims' compensation programs, administered by the states, provide financial assistance to victims and survivors of victims of criminal violence. Payments are made for medical expenses, including expenses for mental health counseling and care; loss of wages attributable to a physical injury; and funeral expenses attributable to a death resulting from a compensable crime. Other compensable expenses include eyeglasses or other corrective lenses, dental services and devices, and prosthetic devices. Each state establishes its own instructions for applying for crime victim's compensation, procedures to be used in processing applications, approval authority, and dollar limits for rewards to victims. The state of Illinois requires that victims and survivors apply for compensation within a year of the crime. The Victim-Witness Program at the United States Attorney's Office can provide you with an application form and assist you with your application to the Illinois Crime Victim Compensation Program.

B. Restitution
When an offender gives back things (s)he stole from a victim, or otherwise makes good the losses (s)he has caused, (s)he has given restitution to the victim.

From the point of view of effective law enforcement, the time to seek restitution is when the defendant is found guilty or pleads guilty. If that is the final result of the case - which is never a sure thing - the trial judge must consider, by law, restitution as part of the offender's sentence. The decision, however, is the judge's. The judge might determine that the defendant does not have enough money to repay the debt to the victim, or the judge may decide to sentence the offender to jail or prison, in which case the defendant may not be able to earn money to pay back the victim.

You should discuss restitution with the Assistant United States Attorney. You should cooperate fully with the United States Attorney's Office and the United States Probation Office by giving them information regarding the impact that the crime had on you, as the victim. Without this information, the judge cannot make an informed decision on your need for restitution.

C. Civil Damages
A victim may try to recover his or her losses by a civil lawsuit against the defendant. Such a private lawsuit is completely separate from the criminal case. In fact, the jury in a civil case may find that the defendant owes the victim money, even though a different jury in the criminal case may find the defendant not guilty because the burden of proof is higher in a criminal case.
The difficulty in trying to obtain civil damages from the defendant is the same as in trying to get restitution; whatever money the defendant once had may now be gone. You may need a lawyer to bring such a suit. If you qualify, you may be able to get help free of charge from legal aid services.

WHAT HAPPENS IN A FELONY CASE

Any offense punishable by death or imprisonment for more than one year is called a felony. Felonies are the most serious crimes. The prosecutors and the courts handle felony cases differently from misdemeanor cases (cases that have shorter possible sentences).

This part of the handbook is intended to explain the way a felony case moves through the court system. Each step is explained in the sections below.

WITNESSES ARE NOT NEEDED AT EVERY STEP IN THE PROCESS. Most witnesses are asked to come to court only for a preliminary hearing, a grand jury hearing, a witness conference, or a trial.

Not every step is taken in every case. In fact, many cases end before they reach trial. Even so, you may wish to know all the steps that the case in which you are involved might go through.

1. INITIATING CHARGES BY COMPLAINTS
Some felony cases begin when the United States Attorney (or usually an Assistant United States Attorney), working with a law enforcement officer, files a criminal complaint before a United States Magistrate. This complaint is a statement, under oath, of facts sufficient to support probable cause to believe that an offense against the laws of the United States has been committed by a defendant. If the Magistrate accepts the complaint, a summons or arrest warrant will be issued for the defendant. In some cases, the defendant may have been arrested without a warrant, in which case the defendant is presented to the Magistrate at the time the complaint is filed. Victims and witnesses of federal offenses may be interviewed by a law enforcement officer before the filing of a complaint. In those situations, the law enforcement officer will report the statements of the victim or witness to the Assistant United States Attorney assigned to the case. Sometimes the Assistant United States Attorney may wish to interview the witness in person.

2. INITIAL APPEARANCE
This is a defendant's first hearing after arrest. It takes place before a United States Magistrate, usually the same day the defendant is arrested. Witnesses are not needed for testimony at this hearing. The hearing has three purposes. First, the defendant is told his or her rights and the charges are explained. Second, the defendant is assisted in making arrangements for legal representation, by appointment of an attorney by the court, if necessary. Third, the court determines if the defendant can be safely released on bail.

Many defendants charged with a felony are released at the end of this hearing - either they have posted money to guarantee their return for trial and other hearings, or they have been released on conditions that include their promise to return for future hearings or the trial. Those conditions may include the requirement that they not personally contact witnesses in the case. In some cases, the defendant will be detained without bail.

