



# Legal Advisor

**Jerry Hill,  
State Attorney**

**JULY 2005**

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## A PRIMER FOR TESTIFYING EFFECTIVELY AND PROFESSIONALLY: A GUIDE TO SUCCESS

BY ROBERT J. ANTONELLO

One of the most important responsibilities of a law enforcement officer is testifying in court. Also, for many, it is probably one of the most stressful duties. It can make or break a case. The following guide is intended to lead you on the path to providing effective and professional courtroom testimony.

**Preparation.** Any law enforcement officer is capable of providing excellent testimony. The key to success is preparation. Pretrial preparation begins and ends with your police report.

**Your Police Report. (Again)** A well written police report cannot be over-emphasized. A poorly written report will hurt your testimony, many times reducing it to damage control - trying to explain why your report is incomplete, inaccurate or simply wrong. There is no substitute for taking the time (on the day of the event) to write a complete, accurate and succinct chronology of events. Take time to accurately describe who, what, where, when and how. Leave out truly extraneous facts, opinions and conclusions.

**Your Police Report.** Without a doubt, the single most important preparatory aide, before and during courtroom testimony, is your police report. It is the basis of your testimony. In many cases, you will only be questioned about the facts, opinions and conclusions contained in your report. Read and study your report on the day you testify, before you testify. Know your case

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BARTOW PHONE NUMBERS:

SWITCHBOARD	534-4800
MISDEMEANOR INTAKE	534-4928
MISDEMEANOR	534-4926
DOMESTIC VIOLENCE	534-4882
VICTIM ASSISTANCE	534-4861
FELONY INTAKE	534-4987
FELONY	534-4964
INVESTIGATIONS	534-4804
VIOLATION OF PROBATION	534-4803
CHILD ABUSE / NEGLECT	534-4857
HOMICIDE DIVISION	534-4959
ON CALL PAGER	819-1526
WORTHLESS CHECKS	534-4874
JUVENILE DIVISION	534-4905
FAX - MAILROOM	534-4945
WITNESS MANAGEMENT MISDEMEANOR/TRAFFIC	534-4021
WITNESS MANAGEMENT FELONY	534-4020
WITNESS MANAGEMENT FAX	534-4034

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*Robert J. Antonello is an Assistant State Attorney in the Homicide Division. Prior to joining the State Attorney's Office Bob worked in private practice for over 15 years. In the 1980's, he worked as an Assistant Public Defender and an Assistant State Attorney.*

This is a skill which is acquired and improved only through practice and experience. However, as you develop your report writing skills, if you err on providing information, err on the side of providing more rather than less. Finally, write your report in plain, direct, understandable language. As you write it, imagine you are "speaking it" to a jury. If you have written a good report and have studied it, you are 95% down the road to providing effective and professional testimony.

**General Courtroom Demeanor .**

Always bring your script (your report) into the courtroom and refer to it as needed. Speak slowly, clearly and loudly enough to effectively

*Speak confidently and direct your comments to the jury, not the attorney.*

*...write your report in plain, direct, understandable language. As you write it, imagine you are "speaking it" to a jury.*

*Do not give your interpretation or opinion of the facts, unless specifically asked.*

tively convey your message to the jury. Speak confidently and direct your comments to the jury, not the attorney. Now, all you need to do is follow a few more simple rules and you're there.

**Answer the Question .** Listen to, and momentarily pause before answering a question. Answer only the question posed to you; nothing more, nothing less. The pause gives you time to reflect upon the question and mentally formulate an appropriate response. On cross-examination, it allows you to control the tempo of the interrogation, not the defense attorney. Also, it gives the prosecutor a chance to object if the question is improper. Do not ramble or volunteer information which is not responsive to the specific question asked.

**Truthfulness and Candor .** In our society, most people believe that law enforcement officers testify truthfully. You have that advantage when you enter the courtroom - as it should be. Therefore, do not be defensive or argue with the defense attorney when he or she suggests otherwise. Do not give your interpretation or opinion of the facts, unless specifically asked. Do not put a "spin" on your responses because you fear a direct, frank answer will be harmful to the case or reveal that you have made an honest mistake, error or omis-

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sion. It is much easier for the prosecutor to deal with that fact alone, rather than also having to defend your credibility if the jury believes you have been less than candid in regard to such matters.

**Relax .** If you have prepared as outlined above; and if you follow the rules set forth herein; you are

primed for testifying effectively and professionally. On the day of trial, you will perform best if you try to relax and take the witness stand thinking clearly. You've studied your report and are ready to answer any question relating to it. You're going to follow the guidelines for testifying. You're confident..... You're there!

