

# CROSS EXAMINATION — the Battleground!

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## Basic Prosecutor Course

Utah Prosecution Council

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Logan, Utah

WHY?



# What to cross-examine?

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Objectives?



# Objectives of cross-examination -

- Strengthen your witness/case.
- Highlight consistent facts.
- Weaken opponent's witness/case.
  - Impeach.
  - Expose bias.
  - Explore ability to perceive.

# To Cross or Not to Cross . . . That is the question.

Evaluate each  
witness.

- Will they help you with your objectives?
- Did they hurt your case?  
Even so, can you fix it?
- Will you mention them in closing?

# Irving Younger's X Commandments of Cross-Examination





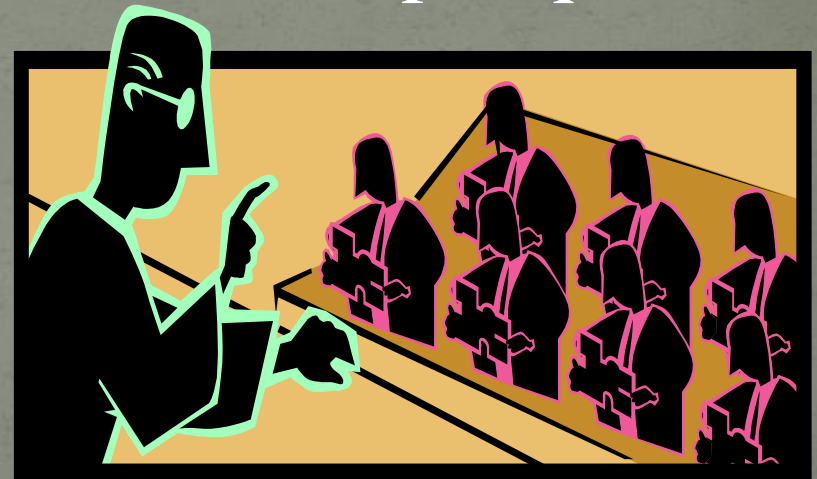
I

Thou  
shalt be  
brief.



# Think of the jurors.

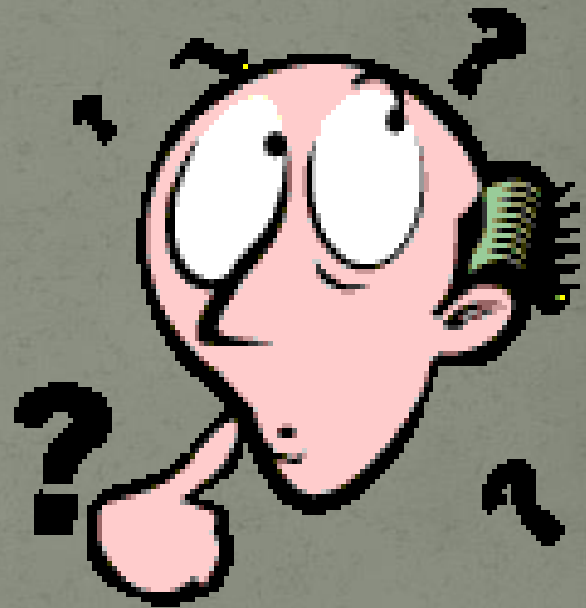
- Never more than 3 points.
- 2 points are better than 3.
- 1 point is better than 2.
- The longer the question the longer the answer.
- One fact per question.





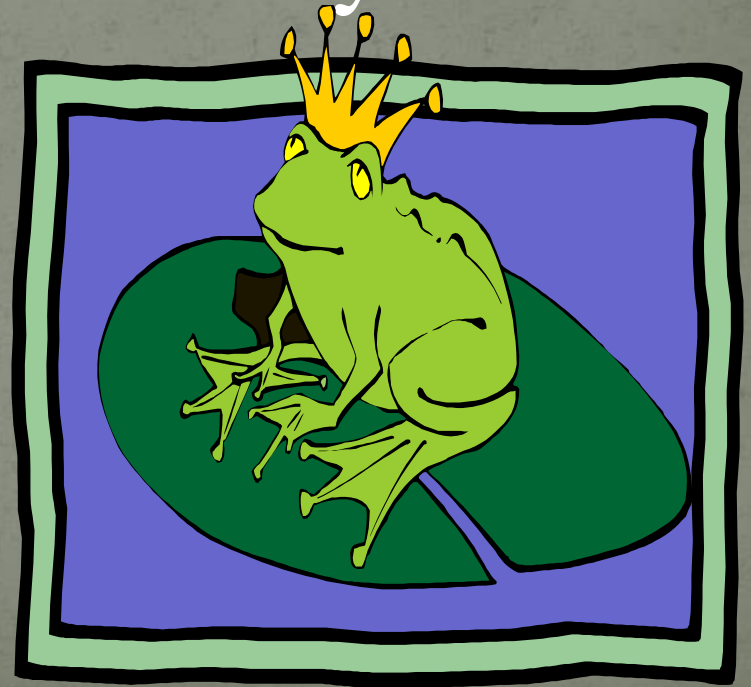
# II

Thou shalt ask  
short question,  
using plain  
words.



