

United States Department of Justice
United States Attorney's Office
Western District of Louisiana



COMING TO COURT

General Resource Guide

Provided by:

The Victim – Witness Unit
United States Attorney's Office
Western District of Louisiana



United States Attorney's Office
Western District of Louisiana
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Since most people are not familiar with courtrooms and court proceedings, we in the United States Attorney's Office would like to give you some general information about preparing for court and some information about testifying. We have also included general information about travel, witness fees and reimbursements, sentencings, restitution and the role of the Victim-Witness Coordinator. We hope this information will answer any questions you may have and make you more comfortable about the entire process.

GENERAL INFORMATION GUIDE

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GRAND JURY

WHERE: All federal grand jury proceedings are conducted at the U.S. Courthouse in a sound-proof grand jury room.

WHO: Unlike trials, the only people allowed in the grand jury room are the court reporter, the grand jurors, the Assistant U.S. Attorney presenting the case, and the witness who is testifying. There is no judge in grand jury.

WHEN: The Grand jury meets from 9:30am to 5:00pm on a designated day. Typically, the Grand Jury meets every two weeks (once in Shreveport, once in Lafayette) for a period of 18 months.

HOW: The Grand jury is made up of jurors who hear evidence on a criminal case and decide if the evidence presented leads a reasonable person to believe that a crime has been committed. If the jury decides this, they will vote on an Indictment which is the formal instrument charging a person with a particular crime(s). The grand jury does NOT decide guilt or innocence, they only decide if it is probable that a crime has been committed. Grand jury proceedings are secret. As stated above, no one is allowed in the grand jury room while the grand jury is in session except the court reporter, the Assistant U.S. Attorney, the grand jurors and the testifying witness. Defendants and defense attorneys are not allowed in the grand jury room, in fact, they are usually unaware that a grand jury proceeding is taking place. Grand jurors are not allowed to discuss the cases they hear outside of the grand jury room. Therefore, no one outside of the U.S. Attorney's office will know a witness is testifying.

TRIALS

WHERE: All trials are conducted in the U.S. District Courthouse by a District judge. Each judge conducts his/her courtroom and court proceedings in a slightly different manner. You will be given more information about this prior to your testimony.

WHO: The judge, jury, court reporter, courtroom deputy, defendant(s), defense attorney(s), prosecutor, the witness testifying and Deputy U.S. Marshals (they provide courtroom security) are all in the courtroom during the trial. Spectators, including representatives of the media, are allowed in the courtroom. Presently, cameras are not allowed in federal court. Other witnesses are not allowed in the courtroom - they wait in the witness room until time to testify.

WHEN: Unless there is an unusual circumstance, most trials begin at 9am and end at 5pm with an hour lunch break.

HOW: Trials begin with opening remarks from the prosecution and the defense may make an opening statement. The prosecution then begins to present its case. This includes entering evidence into the record, testimony by law enforcement and other professionals, and testimony by witnesses and victim-witnesses. A witness may be on the stand for as little as a few minutes, or as long as a week or more. Trials can take hours, days or even weeks due to numerous objections, lengthy testimony and/or lengthy cross-examination.

After the prosecution finishes presenting its case (called resting), the defense may then present a case in a similar fashion. Again, it is hard to predict how long the defense's case will take since there may be more than one defendant and more than one defense attorney. A defendant has no obligation to present any evidence since the burden is on the prosecution to prove its case beyond a reasonable doubt.

Once the defense rests, or at the close of the prosecution's case if the defense presents no evidence, the prosecution gives a closing statement to the jury which summarizes the testimony they heard, the evidence presented and why the prosecution proved its case beyond a reasonable doubt. The defense then makes its closing statement which summarizes their case and why the prosecution did not prove the defendant was guilty beyond a reasonable doubt. The prosecution is usually allowed a rebuttal closing argument to clarify any points the defense raised during its closing. The judge will then instruct the jury on the law and their duties as a juror. The jury begins deliberations in the jury room. It is hard to predict how long deliberations will take. Once a vote has been decided, the jury informs the judge, the jury is brought back into the courtroom and the judge asks the foreperson for the verdict. The trial is then complete.

