

# DEPOSITIONS: WHAT YOU NEED TO KNOW

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## *WHAT IS A DEPOSITION?*

A deposition is a formal statement taken under oath and recorded by a certified court reporter. Iowa law provides for “discovery of evidence.” This means defense counsel has the right to ask questions of any prosecution witness in a particular criminal case. Scheduling a deposition makes this “discovery” more organized than having an investigator or defense attorney come to your home or place of business “just to ask a few questions”.

## *WHO WILL BE AT THE DEPOSITION?*

Present at every deposition is a court reporter, the prosecuting attorney, the defense attorney and the witness being questioned. The defendant has a constitutional right to be present and most likely will be there. The defendant does **not** have the right to question you personally if represented by counsel.

## *WHAT IF THE DEFENDANT IS NOT REPRESENTED BY COUNSEL?*

The defendant acting as his own attorney would be allowed to question you. However, such a case is VERY uncommon. Were such a situation to arise, you will be notified ahead of time. The Victim/Witness Coordinator will help to prepare you for the event.

## *WHAT SHOULD I WEAR?*

The only formality about a deposition is its basic procedure. Otherwise, the atmosphere is much more casual than giving testimony in front of a judge or jury. It is fine to wear comfortable clothes or your work “uniform” if you have been called away from or will be returning to work.

## *WHAT IF I’VE FORGOTTEN THE CRIME DETAILS ALREADY?*

It is not uncommon for witnesses to forget certain aspects of the incident. A few months or more have passed since the events you witnessed and it is normal for you to move on with your life. You have the right to review any statements you previously gave to law enforcement. Most people find the questions asked of them during the deposition help spark their memory. However, if you really can’t recall something, it is best to say so rather than be pressured into giving an answer of which you’re unsure. You may remember later the specifics of a particular answer, and may add those either during the deposition or afterward.

## *I AM REALLY AFRAID TO DO THIS.*

Being involved in the criminal justice process is foreign to most people—the unknown is scary. You do not need to be afraid. The Victim/Witness Program will do everything possible to help you feel more calm and in control, including arranging meetings to prepare for your testimony. If you are the victim of this offense, you have the right, guaranteed by Iowa law, to have an advocate present with you at your deposition or any other criminal justice procedure. Someone from Crisis Intervention Services or the Victim/Witness Program will be available to go with you and provide emotional support.

## *WHAT KINDS OF QUESTIONS ARE THEY GOING TO ASK ME?*

Iowa discovery law is very liberal. The questions asked of you will vary depending upon your questioner. Some defense attorneys ask very broad based questions; others get right to the heart of the matter. If you

don't understand a question asked of you, ask that attorney to clarify the question. If you are called by the wrong name or any fact is misstated by the attorney, it is okay to provide them with a correction.

### *MY BOSS IS GOING TO BE MAD AT ME FOR MISSING WORK!*

Iowa law prohibits employers from punishing witnesses who are called to testify. Your subpoena is similar to a court order telling you to appear at a certain time and place. Our goal is not to disrupt people's normal routines. We will make every effort to accommodate your schedule. If you need assistance with an employer, do not hesitate to ask the Victim/Witness Coordinator for help.

### *WHAT HAPPENS IN A DEPOSITION?*

Plan to arrive a little early for your deposition. This will give you a chance to ask any last minute questions and review any statements previously made. The process of a deposition is fairly simple. The court reporter places you under oath and may ask for the correct spelling of your name. Allow the defense attorney to ask you the questions before you answer. Always use "real" words like "yes" and "no" versus "un-huh". The County Attorney may also ask a few questions for you.

### *WHAT IF I HAVE NO WAY TO GET TO THE DEPOSITION?*

If you do not have transportation to a deposition, or if you have special needs that must be accommodated, please call the Victim/Witness Coordinator and an advocate will help to make transportation arrangements and can assist you with your needs.

### *AM I REQUIRED TO ANSWER EVERY QUESTION THE DEFENSE ATTORNEY ASKS ME? WHAT IF I DON'T KNOW THE ANSWER?*

Typically, you will be expected to answer the questions you are asked to the best of your ability. If you do not know the answer to a question, tell the attorney so. They may be able to rephrase the question to make it clearer or easier for you to answer. Regardless of what you were asked, be honest. If you need a question clarified, ask the attorney. If you don't know the answer to a question, tell the attorney that you don't know.

### *CAN I BRING A FAMILY MEMBER OR FRIEND WITH ME TO THE DEPOSITION?*

Typically, attorneys will not allow family members or friends to be present during the actual deposition. There are many reasons for this policy. First, your friend or relative may later be called to testify in the case. Hearing your testimony at deposition could influence their own testimony in some way. Second, some of the questions you are asked may not be questions you feel comfortable answering in front of someone you know well. If you are a victim of the offense, you are entitled to have a victim advocate at the deposition. Your friends and family may come with you and wait for you to finish.