

## Direction Examination – Session Summary

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Direct exam allows you to deliver your message to your audience. Tell your story. Control your narrative.

### *Choose your witnesses*

- Driven by your case theory. Each witness should advance your theory in at least one way.
- Identify a witness' strengths and weaknesses (and cut off anticipated attacks on cross in advance).

### *Tell your client's story*

- Use the chapter method to prepare your direct. Chapters can be
  - a place or moment in time (e.g., Harris Teeter the night of June 10), or
  - facts or themes (e.g., childhood bullying, desperation, or lack of sleep).
- Decide the order of your chapters and questions. Different options have pros and cons.
  - Chronologically may be appropriate but can also be boring/mimic the State's case.
  - Consider starting with an impactful event (e.g., the shock of being tackled by store security seemingly out of nowhere) and allow the testimony to move non-chronologically.
  - Or begin with a certain theme (e.g., fear of police) rather than an event.

➔ Tip! Write facts you want brought out in different chapters on separate sheets of paper. Rearrange them to find the most effective sequence. Then create your transition statements and questions.

### *Design your questions*

Move beyond "leading questions on cross, open questions on direct." There are degrees to open-ended questions. Ask open but controlled, purposeful questions.

1. Wide open: "Tell us about your family." "Did anything happen that night?"
  - a. Risky (witness could give a harmful or ineffective response).
2. Less open: "Were you angry that day?" "How far from the kitchen were you?"
  - a. Still open, but it allows you to exercise some control over the direction of the response.
3. Close-ended but non-leading: "Did you smell smoke?" "Could you clearly see her?"
  - a. If objections are sustained for leading, retreat to somewhat more open, less-directed style questions, then fluctuate. Find the line and walk it.

Your style may vary by witness. For example, you may give a forensic expert more wide-open questions, allowing them to testify freely. Whereas for your client, you may prefer to use more controlled questioning, while still allowing the client's voice to shine through.

### *Bring scenes to life*

- Use transition statements (e.g., "I want to discuss your typical day").
- Incorporate demonstrative evidence (e.g., a map; photograph of room).
- Take your time. Do not just use conclusory questions and move on. Flesh out details.
- Use descriptive words to activate the listener's five senses (e.g., in a self-defense case, asking the defendant to describe the taste of blood in her mouth before asking what she did next).

### *Prepare your witnesses*

Practice testimony with witnesses, out loud, whenever possible. Help each other be more effective. Explain their purpose to them. Simulate trial so they are not surprised by the feeling of pressure in court.