

Boston Center for Refugee Health and Human Rights

Expert Witness Checklist

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Before the Hearing:

What to Do:

- ✓ Make sure you have spoken with the client's lawyer about the case and about the types of questions you might be asked by all parties. To prepare, the lawyer will ask you many questions that he/she may ask you in court.
- ✓ Be sure to ask the lawyer what the line of questioning will be and if there are any specific problems that might arise during your testimony.
- ✓ Be certain you know the correct date, time, and place for which the hearing has been scheduled. It is sometimes possible to testify by phone if it is cleared with the judge. The lawyer must do this in advance.
- ✓ Review the client's case file to make sure that it is accurate and complete. Do not bring originals or photocopies of the file with you to the court or the court may enter it as evidence into the court record. You may bring your evaluation with you.
- ✓ Refresh your memory concerning the specifics of the patient's case.
- ✓ Dress professionally. Avoid flashy colors and wear minimal jewelry.
- ✓ Arrive at least an hour before you are scheduled to testify. Ask the lawyer to try to schedule your testimony for a specific time if the judge will agree. Otherwise be prepared to take off the entire morning or afternoon. If there is not enough time to hear the entire case, the hearing will be scheduled to continue on another day and you will be asked to come to testify then.
- ✓ Use the toilet, stretch your muscles, and breathe deeply several times before the hearing begins. This will help make you more comfortable and will improve your body language.
- ✓ If possible, before the trial starts, walk into the courtroom and see where the witness chair is located and the path you need to take to get to it. This will make it easier to walk there directly and help make you feel more comfortable.

During the Hearing:

Body Language:

Remember that messages are also conveyed by *nonverbal* language (e.g. tone of voice, facial expression, hand gestures, body position and eye contact).

- ✓ Sit up straight.
- ✓ Keep your hands on your lap and away from your mouth.
- ✓ Keep both feet on the ground. Do not cross your legs.
- ✓ Look directly at the questioning lawyer or the judge. Remember to make eye contact.

Speaking:

- ✓ Tell the truth, the whole truth and nothing but the truth, otherwise you might hurt the client's case.
- ✓ Speak accurately, concisely, and honestly.
- ✓ Speak loudly and clearly and a little slower than usual. Using shorter sentences will make it easier for everyone to understand.
- ✓ When someone asks you a question, wait until they finish the entire question, and then take a deep breath before responding. This will make sure you hear the entire question and give you some time to think before you respond.
- ✓ If you do not understand the question, ask the lawyer to repeat it for you.
- ✓ When you don't remember the answer to a question, say that you don't remember- don't try to make something up! You may also ask the judge if it is acceptable to look at the client's evaluation to help refresh your memory.
- ✓ If you don't know the answer, say you don't know.
- ✓ If you make a mistake, admit it and correct it. If you recall something you couldn't remember earlier or recall something differently than you had earlier, correct yourself. Nobody is going to hold it against you if you make a mistake, but they will hold it against you if they think you are lying.
- ✓ Do not speak outside of your area of qualification.
- ✓ Do not speculate or answer questions such as "What was _____ thinking when she attended the protest?"
- ✓ Never memorize your testimony. Know your facts, but memorizing will make you look rehearsed during your testimony and you will not be able to handle questions asked out of order.
- ✓ Show respect to everyone in the courtroom. If you need to ask the judge a question, look at the judge and say "Your Honor." Wait until the judge gives you permission to speak before you ask the question. Refer to the lawyers as "Sir" or "Madam."

- ✓ Be polite, professional, and appropriate. Act the same way whether it is the client's lawyer or the government's lawyer asking you questions. Do not get defensive.
- ✓ If you need to take a break, it is OK to ask the judge for a recess.
- ✓ Do not write personal notes or they may become evidence included in the court record.
- ✓ Do not supply anything beyond the affidavit already submitted to the court unless you have consulted with both the client and the client's attorney.

Keep in Mind:

- ✓ This is an adversarial process. The government's lawyer is supposed to ask difficult questions. She is not there to be nice, but to do her job. Do not take it personally and do not get angry.