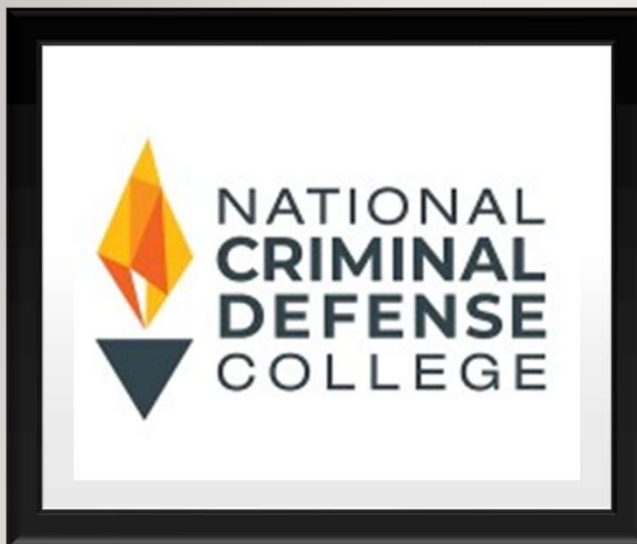


MS Public  
Defender Trial  
School Recap:  
Strategies, Skills,  
and Surprises

1



## NCDC

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- The premier and longest-established provider of trial skills training for criminal defense lawyers
- Has trained over 9000 defense attorneys
- Flagship program is the Trial Practice Institute

2

**WHY ATTEND TRIAL PRACTICE INSTITUTE?**

**It's a good investment in yourself**

**It will make you better for your clients**

**Gives you a different way of looking at practicing criminal defense**

3



**MISSISSIPPI PUBLIC DEFENDER TRIAL SCHOOL**

4



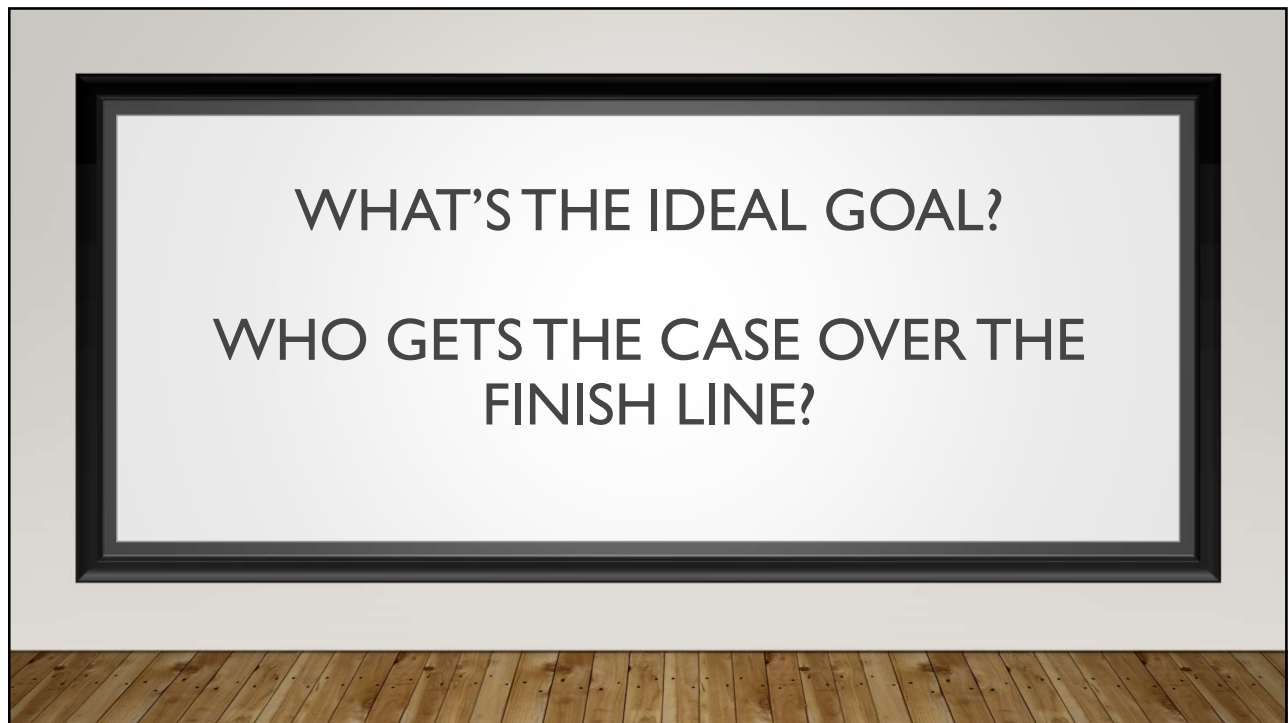
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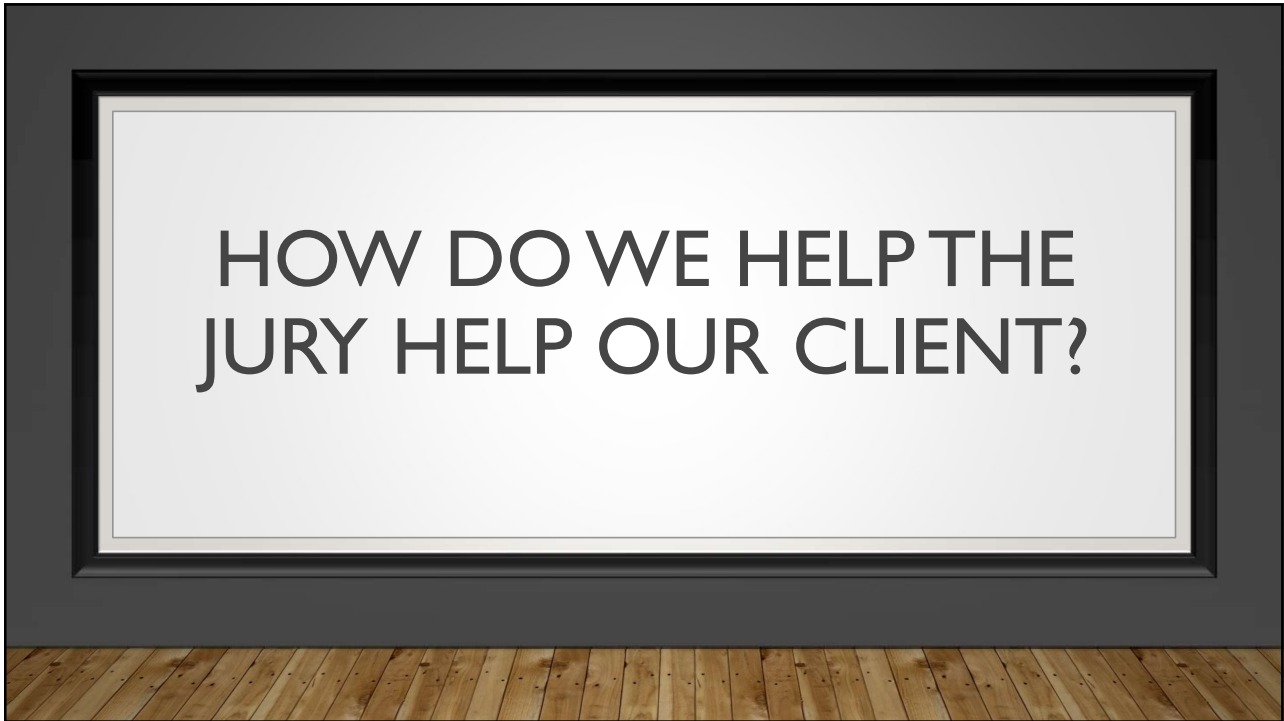
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10



