

GRAND JURY IMPEACHMENT (SWORN TESTIMONY)

In the following example, you want the out-of-court statement credited:

During direct testimony, the witness has said that the person who robbed him had a mustache. Your client had a mustache on the day of the robbery. At the grand jury, the witness said that the person who robbed him did not have facial hair.

- Question: Sir, the person who robbed you did not have any facial hair did he
- Answer: Yes he did he had mustache
- Question: You testified before a grand jury in this case
- Answer: Yes
- Question: There were 12 to 18 citizens in the room listening to your testimony
- Answer: Yes
- Question: And there was a Court Reporter in there
- Answer: Yes
- Question: The Court Reporter was writing down the Questions and Answers
- Answer: Yes
- Question: That was on Year and day
- Answer: Yes
- Question: and Now And now we are(# of months plus) after the incident?
- Answer: Yes
- Question: Your memory was at least as good when you testified before the grand jury as it is today?
- Answer: Yes
- Question: When you testified before the grand jury, you swore to tell the truth? (Or if you want to be dramatic "You raised your right hand to God?")
- Answer: Yes
- Question: And you did tell the truth?
- Answer: Yes
- Question: You were asked this question and you gave this answer: (tell prosecutor page and line)
- Question: Did the man who robbed you have any facial hair?" Answer: No."
- That was the testimony you gave under oath before the grand jury?
- Answer: Yes

Submit a redacted copy of the grand jury testimony as an exhibit in the defense case. The prior inconsistent statement comes in for the truth because it was under oath. See FRE 801(d)(1)(A)). See also Gray v. United States, 589 A.2d 912, 915 (D.C. 1991).