



COURTROOM SUCCESS

Making the Officer a Better Witness

Objectives

- To understand the “rules” of a trial

Objectives

- To understand the “rules”
- To develop skills that will enhance rapport with jurors

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- To understand the importance of credibility

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- To understand the “rules”
- To develop skills that will enhance rapport with jurors
- To understand the importance of credibility
- To gain an insight into the “psychology” of the trial

*This is a **SAFE LEARNING
ENVIRONMENT.***

***We're all here for the same
reason:***

***to be better tomorrow
than we are now.***

Why should the State prevail?

You were there.

The State's case is
based on reality.

You testify first.

Primacy

- THE FIRST IMPRESSION / FIRST THING BELIEVED BECOMES THE REFERENCE POINT
- ALL SUBSEQUENT INFORMATION MUST BE RECONCILED WITH THE REFERENCE POINT

PSYCH 101:

ONCE A JUROR ACCEPTS
YOUR PICTURE THEY WANT
TO PROTECT IT (WHEN YOU
ARE CROSS EXAMINED).

The conservative candidate was
accused of sexual misconduct.



Liberal Baptist Pastor:

“The candidate is immoral, and is
not fit to serve in the U.S. Senate.”

The conservative candidate was
accused of sexual misconduct.



Conservative Baptist Pastor:

“He was just seeking the purity
of a young woman.”

Primacy

- THE FIRST IMPRESSION OF ANYTHING BELIEVED BECOMES THE REFERENCE POINT
- SUBSEQUENT INFORMATION MUST BE RECONCILED WITH THE REFERENCE POINT

YOU TESTIFY FIRST

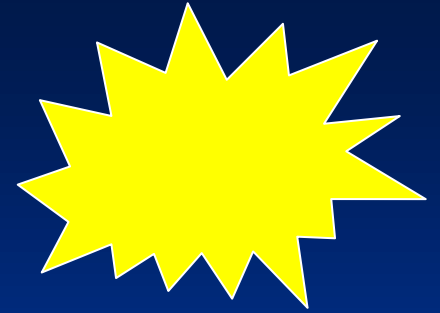




COLLISION

WRECK

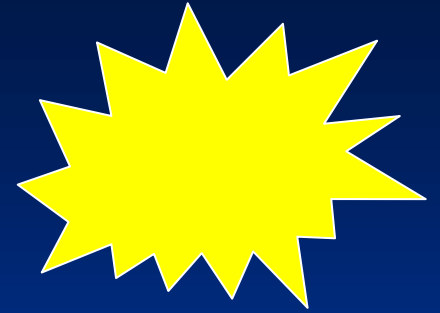
CRASH



What training have you had
on how to testify?

Who has sat through an entire trial from opening statement through the closing arguments?

How can you become a
more effective witness ?



Prepare with the prosecutor

Watch others testify

Understand the skills needed

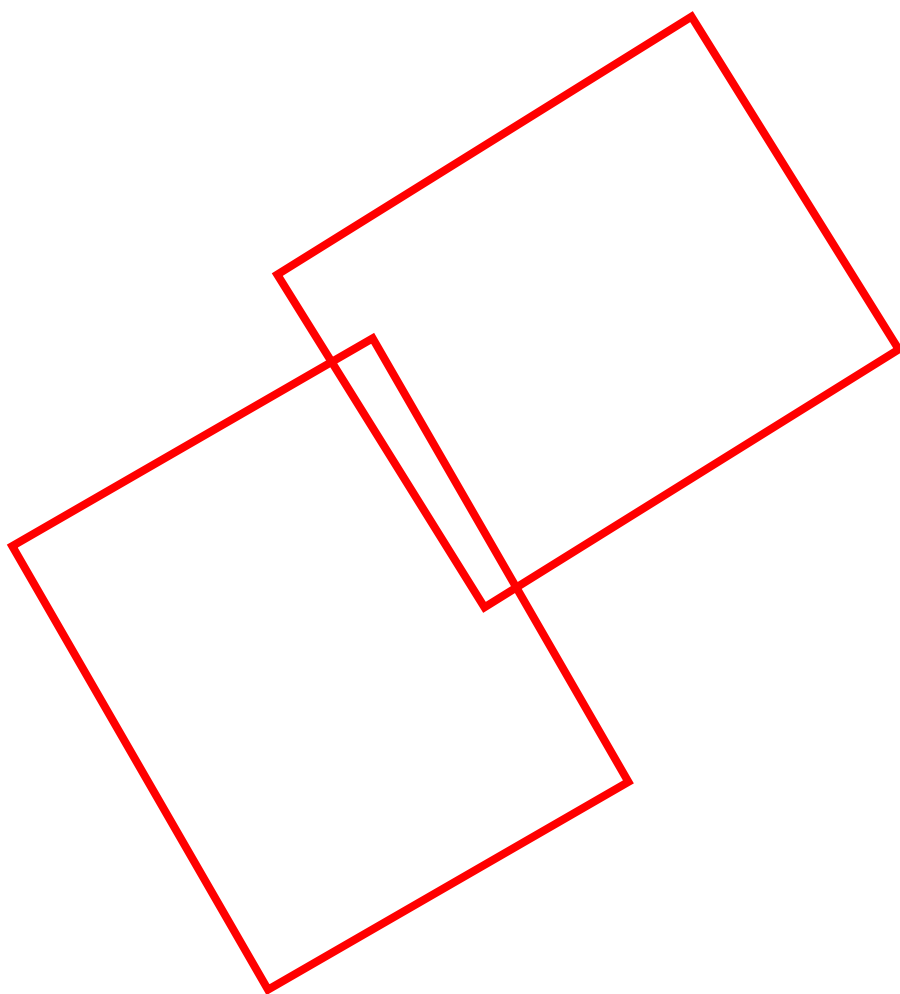
Specialized training

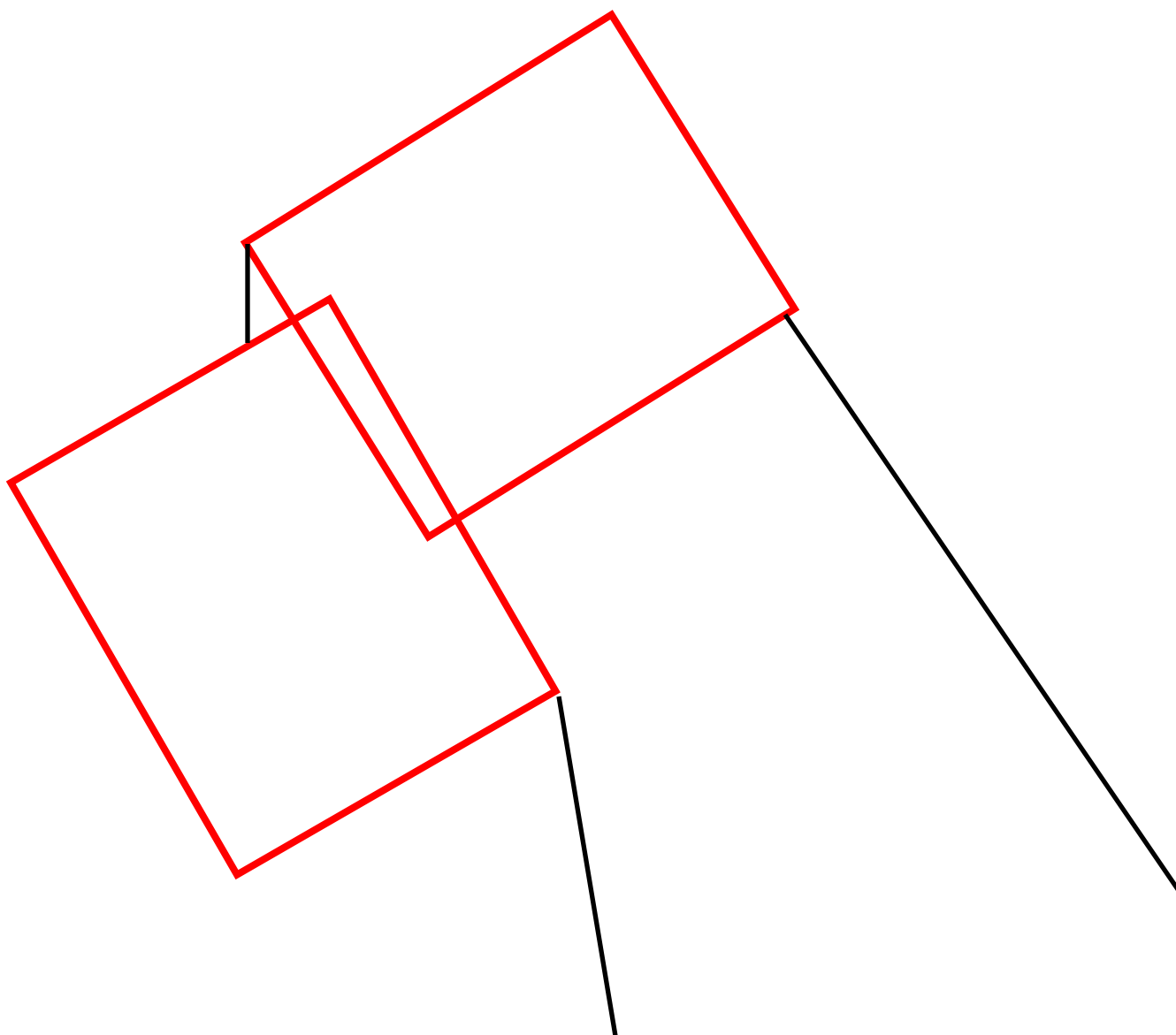
IN ORDER TO BE AN
EFFECTIVE WITNESS
YOU HAVE TO KNOW
HOW A TRIAL WORKS !

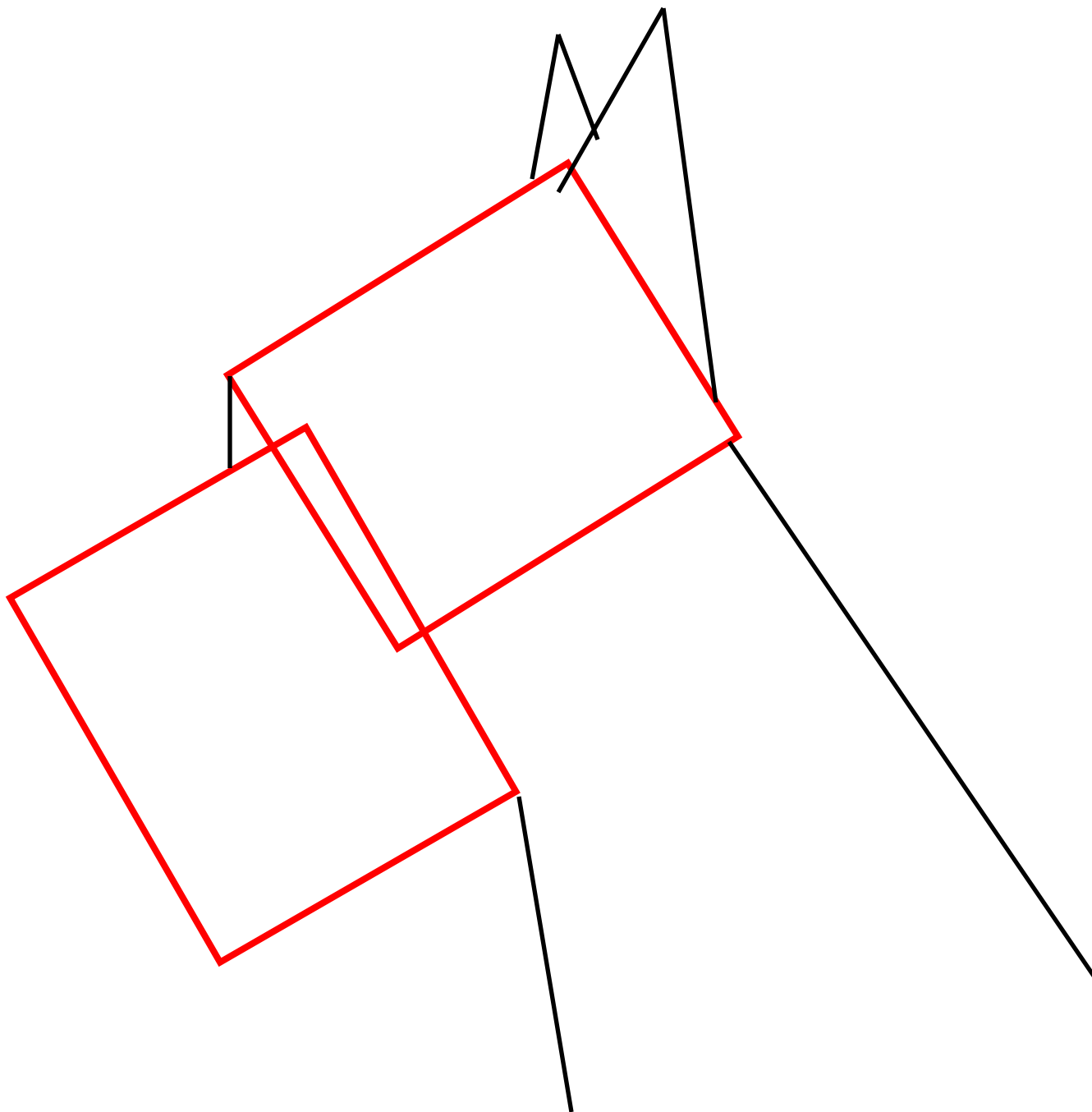
Take out a clean sheet
of paper and get ready to
draw...

