

CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

Top portion of form to be completed by the Provider

It is preferred that the form is pre-printed with the attendee's name and bar number.

Provider Name: Ventura County District Attorney's Office
Provider Number: 1130
Title of Activity: Foundations
Date(s) of Activity: October 17, 2018
Time of Activity: 2:00 p.m. to 4:30 p.m.
Location of Activity (City/State): Ventura, CA

This Activity qualifies for: Participatory ☒ Self-Study ☐
Total California MCLE Credit Hours for the above activity: 2.50, including the following sub-field credits:

- Legal Ethics: _____
- Recognition and Elimination of Bias: _____
- Competence Issues: _____

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 claim the following California MCLE credit hours:

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

- Legal Ethics: _____
- Recognition and Elimination of Bias: _____
- Competence Issues: _____

(You may not claim credit for the subfields above unless the provider is granting credit in those areas above.)

Print Your Name (clearly): _____

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: October 17, 2018

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

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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 / Foundations	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
October 17, 2018

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 # ____"
- "What is that item?"

- Photos
 - What is depicted in that photograph?
 - Does that photograph fairly and accurately depict the scene/item/etc. as it existed when you saw it on [date]?

- Diagrams
 - What is depicted in that diagram?
 - Does that diagram fairly and accurately depict the scene/item/etc. as it existed when you saw it on [date]?

- Physical Evidence
 - What is that item?
 - [How do you recognize it?]
 - [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?
 - Is the item in the same or similar condition as it was in when you saw it on [date]?

- Recordings & Transcripts
 - Have you listened to People's Exhibit ____?
 - Is it a recording of the interview/911 call/etc. that you witnessed on [date]?
 - Have you compared the recording to the transcript, People's Exhibit ____A?
 - Is the transcript a substantially accurate representation of what's contained on the recording?
 - Ask the court for permission to distribute the transcripts (generally done by the courtroom deputy)
 - 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]
 - What's your occupation?
 - Do your duties include maintaining and accessing the records of your business/agency, etc.?
 - 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.