

A PROSECUTOR'S BEST FRIEND

I. Own the courtroom

- A. The ethical prosecutor becomes the trusted prosecutor who becomes the successful prosecutor.
- B. How do you become trusted?
 - 1. Being ethical and honest.
 - 2. Being candid.
 - 3. Being sincere.
 - 4. Being prepared.
 - 5. Being on time.
- C. Embrace the prosecutor's burden of persuasion and of going forward with the evidence.

II Evidence Is a Prosecutor's Best Friend.

- A. Prosecutors win cases on the basis of evidence.
- B. The main focus of a prosecutor should be upon the development of evidence and the determination of the best way to present that evidence.
- C. Witnesses.
 - 1. Establish a relationship with the victim and important witnesses.
 - 2. Treat witnesses with courtesy and respect.
- D. Exhibits.
 - 1. Show the exhibit to the witness in advance of the witness's testimony.
 - 2. Bigger is better
 - 3. Position the exhibit so that the jury can see it.
 - 4. Marking or drawing on exhibits.
 - a. Have a separate diagram for each witness.
 - b. Identify on the exhibit the witness and what the marks or drawing mean.
 - c. The fewer the marks and drawings, the better.
 - d. Consider pre-marking and labeling.
 - e. Make sure the jury can see the exhibit when the witness is marking it.

- E. Repeating testimony through the use of exhibits.
 - 1. Let dramatic and/or emotional testimony flow.
 - a. Don't cut off dramatic testimony by asking questions about details.
 - b. Extend dramatic testimony by asking simple questions such as: "How did you feel?" "What did you think?" "How did you react?"
 - 2. Have the witness then repeat the incident by referring to the exhibits to illustrate and to add details to the witness's testimony.

III. Understand the Difference Between Direct Examination and Cross Examination.

A. Direct Examination.

- 1. The witness is the star attraction; you are a mere supporting actor.
- 2. All eyes, ears, and memory focused on witness, not you.
- 3. Your job is to pitch softballs to the witness.

B. Cross Examination

- 1. You are the star; it's all about you.
- 2. You want the jury to focus on you, not the witness.
- 3. You tell the jury your position, your story, or your version through the questions you ask the witness.
- 4. Leading questions that are geared to insure that the witness will answer the way you want her to.
- 5. Stay away from asking open-ended questions, opinions, conclusions, or explanations.
- 6.

IV. Jurors identifying with the Victim.

- A. You want the jurors to recognize, understand, and appreciate, the pain, loss, and sorrow the victim experienced and is still feeling.
- B. You can't ask the jurors to put themselves in the shoes of the victim, but you want them to think that there but for the grace of God go I.
- C. In preparing examination, focus on how best to assist the victim to convey to the jury the debt and degree of victimization he or she experienced.

D. While we prosecutors rely mostly upon reason, logic, and plausibility, there is a time and place in most trials for sentiment, emotions, and feelings.

E. Not contrived emotion, but sincere emotion.

V. As Prosecutors, We Have the Responsibility to Exercise Our Phenomenal Powers in a Fair, Conscientious, and Just Manner.