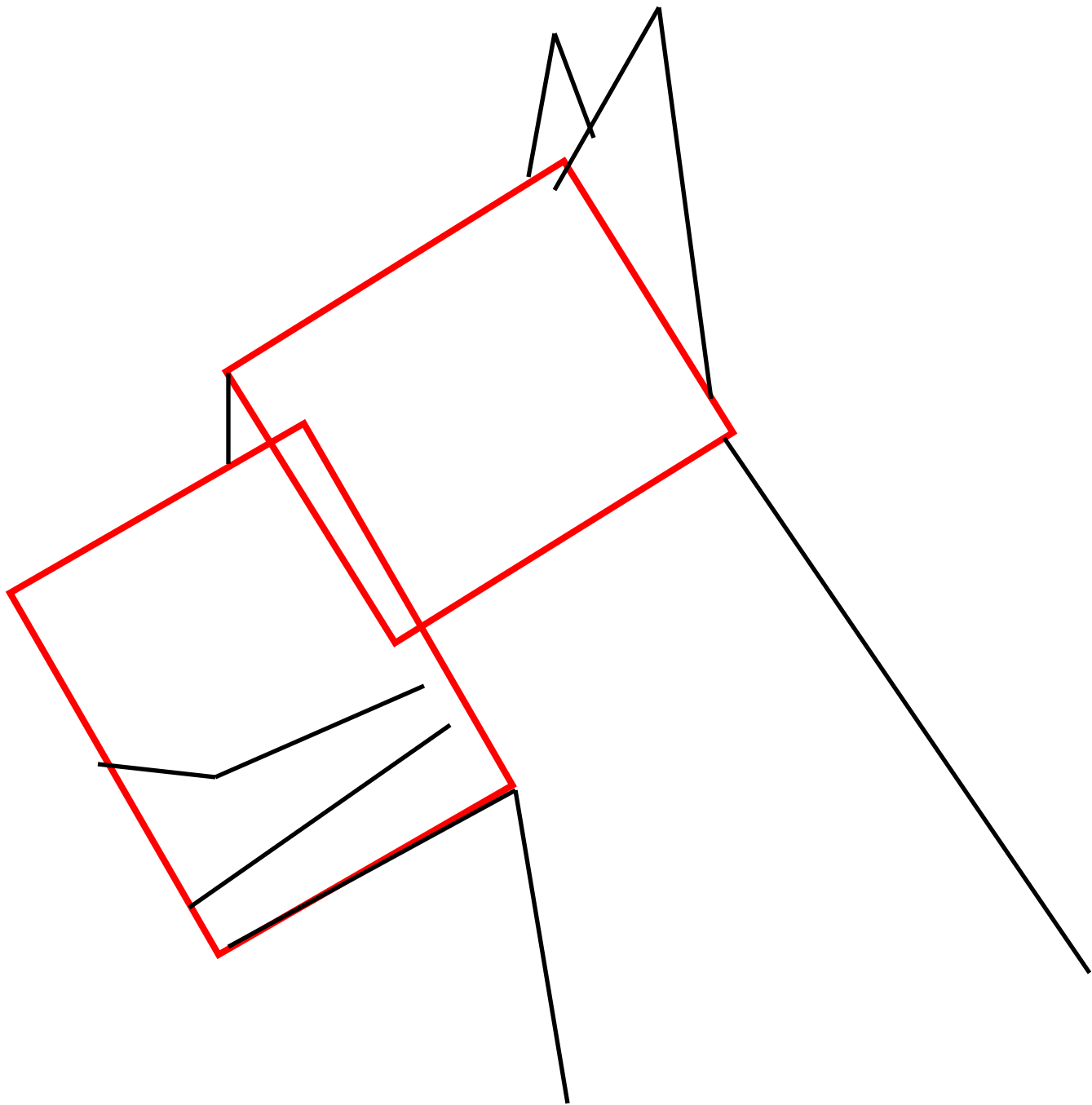


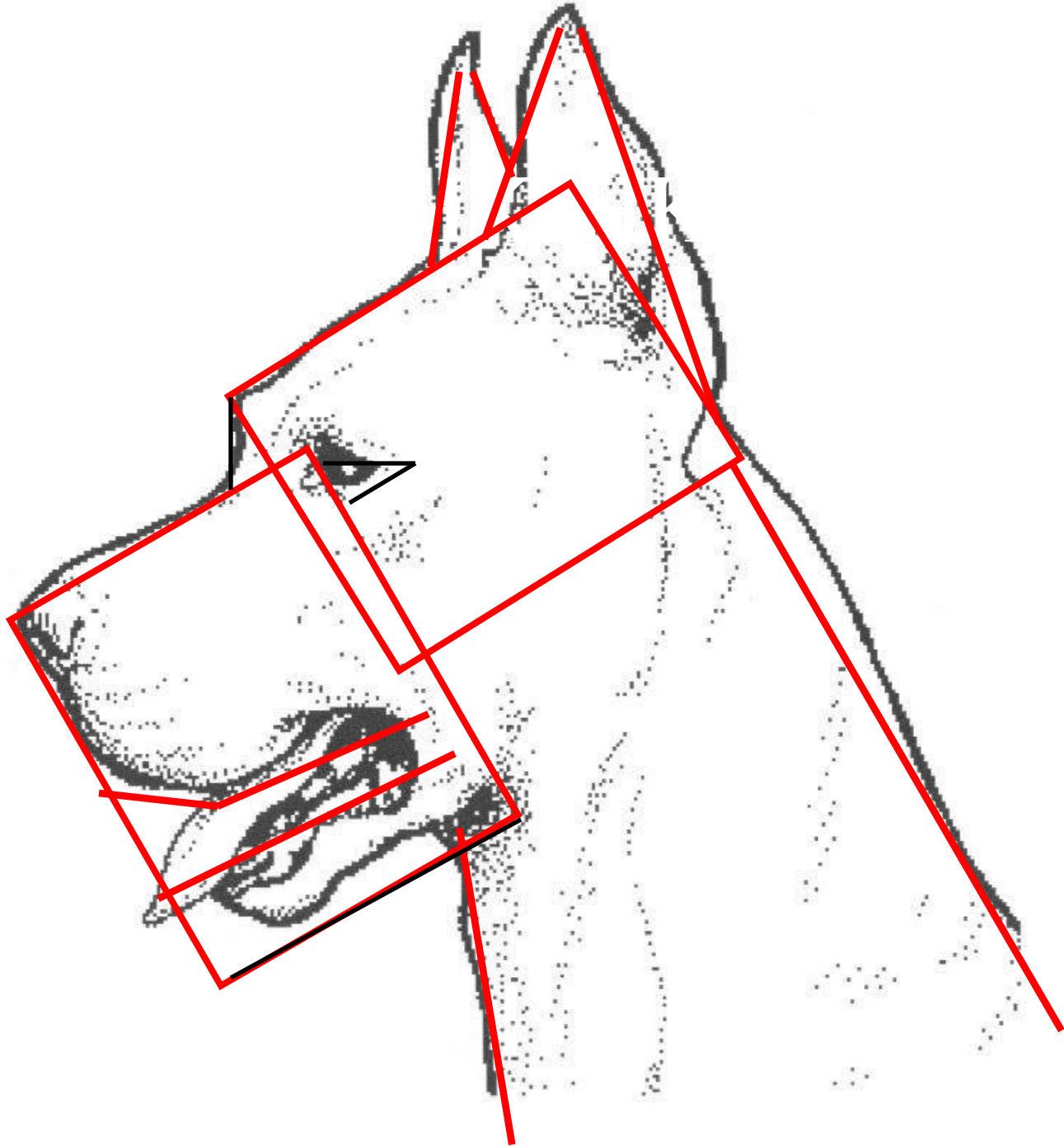
Does anyone know who
JOHN NAGY was ?











The “rules of evidence”
are the hidden structure of a
trial.

The prosecutor knows
more about the rules than you.

Some practical rules from
my own experiences:

Rule #1

THE WITNESS IS IN
CONTROL

THE WITNESS IS IN
CONTROL of

TIME

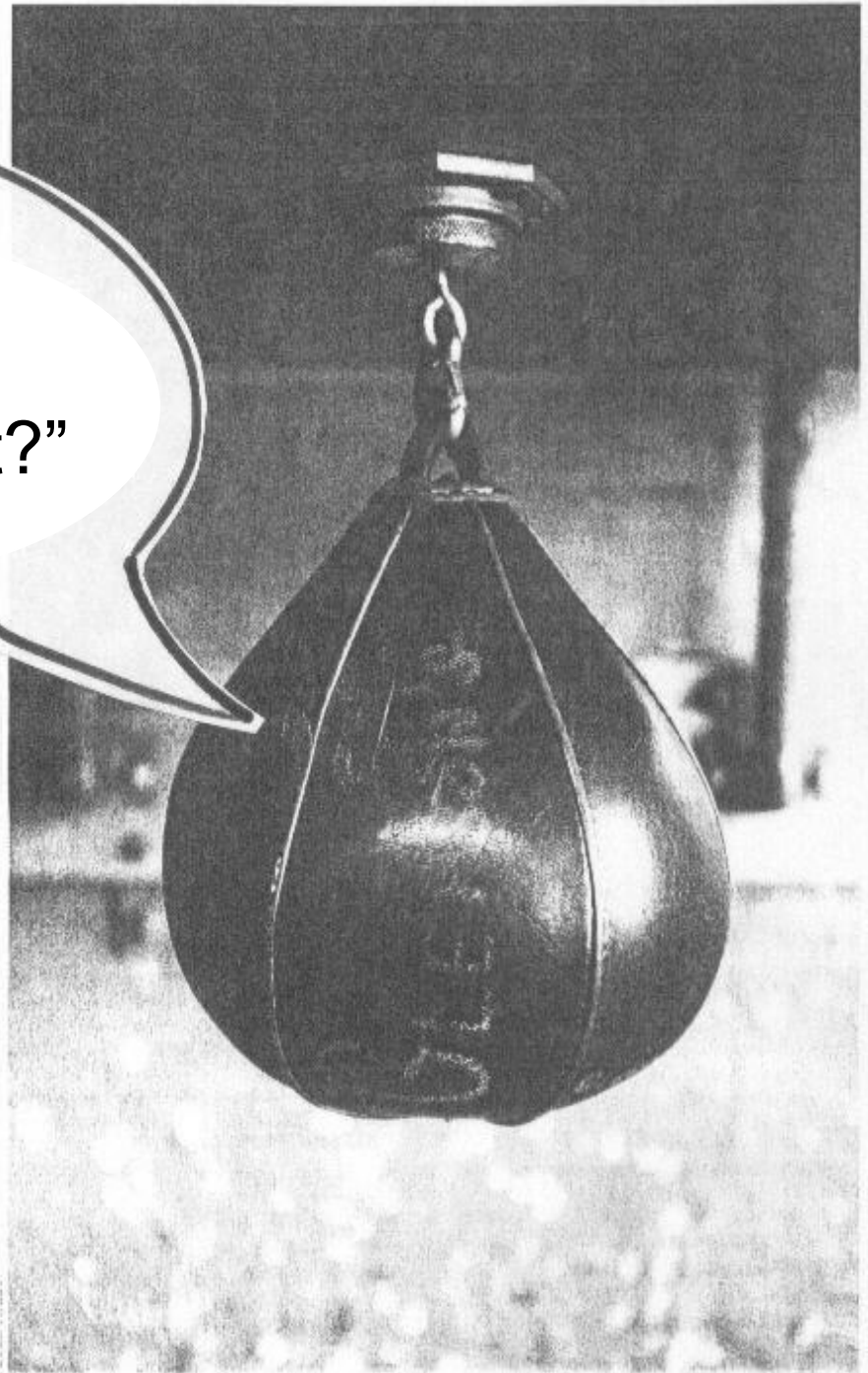
TRUTH

TEMPER

What should you do when
there is an objection?

SHUT UP !

“Why doesn’t the
prosecutor object?”



Rule 2

THE RECORD LASTS
FOREVER

Your prior testimony
creates a record.

Q. “In the many SFST’s that you’ve given, it would not be unusual for people to use their arms for balance, would it?”

A. “That would happen frequently.”

Q. “Without knowing what my client’s ordinary responses would be, you really have a limited basis for your opinion, don’t you?”