TESTIFYING AT TRIAL OR GRAND JURY

Q. What if the Defendant's Attorney or Investigator Asks to Talk to Me?

You have the right to discuss the case with any attorney or investigator from the Defense if you choose. You also have the right to choose not to speak to the defense. However, be sure you know who you are talking to if you discuss the case. Don't be afraid to ask for identification. If you decide to speak about the case, TELL THE TRUTH.

Q. What will Happen if I Fail to Appear?

If you have been served with a subpoena and you fail to appear, you may be cited for contempt of court. An arrest warrant could be issued for you.

Q. Where Do I Go to Testify?

Your subpoena will indicate where and when the proceeding will take place. As the court date approaches, you will be contacted by either the Assistant U.S. Attorney, Victim-Witness Coordinator, or case agent as to the exact time and date you will be needed. However, if you have not spoken to anyone with the U.S. Attorney's Office, you must call the last business day before your court appearance to ensure that the event has not been rescheduled or cancelled. Not doing so may result in non-reimbursement of travel expenses. All trials and Grand Jury proceedings are located in the U.S. Courthouse.

Q. Where Can I Park?

There is a parking lot located across the street from the Courthouse and parking at the new convention center parking garage. Please make sure to park in a paid public parking spot. We cannot reimburse you for any parking tickets you may receive.

Q. How Long Will I be in Court?

We try to make every effort to get witnesses on and off the stand as quickly as possible and to give witnesses the best estimate of how long we anticipate their testimony will take. But, it is impossible to predict how long witnesses will actually testify at trial. This is due to several factors, including: how many defense attorneys there are (there is no way to predict how long cross examination may take); any motions or objections on evidence or other matters, which may delay the proceedings; how many witnesses will be testifying; and miscellaneous problems (including other business presiding before the court which may delay the trial). It is important to arrange your schedule to permit maximum flexibility. You may have to wait to testify for several hours or more. Therefore, you may want to bring reading materials, or something else to occupy your time, while you wait to testify. Remember, grand jury is only a one day proceeding, so you can plan on departing sometime after 5:00pm if you testify in grand jury.

Q. Where Will I Wait to Testify?

Special waiting rooms have been designated within the U.S. Attorney's office or in conjunction with the courtroom.

Q. Will I be Meeting with the Assistant U.S. Attorney Prior to Testifying?

Generally Yes. Whether you are testifying in grand jury or at trial, you may be asked to meet with the Assistant U.S. Attorney assigned to the case prior to testifying. He or she will go over the subject matter of your testimony and answer any questions you may have about testifying or about the court proceedings. You will be informed about the time and location of this pre-testimony meeting by the Assistant U.S. Attorney or Victim-Witness Coordinator after you are subpoenaed. You will be requested to attend a pre-trial meeting, but are not required to do so.

Q. Will I Have to Bring Anything with Me?

If you need to bring anything as evidence, you will be instructed to do so in the subpoena.

Q. What Should I do with My Children?

Courtrooms and grand jury are not a place conducive to children. Therefore, try to find a relative, friend, or neighbor to care for your children. Remember to make sure the person is flexible, since you will not know when you will be done testifying. Babysitting expenses are not reimbursed except on extremely limited circumstances. If you are not able to arrange for child care, contact the Victim-Witness Coordinator for help.

Q. What Should I Wear?

A neat and clean appearance is very important for any court proceeding. You should be comfortable, yet nicely dressed for court (i.e., no hats, shorts, etc.) Avoid chewing gum. Cell phones, pagers, and PDA devices at this present time are not allowed in the Courthouse, along with any personal defense devices (mace, etc). Please make sure to leave these items at your house or in your vehicle prior to coming to the Courthouse. Also, the temperature in the Courthouse and in the U.S. Attorney's office tends to vary, so it is advisable to bring a sweater or jacket in case you get cold.

Q. Is Food Available?

All District Court Judges and the Federal Grand Jury take an hour lunch break, usually between noon and 1:00pm. You will be allowed a lunch hour at that time. There are several restaurants and snack shops located around the Courthouse and U.S. Attorney's Office which are relatively inexpensive and within walking distance. Vending machines are also available inside the Courthouse.

Q. What About My Employer?

Many witnesses question how to approach their employer about their absence from work during their testimony. If you are experiencing difficulties in this, we will contact your employer and outline your responsibility as a subpoenaed federal witness. In addition, we will provide you with a letter to give your employer at the completion of your testimony, if necessary.