TO A CLIENT,  
WE ADVISE AND  
REPRESENT, BUT  
TO A JURY...

11



TO A CLIENT,  
WE ADVISE AND  
REPRESENT, BUT  
TO A JURY...

**Educate**  
**Advocate**  
**Fascinate**

12

# IT'S ALL ABOUT TELLING OUR CLIENT'S STORY

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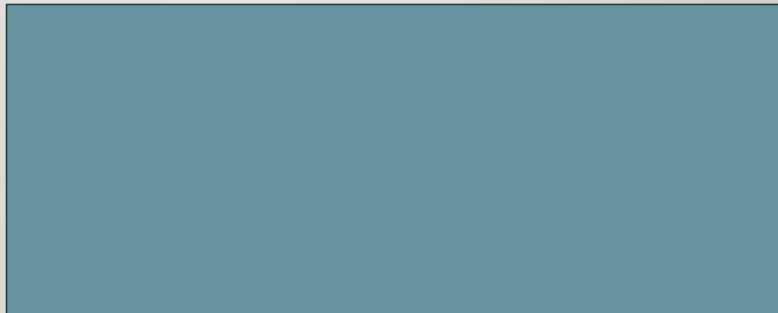
13

# IT'S ALL ABOUT TELLING OUR CLIENT'S STORY

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WORD-BUILDING



14

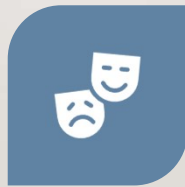


## IT'S ALL ABOUT TELLING OUR CLIENT'S STORY

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WORD-BUILDING



STORYTELLING



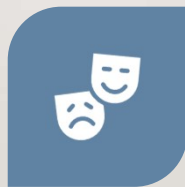
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## IT'S ALL ABOUT TELLING OUR CLIENT'S STORY

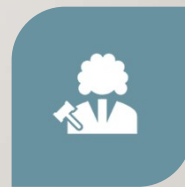
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WORD-BUILDING



STORYTELLING



MAKING THE JURY FEEL INVESTED IN OUR CLIENT SO THAT THEY CAN AND WILL WRITE THE FINAL CHAPTER FOR OUR CLIENT

16



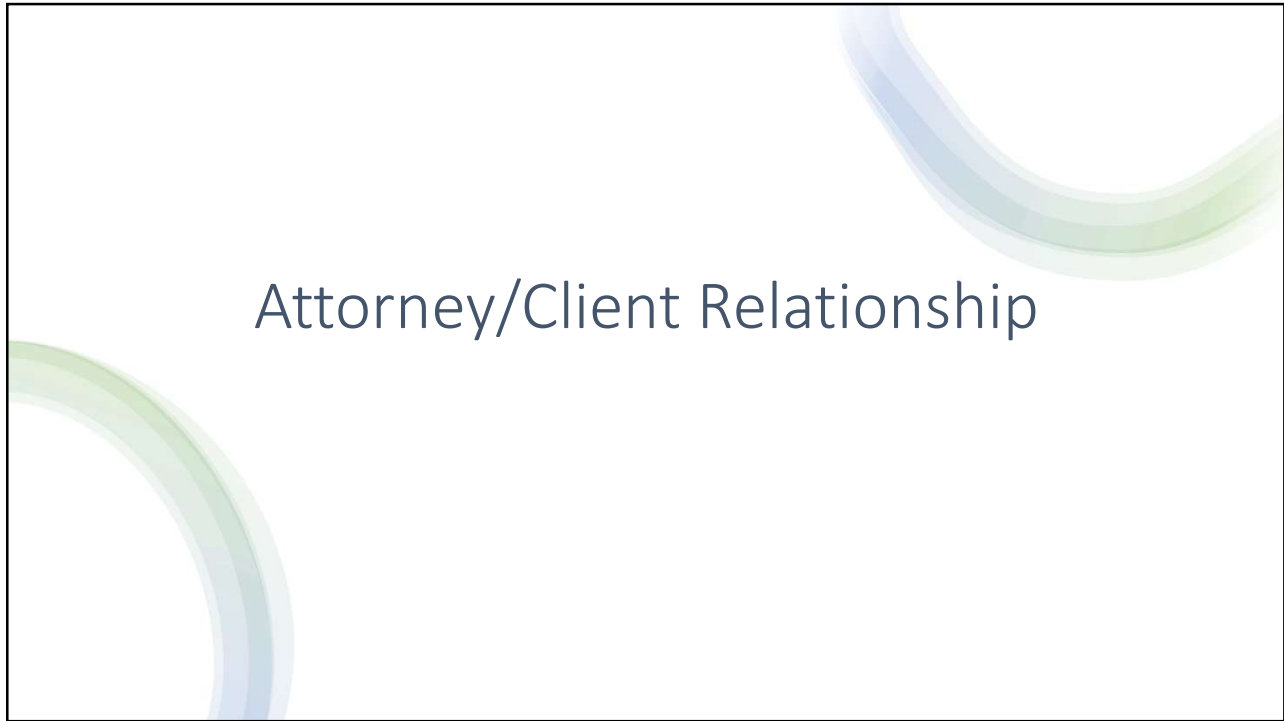
WHAT SETS THE TONE FOR OUR CLIENT'S STORY?