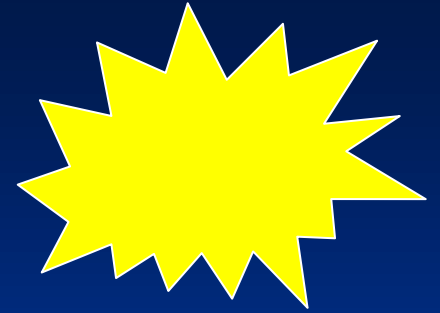
A. “I guess so.”

Q. Why didn't you get the information from my client's "black box" in his car?

A. "The black box data was overwritten, because the car was driven after the crash."

Q. Why didn't you get a speed from the gas station video?

A. “No specific speed could be calculated from the gas station video, because the speed of a vehicle can change over time.”



What other ways do you
“create a record”?

A statement to the press



The Hartford Courant, 11/13/15

One student pointed to a white ball cap on the ground.

“Usually, Officer _____ said, a pedestrian’s hat lands near the point of impact.”

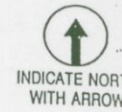


FL v. DAVID FARRALL
DOUBLE FATALITY ON
I-95

A statement to the press
at the crash scene.



State Road 9 (Interstate 95)
northbound lanes only



Cement Median Wall

Yellow painted edge line

Paved shoulder

White painted edge line

Paved shoulder

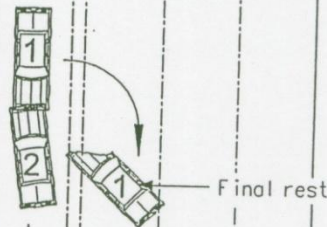
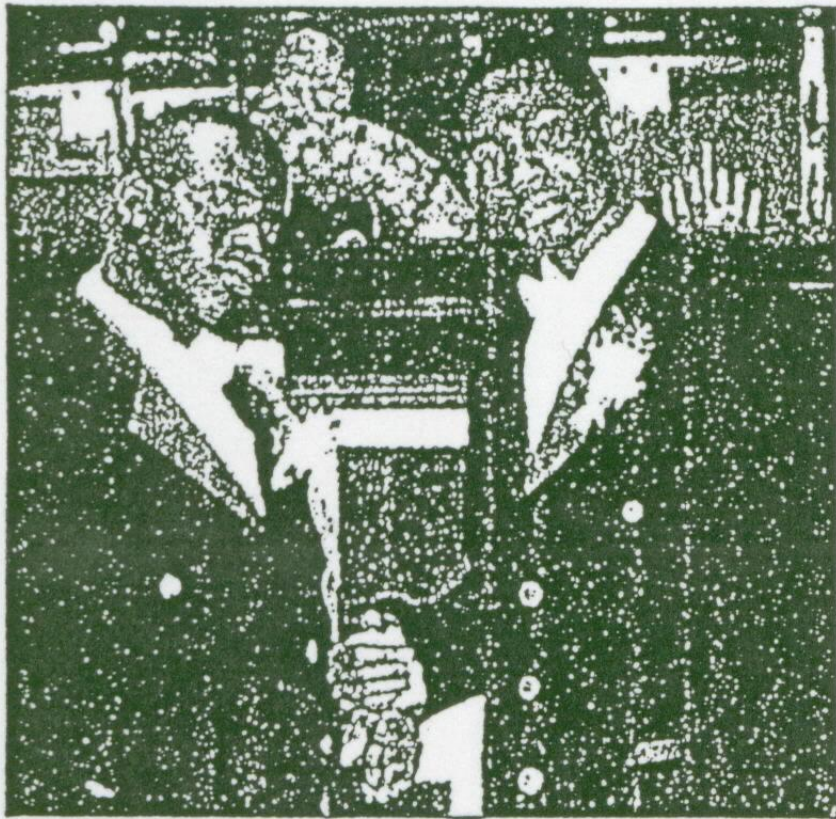


Diagram Not To Scale



BROTHERS: Only days before their deaths in a head-on collision with an FBI agent on I-95, Maurice Williams, 23, left, and Craig Chambers, 19, attended a friend's wedding.

WRONG WAY TO DIE

On Nov. 23, two cars heading in opposite directions in the northbound lanes of Interstate 95 collided, killing two brothers. How it happened and who is to blame remain a mystery.

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the pr
and v

DEFENSE CLOSING ARGUMENT

THE FIRST FHP OFFICER AT
THE SCENE SAID THE TWO
BOYS WERE TRAVELING IN
THE WRONG DIRECTION

Cross examination using the
report.



Impeachment using
the officer's report.


In an attempt to help the victim motorcycle operator, the officer's report creates a record that may be used against him (and against other officers).

The officer's report:

“The confirmed presence of drugs (Fentanyl, THC, Midazolam) would not have affected the operation of the motorcycle operated by the victim in this case.”

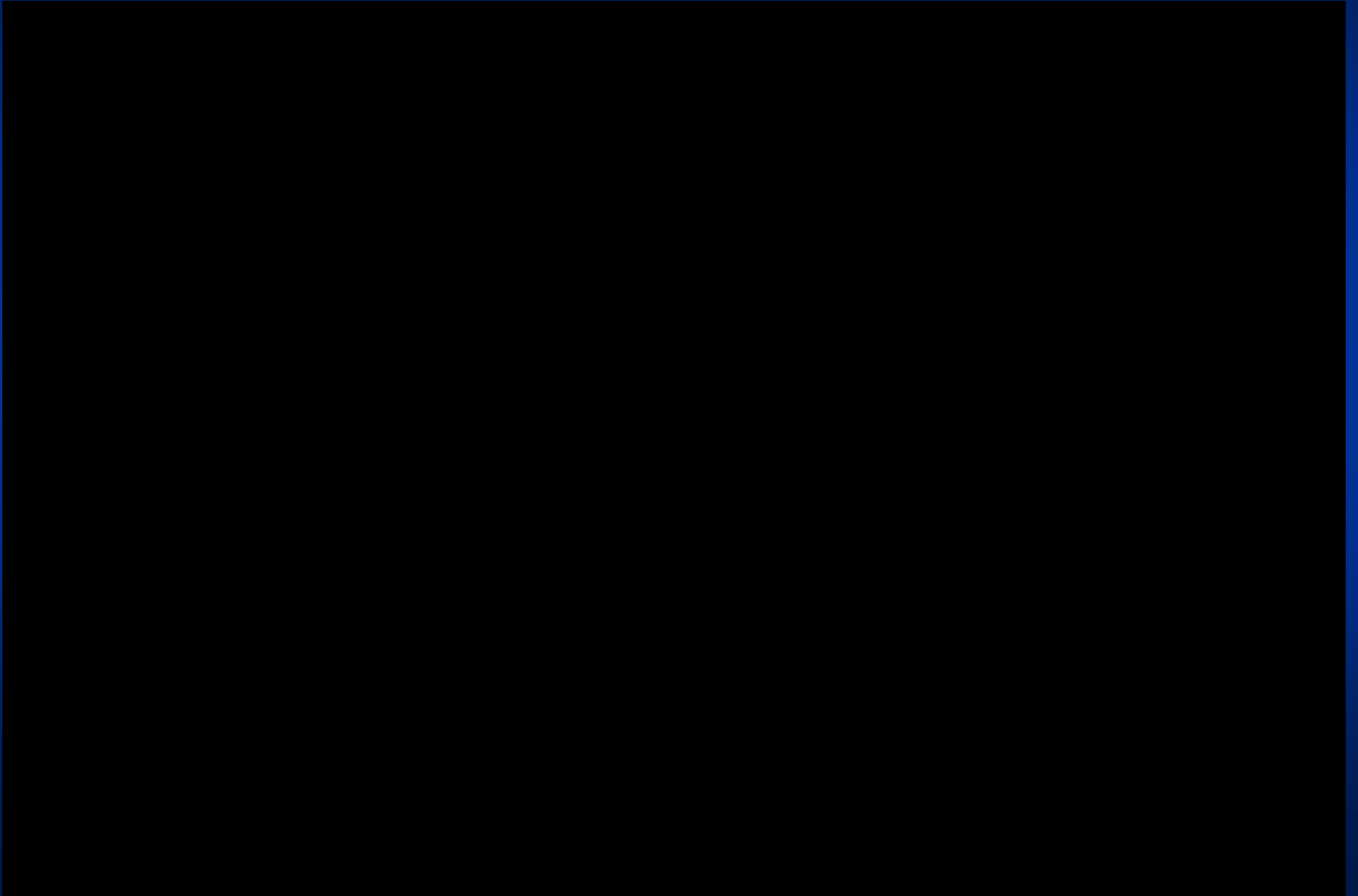
news camera as a record:

Was the defendant in custody?



Lt. McDannell ordered Mr. Ridley to stay on the property, didn't he? He didn't order him to, no

your in-car camera as a record:



an email (or social media) record

Hit-run pedestrian fatality:

Defense expert testified that tire marks on the road did not match the tires on the defendant's vehicle.

Expert opinion:

By taking scrapings from the road I was able to compare to scrapings taken from the tires, and show that the tires (on the defendant's vehicle) did not make the skid marks.

e-mail response:

Do you have any reference to such testing ?

Expert response: “I don’t know of any reference materials. I just made it up as I went along, like I do with everything else.”

THE RECORD LASTS

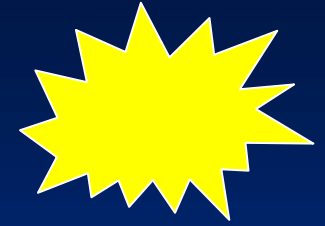
FOREVER

*A GOOD DEFENSE ATTORNEY
WILL RESEARCH THE
RECORD.*

Insight:

The best shield against cross examination is effective direct testimony.

DIRECT EXAMINATION SKILLS



**WHO HAS FINISHED
TESTIMONY, AND THEN
WISHED THEY HAD SAID
SOMETHING ELSE ?**

What tools do I need?



PATIENCE

LISTEN TO THE QUESTION



PAUSE and THINK



LISTEN TO THE QUESTION



PAUSE and THINK



then ANSWER



Rule 3

THINK BEFORE YOU
ANSWER



“We listen to respond
instead of listening to hear”.

Dan Estes

What tools do I need?



PATIENCE

LISTENING

LISTENING :

Pros: Where did you go to school?

Wit: I went to the University of
Maine, and I graduated in 1998.

Pros: When did you graduate?

Who wasn't listening?

LISTENING :

EDR printout showed the seat belt status as “BUCKLED”

System Status At Deployment

SIR Warning Lamp Status	OFF
Driver's Belt Switch Circuit Status	BUCKLED
Passenger SIR Suppression Switch Circuit Status	Air Bag Not Suppressed
Ignition Cycles At Deployment	11087
Ignition Cycles At Investigation	11088
Algorithm Enable to Maximum SDM Recorded Velocity Change (msec)	105
Time Between this Event and the Previous Event (sec)	N/A
Time From Algorithm Enable to Deployment Command Criteria Met (msec)	10

Pre-Crash Data (Most Recent Event)

(the most recent sampled values are recorded prior to the event)

Time Stamp (sec)	Engine RPM	Speed, Vehicle Indicated (MPH)
-5.0	5,440	107
-4.0	5,696	112
-3.0	5,952	117
-2.0	6,144	121
-1.0	5,216	118
-0.1	3,680	99

LISTENING :

EDR printout showed the
seat belt status as “BUCKLED”

Q. “Officer, the EDR told you that
the operator of the vehicle had
his seat belt on, correct?”

A. No.

LISTENING :

$$S = \sqrt{30 f d}$$

Q. If you changed the drag factor in your speed from skid equation, that would change all your numbers, wouldn't it ?

A. No.

LISTENING :

- Pedestrian fatality
- No skid mark evidence before the POI

Q. “You said in your report that there was no effort to brake before striking the pedestrian, correct.”

A. No.

LISTENING :

Q. “Did you administer the one leg stand test to the defendant?”

A. “He didn’t pass the test.”

FACTS:

Officer did not see any slurred speech.

Defendant was stable on his feet.

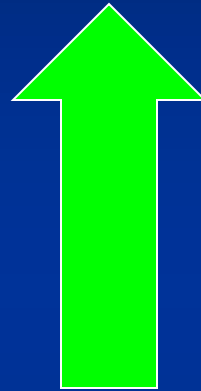
LISTENING :

Q. “Officer, you didn’t see any slurred speech, any stumbling, any anything – did you?”

A. “No.”

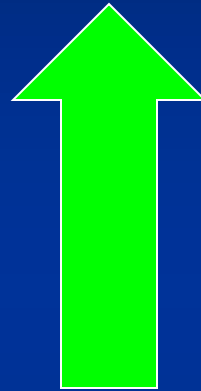
“Officer, you
didn’t see any
slurred speech,
any stumbling,

starts formulating an Answer



“Officer, you
didn't see any
slurred speech,
any stumbling,

Formulate an Answer



“Officer, you
didn’t see any
slurred speech,
any stumbling,

any anything

Rule 4

DON'T START TO FORM
YOUR ANSWER BEFORE THE
QUESTION IS FINISHED!