3. PRELIMINARY HEARING
The purpose of this hearing is to determine whether there is evidence to find probable cause to believe that the defendant has committed the offense charged. The burden is on the United States Attorney to produce sufficient evidence to support this finding. The United States Attorney does not have to prove at this hearing that the defendant is guilty, but must present evidence to show that there is good reason to proceed with the charges against the defendant. The date for this hearing will be set at the initial appearance. Usually the law enforcement officer alone can give sufficient evidence that there is probable cause that the defendant has committed the offense. Occasionally, witnesses may be subpoenaed to testify; if you receive such a subpoena, you should get in touch with the Assistant United States Attorney who is handling the case as soon as possible.

4. GRAND JURY HEARINGS
A grand Jury is a group of at least sixteen (16) but not more than twenty-three (23) citizens from the same judicial district who meet to examine the evidence against people who may be charged with a crime. The work of the grand jury is not made available to the public or, in most cases, to the defendant. Only an Assistant United States Attorney and a stenographer meet with the grand jurors - plus the witness who has been subpoenaed to produce evidence and/or testimony.

Although a grand jury proceeding is not a trial, it is a serious matter. Witnesses are put under oath. Their testimony is recorded and may later be used during the trial. It is important to review carefully what you remember about the crime before you testify before the grand jury. Before testifying before the grand jury, you will probably meet with the case agent or the Assistant United States Attorney. This will help you get ready for your grand jury appearance.

After hearing the evidence presented by the Assistant United States Attorney, the grand jury will decide whether the case should be prosecuted. Grand jury charges against a defendant are called "indictments." If the grand jury finds that the case should not be prosecuted, they will return a "no true bill," which means that no indictment will be issued.

Not every witness in a serious crime is called to testify by the grand jury. Sometimes the grand jury will issue indictments on the basis of an officer's testimony alone. If you are called to testify, the Assistant United States Attorney should be able to give you an approximate time when your testimony will be heard. Unfortunately, it is not always possible to schedule testimony to the minute. Your appearance may involve some waiting to be called before the grand jury itself, so we recommend that you bring some reading material along with you.

All witnesses who testify before the grand jury, expect federal employees, are entitled to the same witness fee and expenses which are available for testifying in court at trial.

5. ARRAIGNMENT ON THE INDICTMENT
In this hearing, a Magistrate Judge formally informs the defendant of the charges, which are contained in the indictment, and his or her bail conditions are reviewed. Witnesses are usually not needed at this hearing. Usually at this hearing the date is set for the case to be heard at trial.

6. HEARINGS ON MOTIONS
Before the trial, the court may hear "motions" made by the defendant or the United States. These may include motions to suppress evidence, to compel discovery, or to resolve other legal questions. In most cases, witnesses are not needed at the motions hearing. If a witness is needed at this hearing, (s)he will receive a notice or a subpoena from the United States Attorney's Office.

7. THE WITNESS CONFERENCE
At some time before the trial date, the Assistant United States Attorney or the case agent assigned to the case may contact you by letter or phone asking you to appear at a witness conference to prepare you for trial. The purpose of this witness conference is to review the evidence you will be testifying about with the Assistant United States Attorney who will be trying the case. You are entitled to a witness fee for attending this conference.

8. TRIAL
In most felony cases, the only contact witnesses have with the prosecutors comes at the witness conference and at the trial. Normally, when the trial date has been set, you will be notified by a subpoena - a formal written order from the court to appear.

You should be aware that a subpoena is an order of the court, and you may face serious penalties for failing to appear as directed on that subpoena. Check your subpoena for the exact time at which you should appear. If for any reason you are unable to appear as the subpoena directs, you should immediately notify the Victim Witness Coordinator.

Felony trials do not always go on as scheduled. Sometimes the defendant may plead guilty at the last minute, and the trial is therefore canceled. At other times, the defendant asks for and is granted a continuance. Sometimes the trial has to be postponed a day or more because earlier cases being heard by the court have taken longer than expected. When possible, the Assistant United States Attorney handling the case or the Victim-Witness Coordinator will discuss with you any proposed scheduling change. Also, the United States Attorney's Office will do everything it can to notify you of any postponement in advance of your appearance at court.

Although all of the witnesses for trial appear early in the day, most must wait for some period of time to be called to the courtroom to give their testimony. For this reason, it is a good idea to bring some reading material or handwork to occupy your waiting time. If you are waiting in a courtroom, you should remember that it may be against the rules to read in court.