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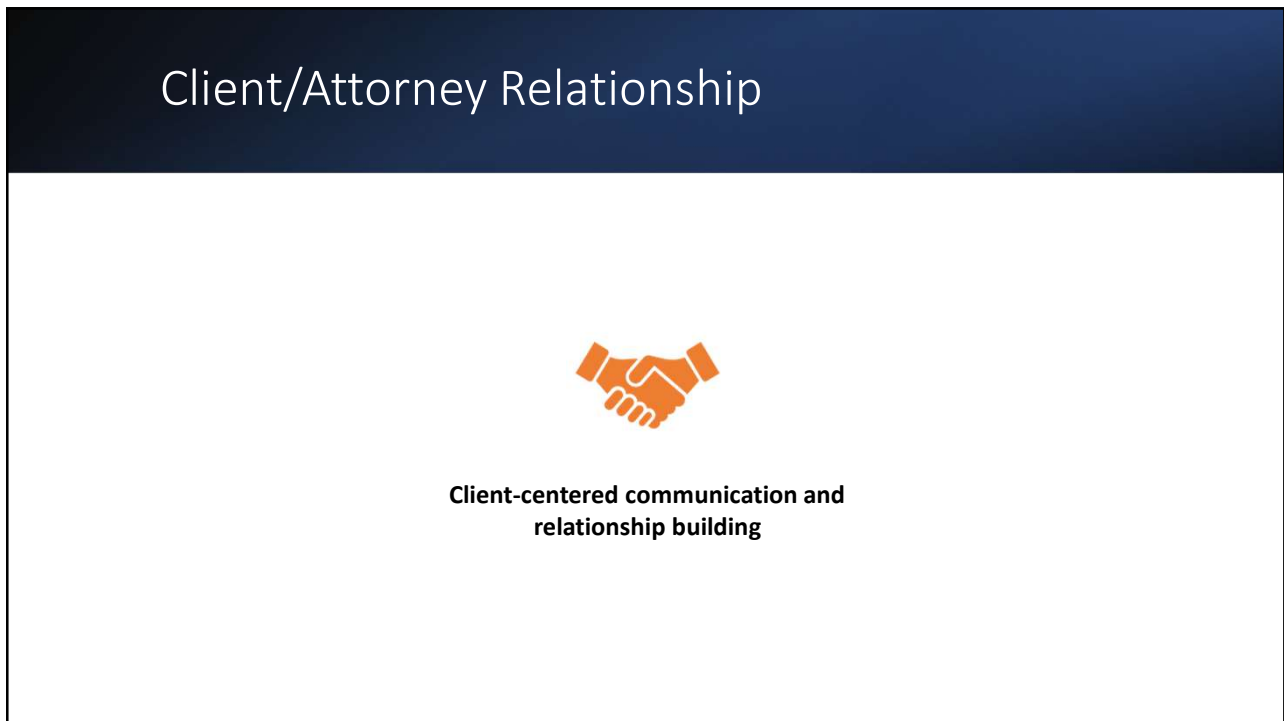
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20

## Things that we should constantly do...



Build (and maintain) trust



Be compassionate



Be curious

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## Client/Attorney Relationship



### **LEAP approach**

Listen  
Empathize  
Agree  
Partner

22

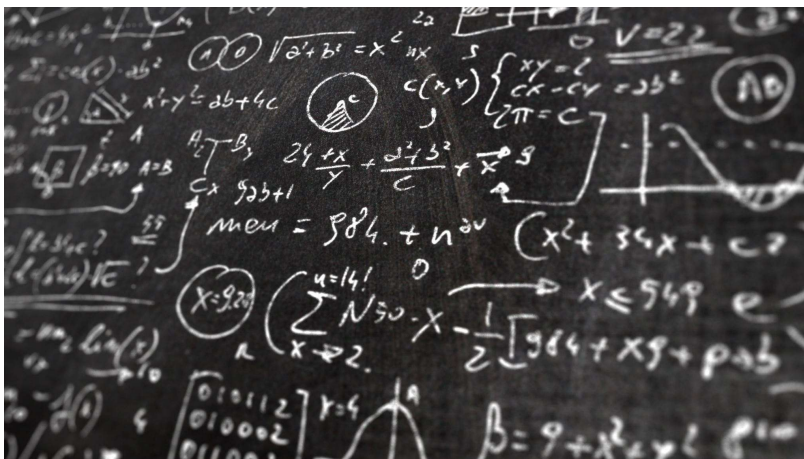
Why is all this important?

It makes it real for us

It allows us to put pieces together

It's something that won't go unnoticed

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Theme and Theory

24

---

## What is theory?

- The core story consistent with:
  1. facts beyond change;
  2. the law; and
  3. emotion
- The story should generate an emotional response which, ideally, flows from the values of your jurors
- A good way to get started: ask when the case began for our client



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Theory should  
always  
incorporate one  
of the six legal  
defenses

It didn't happen

It happened, but it wasn't me

It happened, but it wasn't a crime

It happened, I did it, but it wasn't this crime

It happened, I did it, it was the crime charged, but I am not responsible

It happened, I did it, it was the crime charged, but so what?

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## What is theme?

Words, phrases, images, or refrains that resonates with and open the minds of the jurors to your story

Examples:

- Fraction of a second to decide (self defense)
- Blood is thicker than water (family covering up for a family member)
- The strong prey on the weak ("gang" members lying about a non-member)

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Theory  
example:

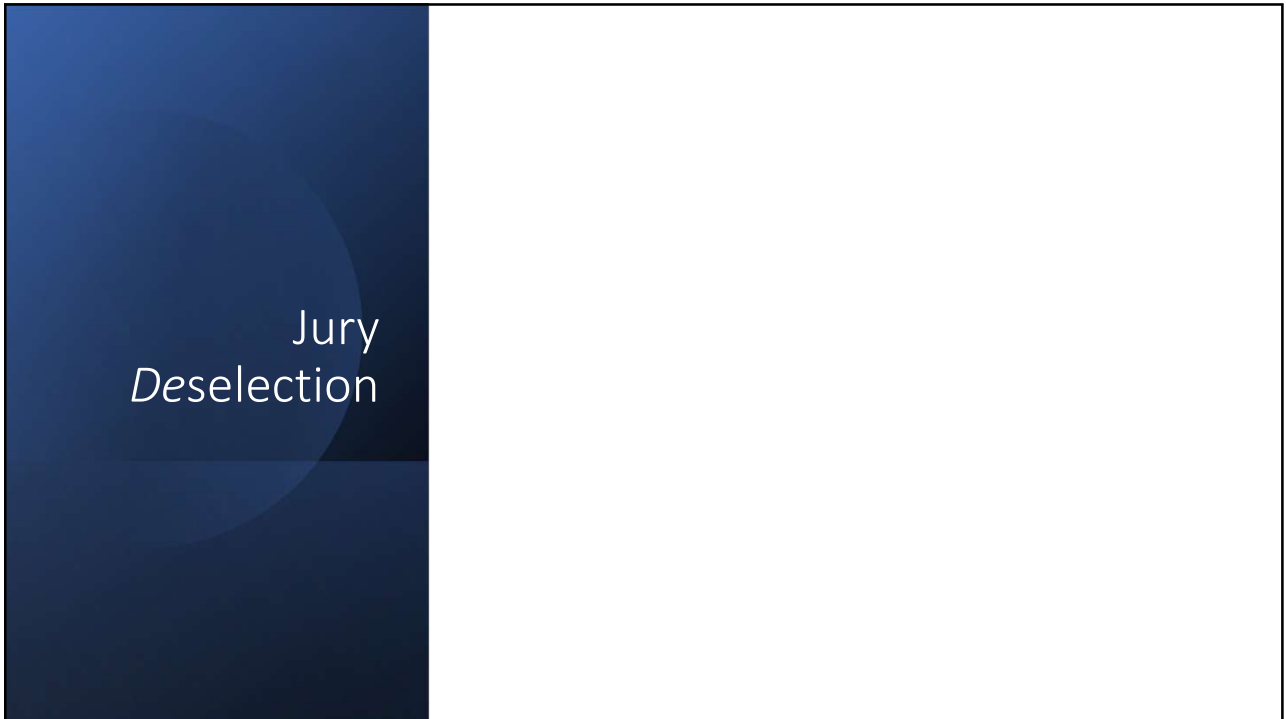
David should not have been in rival turf that night or any other night if he valued his life. When two men suddenly jumped from an unmarked car wearing dark baggy jeans and dark hoodies and pointed guns at him, he only had a fraction of a second to choose between his life and that of the two men - men who David later learned were police officers.