“That’s not what I was going to say.”

ASSIGNMENT

You are in the witness box,
and the following question is
asked:

Assume there are 13 apples in a basket.

You remove 3 apples, leaving 10 in the basket.

You remove 2 more apples.

Q. How many apples do you have?

Was the question clear?

What should you do if
the question isn't clear ?

LISTENING :

You have no obligation to reformulate the question in your mind, and then answer it!

because, *if you do* ...

The asked question is on the record.

**The question you answered
is not on the record.**

Your answer is on the record.

CLARIFYING THE QUESTION:

MI v. Rowland

“If the measurements were
wrong your opinion is wrong,
isn't it?”

What is the defense
attorney asking
permission to do?

Q. Officer, you said in your report that you rounded down your speed estimate to give every benefit to my client.

Q. You'd agree that it would be all right for my expert to do the same, wouldn't you?

If the question isn't clear,

SAY SO!



You should be better as a listener
than the defense attorney is as a
questioner, because...



your only job is to
LISTEN

LISTENING :



Q. You didn't have an opportunity to speak with the witness, Mrs. Brown, did you?

LISTENING :



Q. If my client was driving at 30 mph,
how far would his car go?

What tools do I need?



PATIENCE

LISTENING

VISUALIZATION

Rudolph Arnheim, Visual Thinking, 1967

The mind operates cognitively by translating words into pictures, and then retrieves information as pictures for the purpose of reasoning and decision-making.

VISUALIZATION :

“ IN YOUR MIND’S EYE ”

San Francisco

The officer found a three-hook wagon bracket, which he used to kill the victim.

The jurors must visualize
your testimony (words) and
transform it into a picture .

“I have a picture of my pride
and joy in my wallet.”



“I measured the tire marks with a Rolatape.”

What picture do the jurors have ?

“I measured the tire marks with a Rolatape.”



Rolatape ???

From a deposition transcript:

A He was pretty much either running the wheel or keeping notes for me. He didn't interact with the dr

the roll of tape

Q ... that could mean running the wheel?

A When we take measurements, the roll of tape.



“I measured the tire marks with a Rolatape.”

“I measured the tire marks
with a rolling wheel.”

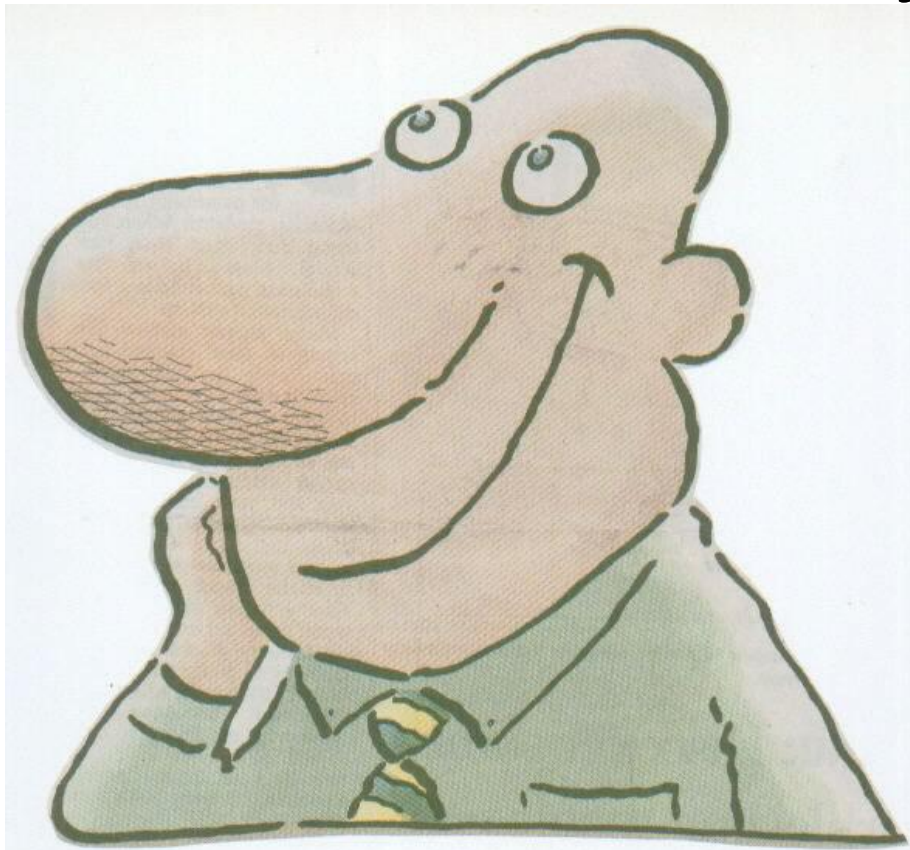
What picture do the jurors have?



“I measured the tire marks
with a rolling wheel.”

INSIGHT:

If the jury sees
your picture,
they should convict.



INSIGHT:

If your picture is incomplete,
it opens the door for the
defense to change the picture.

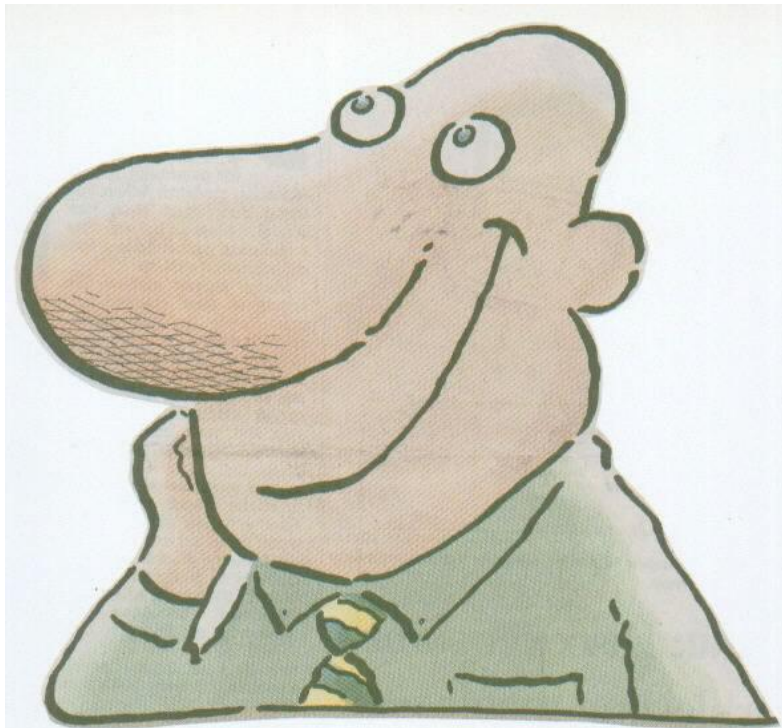
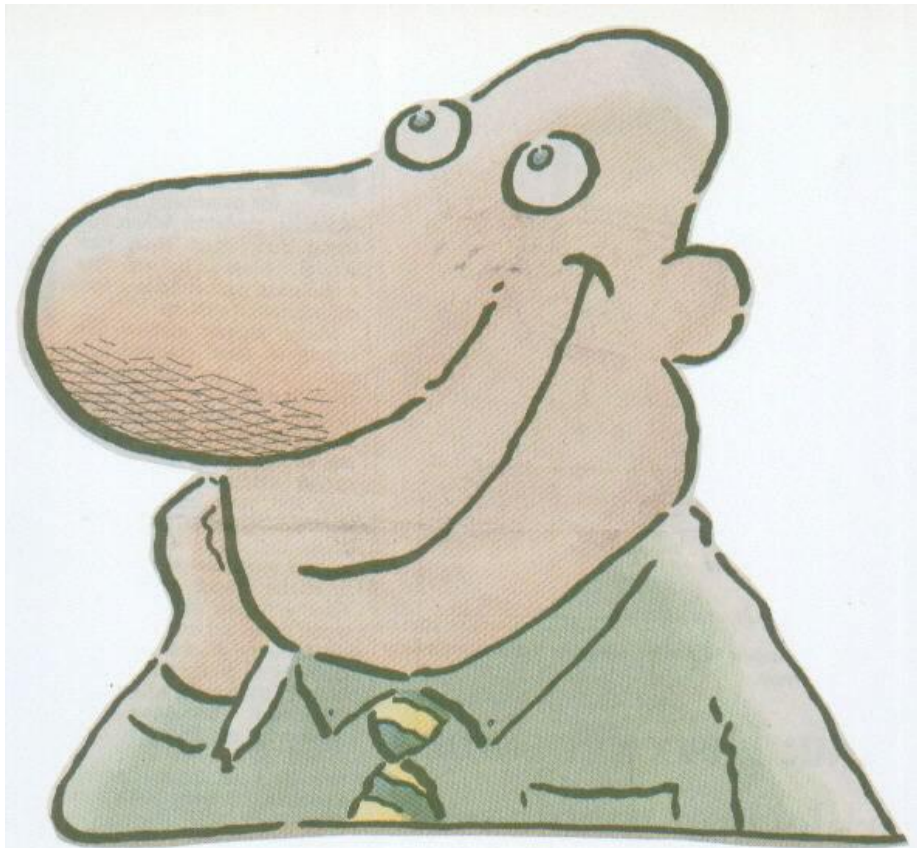




EXHIBIT
2B

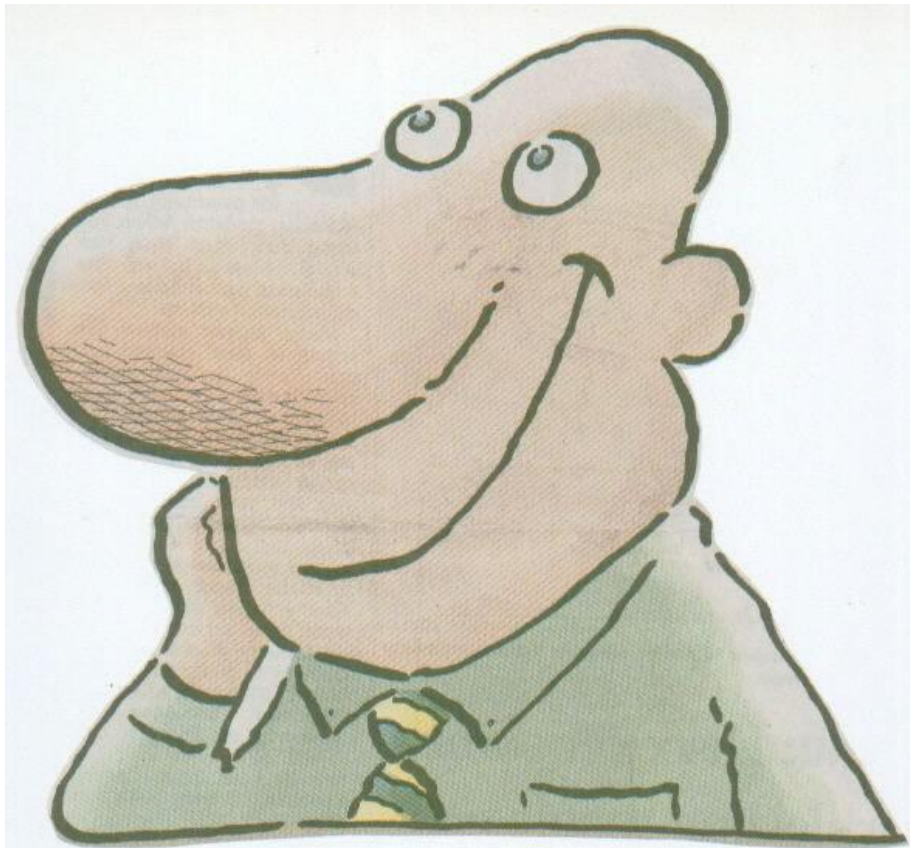
During your direct examination:

**ARM YOURSELF BY USING A
CONVERSATIONAL STYLE.**



During your direct examination:

**ARM YOURSELF BY USING A
CONVERSATIONAL STYLE.**



IT WILL **ARM**
YOU FOR
THE CROSS
EXAMINATION

YOU ESTABLISH THE CONVERSATIONAL STYLE:

Q. Officer, aren't there other sobriety tests that you didn't use in this case?

A. Yes, may I explain?

YOU ESTABLISH THE CONVERSATIONAL STYLE:

Q. Officer, are there other methods of doing a reconstruction that you didn't use in this case ?

A. The evidence in this case did not allow the use of any other methods of ...

YOU ESTABLISH THE CONVERSATIONAL STYLE:

Q. Officer, did you rely on what another officer told you in reaching your conclusion?

A. I'm not sure I know exactly what you mean when you say, "rely on".

ESTABLISH A CONVERSATIONAL STYLE:

Q. Officer when you reconstruct a crash, do you write a complete report?

A. That depends.

ESTABLISH A CONVERSATIONAL STYLE:

Q. Officer, you'd agree that an accelerometer is more accurate than a drag sled because it has digital accuracy, correct?

