

## What do I need to know about hearsay evidence?—

A witness cannot testify to hearsay evidence. This rule is very broad and so are the exceptions, but it basically prevents a witness from testifying as to what someone else said.

All your evidence must be from direct knowledge. In other words you must have seen or done the thing testified to on your own.

Evidence like “I was told by the mechanic that he checked the brakes and they were all within adjustment.” is objectionable. This means that it qualifies as hearsay and is not admissible in court. But if the witness were to say “I checked the brakes and they were all within adjustment” is permissible because it is based on direct observations and actions.

## What happens when I am done testifying?—

When both the prosecutor and defence paralegal have completed asking you questions, the Justice will dismiss you. This means that you are free to leave the courtroom or you are allowed to sit in the body of the court and watch the remaining trial.

## I’m Going to Be Called As A Witness...

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## What Do I need to Know?

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## What is a trial?\_\_\_\_\_

A trial, for a provincial offence, is a hearing in a courtroom presided over by a Justice of the Peace to determine the guilt of the defendant to the charge laid against him/her by the police or the Ministry of Transportation

## How is evidence introduced?

All evidence must be introduced through a live witness like you.

Witnesses take the witness stand and either swear on religious texts, like the bible or Koran, to tell the truth. The witness will also be given the option to affirm, or promise, to tell the truth. Either way the witness has to be sworn in before he/she can begin to testify.

Testimony comes in the form of answers to questions asked by both the prosecution and the defence. The Justice of the Peace can also ask questions if he/she deems it necessary.

## How can I best present myself in court?\_\_\_\_\_

How you look is just as important as what you say. Dressing in clean, business like attire is best. This means suit and tie or shirt and tie with dress pants is ideal for men and a pant/skirt suit for women. You will want to choose clothing that is both court appropriate, but also comfortable. When you are comfortable your physical demeanor will be more relaxed.

It is not acceptable to wear jeans, t-shirts, exercise clothing or dirty clothing of any kind.

You will be nervous, but you must remember to speak slowly, and clearly and loud enough that the Justice of the Peace can hear your evidence.

If you are asked a question that you don't understand you are allowed to ask for clarification, but you not allowed to answer questions with a question. This will be interpreted by the Justice as being evasive and combative. And you risk damaging your credibility.

You will want to make eye contact with the person asking you questions. You are encouraged to look at the Justice and let them see that you are genuine and confident in your testimony.

In order to prevent you from being influenced by other witnesses, you will be asked to remain outside the courtroom when other witnesses testify. This is called and "exclusion order". During this time you do not discuss with anyone what you will be testifying about nor what others have or will testify to.

When your name is called you will enter the courtroom and be invited to take the witness stand.

## What Types of questions will I be asked by the defendant's paralegal?\_\_\_\_\_

You are being called as a witness for the defence. This means that the paralegal for the defence will be asking you questions in "direct-examination".

When you are being questioned by the defendant's paralegal you will be asked open-ended questions. This means that the questions cannot be leading or suggest the answer.

An example of a leading question is: "did you perform a pre-trip inspection?" An example of an open-ended question is: "What did you do to confirm the safe operation of your vehicle?"

The defendant's paralegal will be asking you questions that will help the defendant win a dismissal of the charge. In order to be successful the Justice will need to believe your testimony. Therefore, your credibility is important. This means that what you say and how you present yourself is critical for the Justice to form a favourable opinion about you and your evidence.

## What Types of questions will I be asked by the prosecutor?

When the defence paralegal has completed questioning you the prosecutor will question you and this is called "cross-examination".

The prosecutor's questions are allowed to be leading and suggestive.

The prosecutor's role in cross-examination will be to destroy your credibility and have the Justice give little or no weight to your testimony.

Because the prosecutor's questions will be suggestive and leading you are encouraged to give short and direct answers where possible.

They will be questioning you on the evidence that you gave in direct-examination. The prosecutor may try twisting your words and have you admit to making mistakes or embellishments in your direct examination. The prosecutor may also try to have you admit a different version of events than what you originally testified to.

A simple way to withstand this type of questioning is to make sure that your answers in cross-examination are consistent with your direct examination.