30

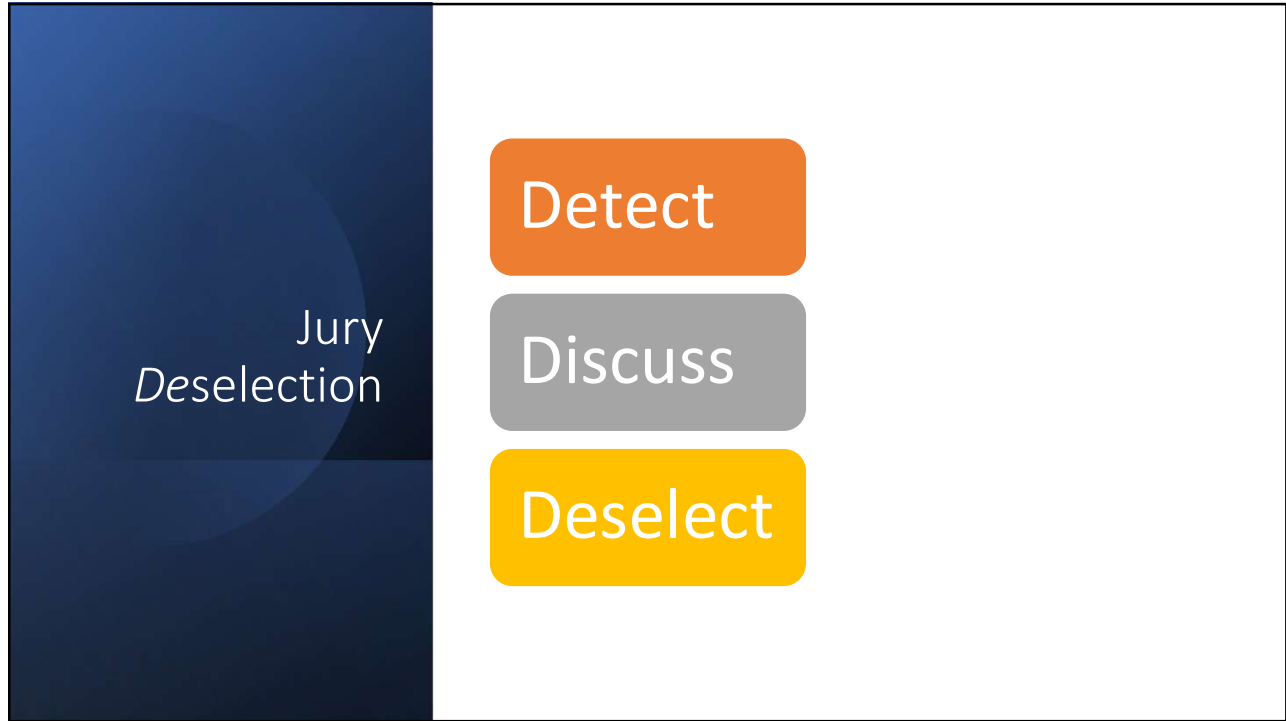




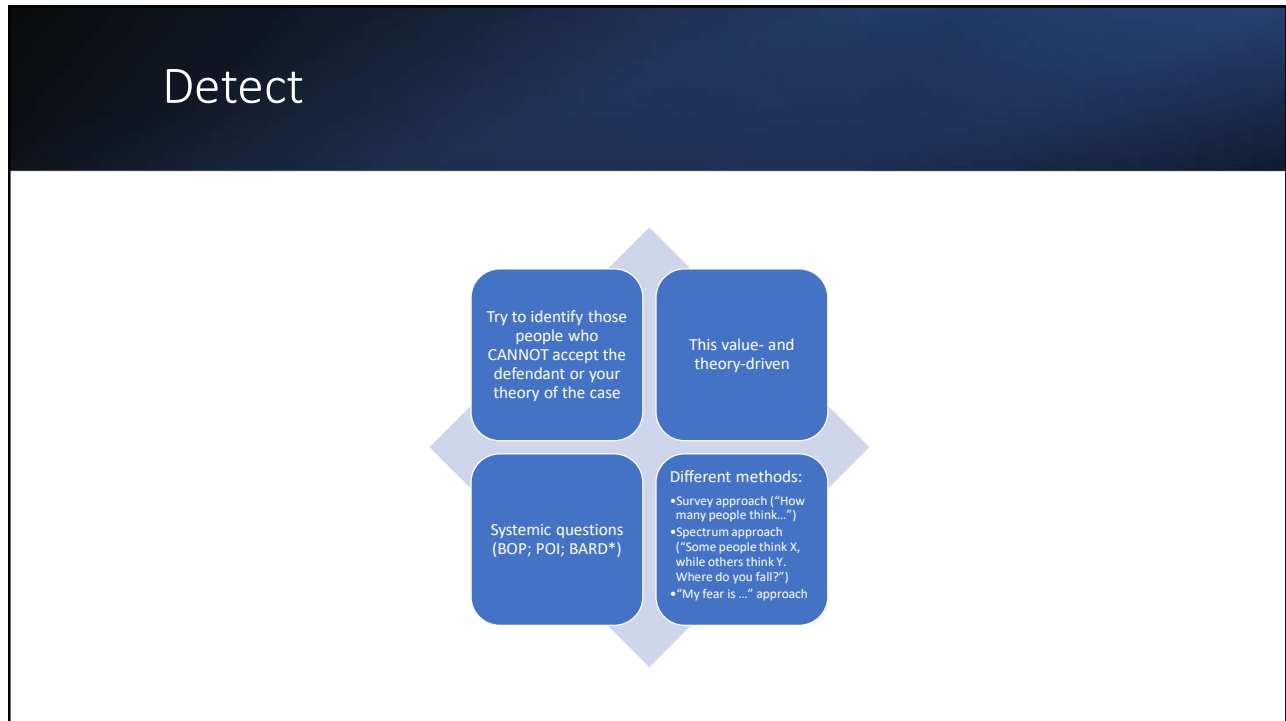
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32



