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### **STAGES & ASPECTS OF THE TRIAL**

### **VOIR DIRE**

* French for “speak the truth”
* This is the stage of the trial in which the attorneys have the opportunity to ask questions that would touch on the qualifications of each juror to sit impartially. Defense presents their questions first.

#### **Guidelines & Tips**

* Introduce yourself again and ask the jury to raise their hands to answer.
* Don’t ask questions that will reveal details about the case but try and incorporate the main aspects of the trial.
* Be brief (two questions at the most), form simple questions and make a good impression.

#### **Example of a Defense Voir Dire**

Hello, my name, once again, is \_\_\_\_\_\_\_\_\_\_\_\_\_ and I have a few questions for you. If your answer is “yes” to any of the following, please raise your hand.

1. Do you agree that everyone makes mistakes?
2. Do you feel that a person can prove they feel sorry for their actions?

#### **Example of a Prosecution Voir Dire**

Hello, my name, once again, is \_\_\_\_\_\_\_\_\_\_\_\_\_ and I have a few questions for you. If your answer is “yes” to any of the following, please raise your hand.

1. Do you all agree that there are options for solving problems other than violence?
2. Do you agree that when a person commits a crime, they must be held accountable for their actions?

**OPENING STATEMENT**

* + The purpose of an opening statement is to introduce your case and to outline the trial to come.
  + When writing your opening statement, make an outline. Summarize the crime and list the points you will prove.
* Tell the jury what happened with detail (times, location, list of events). Prosecution will want to base their story on the police report while the defense will rely on their defendant’s point of view.
* Try to focus on two or three points that you know you can prove and that will support your case. Develop and support these ideas during the trial through questioning and evidence.

**Guidelines & Tips**

* Keep your opening statement concise. Some attorneys prepare and read paragraphs; while this might seem like the best approach, it is better to create a rough outline before court. During the trial, you can read off your outline and present a more life-like and personal opening statement.
* NO ARGUING! Do not put down your opposing counsel and do not argue facts
* Practice your opening statement before court. Work on your gestures and pacing.
* Prosecution: Tell the victim’s side of the story. Show the effects on the victim from the crime (even if the victim is the State of California). Use strong action words and don’t be afraid to be harsh (within reason).
* Defense: Tell the defendant’s side of the story. Try to make the defendant appear normal and real to the jury. Remember, about half of the jury will be prior Peer Court defendants- use this to your advantage.

**Example of a Prosecution Opening Statement**

* Entered locker room on November 11th, to push classmate
* Victim, Peter, tried to walk away
* Defendant followed and kicked his legs/ slammed into locker/ punched two times

Tonight I will prove:

* Was an attack with no motive
* Defendant has serious anger problems (needs to be addressed)
* Seriously injured the defendant (sent to hospital)

**Example of a Defense Opening Statement**

* Asked Peter to stop teasing him, but wouldn’t leave him alone
* Defendant, Johnny, snapped
* Peter hit Johnny back

Tonight you will see:

* This was not an attack, but a provoked, two way fight
* Both boys threw punches (but Johnny is taking responsibility)
* He will not do it again

**DIRECT EXAMINATION**

* The purpose of direct examination is to gain the witness’ testimony about the events and to enter into evidence the documents that support the witness’ testimony. This is where you prove your case.

**Guidelines & Tips**

* Ask questions that allow your witness to tell their side of the story without putting

words into his/her mouth. Use only OPEN ENDED QUESTIONS (in other words, ask questions that start with who, what, when, where, why or how).

* Know the answer to every question you ask.
* Make the questions flow as if you are engaged in a conversation with the witness. Keep them short and clear and limit yourself to eight or ten questions. Allow your witness to complete an answer before asking another question.
* Stand close to the jury box to draw the attention of the witness towards the jury.
* Prosecution: Sometimes it can be hard to find a witness, but try your best to contact the victim and obtain a testimony.

**Example Questions for the Prosecution (Victim Testimony)**

* Could you please tell the jury what happened when Johnny attacked you?
* How did it make you feel?
* What effects have this attack had on your life?

**Example Questions for the Defense (Defendant Testimony)**

* What caused you to fight with Peter?
* What were you thinking during the fight?
* What have you done to make amends with Peter?

**CROSS EXAMINATION**

* The purpose of cross examination is to challenge the witness’ testimony from the direct examination while damaging their credibility.

**Guidelines & Tips**

* Lead the witness to your conclusions by only asking LEADING QUESTIONS (the answer to any question should only be yes or no).
* Only ask questions that you know the answer to. Ask about eight to ten questions that support your main arguments.
* Make sure the witness answers the questions you ask; don’t let them avoid a response.
* Stand away from the jury box to draw the attention of the witness away from the jury members.

**Example Questions for the Prosecution (Defendant Testimony)**

* You attacked the victim, didn’t you?
* You intended to hurt the victim because you don’t like his new hairstyle, right?

**Example Questions for the Defense (Witness Testimony)**

* Before you and the defendant fought, you tormented him, didn’t you?
* You called him names to provoke him, correct?

