

CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

Top portion of form to be completed by the MCLE Provider

Provider Name: Ventura County District Attorney's Office

Provider Number: 1130

Title of Activity: Foundations

Date(s) of Activity: September 23, 2016

Time of Activity: 2:00 - 4:30 pm

Location of Activity (City, State): HOJ: Courtroom 48 Ventura, CA

Total California MCLE Credit Hours for the above activity are 2.25, including the following sub-field credits:

- Legal Ethics _____
- Elimination of Bias in the Legal Profession _____
- Prevention, Detection and Treatment of Substance Abuse/Mental Illness that Impairs Professional Competence _____

Bottom portion of form to be completed by the Attorney after participation in the above-referenced activity

By signing below, I certify that I participated in all, or some*, of the activity described above and am therefore entitled to the following MCLE credit hours -

Total California MCLE Credit Hours 2.25, including the following sub-field credits

Legal Ethics _____

Elimination of Bias in the Legal Profession _____

Prevention, Detection and Treatment of Substance Abuse / Mental Illness that Impairs Professional Competence _____

(You may not claim credit for sub-fields unless the Provider is granting credit in those areas and you participated in those portions of the activity)

Print Your Name _____

Your California State Bar Number _____

Signature _____

* partial participation hours must be pro-rated

ACTIVITY EVALUATION FORM FOR CALIFORNIA MCLE

Please complete and return to Provider (Please Print)

Provider Name: Ventura County District Attorney's Office Provider Number: 1130

Title of Activity: Foundations

Date(s) of Activity: September 23, 2016

Time of Activity: 2:00 - 4:30 p.m.

Location of Activity: HOJ: Courtroom 48 Ventura, CA

Please indicate your evaluation of this course by completing the table below

| Question | Yes | No | Comments |
|---|--------------------------|--------------------------|----------|
| Did this program meet your educational objectives? | <input type="checkbox"/> | <input type="checkbox"/> | |
| Were you provided with substantive written materials? | <input type="checkbox"/> | <input type="checkbox"/> | |
| Did the course update or keep you informed of your legal responsibilities? | <input type="checkbox"/> | <input type="checkbox"/> | |
| Did the activity contain significant professional content? | <input type="checkbox"/> | <input type="checkbox"/> | |
| Was the environment suitable for learning (e.g., temperature, noise, lighting, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> | |

Please rate the instructor(s) of the course below

| Instructor's Name and Subject Taught | On a scale of 1 to 5, with 1 being Poor and 5 being Excellent, please rate the items below | Rate 1 – 5 |
|--------------------------------------|--|---------------|
| Chuck Hughes, Chief Deputy | Overall Teaching Effectiveness | — |
| | Knowledge of Subject Matter | — |

| Instructor's Name and Subject Taught | On a scale of 1 to 5, with 1 being Poor and 5 being Excellent, please rate the items below | Rate 1 – 5 |
|--------------------------------------|--|---------------|
| | Overall Teaching Effectiveness | — |
| | Knowledge of Subject Matter | — |

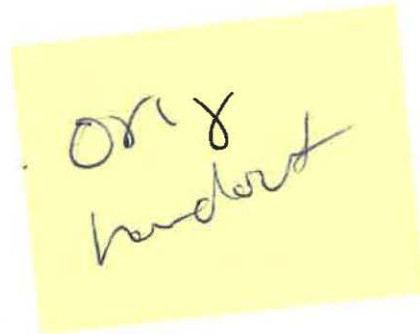
| Instructor's Name and Subject Taught | On a scale of 1 to 5, with 1 being Poor and 5 being Excellent, please rate the items below | Rate 1 – 5 |
|--------------------------------------|--|---------------|
| | Overall Teaching Effectiveness | — |
| | Knowledge of Subject Matter | — |

**Ventura County District Attorney's Office
New DDA Training
September 23, 2016**

Evidentiary Foundations

Topics

- Deciding what evidence to introduce
- Preliminary steps
- How to lay foundation
 - o Photos
 - o Diagrams
 - o Physical Evidence
 - o Tapes & Transcripts
 - o Business Records
- Practice session
- Questions



Deciding what evidence to introduce

- Does it fit your theory?
- How much does it help your case?
- What's the downside?
- Is it coming in through another or better witness?
- Is there better evidence of the point?
- Is it necessary regardless of the above?