33



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## Discuss

- DO
  - “Why?”
  - Engage in active listening
  - Be curious
  - Start educating the jury
  - Arm them against the judge’s attempt to rehabilitate them
  - Move on
  - Expect pushback\*
- DON’T
  - Ask whether they can be fair and impartial
  - Go to the safe juror
  - Ignore the silent juror
  - Try to change their minds

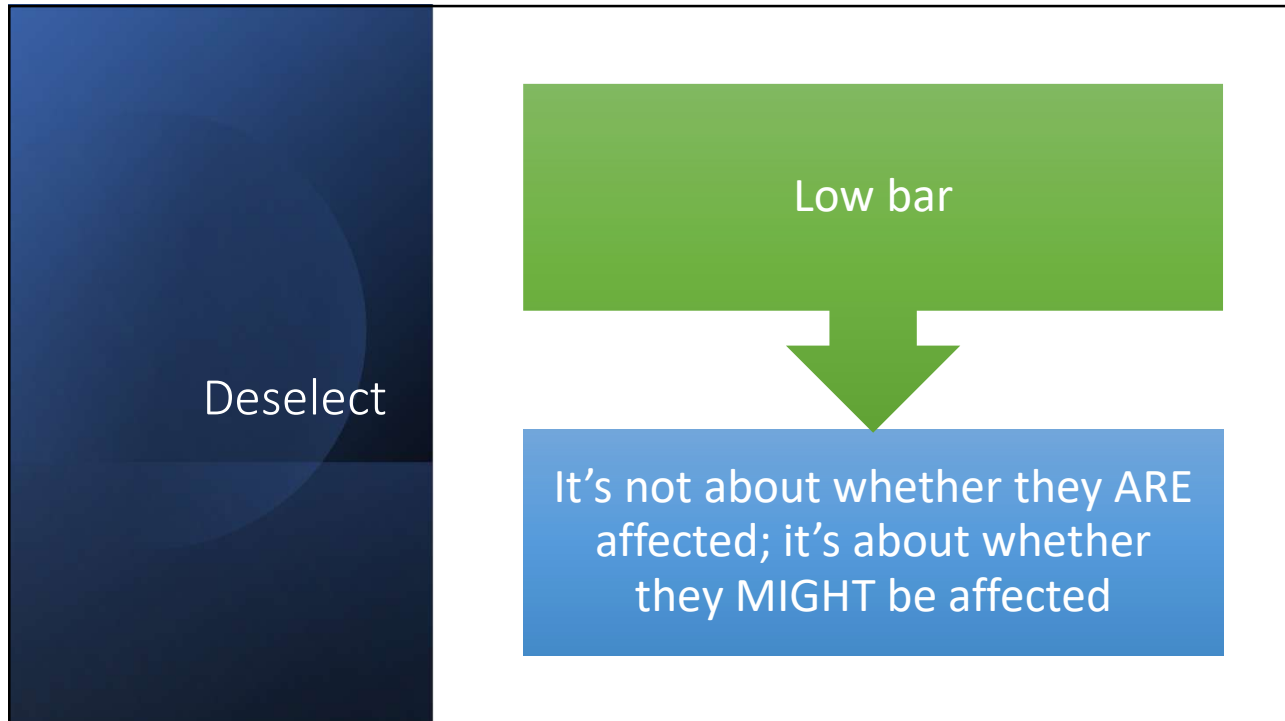
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## *West v. State, 553 So.2d 8 (Miss. 1989)*

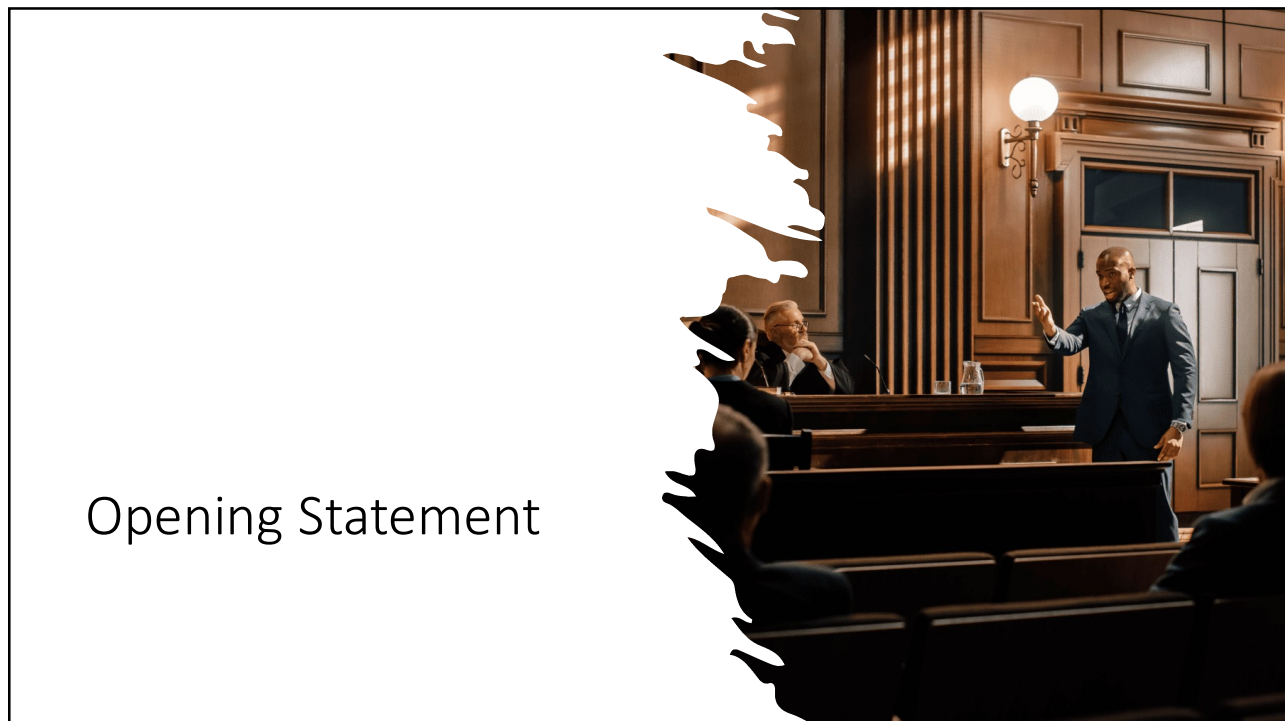
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“Our law allows an attorney for either side to probe the prejudices of the prospective jurors to the end that all will understand the jurors’ thoughts on matters directly related to the issues to be tried.”

