



“Will You Please Take the Stand?”

Courtroom Testimony for Law Enforcement Officers – Part II

By David Berger

Preparing for Testimony

Police Reports: The earliest phase of preparation for trial is in the writing of the report. The officer must consciously, as he is writing, be aware of the fact that he will potentially be required to testify from that report. Make certain, therefore, that the report is accurate, thorough, and extremely detailed. The testimony may not occur for a considerable period of time, during which the officer will have been involved in many other cases and have written numerous reports of similar events.

The report from which he will testify, therefore, must be sufficiently detailed to refresh the officer's memory regarding that particular case and his involvement therein. Absolutely nothing must be left to conjecture. If an officer is forced to assume he performed some function, that assumption will be addressed by the defense counsel and subjected to criticism that certainly will stand out in the jury's memory. Methods of handling that situation will be discussed later.

Upon learning that testimony will be required, the officer should first obtain a copy of the police report. Department or agency policy may differ; however, this author recommends that the officer review only that portion of the report which was written by him or her, or their partner who wrote the report on behalf of both of them. If the particular phase of the event required the participation of other units, then those reports also should be reviewed. It is not necessary to review

the entire file, including, follow-up investigation, witness interviews, forensic procedures, etc. The reason being is that the officer may learn information that developed at a later time under more intense circumstances, which may lead the officer to interpret some of the actions he observed in a different light. Also, if the officer has no knowledge of subsequent investigative procedures or actions that occurred outside his presence, he cannot testify to those procedures or comment upon them.

It not only relieves the officer of that responsibility, but it also denies the defense other areas of inquiry at that time in the trial; areas in which the testifying officer is not sufficiently knowledgeable to answer without committing some error which would benefit the defense. It is not incumbent upon an officer to follow-up on a case unless he is specifically assigned to do so. The only subjects where the officer can, or should, testify to are those events with which he or she was directly involved and are contained in that portion of the entire police report file that the officer created.

Discuss With Partner: The officer's partner will also be called to testify and, for that reason, the report which was jointly composed, should be reviewed together. Under normal circumstances, both officers will compose a single report under joint signatures. If the responding officers were in separate one-officer units, however, they may be required to prepare individual reports or