ESTABLISH A CONVERSATIONAL STYLE:

Q. Officer, you didn't mention anything like that in your report, did you?

A. No, *may I tell the jury* why?

ESTABLISH A CONVERSATIONAL STYLE:

Q. Officer, you didn't mention anything about that in your report, did you?

A. No, *may I tell the jury* why?

TENSION POINT



Offering to

help the jury

creates a tension point!

Rule 5

ALWAYS HELP THE JURY

What can you do if you remember something you should have included in an earlier answer ?

WHAT IS YOUR JOB AS A WITNESS ?



To tell the truth!



To tell the truth!



Especially when it helps the defense!

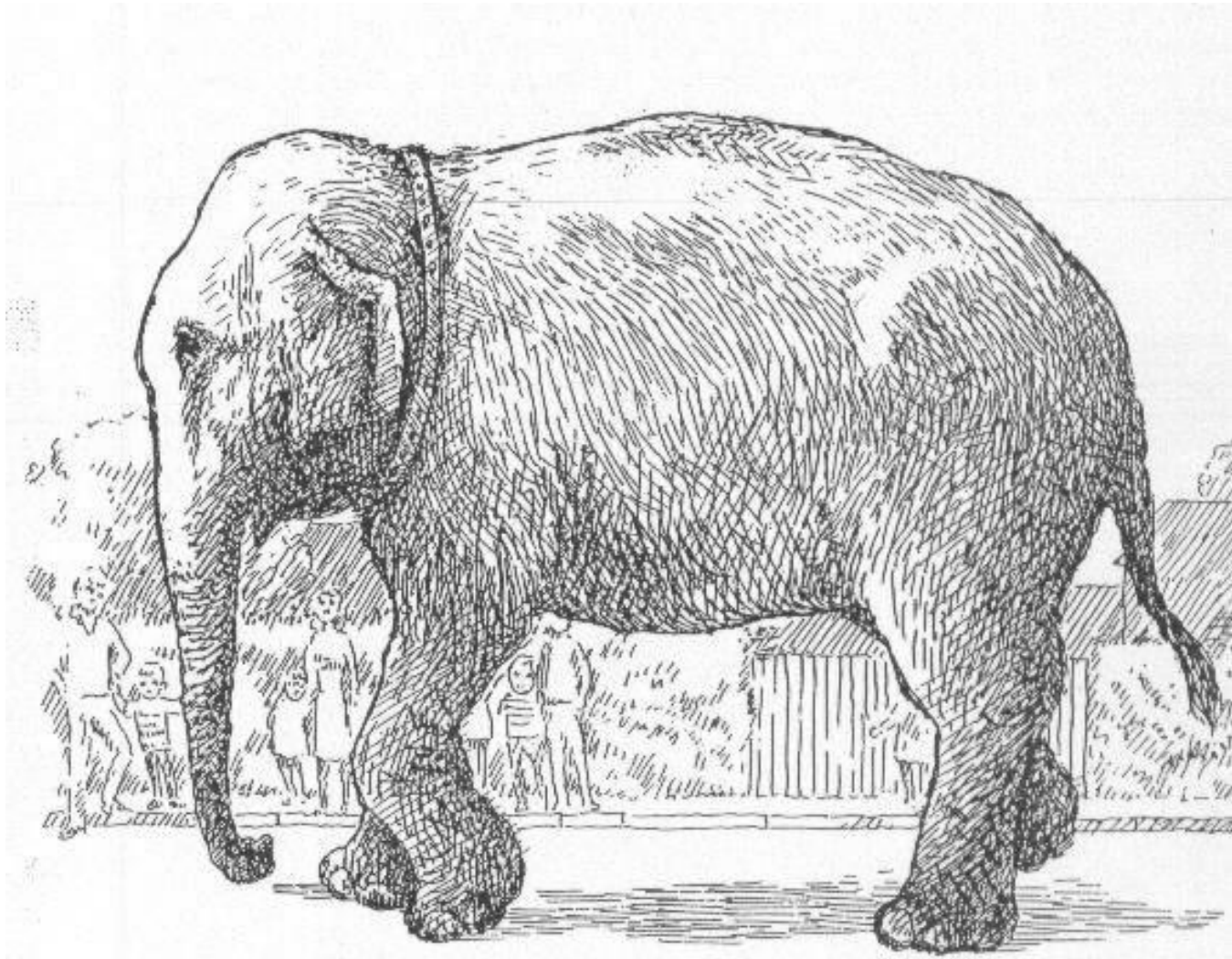
It is not your job
to win the case.



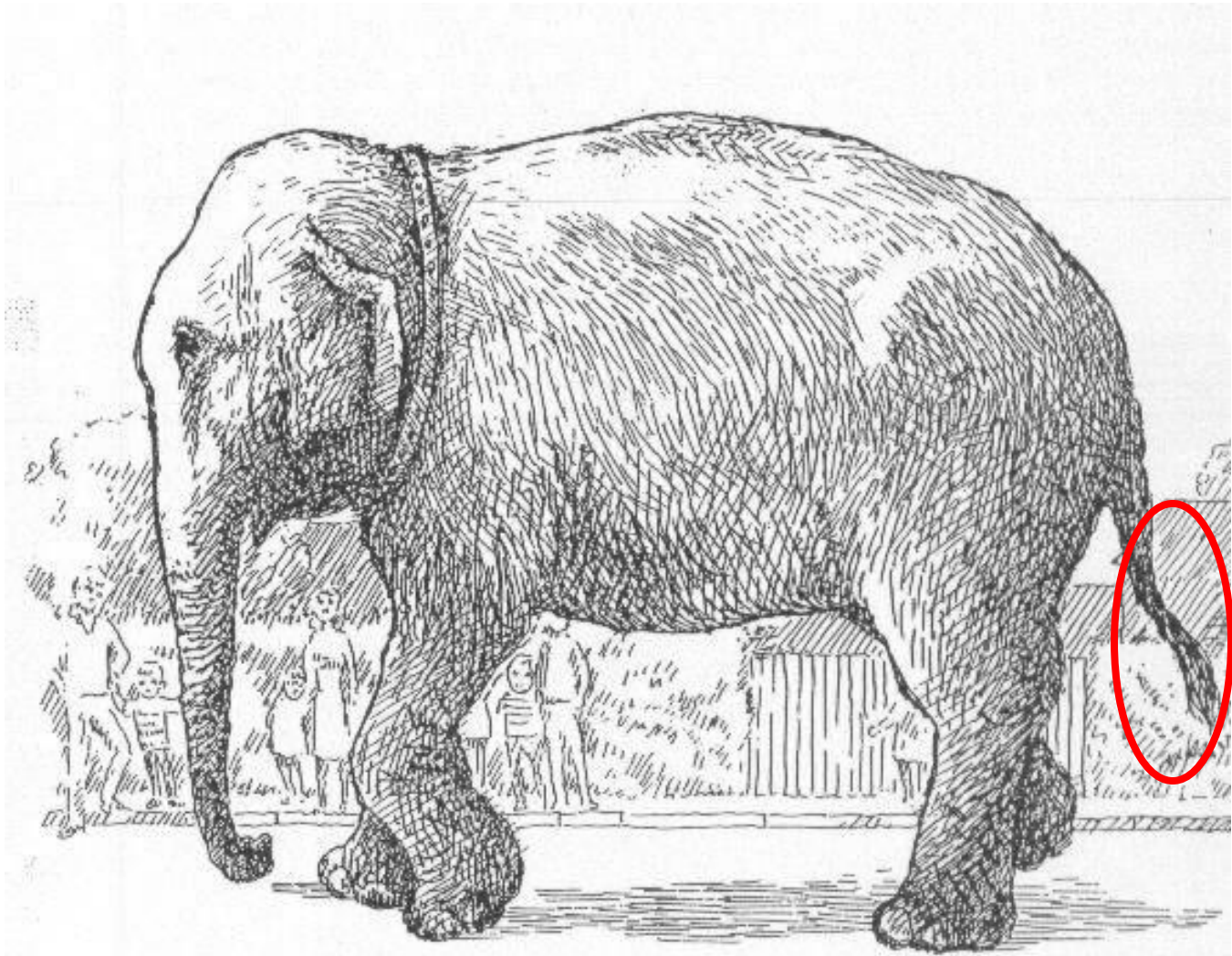
Federal Rule of Evidence 102 :

These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that *the truth may be ascertained* and proceedings justly determined.

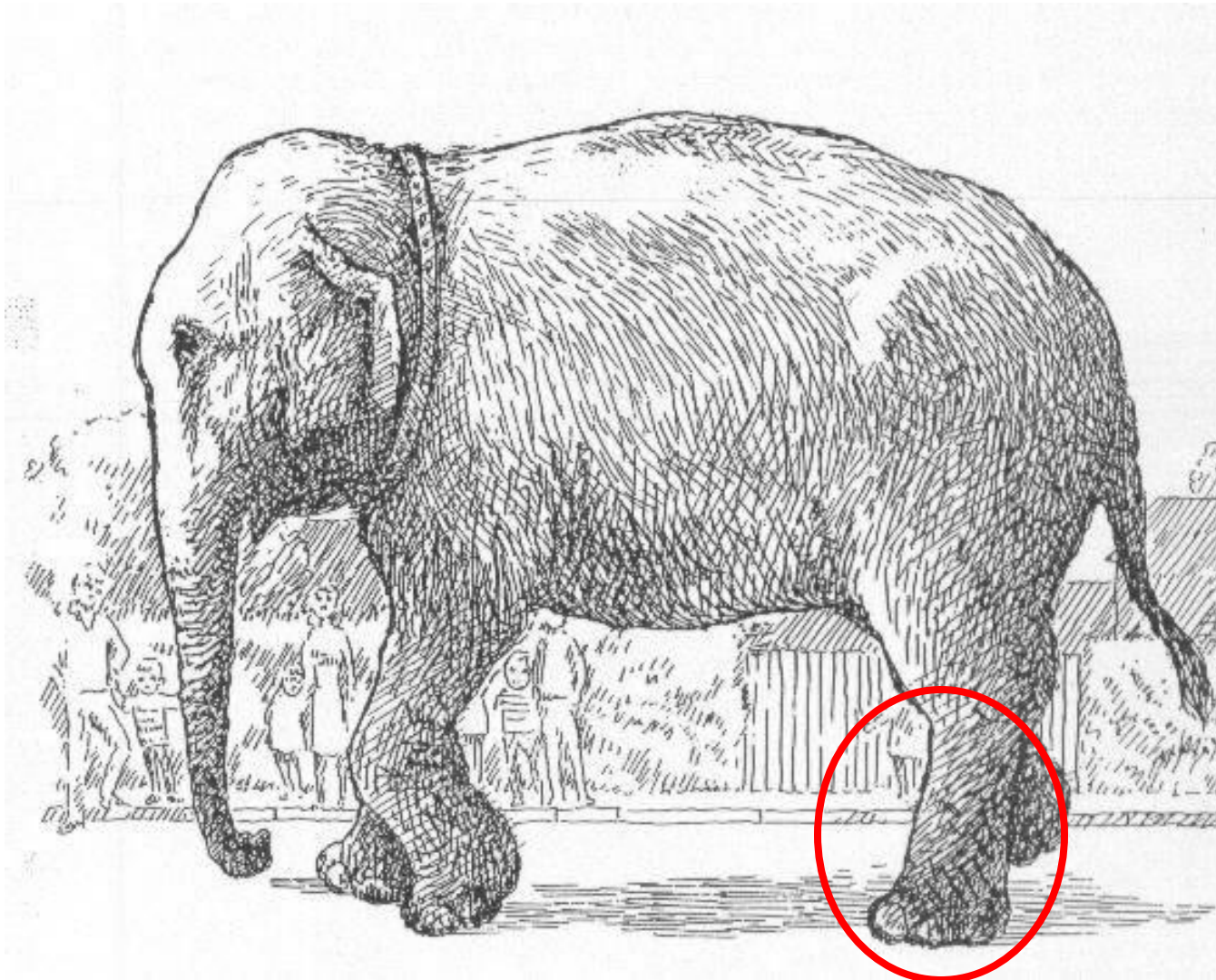
While out for a walk, three blind men come across an elephant.



