

Magic Questions

New Prosecutors' School

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Audio V Evidence

1. Are you familiar with this recording system?
2. Was the system working properly at the time of the events recorded?
3. How did you obtain the recording from the system?
4. Did you provide a copy of the recording to the State?
5. Is this recording the one you copied?
6. Has the recording been edited in any way from its original version?

Documentary Evidence

1. Are you familiar with Exhibit "A" (business records) for identification?
2. Can you identify these documents?
3. Were these documents prepared in the ordinary scope or course of the business of your company?
4. Who prepares these documents or how are they prepared?
5. Are these documents made at or near the time the events occurred?
6. Is it a regular part of your business to keep and maintain records of this type?
7. Are these documents of the type that would be kept under your custody or control?

Illustrative Evidence

1. I hand you what has been marked (for the purpose of identification) as State's Exhibit # ____.
What is State's # ____?
2. Do you recognize State's # ____?
3. What is it a picture of?
4. Did you take this picture? (Not necessary that picture be taken by witness)
5. Are you familiar with the subject matter depicted in the picture? (Optional)

6. Does State's # ____ fairly and accurately represent (subject matter) as it appeared (Date and Time)?
7. (If for Illustrative Purposes) Would State's # ____ assist you in illustrating your testimony to the Court/Jury?
8. Your Honor, the State moves to introduce State's # ____ into evidence for illustrative purposes / to illustrate the testimony of this witness. I hand you what has been marked as State's # ____.

Introducing a diagram

1. What is State's # ____ a diagram of?
2. Are you familiar with the area / object depicted in the diagram?
3. Did you prepare the diagram? (Optional)
4. When did you prepare the diagram? (Optional)
5. How did you prepare the diagram? (Optional)
6. Is it drawn to scale?
7. Does it accurately depict the relationship of the objects shown to each other?
8. Does it fairly and accurately depict the area/object?
9. Would the use of the diagram on State's # ____ assist you in explaining and illustrating your testimony to the Court/Jury?
10. Your Honor, the State moves to introduce State's # ____ into evidence for illustrative purposes / to illustrate the testimony of the witness.

Physical Evidence

Nonfungible

1. Do you recognize this item?
2. How do you recognize it?
3. Is it in the same or similar condition as when you last saw it?
4. If not, describe the changes and explain how you are still able to identify it.

Fungible

1. How are you able to recognize it?
2. When did you first see it?

3. What condition was it when you [first, last] saw it?
4. What if anything did you do with it after you seized it?
5. Has it remained in your care, custody and control since you received it?
6. Have you done anything to alter or change it in anyway?
7. Does it appear now in the same or substantially the same condition as [when you received it, first saw it or last saw it]?