

THE PEOPLE'S CASE IN CHIEF  
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Overview

- Preparation/Resources
- Objective Trial Strategy

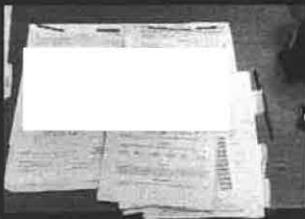
Start With Your Case File ...

- Be organized
- Read carefully
- Jury Instructions
- Decide who to subpoena
- Enter witnesses in the computer
- Think about evidence you need, and evidence you want
- Investigative requests??

Your case file should look like this....



Not like this....



People v. Orozco

### Jury Instructions

- Otherwise known as "Cal Crims"
- Available on Westlaw and in book form
- Basic Instructions 200s and 300s
- Additional Instructions to consider- flight, motive, destruction of evidence, false statements, etc.
- Pinpoint instructions

### Other Resources

- CEB – "The Bible"
- Evidence Code Annotated
- Penal Code

### Supervisor Meetings



### Questions??

### TRIAL- THE BIG EVENT



### Overview of Trial

- Pre-trial motions
- Jury Selection
- Opening Statements
- Direct Examinations
- Cross Examinations
- Defense Case
- Rebuttal
- Jury Instruction Discussions
- Closing
- Deliberations
- Verdict

## Trial – Big Picture

- What is your "theme"/ why do we care about this case??
- Witness order
- Take a step back, think about defense arguments
- Be one day ahead
- Don't waste jurors time
- Visit the scene if you can
- TELL THE STORY
- Be mindful of demeanor

## Communication and Persuasion



## Communication and Persuasion



## Establishing Credibility

- Polite
- Never stretch the truth
- Keep promises
- Make appropriate concessions
- Use plain language
- Avoid gimmicks (props)
- Discovery
- Don't argue with defense! Advocate to the court.

## Strategic Planning: The Choice of Theory and Theme

- Theory: the attorney's story of what happened
- Theme: distills the case to its most memorable essence

## Developing a Case Theme

"What I want most of all is resonance, something that lingers for a while in the reader's mind (and heart) after he or she has closed the book and put it on the shelf."

- Stephen King, On Writing

### Trial Briefs



### Pre-Trial Motions

- Evidentiary Motions (aka Motions In Limine)
- Motions to exclude witness from trial
- Motions to compel discovery
- 1101 (b)

### Trial – Voir Dire

- Be a person first
- Who do you want on your team?
- Don't ask the same question 80 times



### Opening and Closing

- What works for you?
- Watch experienced prosecutors
- PowerPoint for closing- required
- Plan on one minute per slide
- Notes? No notes? – print out slides
- Podium?
- Practice, practice, practice

### Direct Examination- Goals



- Set up your closing
- Establish credibility
- Deflate opposition
- Get in necessary evidence

### Direct Examination – Preparation

- Master your facts – reports, tapes, visit the scene, view evidence, get CV's
- Consider Foundational requirements
- Anticipate Objections
- Decide who to call/what order
- Make outlines which are fact-based

### Don't Forget to Prepare your Witnesses

- What they can expect
- How they fit into the trial
- Golden Rule – always tell the truth
- Copies of reports, transcripts, tapes, photos
- Discussion of questions (but not answers)
- Discuss likely defense/cross-exam issues
- Special issues- Dress, language

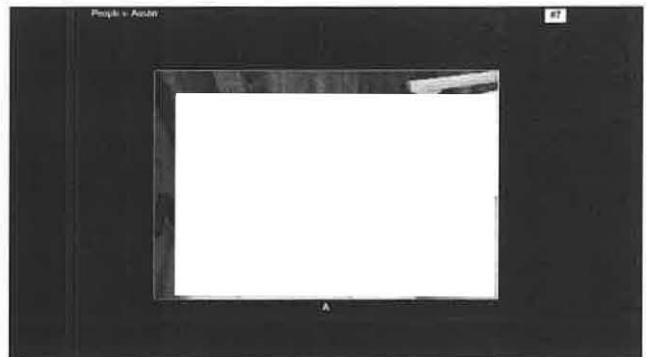
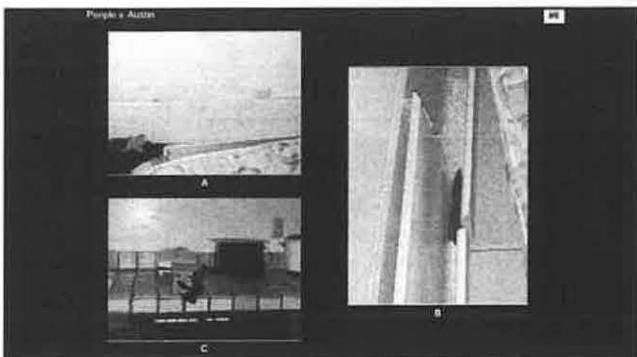
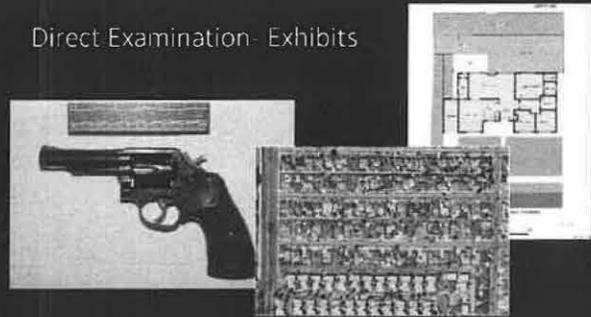
### Examining the Witness

- Background, relationships, training, expertise
- Get witness to convey mood and scene
- Listen to the witness, take notes if possible
- Describe broadly, then go back more specifically
- ID defendant and establish jurisdiction
- End strong
- Redirect?

### Direct Examination – Leading

- A leading question suggests to the witness the answer the examining party desires (Evid. Code section 764)
- Valid reasons:
  - Refreshing recollection
  - Laying foundation
  - Experts
  - Hostile witnesses
  - Non-controversial, undisputed facts (*People v. Williams* (1997) 16 Cal. 4th 635, 672-673; *People v. Campbell* (1965) 233 Cal. App. 2d 38, 44-45.)

### Direct Examination- Exhibits



### Verdict

- Learn from jurors, but don't take all their comments to heart
- Get feedback (judges, peers, supervisors)
- Wins v. Losses – learn from your losses

### People's Case in Chief- Summary

- Be prepared and thorough
- Develop your skill set early on, practice
- Work hard
- Don't complain
- Ask for help