Q. What if I am Threatened or Harassed by the Defendant or Others?

Threatening or intimidating a witness is a separate federal crime. However, it happens much less than you may think. In emergency situations, call the police immediately. In other instances, contact the Assistant U.S. Attorney assigned to the case or the Victim-Witness Coordinator. Unlike trials, grand jury proceedings are secret; therefore, no one will know you are testifying in grand jury unless you tell them.

Q. What if I Have Questions, or Need Assistance?

The Victim Witness Coordinator will be glad to help you in any way possible. Please contact the USAO at 318-676-3600 or 1-800-729-7270.

TIPS FOR TESTIFYING

- 1.** Jurors and other witnesses may be present in the same public areas as you. For that reason, you should not discuss the case with anyone. In addition, jurors may have the opportunity to observe how you act outside of the courtroom. If you see a juror, you are not allowed to speak to the juror, even to say hello.
- 2.** When you are called to testify, you will first be sworn in. You will be asked to raise your right hand and place your left hand on the Bible. When you take the oath, pay attention to the clerk, and say "I do" clearly.
- 3.** When a witness gives testimony, he/she is first asked some questions by the lawyer calling him or her to the stand; in your case, this is an Assistant U.S. Attorney. This is called "direct examination." Then, the witness is questioned by the opposing lawyer (the defense counsel) in "cross examination." (Sometimes the process is repeated two or three times to help clear up any confusion.) The basic purpose of direct examination is for you to tell the judge and jury what you know about the case. The basic purpose of cross-examination is to explore the accuracy of your testimony. Don't get mad if you feel you are being doubted in cross examination. **DO NOT LOSE YOUR TEMPER.** An angry or impolite witness will probably not be believed. Always be polite and courteous. In Grand Jury, there is **NOT** any cross-examination because the defense is not present.
- 4.** Objection is a legal term that means one of the attorneys feels you are being asked an improper question. When you hear a lawyer say "objection", simply stop speaking and wait for the judge to rule on the objection. If the judge decides the question is proper, he/she will overrule the objection. If the judge decides the question is not proper, he/she will sustain the objection. You may not answer the question if it has been sustained. You will be told by the judge or the attorney whether to answer the question if you get confused. In Grand Jury, there are **NOT** any objections because the defense is not present.
- 5.** Before you testify, try to picture the scene, the objects there, the distances, and exactly what happened so that you can recall the facts more accurately when you are asked. If the question is about distances or time, and if your answer is only an estimate, be sure to say it is only an estimate. Beware of suggestions by attorneys as to distances or times when you do not recall the actual time or distance. Do not agree with their estimate unless you independently arrive at the same estimate.
- 6.** Speak in your own words. Don't try to memorize what you are going to say. Doing so will make your testimony sound rehearsed and unconvincing. Instead, be yourself, and prior to trial go over in your own mind those matters about which you will be questioned.
- 7.** Most important of all, you are sworn to **TELL THE TRUTH.** Tell it. Every true fact should be readily admitted. Do not stop to figure out whether your answer will help or hurt either side. You are expected to be impartial.
- 8.** The judge and jury are interested in facts that you have observed or personally know about. Do not give your opinion unless asked. Give positive, definite answers when at all possible. Avoid saying, "I think," or "I believe", if you can be positive. If you do not know, say so. Do not make up an answer. Be positive about things you can remember. If you can not remember details, simply say you don't remember.