Preliminary steps

- Discuss the evidence with your witnesses
- Show photos & diagrams to your witnesses
- Perfect the transcript
- View the physical evidence with the officer
- Have the witness compare the transcript to the recording
- Have the evidence brought to court
- Have witness open the evidence in court, with counsel present
- Pre-mark exhibits

How to lay foundation

- Foundation simply means the facts you have to prove before something is admissible
- "It is what I say it is and it's relevant"
- These examples are bare-bones, but will get the job done. You will want to beef them up to improve the substantive value of the evidence. The examples are to establish foundation only.
- "Showing you what has been marked for identification as People's Exhibit #___"
- "Do you recognize that _____?"

- Photos
 - o What is depicted in that photograph?
 - o Does that photograph fairly and accurately depict the scene/item/etc. as it existed when you saw it on [date]?
- Diagrams
 - o What is depicted in that diagram?
 - o Does that diagram fairly and accurately depict the scene/item/etc. as it existed when you saw it on [date]?
- Physical Evidence
 - o What is that item?
 - o How do you recognize it?
 - o [Various intermediate steps to establish chain of custody]
 - Where was it found?
 - How was it collected?
 - What was done with it after it was collected?
 - When recovered?
 - How did it get to the courtroom
 - When was it opened?
 - Who was present when it was opened?
 - o Is the item in the same or similar condition as it was in when you saw it on [date]?
- Recordings & Transcripts
 - o Have you listened to People's Exhibit ____?
 - o Is it a recording of the interview/911 call/etc. that you witnessed on [date]?
 - o Have you compared the recording to the transcript, People's Exhibit ____A?
 - o Is the transcript a substantially accurate representation of what's contained on the recording?
 - o Ask the court for permission to distribute the transcripts (generally done by the courtroom deputy)
 - o Ask the court for permission to play the recording for the jury
- Business Records (E.C. 1271, 1280) [Common examples are 911 recordings, medical records, calibration records]
 - o What's your occupation?
 - o Do your duties include maintaining and accessing the records of your business/agency, etc.?
 - o Describe for us how the particular types of records are created at your business/agency, etc.? Must include:
 - Made at or near the time of the recorded act, condition or event
 - By employee with a business duty to create the record and to do so accurately
 - Employee had personal knowledge of facts recorded, circumstances of the recording

- Routine practice of the business to make the record
- Did you yourself retrieve copies of the records pertaining to [the event in question] or were the records retrieved at your direction?
- Showing you what's been marked for identification as People's Exhibit ____, are these the records that you retrieved?
- How do you recognize them?
- Are they accurate copies of the original records maintained by your business/agency?

General comments

- Always provide defense with copies of the exhibits or an opportunity to view the exhibits well before you are anywhere near having a witness testify about them
- Go to the crime scenes before trial
- Go view your evidence with law enforcement before trial
- Discuss with your judge and defense counsel ahead of time any restrictions the judge may wish to impose on publishing exhibits before laying foundation.
- Always show the exhibits to your witness before they take the stand
- How to handle voluminous photos
- Transcripts
 - Bring copies for everyone. Have extras. People will be appreciative and jurors will see you are prepared, fair and considerate.
- Be creative! There are many ways to lay foundation and many witnesses who can do it. If a witness is unavailable, there will usually be other ways to do it.
- Either open the items in court with police (and invite defense attorney) or stipulate with defense that the items were brought to court and opened here.

**OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA**

MCLE AGENDA

(NEW DDA TRAINING – LAYING FOUNDATIONS)

(September 23, 2016)

(DAO Room 308)

Instructor: (Chuck Hughes, Chief Deputy District Attorney)

- | | |
|---------------|---|
| (2:00 – 2:45) | (Laying foundations for various pieces of evidence) |
| (2:45 – 3:15) | (Practical experience laying foundations for photos) |
| (3:15 – 3:30) | Break |
| (3:30 – 3:45) | (Practical experience laying foundations for diagrams) |
| (3:45 – 4:00) | (Practical experience laying foundations for physical evidence) |
| (4:00 – 4:30) | (Practical experience laying foundations for 911 calls) |