A felony trial follows the same pattern as the trial of any other criminal case before the court. The prosecution and the defense have an opportunity to make an opening statement, then the Assistant United States Attorney will present the case for the United States. Each witness called for the United States may be cross-examined by the defendant or the defendant's counsel. When the prosecution has rested its case, the defense then has an opportunity to present its side of the case. The United States may then cross-examine the defendant's witnesses. When both sides have rested, the prosecution and the defense have an opportunity to argue the merits of the case to the judge or, in a case that is being heard by a jury, in what is called a "closing argument." The judge or the jury will then make findings and deliver a verdict of guilty or not guilty of the offense charged.

After you have testified in court, you should not tell other witnesses what was said during the testimony until after the case is over. Thus, you should not ask other witnesses about their testimony, and you should not volunteer information about your own.

9. SENTENCING
In a criminal case, if the defendant is convicted, the judge will set a date for sentencing. The time between conviction and sentencing is most often used in the preparation of a pre-sentence investigation report. This report is prepared by the United States Probation Office. At the time of sentencing, the judge will consider both favorable and unfavorable facts about the defendant before determining the appropriate sentence to impose.

The function of imposing a sentence is exclusively that of the judge. In some cases, (s)he has a wide range of alternatives to consider and may place the defendant on probation (in which the defendant is released in the community under supervision of the court for a period of years), or place the defendant in jail for a specific period of time, or imposed a fine, or formulate a sentence involving a combination of these sanctions.

The court will also consider requiring the defendant to make restitution to victims who have suffered physical or financial damage as a result of the crime. If you are a victim, you should cooperate fully with the United States Attorney's Office and the United States Probation Office on preparing a Victim Impact Statement regarding the impact of the crime and the need for restitution. A Victim Impact Statement is a written description of your physical, psychological, emotional, and financial injuries that occurred as a direct result of the crime. A Victim Impact Statement is read by the judge who will be sentencing the defendant.

Victims and witnesses may attend [except in juvenile prosecutions unless the defendant agrees or court permits] the sentencing proceedings and may also have the opportunity to address the court at this time. The Assistant United States Attorney will tell you if such an opportunity exists for you and will talk to you about such a presentation.

TESTIFYING IN FEDERAL COURT

Twenty-Five Reminders As You Prepare to Testify

In the event that your case does go to trial, the following information will assist you in preparing to testify:
1. Before you testify, try to picture the scene, the objects there, the distances and exactly what happened so that you can recall the facts more accurately when you are asked. If the question is about distances or time, and if your answer is only an estimate, be sure you say it is only an estimate. Beware of suggestions by attorneys as to distances or times when you do not recall the actual time or distance. Do not agree with their estimate unless you independently arrive at the same estimate.

2. SPEAK IN YOUR OWN WORDS. Don't try to memorize what you are going to say. Doing so will make your testimony sound "pat" and unconvincing. Instead, be yourself, and prior to trial, go over in your own mind those matters about which you will be questioned.

3. A neat appearance and proper dress in court are important. The trouble with an appearance that seems very casual or very dressy is that it will distract the jury during the brief time you're on the stand - and they won't concentrate on your testimony.

4. For the same reason, avoid distracting mannerisms such as chewing gum while testifying. Smoking is not allowed. Present your testimony clearly, slowly, and loud enough so that the juror farthest away can easily hear and understand everything you say.

5. Jurors who are or will be sitting on the case in which you are a witness may be present in the same public areas where you will be. For that reason, you should not discuss the case with anyone. Remember, too, that jurors may have an opportunity to observe how you act outside of the courtroom.

6. When you are called into court for any reason, be serious, avoid laughing, and avoid saying anything about the case until you are actually on the witness stand. Also, do not read in the courtroom.

7. When you are called to testify, you will first be sworn in. When you take the oath, stand up straight, pay attention to the clerk, and say "I do" clearly.

8. Most important of all, you are sworn to TELL THE TRUTH. Tell it. Every true fact should be readily admitted. Do not stop to figure out whether your answer will help or hurt either side. Just answer the questions to the best of your memory.

9. Do not exaggerate. Don't make over broad statements that you may have to correct. Be particularly careful in responding to a question that begins, "Wouldn't you agree that . . . ?" The explanation should be in your own words. Do not allow an attorney to put words in your mouth.

