

**THE TRUTH, THE WHOLE TRUTH  
AND NOTHING BUT . . .**

### ABOUT THE AUTHOR

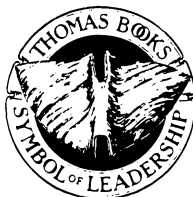
**D. W. Reynolds** is a Homicide Detective Sergeant with the Birmingham, Alabama Police Department. He has also worked as a Robbery Detective, an Evidence Technician, and a Patrol Officer in his eleven years with the department. Sgt. Reynolds has earned a Bachelor of Science Degree and a Master of Science Degree in Criminal Justice from the University of Alabama in Birmingham. He is a certified instructor at the Birmingham Regional Police Academy. Sgt. Reynolds has extensive experience in the area of court testimony and has gained a reputation for being a most effective communicator from the witness stand. In this book, he shares the techniques that earned him that reputation.

# THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT . . . .

A Police Officer's Guide  
To Testifying In Court

*By*

D. W. REYNOLDS



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*This book is dedicated . . .  
to every defense attorney who  
ever taught me a lesson on  
the witness stand.*

*If the facts don't favor your client, argue the law.  
If the law doesn't favor your client, argue the facts.  
If neither favor your client, attack your opponent.*

—Abraham Lincoln

*If the attorney attacks the legality of your actions, know the law.  
If the attorney attacks the facts of your case, know the details.  
If the attorney attacks you, know the attorney's tricks.*

—D. W. Reynolds

## INTRODUCTION

Every day, in courtrooms all across the country, police officers take the stand and testify. It is part of our job. We are required to give testimony in cases ranging from parking ticket disputes to capital murder trials. Every time we take the stand, we are confronted with volleys of questions from attorneys. Prosecuting attorneys ask questions on behalf of the state and defense attorneys ask questions on behalf of the accused. Jurors listen to the answers to these questions from all the witnesses, then vote on guilt or innocence. That's the process of justice in a nutshell. There is a part of that process with which we, as police officers, have always had a problem; that's when our testimony is vigorously attacked by the defense counsel. Most officers don't understand why this attack happens or what they can do about it. That's because we have been operating under a set of misconceptions about testifying in court. Why do defense attorneys attack the officer's testimony with such freedom and license? Why do police officers feel that they are so powerless when questioned on the stand by the defense counsel? Is there anything the officer can do to control his own testimony? The answer to this last question is a resounding YES!

This book offers a new approach to testifying in court, an approach which gives a police officer the power and freedom to testify as he has always known he should and wished he could! What is the source of this power and freedom? It has been there all the time, but we just didn't realize it. It's in the oath that any witness takes when he is called to the stand. When he is "sworn in," a police officer promises "TO TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH." The responsibility and duty that this oath demands can be the very key that unlocks the chains we've been bound with for so long. It's time to take this oath seriously and to use it to our advantage in this one area of law enforcement that has been largely overlooked and under emphasized—**testifying in court**.

My goal is for you to benefit from the four "E's" of this book—Enlighten,

**Expose, Educate, and Equip.** I will **Enlighten** you to the dynamics of what is **actually** happening in court and where you fit in. I will **Expose** many of the **tricks** and **tactics** (there is a difference between the two, and I will explain in a later chapter) used by defense attorneys against you in court. I will **Educate** you with new techniques of testifying and broaden your “range of response.” Don’t worry, there are no new skills for you to learn; all the resources and talents you need, you already have. All that’s required is a new perspective on testifying. You will then be better **Equipped** to handle any trick or tactic used against you as you “**TELL THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.**”



## ACKNOWLEDGEMENTS

I am grateful to the many people who, over the years, have influenced my perspective on testifying in court. Some were judges, some were prosecutors, and others were defense attorneys. All played a part, either directly or indirectly, in the development of the techniques in this book. I am grateful to my fellow police officers who shared their agonizing accounts of courtroom experience with me. These techniques are for you. I am grateful to my wife and children whose patience, understanding, and encouragement have never waned. I want to thank my friends at Louie Louie's for listening to this cop ramble about a book I was writing. Their rational insights and anecdotal humor were invaluable. I am especially grateful to Melody J. Greene for her superb assistance in editing the manuscript.



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**THE TRUTH, THE WHOLE TRUTH  
AND NOTHING BUT ...**



## Chapter One

### TESTIFYING: THE LEAST LIKED, MOST IMPORTANT THING YOU DO

I sat nervously in the witness waiting room. I knew that I would be next to testify. What had begun as butterflies in the pit of my stomach this morning had now evolved into good-sized pigeons, all flapping their wings at once! This was because I dreaded court. I dreaded court more than I dreaded the dentist, filing my income tax, or a phone call from my mother-in-law. In fact, I would gladly substitute any of these unpleasant events for my predicament today. I had to testify. I heard the bailiff coming down the hallway. “Maybe they’re taking a recess,” I hopefully thought. The pigeons were really getting restless now.

“Officer Reynolds,” the bailiff called out, “they’re ready for you now.”

I walked down the hall toward the courtroom, secretly praying for an act of God to intervene. The pigeons began to fight among themselves. I scanned my uniform quickly, making sure everything was in the right place, and I wiped the sweat from my brow one last time. Entering the courtroom, I felt every eye turn my way. Even the pigeons were scared as hell! I walked past the jury box, avoiding eye contact with them all, and stepped up to the witness stand. The judge said, “Raise your right hand, please. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?”

“I do,” cracked from my parched lips.

“Be seated,” the judge ordered.