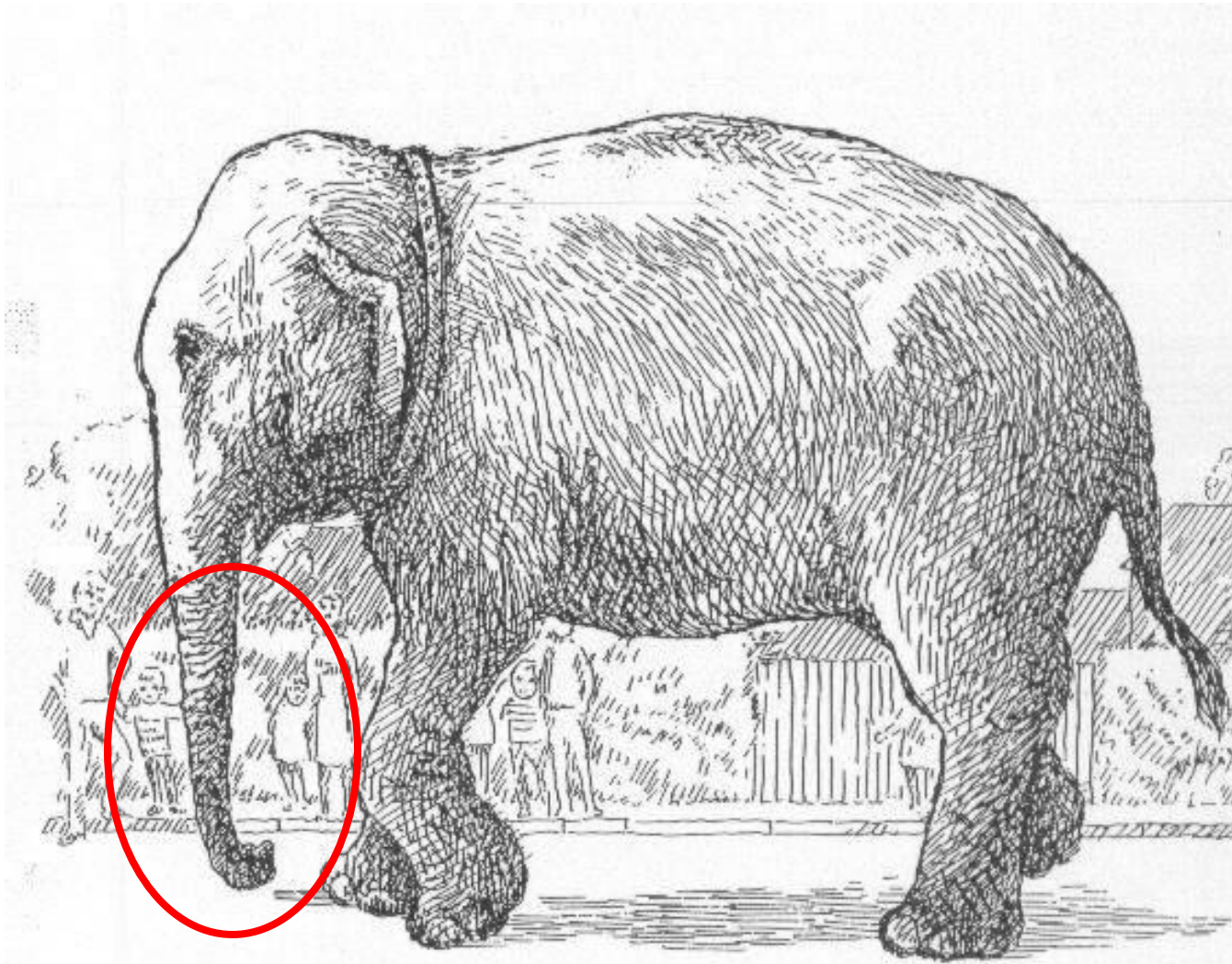
First blind man: “It’s a snake.”



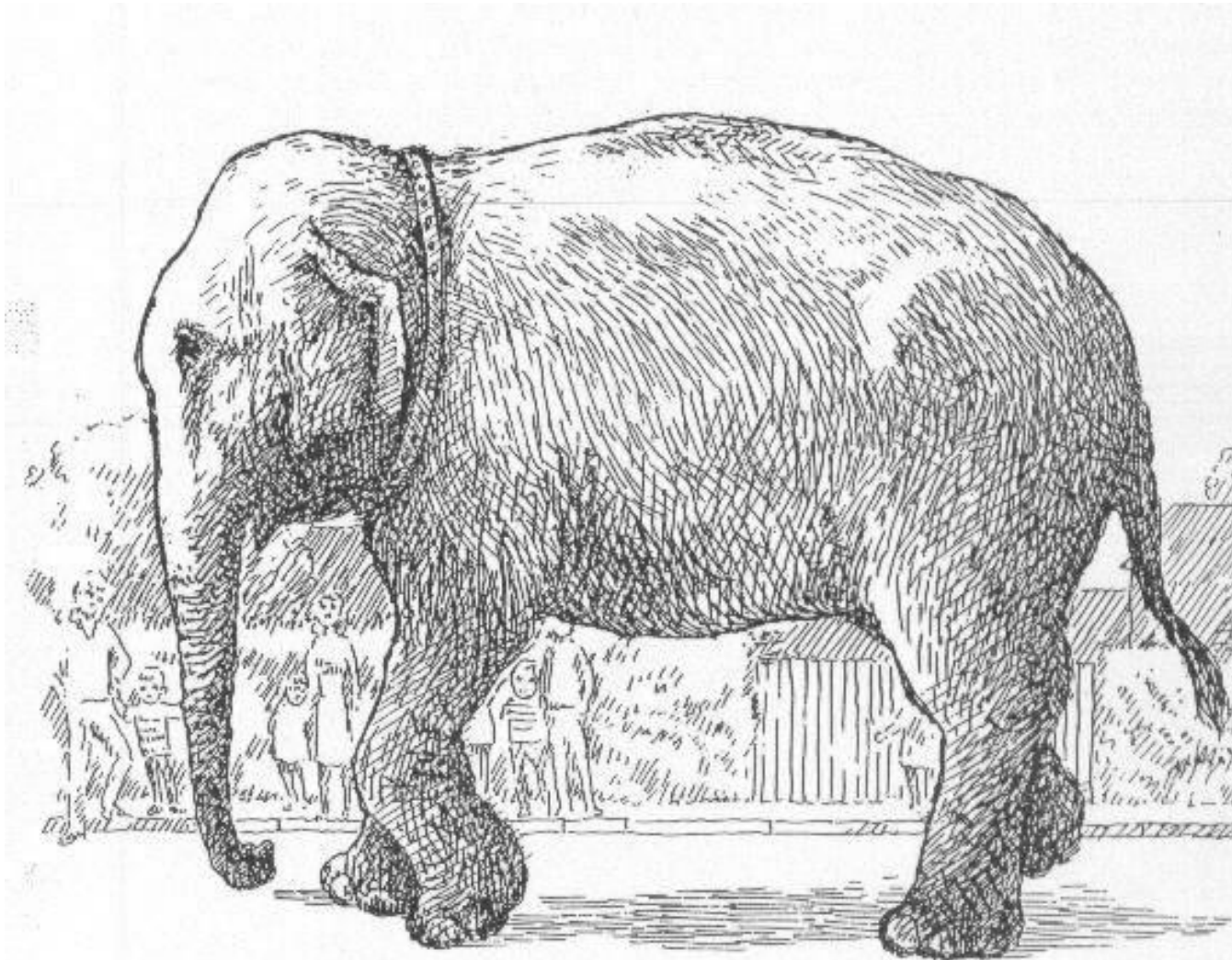
Second blind man: “It’s a tree.”



Third blind man: “It’s a hose.”



Sighted little boy: “It’s an elephant.”



Who was telling the truth ?

Lesson:

Witnesses who disagree can be
telling the truth!

I need a VOLUNTEER !



You took an oath
to tell it, so...

what is the ***TRUTH*** ?

Truth : A sincere effort
to describe reality.

The defense attorney has no
obligation to the truth:

“If he can confuse a witness,
even a truthful one, or make him
appear at a disadvantage, unsure
or indecisive, that will be his
normal course.

... defense counsel will cross-examine a prosecution witness, and impeach him if he can, even if he thinks the witness is telling the truth”

U.S. v. Wade, 399 U.S. 218
(1967) (Justice White).

YOUR JOB IS TO DESCRIBE
OBJECTIVE REALITY
TO THE JURY...



FG +0.0 SG +0.0 Time -10.00
Front View

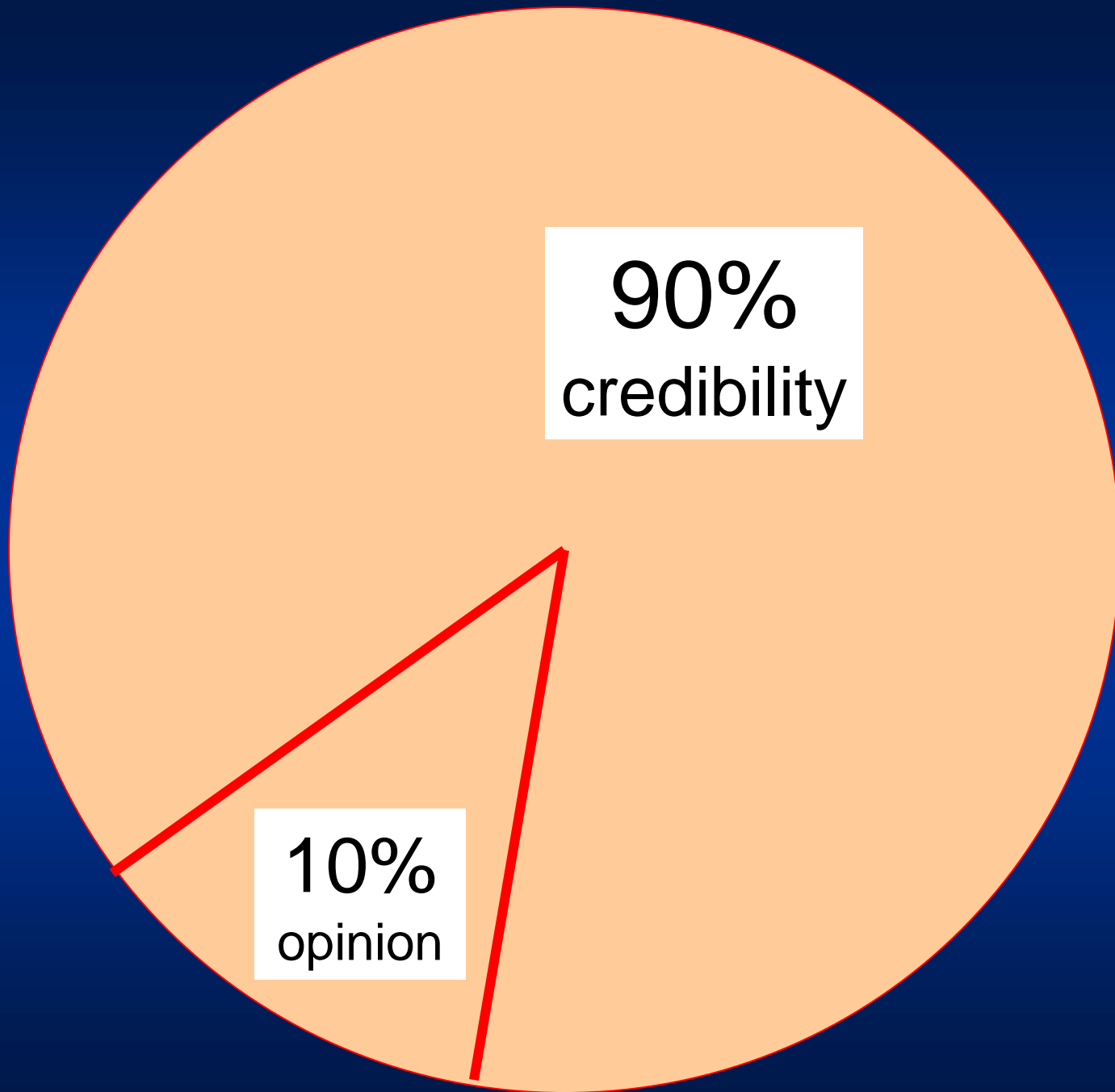
OBJECTIVE REALITY





What do you believe is
the most important quality
of an effective witness ?