- 9.** You should only answer the question asked and not volunteer information.
- 10.** The court reporter must be able to hear all your answers, so do not nod your head for a “yes’ or ‘no’ answer. Speak loudly and clearly. Also, you will sound best if you do not use words like “yah”, “nope”, and “uh-huh”.
- 11.** Explain your answer if necessary. Give answers in your own words and if the question cannot be answered with a yes or no answer, say so and explain.
- 12.** Do not exaggerate. Don’t make overly broad statements that you may have to correct. Be particularly careful in responding to a question that begins, “Wouldn’t you agree that...?” The explanation should be in your own words. Do not allow an attorney to put words in your mouth.
- 13.** Listen carefully to the whole question you are asked. If you do not understand the question or did not hear it, ask to have it rephrased or repeated.
- 14.** If your answer was not correctly stated, correct it immediately. If your answer was not clear, clarify it immediately. It is better to correct a mistake yourself than to have the attorney discover an error in your testimony. If you realize you have answered incorrectly, say “May I correct something I said earlier?”
- 15.** Sometimes witnesses give inconsistent testimony—something they said before doesn’t agree with something they said later. If this happens to you, don’t get flustered. Just explain honestly why you were mistaken. The jury, like the rest of us, understands that people make honest mistakes.
- 16.** Sometimes an attorney may ask if you have talked to anybody about the case. It is perfectly proper for you to have talked to people, including the Assistant U.S. Attorney and the case agent before you testified, and you should, of course, respond truthfully to this question.
- 17.** After you have completed testifying, you should not tell other witnesses what was said during your testimony. Thus, do not ask other witnesses about their testimony and do not volunteer information about your own. Once you have been formally excused as a witness, you are free to go.

TRAVEL ARRANGEMENTS

If you are an out of town witness, you must contact the Victim-Witness Coordinator so travel arrangements may be made for you. Unless otherwise indicated, we will make every effort to arrange your arrival and departure for the same day.

Airfare and Hotel Arrangements are pre-paid by the U.S. Attorney's Office. You will be given your flight itinerary information and hotel accommodation by the Victim-Witness Coordinator.

A. AIRLINE TICKETS

The tickets will be under your name at the designated airline ticket counter. You will need to show identification. The tickets are pre-paid by the U.S. Attorney's Office.

B. HOTEL ACCOMMODATION

If it is necessary for you to remain away from home overnight, you will be reimbursed for the actual cost of your hotel/motel room not to exceed the prevailing government rate for the area (please refer to Form OBD-2 that you will receive with the subpoena). Any necessary and prior approved hotel accommodations are usually made by the Victim-Witness Coordinator; however the Victim-Witness Coordinator can authorize you to make your own reservations if you choose to do so. If reservations are made by the Victim-Witness Coordinator, the reservation will be under your name and you will need to show identification to check in. The U.S. Attorney's Office pays for the room only. The hotel may require a cash or credit card deposit from you to cover room service and/or phone calls. If you do not incur those expenses, you will be refunded the \$20 when you check out. You will more than likely need to take the hotel shuttle or taxi to travel to and from your hotel and the Courthouse.

C. OTHER TRANSPORTATION (please see next section for reimbursable expenses)

From your home to the airport -- If you take a taxi, keep your receipts and you will be reimbursed. If you drive, you will be reimbursed round-trip mileage and parking. From the airport to the hotel, Courthouse or U.S. Attorney's office – You will need to take a taxi which will be reimbursed to you.

D. SPECIAL CONCERNS

If you have any special travel concerns, or need special assistance, please let the Victim-Witness Coordinator know as soon as possible so that she may make the necessary arrangements.

WITNESS FEES AND REIMBURSEMENTS

Whether you are a grand jury witness or a trial witness, you will receive the following reimbursements. You MUST supply receipts for taxis, parking and toll charges.

1. Witness Fee

You will receive \$40 for each day you are required to be in court or attending a pre-trial interview (this includes travel days for out-of-town witnesses). You will NOT be reimbursed for lost wages.

2. Transportation

For local witnesses - You will be reimbursed round trip transportation to the Courthouse and/or U.S. Attorney's Office based on the amount shown on the OBD-2 form that will be attached to the subpoena. For out-of-town witnesses - You will be reimbursed round trip mileage if you drive to and from the airport or for taxi expenses to and from the airport. You must supply taxi receipts. All witnesses who incur tolls or parking expenses will be reimbursed for those as well. You must supply parking and toll receipts.

3. Meal Allowance

You will receive a meal allowance dependant on the division you are traveling to. This amount will be reflected on the OBD-2 form that will be attached to the subpoena. You do NOT have to supply food receipts. If you travel to court and return home the same day, you will NOT receive a meal allowance.

PROCEDURES FOR RECEIVING REIMBURSEMENT FOR TRAVEL EXPENSES

1. The Victim-Witness Coordinator will give you a Witness Voucher to sign before departing.
2. You will be given an envelope to mail your receipts to our office. Please write your name on all receipts and return your receipts to the U.S. Attorney's Office within 2 weeks. If you do not return receipts within 2 weeks, you may not be reimbursed for expenses requiring receipts.
3. A check will be mailed to you from the U.S. MARSHALS SERVICE approximately 2 WEEKS AFTER your departure date.