Think of the jurors.

If you were telling the story.



# III

Thou shalt use leading  
questions





# Control the witness.

- Their only answer should be a continuing “Yes, Yes, Yes . . .”
- Tell your important points to the jury.
- Control techniques.



# IV



Thou shalt NOT  
ask a question to  
which Thou  
knowest NOT  
the answer.

## This takes preparation.

- Know their statements



## Exception -

- Don't care what the answer is.
- Desperate.



V

Thou shalt  
listen to the  
answer.

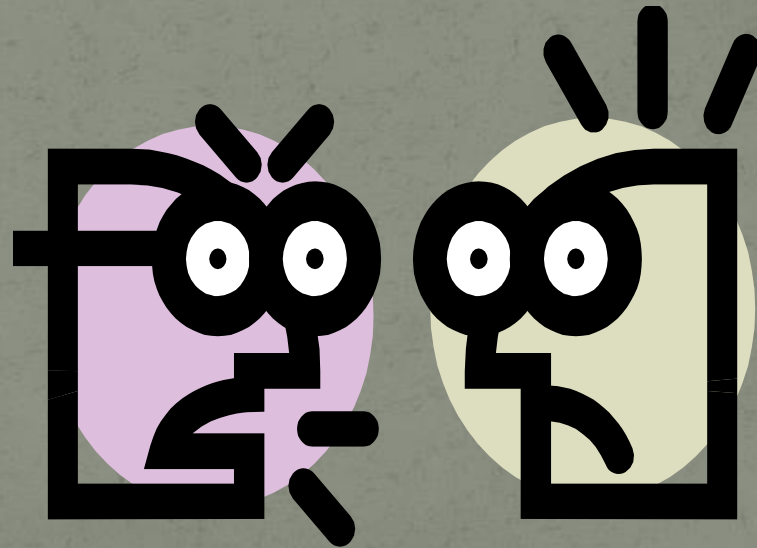


- Just as in direct – Be certain.
- Don't assume the answer.
- Don't be thinking about the next question.



# VI

Thou shalt not quarrel with the witness.

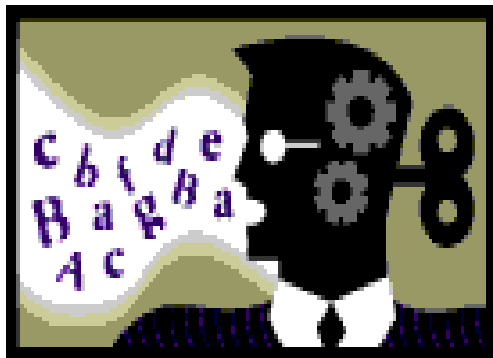






- Jurors identify with witnesses – Not you.
- Be aware of your tone.
- Even when the answer is preposterous – Just stop and sit down.

# VII



Thou shall  
NOT repeat  
the direct  
examination.

The more times testimony is heard  
the more it is believed.



Questioning should be distanced from direct.



# VIII

Thou shalt NOT permit the  
witness to explain the



Control the witness through quick questions; an explanation to be confirmed by the witness.



# IX



Thou shall  
NOT ask one  
question too  
many.



Stop when you have  
made your point.

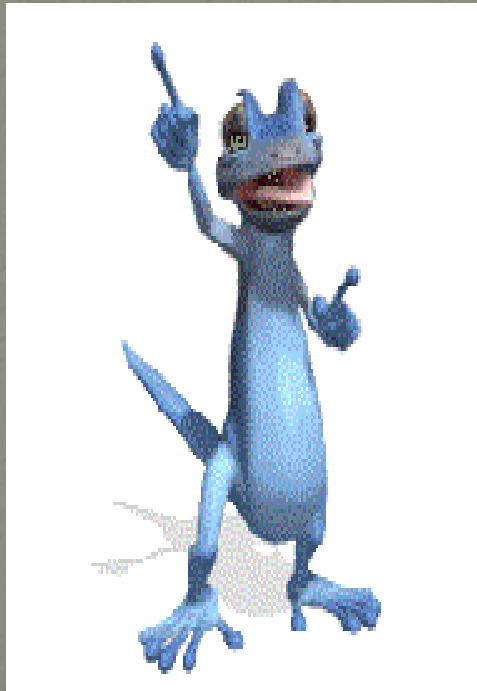


# X – Thou shalt save the best for last.

- Point Made.
- Objective Achieved.
- Closing argument.



Use the ultimate point for summation.





Overall objective:

You are the witness!



You testify, the witness confirms.