CREDIBILITY

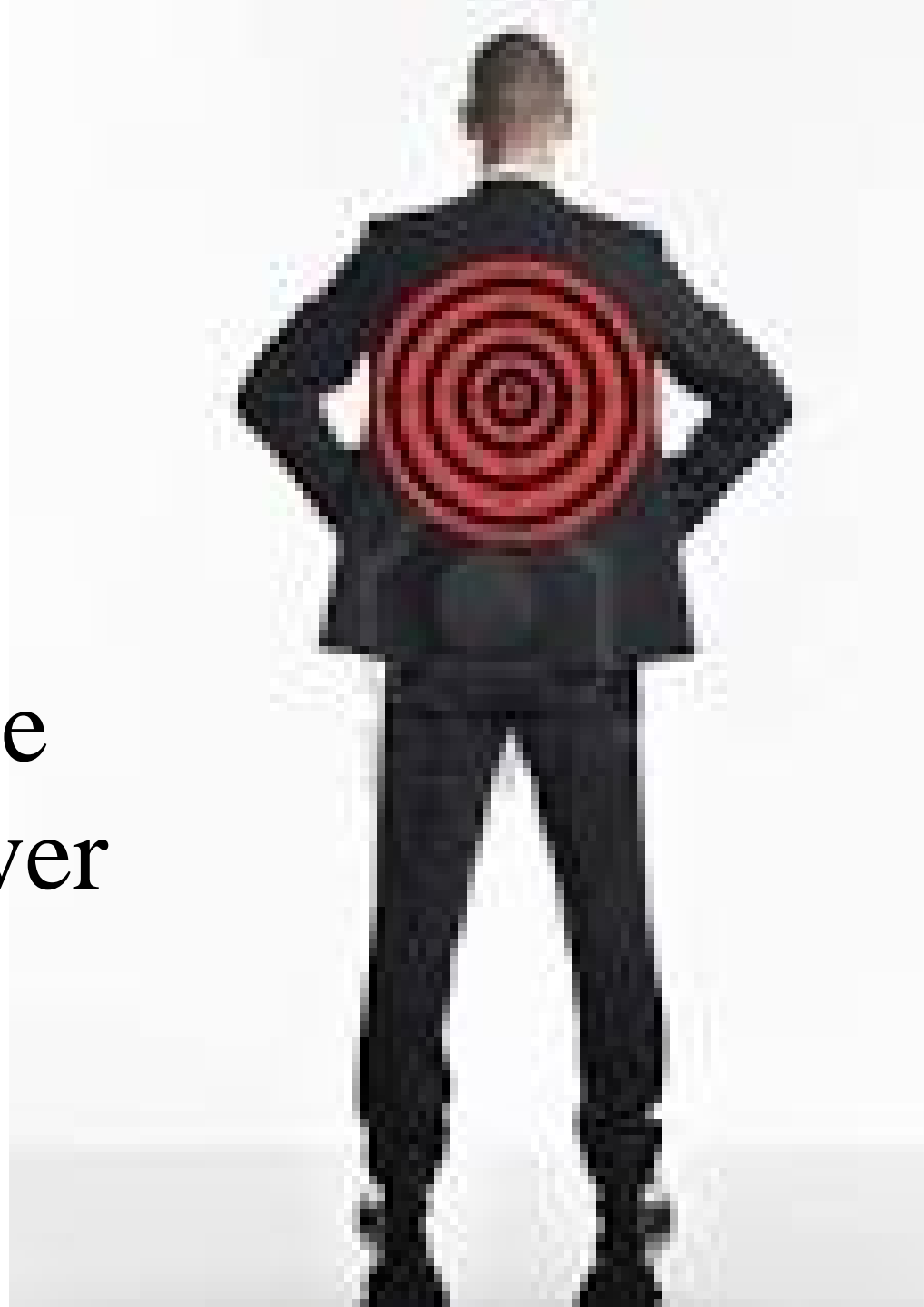




If you lose your
credibility, you might
as well go home.



Remember – the
record lasts forever



What makes you
credible as a witness ?

Jury research shows :

The most important
quality of a credible
witness is to be:

LIKABLE



Some
witnesses
just
look
credible .

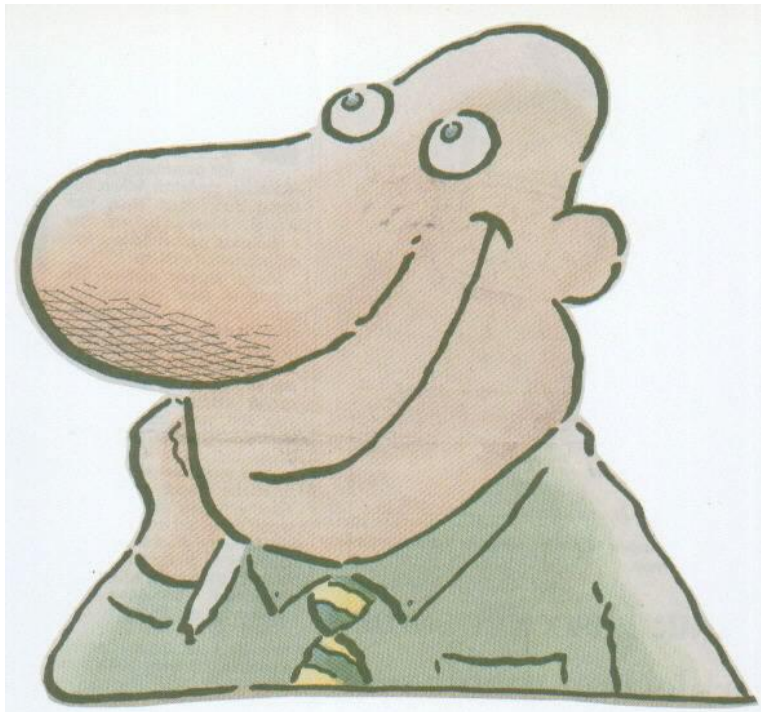
It may not be enough
to just tell the truth,



YOU MUST
LOOK
LIKE YOU
ARE TELLING
THE TRUTH.

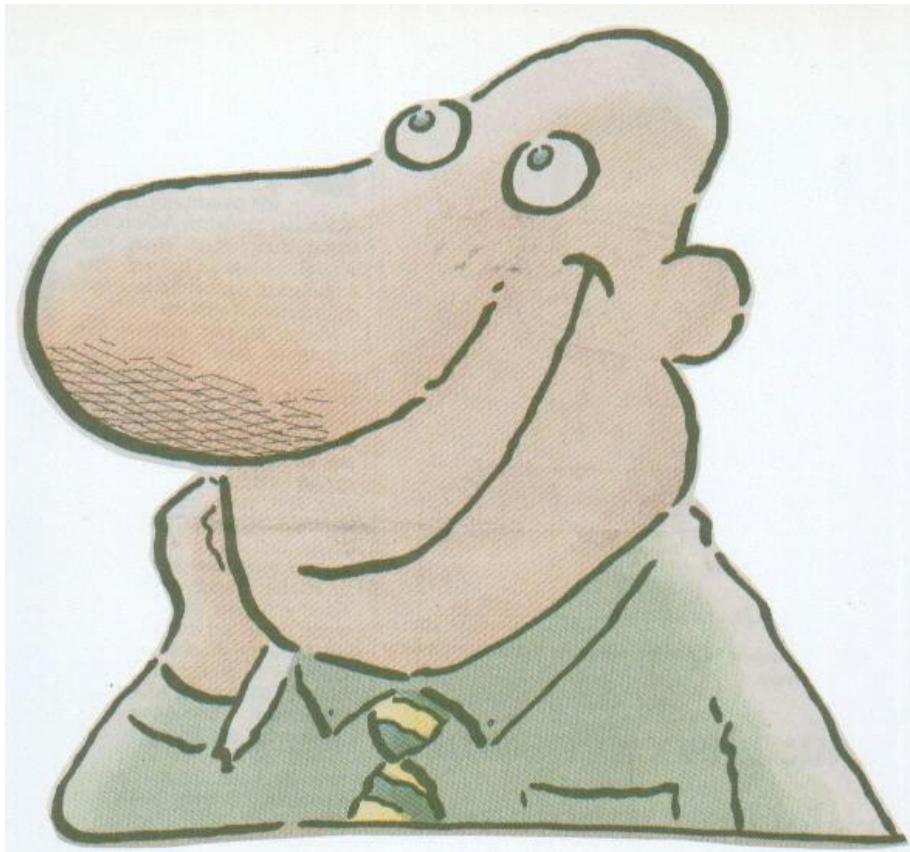
INSIGHT:

**THERE ARE TWO KINDS OF
PEOPLE IN THE COURTROOM –**



**“DISCLOSERS”
AND
“WITHHOLDERS”.**

***WITHHOLDING
HURTS YOUR
CREDIBILITY!***



Withholding (combative):

Defense wants to challenge
the environment for SFST's

Q. Officer, you'd agree with me that the road was flat at the location of the accident?

A. Actually the road had a crown, so technically it wasn't flat.

Withholding (evasive):

Defense wants the officer to bolster the credential of the defense expert.

Q. Officer, my expert received his training at IPTM. You recognize IPTM as an authority in the field of accident reconstruction training, don't you?

A. We use Northwestern for our training.

Rule 6

NEVER BE A WITHHOLDER

ESTABLISHING YOUR
CREDIBILITY
STARTS WITH YOUR
QUALIFICATIONS.

Why are you the one
in the witness box
today?

HAVE AN UP-TO-DATE
PROFESSIONAL RESUME,



IT WILL ACT AS A MAP
FOR THE PROSECUTOR.

and save yourself a question like

“Tell the jury about yourself.”

What training have you received?

I had an eighty-hour course in collision reconstruction.

When did you have that training ?

I had the training in May of 2007.

What training have you received?

I had an eighty-hour course in collision reconstruction.

What training have you received?

I had an eighty-hour course in collision reconstruction.

How many people were in that class?

There were 30 from all over the state.

What training have you received?

I had an eighty-hour course in collision reconstruction.

How many people were in that class?

There were 30 from all over the state.

How many officers from your department were in that class ?

Just me.

What training have you received?

I had an eighty-hour course in collision reconstruction.

How many people were in that class?

There were 30 from all over the state.

How many officers from your department were in that class ?

Just me.

How many officers from your department have had this training
at a different time ?

Two others.

What training have you received?

I had an eighty-hour course in collision reconstruction.

How many people were in that class?

There were 30 from all over the state.

How many officers from your department were in that class ?

Just me.

How many officers from your department have had this training
at a different time ?

Two others.

And how many officers are there in your department ?

65.

What training have you received?

I had an eighty-hour course in collision reconstruction.

How many people were in that class?

There were 30 from all over the state.

How many officers from your department were in that class ?

Just me.

How many officers from your department have had this training
at a different time ?

Two others.

And how many officers are there in your department ?

65.

When did you have that training ?

I had the training in May of 2007.

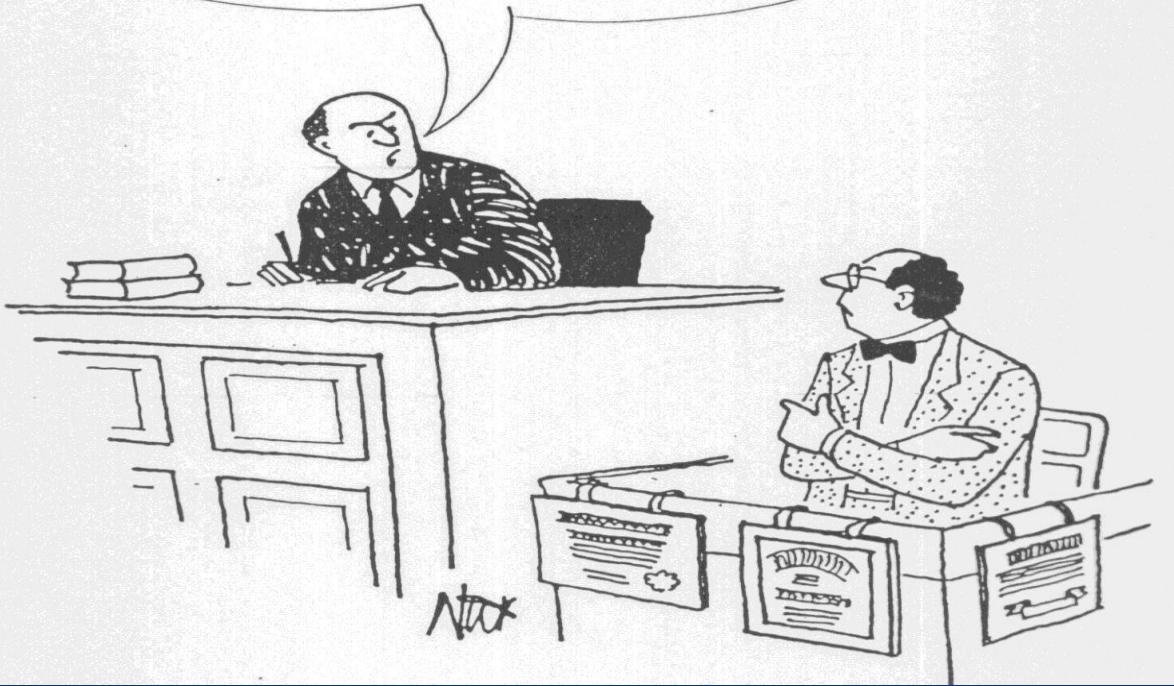
Qualifying questions:

- ✓ you can plan/practice your qualifying Q's
- ✓ “settle in” and get comfortable
- ✓ make a good first impression
- ✓ develop rapport with the jury

EMPHASIZE
YOUR QUALIFICATIONS
PERTINENT TO THIS CASE !