# Top Cop

I'd like to thank Detective David Bright of PCSO for his help in a recent case. I had a no-notice hearing set up by the Court and had to scramble to get witnesses lined up. Det. Bright was very helpful and cooperative, coming to court with evidence in hand and helped me to prepare. He maintained his patience and good humor even when the judge cancelled the hearing at the behest of the defense.

I really appreciate his hard work and helpfulness, and I'm sure that the trial in these matters will go well thanks to his diligent preparation.

Victoria Avalon, Assistant State Attorney

## ...FROM THE COURTS...

### SUSPENDING OBJECT FROM REAR VIEW MIRROR IS NOT A CIVIL INFRACTION.

The defendant was charged with trafficking in cocaine and filed a motion to suppress evidence. The facts on which the motion was based were that officers stopped the defendant's car because they saw two air fresheners hanging from the defendant's rear view mirror which they believed to be a civil infraction. During the stop a drug dog alerted on the trunk of the defendant's vehicle. A search of the trunk revealed

cocaine. The trial court denied the motion, and the defendant was convicted as charged. On appeal, the Second District reversed, holding that the stop of the defendant was illegal because driving with an air freshener or other object suspended from the vehicle's rear view mirror does not constitute a traffic infraction. *Gordon v. State*, 30 FLW D1240 (Fla. 2d DCA May 13, 2005).

### EMPLOYEE BIRTHDAYS SEPTEMBER 2005

September 2  
Joan Hughes

September 3  
Sonya Colson  
Cheryl Hooks

September 4  
Arley Smith

September 9  
Tammy Every  
Aleisha Browning

September 11  
Rachel Stringer

September 12  
John Aguero

September 14  
Cari Daniels

September 17  
Martin Hodges

September 19  
Margarita Sanchez

September 20  
Meley Lorren

September 25  
Debbie Colson  
Annette Campbell  
Tracie Vore

September 27  
Vanessa Caruthers

*Happy  
Birthday!*





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124 South Palm Avenue  
Wauchula, FL 33873  
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Fax: (863) 773-0115

**Highlands County**  
411 South Eucalyptus  
Sebring, FL 33870  
Phone: (863) 402-6549  
Fax: (863) 402-6563

**Polk County**  
P.O. Box 9000, Drawer SA  
Bartow, FL 33831-9000  
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Fax: (863) 534-4945

**Child Support Enforcement**  
215 N. Floral Avenue  
Bartow, FL 33830  
Phone: (863) 519-4749  
Fax: (863) 519-4759

**Lakeland Branch Office**  
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Lakeland, FL 33801  
Phone: (863) 499-2596  
Fax: (863) 499-2650

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Winter Haven, FL 33881  
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## ...FROM THE COURTS...

### AGREEMENT TO COOPERATE WITH POLICE DOES NOT WAIVE SPEEDY TRIAL.

The defendants were charged with sale of a controlled substance and filed motions for discharge under the speedy trial rule. The facts on which the motions were based were that after the defendants were arrested, they agreed to assist law enforcement in a drug investigation by conducting controlled buys and were then released. Law enforcement officers agreed not to file charges until the defendants' assistance was complete. There was no discussions of or signing of speedy trial waivers. Subsequently, the officers found the defendants' levels of coop-

eration to be unsatisfactory, and the defendants were again arrested and charged after the running of the speedy trial time period. The trial court granted the motions for discharge and on appeal, the Supreme Court affirmed, holding that a criminal defendant's agreement to cooperate with police, standing alone, does not act as a waiver of the right to a speedy trial or otherwise prevent the running of the time in which a defendant must be brought to trial. *Bulgin v. State*, 30 FLW S368 (Fla. May 19, 2005).

### A BB GUN CAN BE A DANGEROUS WEAPON

The defendant was charged with armed burglary, car jacking, and petit theft. At his trial, the evidence established that he lifted his shirt to display a gun in his waistband. He then pulled out the gun which was a BB gun and pointed it at the victim who was ten feet away. He told her to open the car door or he would

use the gun. He was convicted as charged. On appeal, the Third District affirmed, holding that the question of whether the BB gun was a dangerous weapon was one for the jury. *Santiago v. State*, 30 FLW D1071 (Fla. 3d DCA Apr. 27, 2005).

### FOURTH AMENDMENT DOES NOT APPLY TO ACTIONS OF PRIVATE SECURITY GUARDS.

The defendant was charged with a felony and filed a motion to suppress evidence. The facts on which the motion was based were that the defendant was stopped and searched by private security guards at a flea market. The security guards found a firearm. The trial court denied the motion to suppress,

and the defendant was convicted. On appeal, the Third District affirmed, holding that the Fourth Amendment did not apply to the search since the security guards were not government agents. *Alexander v. State*, 30 FLW D1339 (Fla. 3d DCA May 25, 2005).