3-05/030.00 - Witnesses

When called to testify in a case, the prosecutor, defense counsel or judge will call out the name of the witness in open court. The witness will proceed, as directed by the bailiff, to a predetermined location to be sworn in by the clerk. The bailiff should, whenever possible, have the witness face the clerk and raise their right hand. After being sworn, direct the witness to be seated in the witness box and adjust the microphone so the testimony of the witness can be heard by all. A witness shall not chew gum while testifying. While performing these duties, the bailiff should show the witness every courtesy to allay fears and to put the witness at ease.

Handicapped witnesses should be assisted to the witness stand by the bailiff. If the witness is in a wheelchair and the witness stand is equipped with a wheelchair lift, the bailiff shall operate the lift.

All witnesses may be excluded from the courtroom on the motion of the prosecution or the defense. If the judge grants the motion all witnesses or potential witnesses will be asked to identify themselves and then will be asked to leave the courtroom, they shall be advised not to discuss their testimony with any other person or witness (867 PC). The witness shall then be called back into the court when they are to testify. It is while witnesses are excluded in a preliminary hearing that there is a high potential for witness intimidation. Bailiffs, officers testifying on the case and other deputies should be vigilant trying to prevent any form of intimidation. If the defendant is in custody, the bailiff shall not leave the court to call a witness, unless there is sufficient backup.

Sometimes it will be the deputy's responsibility to assist in the protection of witnesses. If possible, attempt to keep witnesses separate from any relatives or friends of the defendant. Anyone who attempts to prevent a witness from testifying or tries to make them change their testimony is in violation of 136.1 PC, et sec.

Refer to CSDM, 3-04/025.00 - Control of Spectators / Audience to Enhance the Safety and Security of Court and Staff.