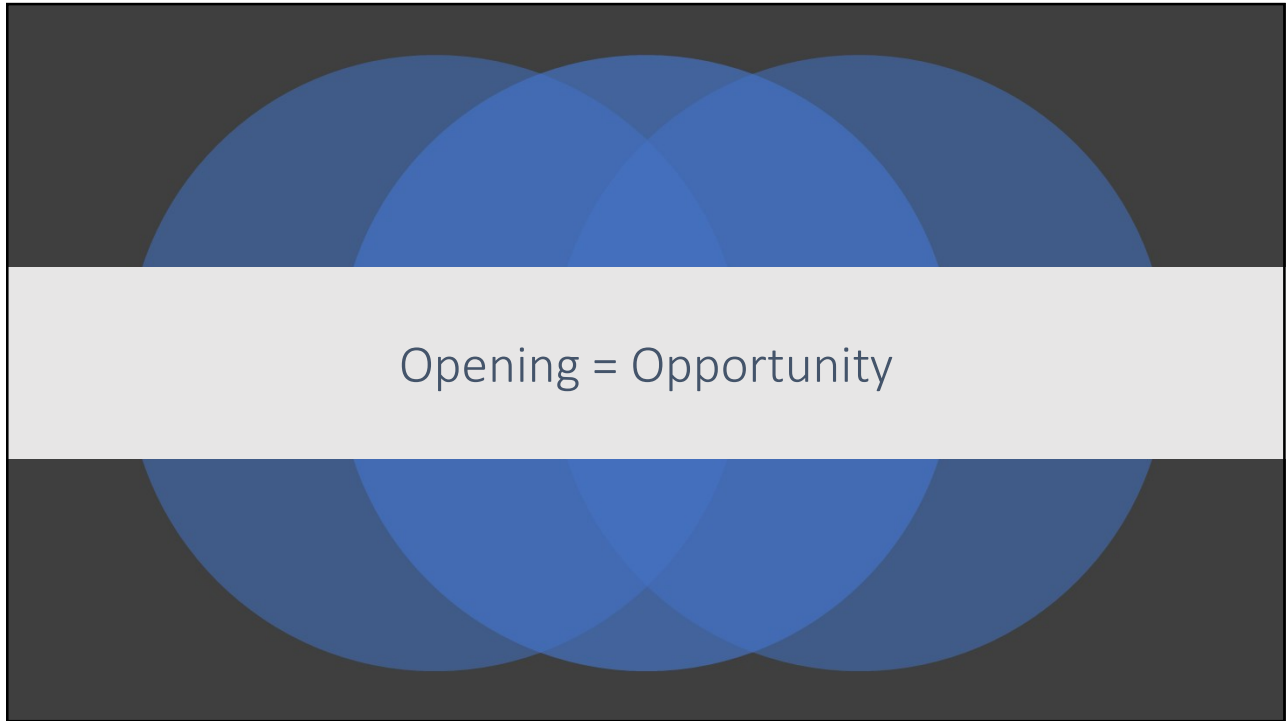
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## Opportunity to...

- 

PUT THE JURY INTO THE STORY
- 

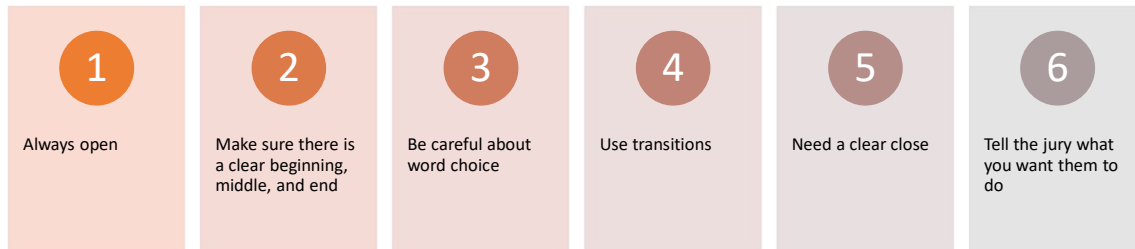
SET THE SCENE AND SHOW THE CHARACTERS
- 

GIVE THE JURY A VISUAL
- 

LAY OUT THE FACTS TO WHERE THE JURY ARRIVES AT THE CONCLUSION ON THEIR OWN

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## Basics guidelines for opening statement



41

## Different ways to do an opening statement

- Storyboarding from a particular POV
- Pixar Plunge
- A scene of significance

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## Cross Examination



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## Three Rules of Cross

### 1. Leading Questions

Short, declarative statement questions (i.e., "The car was blue.")