10. When a witness gives testimony, (s)he is first asked some questions by the lawyer calling him or her to the sand; in your case, this is an Assistant U.S. Attorney. This is called the "direct examination." Then the witness is questioned by the opposing lawyer (the defense counsel) in "cross examination." (Sometimes the process is repeated two or three times to help clear up any confusion.) The basic purpose of direct examination is for you to tell the judge and jury what you know about the case. The basic purpose of cross-examination is to raise doubts about the accuracy of your testimony.

Don't get mad if you feel you are being doubted in cross-examination -- that is the defense counsel's job. DO NOT LOSE YOUR TEMPER.
11. A witness who is angry may exaggerate or appear to be less than objective, or emotionally unstable. Keep your temper. Always be courteous, even if the lawyer questioning you appears discourteous. Don't appear to be a "wise-guy" or you will lose the respect of the judge and the jury.

12. Although you are responding to the questions of a lawyer, remember that the questions and answers are really for the jury's benefit. Always speak clearly and loudly so that every juror can easily hear you.

13. DO NOT nod your head for a "yes" or "no" answer. Speak so that the court reporter (or recording device) can hear the answer.

14. Listen carefully to the questions you are asked. Understand the question, have it repeated if necessary, then give a thoughtful, considered answer. DO NOT GIVE AN ANSWER WITHOUT THINKING. While answers should not be rushed, neither should there be an unnaturally long delay to a simple questionif you know the answer.

15. Explain your answer if necessary. Give the answer in your own words, and if a question can't be truthfully answered with a "yes" or "no", explain the answer.

16. Answer ONLY the question asked you. Do not volunteer information not actually asked for.

17. If your answer was not correctly stated, correct it immediately. If your answer was not clear, clarify it immediately. It is better to correct a mistake yourself than to have the attorney discover an error in your testimony. If you realize you have answered incorrectly, say, "May I correct something I said earlier?"

18. The judge and the jury are interested in the facts that you have observed or personally know about. Therefore, don't give your conclusions and opinions, and don't state what someone else told you, unless you are specifically asked.

19. Unless certain, don't say "That's all of the conversation" or "nothing else happened." Instead say, "That's all I recall," or "That's all I remember happening." It may be that after more thought or another question, you will remember something important.

20. Sometimes, witnesses give inconsistent testimony - something they said before doesn't agree with something they said later. If this happens to you, don't get flustered. Just explain honestly why you were mistaken. The jury, like the rest of us, understands that people make honest mistakes.

21. Stop instantly when the judge interrupts you, or when an attorney objects to a question, and wait for the judge to tell you to continue.

22. Give positive, definite answers when at all possible. Avoid saying, "I think," "I believe," or "In my opinion" if you can be positive. If you do know, say so. Don't make up an answer. You can be positive about important things which you naturally would remember. If you asked about little details which a person naturally would not remember, it is best just to say so if you don't remember.

23. When being questioned by defense counsel, don't look at the Assistant U.S. Attorney or at the judge for help in answering a question. You are on your own. If the question is improper, the Assistant U.S. Attorney will object. If a question is asked and there is no objection, answer it. Never substitute your ideas of what you believe the rules of evidence are.

24. Sometimes an attorney may ask this question: "Have you talked to anybody about this case?" If you say "no," the judge or jury knows that doesn't seem right, because a prosecutor usually tries to talk to a witness before (s)he takes the stand and many witnesses have previously talked to one or more police officers, or federal law enforcement agents. It is perfectly proper for you to have talked with the prosecutor, police, or family members before you testify, and you should, of course, respond truthfully to this question. Say very frankly that you have talked with whomever you have talked with - the Assistant U.S. Attorney, the victim, other witnesses, relatives or anyone else. All that we want you to do is to tell the truth as clearly as possible.

25. After a witness has testified in court, (s)he should not tell other witnesses what was said during the testimony until after the case is over. Thus, do not ask other witnesses about their testimony and do not volunteer information about your own.

CONCLUSION

We hope that this handbook has answered many of your questions as to how the federal criminal justice system operates and what is expected of you in your role as a potential witness. As explained in this handbook, witnesses have important responsibilities in this process, and their full cooperation is essential if the system is to operate effectively. Your contribution, in time and energy, is very much appreciated by everyone in the United States Attorney's Office.

If you have any questions or problems related to the case, please contact the Victim-Witness Coordinator by calling (304) 234-0100.

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