SENTENCINGS

WHERE: All sentencings are conducted at the U.S. District Courthouse by a District judge. Each judge conducts his sentencings in a slightly different manner.

WHO: The judge, court reporter, courtroom deputy, defendant, defense attorney, prosecutor and the U.S. Probation Officer are all present. Spectators are allowed. Since sentencings are open to the public, there may be members of the press in the courtroom as well. The Assistant U.S. Attorney or Victim-Witness Coordinator will inform you if they expect the media to be present.

WHEN: Most judges do not have specific days or times for sentencings. Please keep in mind that due to many last minute motions and other unexpected events, sentencing dates may change at the last minute. Therefore, it is imperative that you contact the Victim-Witness Coordinator at 318-676-3600 the day before sentencing to confirm the date/time if you plan to attend.

HOW: The judge will outline the charges against the defendant and confirm with the defendant that he/she has entered a plea of guilty to the charges. The judge will reiterate with the defendant the terms and conditions of the accepted plea agreement and the expected range of sentencing. The judge then confirms with the defense and the prosecution that they are ready to proceed with sentencing. Each side is given an opportunity to address the court. (Usually, victims providing victim impact statements will be given an opportunity to address the court before either the prosecution or defense makes any statements.) At this time, the defense attorney will usually give reasons why the defendant should be sentenced at the low end of the sentencing guidelines. This will usually entail a list of the defendant's good character points and perhaps, letters that were written on his/her behalf by members of the defendant's family, neighbors, friends, clergy, etc. The defendant is then given an opportunity to address the court and make any statements on his/her own behalf. The prosecution is given an opportunity to make any recommendations or respond to any statements made by the defense attorney or defendant. In addition, throughout the proceeding, the U.S. Probation Officer who prepared the pre-sentence report for the court, may make statements to the court or advise the court on particular points. Sometimes, the judge will ask the U.S. Probation Officer to clarify some point raised by either the defense or the prosecution. Also, throughout the proceeding, there may be motions made by either side that the court will address. Finally, the judge imposes sentence, which includes the actual sentence (imposed in months), a period of supervised release (imposed in years), special conditions of supervised release (for example, making monthly restitution payments), special conditions while incarcerated (for example, attending drug/alcohol counseling), and the amount, if any, of restitution owed. The defendant may be ordered into custody right away, or if already in custody, continued custody, or if out on bail may be allowed to surrender himself/herself into custody on a specific date set by the judge (usually within a week or so).

Q. How Long Does the Sentencing Proceeding Take?

Expect to be in court about an hour. It is hard to say exactly because of several unknown factors, i.e., the length of the defense attorney's statement; the length of the defendant's statement, if he/she gives a statement; how many, if any, victim impact statements are given; and any motions that are made during the course of the proceedings. In addition, there may be cases scheduled before your case.

Q. What is a Pre-Sentence Report?

A pre-sentence report is comprised of, among other things, the details of the offense for which the defendant was charged, the date and details of the defendant's plea of guilty or conviction, the sentencing guidelines for the offense, the defendant's criminal history, and the impact of the crime on the victims, including victim impact statements, which is prepared by a U.S. Probation Officer for the Judge prior to sentencing. The pre-sentence report helps the Judge determine the proper sentence to impose.

Q. What are the Sentencing Guidelines?

The sentencing guidelines were enacted by Congress to ensure that federal defendants charged with the same crime would receive the same sentence. The sentencing guidelines operate as a chart. Each offense is assigned a level. Offense levels run on the vertical side of the chart. Each defendant is assigned a criminal history category based on his/her prior record, which comprises the horizontal side of the chart. The chart sets a range of months to be imposed as a sentence for each intersection of offense level and criminal history category. Defendants can be sentenced anywhere within that sentencing range.

Q. Why Does the Defense Attorney Make the Defendant Sound Like a "Good Guy"?

Part of the defense attorney's job is to make their client look as good as possible in front of the judge. Try not to take anything the defense attorney says personally. When the defendant makes his/her statement to the judge, this may sound like "lies" to witnesses and victims, but the judge will act as an impartial observer in order to impose a proper sentence. Again, try not to take anything the defendant or the judge says personally.