As I took my seat, the pigeons all committed suicide right there in my stomach! I guess they didn’t want to testify, either.

This is how I felt as a young officer whenever I was called to court. These feelings are experienced by many police officers, even after years of testifying. Most of us would rather search a dark warehouse for an armed burglar than go to court. Why is this so? There are a number of legitimate reasons.

## **A Fear of the Unknown**

This is a normal human response when we find ourselves facing any situation where we don't really know what to expect. A new police officer is especially vulnerable because he is stepping into an unfamiliar arena where he fully expects his lack of experience to work against him.

## **Court Is an Unpleasant Experience**

Anyone who has ever taken the witness stand can attest to the fact that going to court is not fun. Having to sit in the "hot seat" and answer questions while attorneys, spectators, jurors, reporters, the judge, and the defendant all look at you would expectedly make a normal person uneasy and a shy person contemplate suicide (like the pigeons)! Your credibility, character, and reputation are on the line. It is an especially unpleasant experience for a police officer because he is held to a higher expectation of expertise than is a citizen who is merely telling what he saw, heard, or did. A police officer is rightfully expected to be able to legally justify his actions, because what he saw, heard, or did is governed by more laws than any of us in the police profession can possibly comprehend.

## **The "I've Been Burned Before" Syndrome**

The first time I went to the dentist . . . it hurt! The second time I went to the dentist . . . it hurt! Every time I go to the dentist . . . IT HURTS! Many officers feel the same way about court. "I've been burned before," is one of the most common (and accurate) statements you'll hear from police about their court experiences. Defense attorneys have "put us on the spot," "raked us over the coals," "reamed us out," "had us for lunch," and "chewed us up and spit us out." It's no wonder we expect to be misused every time we take the stand.

## **Lack of Control Over the Situation**

Police officers are taught to always be in control. People are more comfortable when they have some control over the forces around them. I can think of nothing more terrifying than the feeling of being totally controlled and manipulated by persons or forces that are completely



outside the scope of my influence. Rape victims frequently report that it was not the actual forced sexual act that scared them the most; it was the terror of being completely dominated by another person. This same phenomenon is felt on the witness stand (though certainly not to the extent of a rape victim). We have no choice in whether or not we come to court. We were subpoenaed. We can't get up and walk out until the judge excuses us. We have no control over the questions being asked of us, how they are asked, or the conduct of those asking. It seems that there's very little we can control once we take the stand, but this is actually a myth! By the end of this book, you'll realize that you can control much more than you thought possible!

### **Lack of Training**

When I was a recruit at the Birmingham Police Academy in 1978, I was trained in all the basics of good police work, twelve weeks worth of training, but no one told me what to expect when I got to court. Oh, I was taught all about the steps that a case would take in the criminal court process, the different parts of a trial, rules of evidence, and even a list of "pointers on testifying" that included always tell the truth, never lose your temper, speak clearly, be neutral, don't chew gum, and wear a clean uniform. All of these pointers are true and good to know, but they fall grossly short of adequate training. Not much has changed since then. A recent check with Police Training Academies around the country revealed little improvement. It is no wonder that many police officers view court as nothing more than a distasteful necessity of their job, and, subsequently, perform as poorly as they do. The significance of court is not stressed in rookie school, and many veteran officers never fully realize what court is all about. They see their job as ending after the arrest is made and the judicial machinery kicks in.

Why should court be so important to a police officer? The following are just a few reasons that we need to consider:

- It's in a court of law that society shows its disapproval for certain acts. This law is the thread that holds our culture together.
- A citizen's future (and possibly even his life) is at stake. The jury's decision may not drastically affect the officer, but it will have profound ramifications on the defendant and his family.
- The victim and the victim's family have an unquestionable right to

the officer's absolute best efforts. If his testimony "blows the case," he cannot shirk responsibility by blaming it on a shrewd defense attorney.

- Court is the culmination of all the officer's efforts, a sort of "final exam." It is here that the officer receives his most accurate critique. He can either have the satisfaction of a job well done or he can be lambasted and humiliated with his exposed inadequacies.
- It's the whole reason you're a cop, the whole purpose of laws, to bring those who have been accused of breaking society's rules (laws) before a jury of their peers who decide innocence or guilt.

In fact, testifying in court is probably **the** most important aspect of a police officer's job, but is the one area where he receives the least amount of training. Police officers expend enormous amounts of time and money to attend schools and seminars and study volumes of material on the subject of **gathering evidence and information**. **We** are the experts in that field. Criminal trial lawyers attend seminars and conferences and write and read volumes of material on the subject of controlling and manipulating witnesses and their testimonies. **They** are the experts in that field. Police officers are ill-prepared for what they face after they take the stand. Our training has made us great "**fact-gatherers**," but not-so-great "**fact-presenters**" in court. And that is my motivation for writing this book.

Over the years, I have been called to testify many, many times, due largely to the fact that I was an evidence technician and later a robbery/homicide detective. The nature and scope of the cases that I have been involved in resulted in my taking the stand more frequently and for a greater duration than many officers. I have developed techniques of testifying that have proven successful over the years and dramatically changed my perspective on going to court. I have found that testifying in court is one area of our work where we limit ourselves the most, though, if understood correctly, we actually have the most freedom.

It is my most sincere desire and belief that the information in this book will not only make you a dramatically more effective "**fact-presenter**" in court, but the confidence you gain from knowing this information will result in those pigeon-sized butterflies leaving the pit of your stomach and nesting in the gut of any defense attorney who sees you walking toward the witness stand!