



Child Witness Preparation



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Prosecutor Preparation

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Through a Child's Eyes

- Third graders were interviewed about their knowledge of the legal system
- What is a prosecutor?
 - A person who does not like anybody.
 - Someone who camps by the water in a tent.
 - Not sure, but it is something bad or naughty.
- What is a defendant?
 - Someone who defends you.
 - Someone who tells you what to say in court.
- Why do judges wear a black robe?
 - Has ugly clothes and needs to cover them.
 - Is ready for bed.

NDAA Prosecution Standards

2-10.4 Witness Interviewing and Preparation

The prosecutor shall not advise or assist a witness to testify falsely. The prosecutor may discuss the content, style, and manner of the witness's testimony, but should at all times make efforts to ensure that the witness understands his or her obligation to testify truthfully.

Utah Victims Rights 77-37-3

- (b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.
- (c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.
- (d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

Utah Victims Rights 77-37-3

- In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.

(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.

(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

- “The manner in which you prepare and examine the child will dictate the quality of her testimony, and quite possibly, the result of the trial.”
 - *Colin Murray, Nuts and Bolts of Child Witness Examination, 31 Litigation 16 (2005)*

Three Goals of Witness Preparation

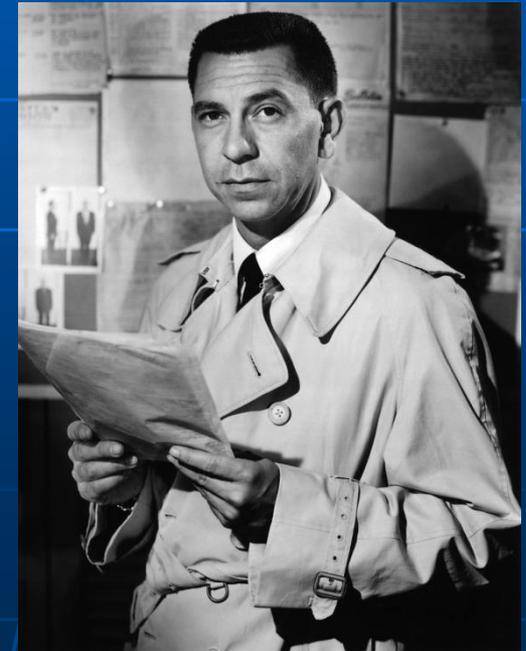
- 1) Educate yourself
- 2) Assess witness ability
- 3) Prepare witness for testimony

These three rules apply without exception regardless of the type of witness you are preparing



NEVER treat a victim like they are a witness to their own crime.

“Just the Facts, Ma’am”
Ain’t Gonna
Cut It.







First Impressions Matter



First Meeting with the Child

- Form a bond and establish trust
- Bring memory to forefront withOUT a full forensic interview
- Give child as many choices as possible
- Define roles
 - “My job is to worry about the case.”
 - “Take a vacation from the case for now.”

Preliminary Hearings?



Competency Hearing?



Consider Pretrial Motions

- Child friendly oath
- Form of questions for child
- Timing of child testimony
- Comfort item
- Support person (State vs. Hoyt, 806 P2d 204 (1991))
- Intimidation of child
- Courtroom modifications



Appearance Matters

- Appearance of the child should be addressed.
- “How would you dress to go to school/church/party?”
- “What are you thinking of wearing to court?”



Appearance Matters



Discuss HOW to testify

- “I want you to do most of the talking in court.”
- “I will ask short questions so that the jury will focus on you, not me.”
- “What would be the best way for you to explain X to the jury?”
- “It is normal to be nervous.”
- “The best thing to do is to look at my face the whole time I am asking questions.”
- “The most important rule is: ALWAYS tell the truth!”



Prepare for Possible Disasters

- "What can we do to make this easier for you?"
- "If you are feeling stressed/sick/upset, you can ask the judge for a break."
- "If you forget something, it's not a big deal. I can show you something to help you remember."
- "Just be yourself. The jury will understand if you are stressed/cry/get confused."



“Knowledge is associated with a reduction in children’s anxiety.”

Preparation of Questions

- Don't use:
 - "With respect to the incident we have already mentioned, what occurred on the date you have alleged with the Defendant?"
- Use:
 - "What happened with Bob?"

How much prep?

Risks of under prep:

- Witness nervous
- Less memory of facts
- Fail to assess witness ability

Risks of over prep:

- Witness appears rehearsed
- NOTE: It is better for a witness to appear quirky or imperfect than scripted or coached