Q. Why Didn't the Prosecutor Make Any Statement?

Sometimes, the prosecution may not make any statement because the terms of the plea agreement stipulate that the prosecution will not take any position with regards to sentencing.

Q. Will the Judge Take into Consideration the Fact that Victims are Present?

Yes. In addition, verbal victim impact statements and/or letters provided by victims are definitely taken into consideration by the judge.

VICTIM IMPACT STATEMENTS

This is a victim's written or verbal statement which is submitted to the Judge to review before sentencing the defendant. It personalizes to the Judge the emotional, physical, and financial impact you and others have suffered as a direct result of this crime. Since some victims are uncomfortable with completing a formal statement for review, the Judge will also consider a personal letter. Written Victim Impact Statements may be seen by the defendant and the defense attorney.

Q. What is the Purpose of the Victim Impact Statement?

It gives you an opportunity to express in your own words what you, your family, and others close to you have experienced as a result of this crime. Many victims also find it helps them provide some closure to the ordeal the crime has caused. The victim impact statement is helpful to the judge when he or she decides what sentence the defendant should receive. Although the Judge will decide the defendant's sentence based upon the pre-sentence report and the sentencing guidelines, the Judge will consider your opinion before making a decision.

Q. Will I be Able to Make a Statement at Sentencing?

Yes. All victims have the right to attend sentencings and be reasonably heard.

Q. How Do I Make a Victim Impact Statement in Court?

You must first advise the U.S. Attorney's Office Victim Witness Coordinator or U.S. Probation representative that you wish to make a statement in court. This is so the Victim Witness Coordinator can advise the court that you wish to make a statement and can give you directions to the courthouse and direct you to the exact courtroom. When you arrive at the courthouse, go directly to the appropriate courtroom. After the proceedings begin, the Judge will ask if there are any victims who wish to make a statement. You will be called to the podium, asked to state your name, and you then may proceed with your statement. If it makes you more comfortable, you may prepare a written statement and read it out loud. You may make a long or a short statement, but remember to speak clearly and loudly.

Q. Will I be Notified of the Sentence if I Do Not Attend?

Yes. You will receive a letter from the U.S. Attorney's Office advising you of the sentence imposed and the amount of restitution owed to you, if any. If restitution is imposed, you will be given a restitution assignment form to complete and asked to indicate whether you wish to receive the restitution owed to you.

Restitution is part of a sentence which requires that offenders "make amends" to their victim(s) for loss, damage, or injury resulting from the crime. Some examples of expenses you may have paid or owe include medical bills or supplies; eyeglasses or hearing aid replacement or repair; counseling costs; lost wages or support; funeral expenses; lost, stolen, or damaged property (which may include crime scene cleanup); and the repair or replacement of door locks and security devices. Any financial or other loss that is directly attributable to the crime can be claimed.

In addition to medical or counseling bills, you can also include any loss of wages that you were not paid for as a result of this crime. For example, if you took time off from work to go to the doctor or courthouse, and your employer did not pay you for this time, you can include this financial loss on your financial impact statement.

Financial impact statements are used by the Judge to determine the amount of reimbursement a defendant must make to the victim(s) for expenses the victim(s) has incurred or paid as a result of the crime. You will be asked to provide copies of receipts, bills and/or financial statements to verify your losses. When the judge makes the defendant reimburse the victim it is called "restitution."

Financial impact statements can be obtained from the Probation Office or the Victim Witness Coordinator and must be completed prior to the sentencing date.

WHAT IS A VICTIM WITNESS COORDINATOR (VWC)?

The Victim Witness Coordinator's is your resource and liaison with the U.S. Attorney's Office and the Court. His/her role is to assist you throughout the criminal justice process, including grand jury, trial and sentencing. The VWC will provide you with:

- The case status, including notice of charges filed against a suspect,
- The arrest of the suspect, court proceedings, conviction, sentencing, imprisonment and release,
- Your rights as a victim or witness and accompany you to court proceedings,
- Referrals for any necessary victim or other services and assist you in accessing those services.

Additionally, the VWC will make any necessary travel arrangements for you if your appearance is required by the government; give you directions to the Courthouse and U.S. Attorney's Office; and answer any questions you may have.