### 2. One new fact per question

Stay away from subjective words

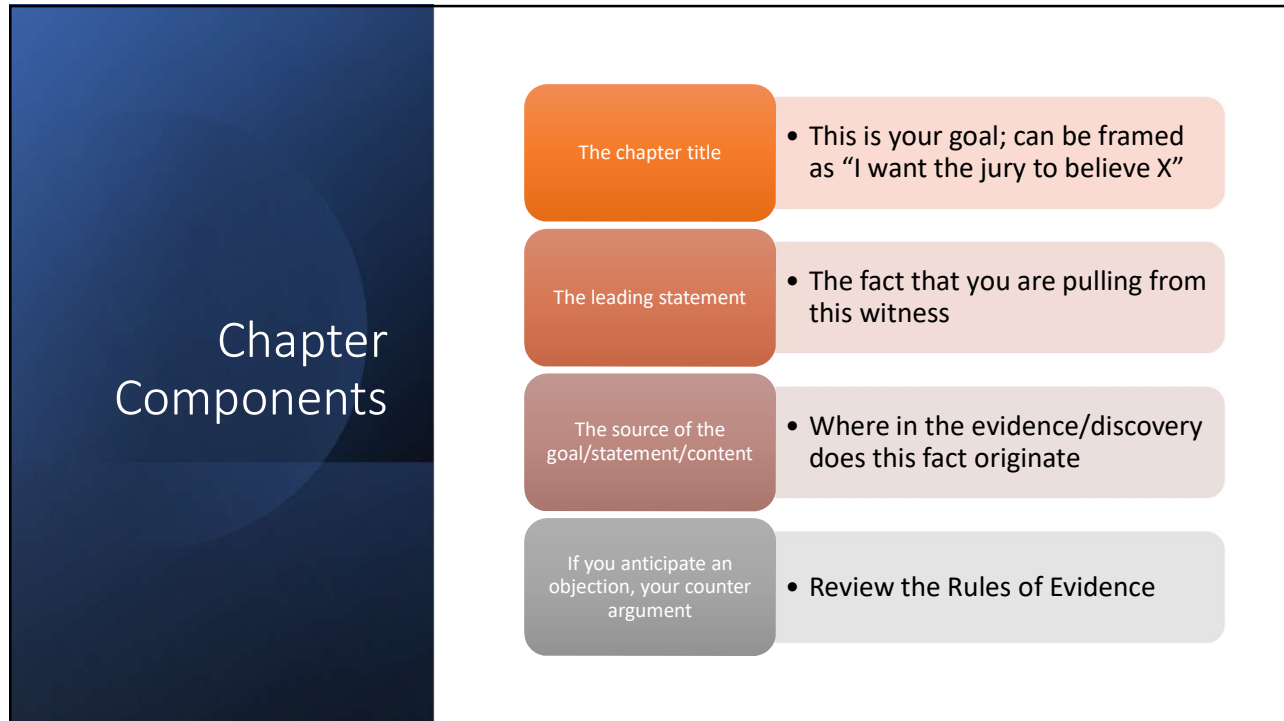
### 3. Chaptering

Chapter towards a specific, single, theory-centric goal, often from general to specific  
Use transition sentences

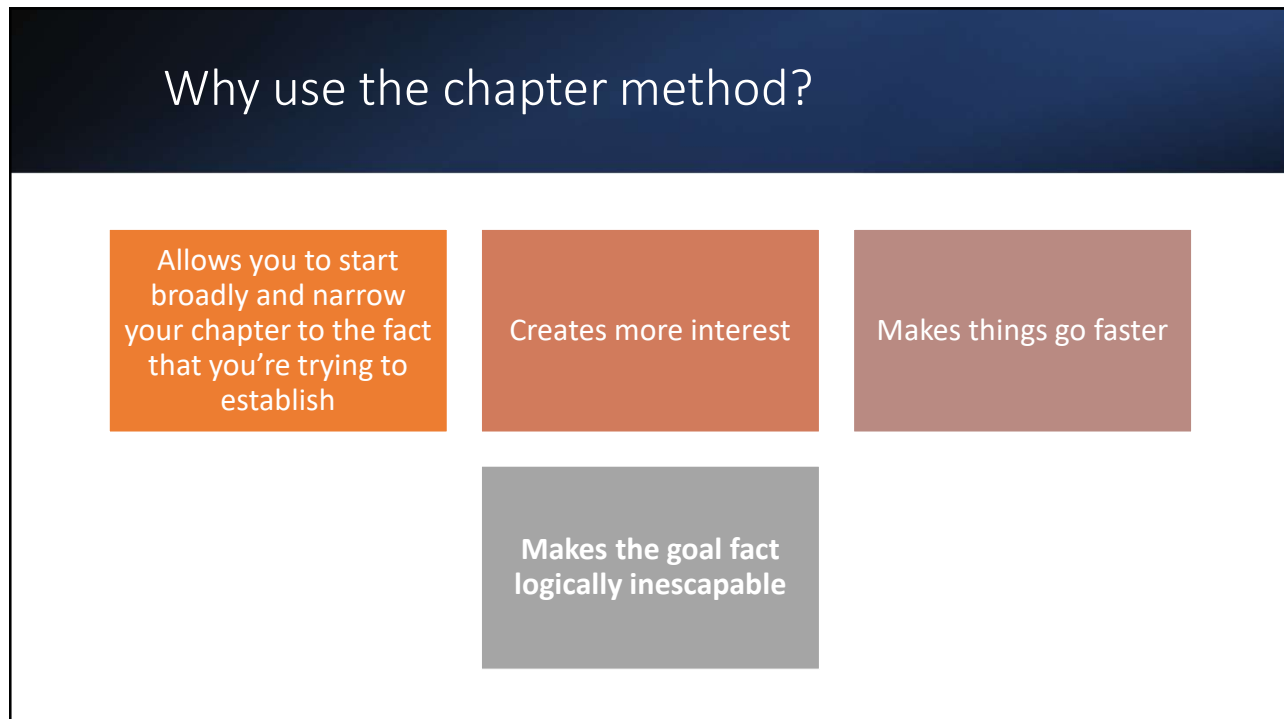


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How do I  
advance my  
theory through  
cross?

Develop a theory of the witness

Push past the paper

Pull facts that support aspects of your theory  
(constructive cross)

Determine how to use the witness to undermine  
the prosecution's theory (destructive cross)

Structure the cross to highlight the most  
important facts at the beginning and end

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Don't forget your role during cross

- Watch and listen (and react)
- Concentrate on presentation
- Use the space
- Use props and demonstratives
- Be empathetic

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## Control techniques to manage the difficult witness

Repeat with a slow voice

“So the answer is yes?”

“Perhaps you didn’t understand the question”

“I understand what you want to tell me X...”

Hand up

Use the witness’s full name

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Impeachment

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## Impeachment basics

- Don't get greedy
- Do only when it advances your theory
- If you do, identify and control your emotion
- Know the difference between a mistake and a lie

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## Three basic steps

### Re-commit

The first step involves re-committing to the witness to their testimony/the fact that you want to highlight.

### Accredit

Accrediting involves ensuring accountability and addressing issues, including destroying safe havens  
Build up as complete; build up as accurate; build up as reliable

### Confront

The final step is to confront the challenges head-on, ensuring that issues are directly addressed.

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## Things to impeach on

**Prior Inconsistent Statement**

Using previous statements that contradict current testimony can weaken credibility in legal proceedings.

**Impeach by Omission**

Highlighting key information that was intentionally left out can effectively challenge a witness's reliability.

**Implausibility**

Demonstrating that a witness's account is unrealistic or implausible can significantly undermine their testimony.

**Bias/Motive/Interest**

Identifying any bias, motive, or personal interest a witness may have can reveal potential inaccuracies in their testimony.

**Prior Bad Acts**

Referencing a witness's past negative behavior can be critical in assessing their trustworthiness.