**REDIRECT EXAMINATION**

* After the opposing counsel has completed his/her examination of your witness, you have the opportunity to reexamine your witness. If you chose to use redirect examination, make sure it is ABSOLUTELY NECESSARY and that you limit

your questioning to the scope of direct examination. In other words, redirect examination is used to reiterate an important point or to clarify a confusing aspect of the previous testimony.

**RECROSS EXAMINATION**

* If the opposing council chooses to use redirect examination, you will have the opportunity to conduct a recross examination. You must follow the same rules that apply under redirect examination. You may not request to use recross examination if your opposing council chose not to redirect their witness.

**CLOSING ARGUMENTS**

* The purpose of a closing argument is to summarize the facts revealed during the trial and to argue why your side should prevail. You should also recommend a punishment that you believe is appropriate for the defendant.

**Guidelines & Tips**

* Before the night of the trial, prepare a skeletal outline with your main points. During the trial, fill in important details from the testimony given by the witnesses and the evidence that you or your opposing council presents.
* Improvise! Use the skeletal outline to your advantage, but allow yourself to speak naturally. By doing so, you can better relate to the jury and win their approval.
* When suggesting punishments, ask for one you feel is appropriate (defense might want to ask for a less severe sentence while prosecution might want to request a higher sentence). Regardless of what you ask for EXPLAIN THE REASONING BEHIND YOUR DECISION AND BE PREPARED TO SUPPORT IT.

**Example of a Prosecution Closing Argument**

* Ladies and gentlemen of the jury, I would like to review some of the main points of the case tonight. That way, when you get back into the jury room to deliberate, you will be fully prepared to reach a proper verdict.
* The defendant attacked the victim.
* The defendant has obvious anger issues.
* The attack sent the victim to the hospital.
* Now that we are clear on the main arguments, I would like to suggest the following sentence:
  + 5X Jury (understand what Peer Court is/ how lucky he is)
  + 5 hrs CS (can give back to community)
  + Anger Management (help with his problems)
  + Jail Tour (see where he is headed)

**Example of a Defense Closing Argument**

* Ladies and gentlemen of the jury, I would like to review some of the main points of the case tonight. That way, when you go back to the jury room to deliberate, you will be fully prepared to reach a proper verdict.
* Both the victim and the defendant were equally involved in the fight
* The defendant is very sorry and has apologized
* The defendant has learned his lesson and will never fight again
* Now that we are all clear on the main arguments, I would like to recommend the following sentence:
  + 3X Jury (learned his lesson and is sorry)
  + 25 hrs CS (can give back to community)
  + Face to face apology (can show once again how sorry)

**EVIDENCE**

**Rules for Presenting Evidence**

* ALWAYS allow your opposing counsel to review your evidence before the trial. Try to supply them with a copy of any evidence whenever possible.
* The prosecution will present their evidence first followed by their witnesses (see below). After the prosecution rests his/her case, the defense will present their evidence followed by their witnesses. You may choose to hold your evidence to be presented at a later time during the trial (for example, you might want to present pictures of wounds when the victim testifies), but you must declare them to the judge when he asks you for all evidence (and then request that you present them later).
* To submit you evidence, reply to the judge, when asked, that you would like to present something. Then show the judge what it is and ask that it be marked and published to the jury. Thank the judge after being granted the opportunity to use your evidence.
* If there is an objection to the evidence, hear out the grounds and then support your decision to use it after being asked to do so by the judge.

**Evidence from the Police Report**

* Check to see if there is any evidence available through the police department. This information is located on the front cover of the police report (at the bottom inside the Teen Court information stamp). If there is evidence, call the Teen Court office and request that a staff member brings it to court. You may review evidence in the Teen Court office as soon as staff obtains it from the police department.
* If you are prosecuting, try not to read directly from the police report as often as possible. Sometimes arresting officers obtain misinformed testimonies and this can mess up your case. If you chose to use the police report, use it during questioning of witnesses by referring to their testimonies given to the arresting officer. (For example, “Isn’t it true that you said \_\_\_\_\_\_\_\_\_ to the arresting officer? Why have you changed your story now?).

**Creative Evidence**

* You have the opportunity to create your own evidence. This evidence must be factual information. You can create posters, handouts, videos, maps, pictures or

audiotapes with information from the crime scene, law library, Internet (BE CAREFUL YOU HAVE A RELIABLE SOURCE) or police report.

**Victim Response Letters**

* Teen Court sends out victim response letters to all victims of crimes committed by Teen Court defendants. If a victim decides that they would like to provide a written testimony instead of attending court, they will mail in a victim response

form. If there is a victim response, a Teen Court staff member will provide the prosecution with a copy of it and they may present it during the trial as evidence.