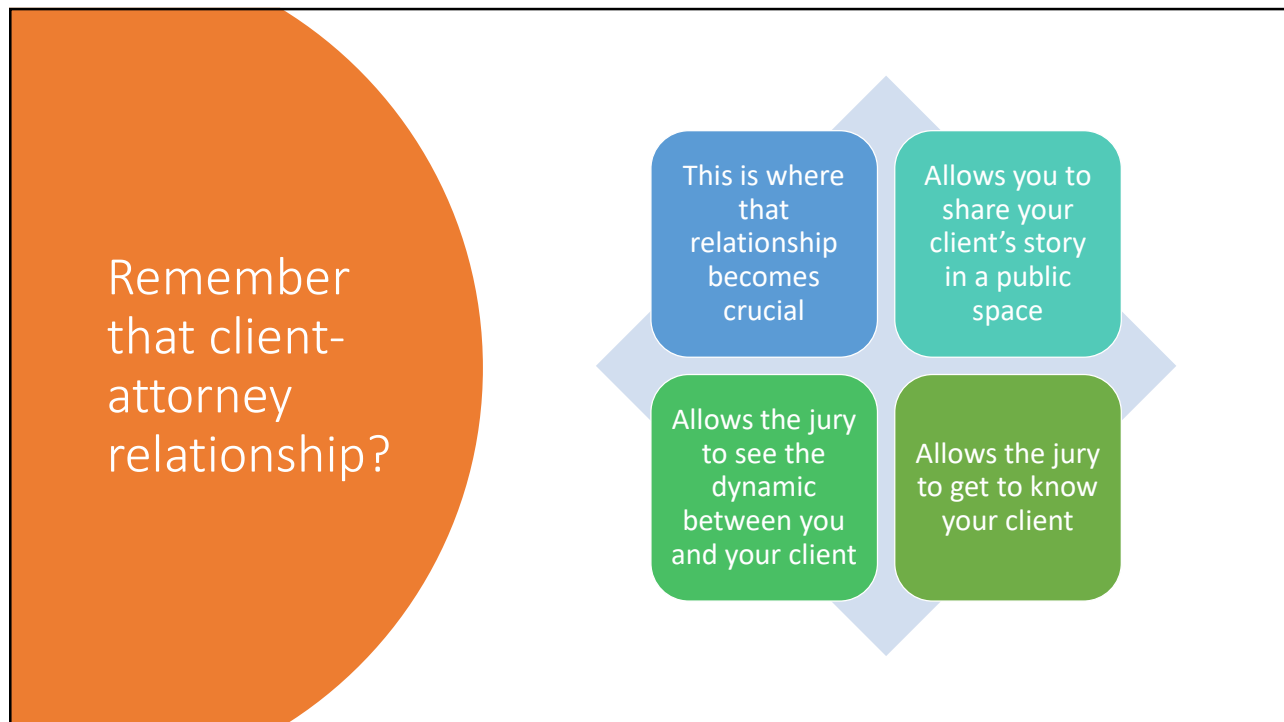
**Inconsistencies with another witness**

53

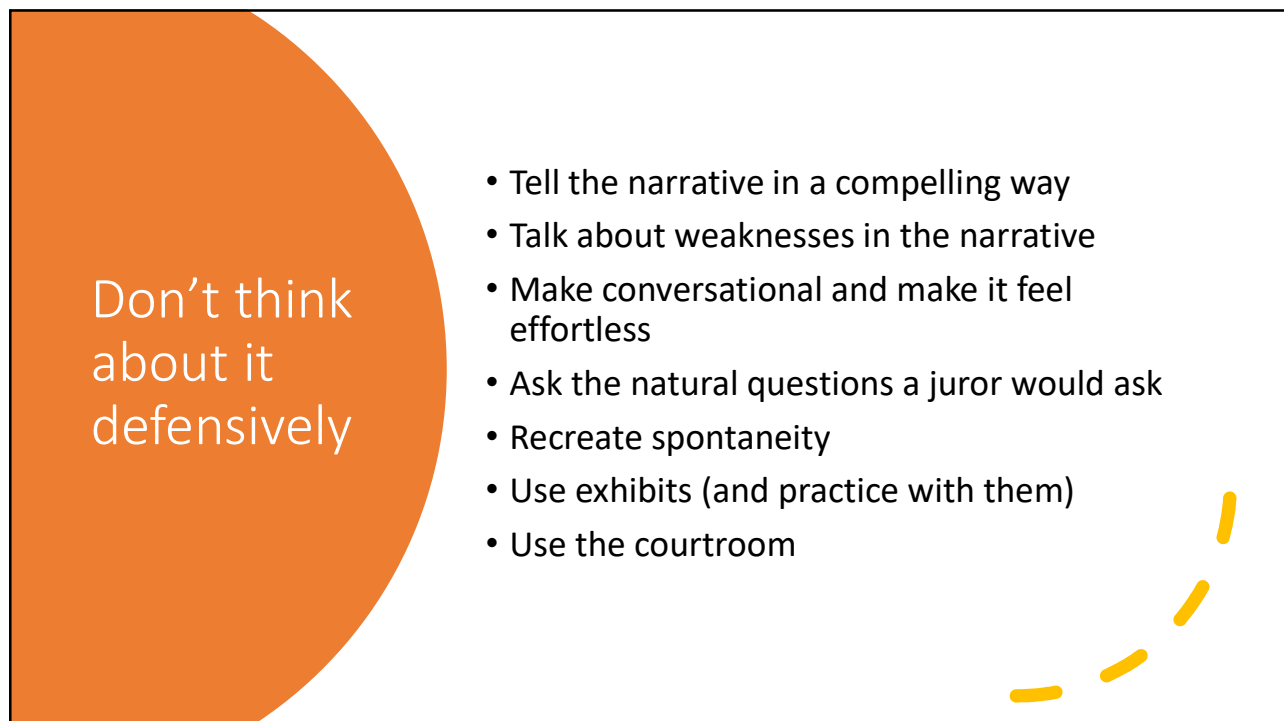


## Direct Examination

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# Closing Argument

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## Where it all comes together...

- ▶ Jurors want to make the right decision
- ▶ Give them the why
  - ▶ Why they should doubt the prosecution's case
  - ▶ Why they should not trust the prosecution's witnesses
  - ▶ Why they should believe that your client is innocent
  - ▶ Why they should by in to what your are asking them

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## What to consider

- ▶ Tell them what they just heard/saw in compelling way
- ▶ Incorporate the emotion you're trying to invoke
- ▶ Create an intentional structure that drives your theory and highlights your theme
- ▶ Identify your arguments (your "whys")
- ▶ Anticipate prosecution's rebuttal/counter their closing

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## Empower the jury

- ▶ Use those jury instructions
- ▶ Remind them they are now part of the story
- ▶ Trust them

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## Takeaways

- ▶ This is your client's story, you play a big role in it
- ▶ You do everything but make the final decision
- ▶ There is no one right way to trial advocacy, this is just one of many

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## For more info about NCDC

- ▶ <https://ncdc.net/>



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► Cell: 601-718-7084

► [www.msdeltalaw.com](http://www.msdeltalaw.com)



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2025 Spring Public Defender Conference

Session Four:

MS Public Defender Trial School Recap: Strategies, Skills & Surprises

Thursday, April 24, 2025  
8:45am-10:00am  
Arthur Calderon



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