**WITNESSES**

* After all relevant evidence has been presented, you have the opportunity to call upon your witnesses to testify. Questioning follows the format outlined under the Stages of the Trial section.
* Prosecution will typically call up the victim of the crime or a witness to the events. YOU MAY NOT CALL A VICTIM/WITNESS UNDER THE AGE OF 18 WITHOUT TEEN COURT COORDINATOR PERMISSION FIRST. Sometimes there are no witnesses for the prosecution. If this is the case, rely on your evidence to support your arguments.
* Defense will almost always rely on their defendant’s testimony. (Remember, a Teen Court case is a sentencing hearing; the defendant has already admitted guilt. If he/she chooses not to testify, the jury might assume that the defendant does not take responsibility for his/her actions). Defense also sometimes relies on the defendant’s parent’s testimony. Try to use the parent’s testimony as sparingly as possible. If they were really involved in the incident, use them! If not, the questioning might take up too much unnecessary time and annoy the jury.

**OBJECTIONS**

* By raising an objection, the attorney ensures their opponent follows the rules of the courtroom. Whenever you believe your opposing counsel is breaking the rules, object immediately with a loud, clear voice citing the grounds for the objection. Be prepared to defend your reasons for objecting.
* Respect the judge’s ruling. The judge will SUSTAIN (he/she agrees with and will allow your objection) or OVERRULE (he/she disagrees with and will not allow your objection). Respect his/her decision and thank him/her.
* Use objections with great discretion. If your opposing counsel blatantly breaks a rule, object. If it’s a minor infraction, you might want to wait and see how the trial goes. If you object too often, the jury (and sometimes the judge) will become annoyed. It’s always nice to have a trial flow without too many “unnecessary interruptions.”

**Types of Objections**

* **Ambiguous:** a question that has more than one answer or will confuse the jury
* **Argumentative:** a question that does not seek information but creates an argument for the jury
* **Asked and Answered:** a question that has already been asked by the same council
* **Compound Question:** a question that asks for two or more responses
* **(Calls for) Hearsay:** a request of testimony of a witness from an out of court information or statement from another individual
* **Improper Lay Opinion:** an opinion given by a witness without the proper credentials to do so
* **Irrelevant:** a request of testimony without a sufficient link to the trial
* **Leading (During Direct):** a question that suggests the answer counsel is searching for
* **(Calls for) Narrative Answer:** a question that will result in an excessively long response
* **Non-Responsive (Cross Only):** an answer that is vague/incomplete
* **Outside the Scope of Direct/ Cross Examination:** a question that requests information not previously covered during direct or cross examination
* **Speculative:** a question that requests facts not know to the witness

**GETTING STARTED WITH YOUR OWN CASE**

**GENERAL INFORMATION**

* Request to present a case by calling the Teen Court office: (304) 913-4956.
* Once you’ve received the case, read over the police report and take note of important points and arguments.
* CONTACT YOUR MENTOR ATTORNEY BEFORE THE NIGHT OF THE TRIAL. It is important for you to review the case before calling so that way the two of you can discuss the case in detail.
* Defense should call the defendant to discuss court procedures, the events of the crime and the questions you will ask during the trial. Remind you defendant to appear in court dressed professionally, use polite language and to tell the TRUE story.

**IMPORTANT RULES**

* Don’t walk through the well.
* Always address the judge as “Your Honor” or Judge \_\_\_\_\_\_\_\_”
* Talk in a loud, clear voice, but don’t shout.
* Be polite to everyone in the courtroom (DO NOT put down your opposing counsel).
* Supply your mentoring attorney with a copy of your case materials. That way, they can follow along during your trial and help you with any questions. Thank

your mentoring attorney at the close of court. Remember, they are volunteering to help you.

* Shake hands and congratulate opposing counsel when the trial is over.

**RULES OF PROFESSIONAL CONDUCT AND ETHICS**

* The following rules are intended to regulate the professional conduct of WV Teen Court teen attorneys. They have been adopted by the WV Teen Court to protect the public and to promote respect and confidence in the legal profession and the judicial process. The rules, together with any standards adopted by the WV Teen Court Board of Directors pursuant to these rules, shall be binding upon teen attorneys.
* It is the duty of a teen attorney to do all of the following:
  + - * To support the Constitution and laws of the United States of America and the State of California.
      * To maintain the integrity and respect due to our legal system.
      * To advise or present those actions, proceedings or defenses only as appear to him or her to be legal and just.
      * To prosecute or defend actions in a manner that is consistent with a search for the truth and never to try to mislead the judge, jury or opposing council by trickery or false statements of fact or law.
      * To not hold up any defendant, witness or opposing counsel to ridicule or embarrassment.
      * To respond promptly to reasonable status inquiries of defendants and to keep defendants reasonably informed of significant developments in the defendant’s case.
      * To diligently prepare the case for trial so that the view of the represented party may be presented in the best possible light.
      * To maintain a courteous, respectful and professional demeanor toward the judge, jury, witnesses and opposing counsel.
      * To hold in confidence any information given to him or her by the defendant unless the defendant gives consent to the disclosure of such information or unless such information involves the harming of the defendant’s self or the harming of others.
      * To always maintain a professional relationship between attorney and client and consciously avoid personal relationships that might compromise the attorney’s ability to represent the defendant impartially.

**THE COURTROOM**