(Highlight them for the
prosecutor)

" All right, Dr. Fenwick,
the court accepts that
you're an expert witness. "

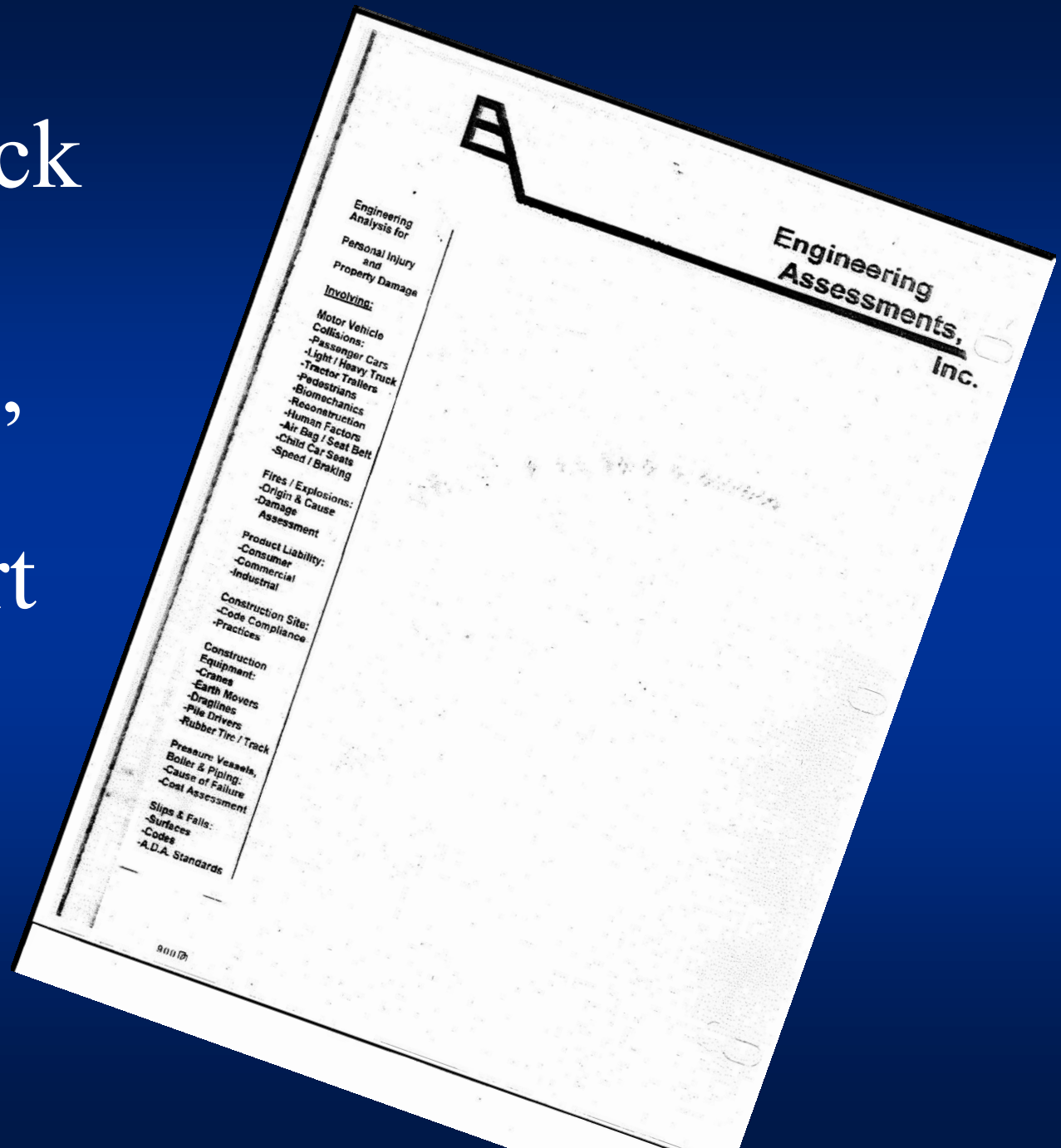


Don't assume that the defense expert
is more credible than you are !

“My dog is as qualified as you, Sir.”



the “Jack
of all
trades”
expert



WHY YOU ARE MORE CREDIBLE
THAN THE DEFENSE EXPERT

You were there!

WHY YOU ARE MORE CREDIBLE
THAN THE DEFENSE EXPERT

You were there!

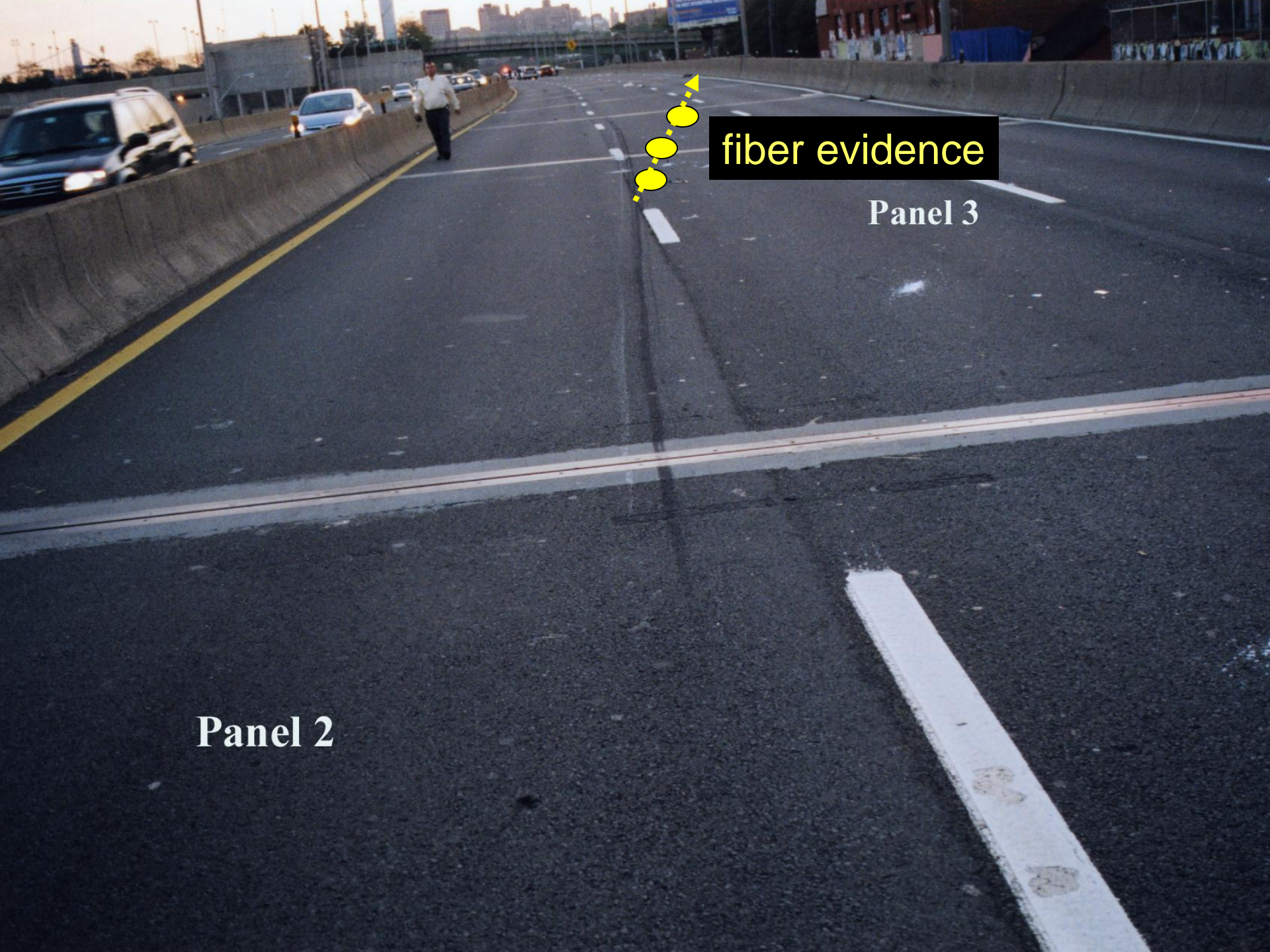
You have no financial interest.

The best opinion money can buy!





PEOPLE OF
NY V.DARIEN

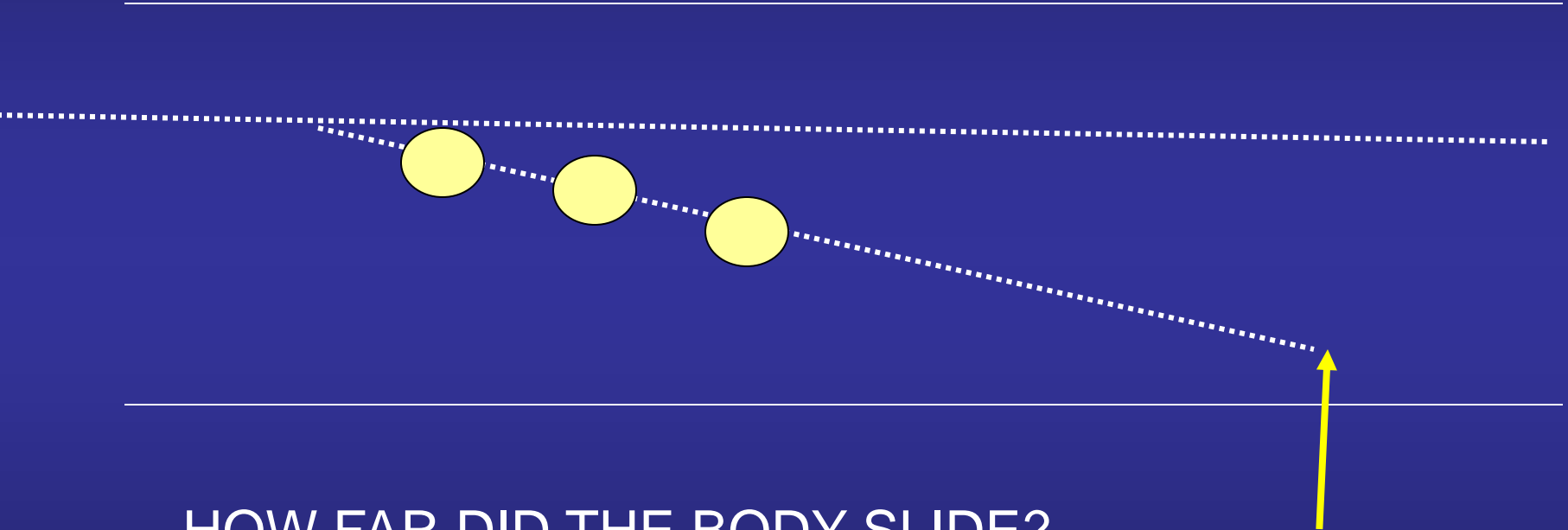


fiber evidence

Panel 3

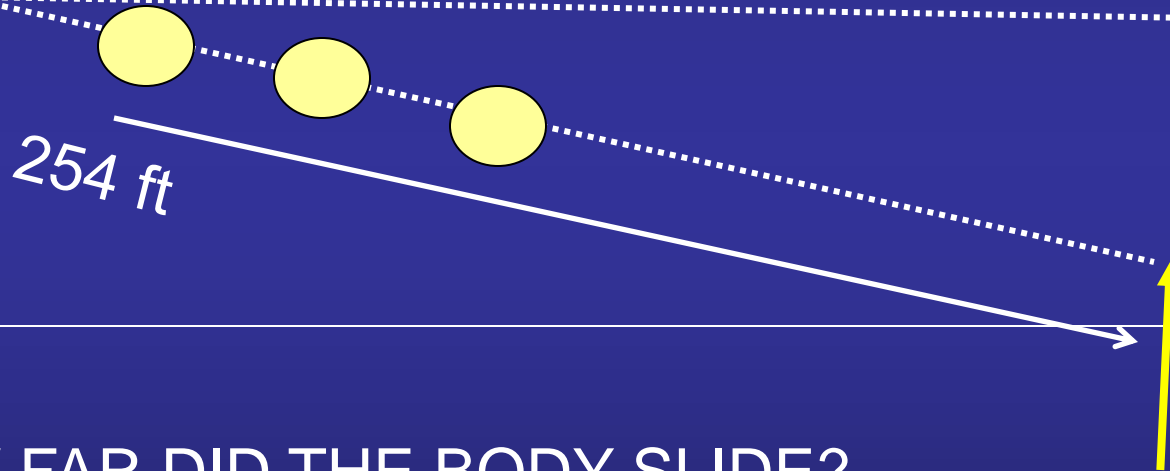
Panel 2

FABRIC EVIDENCE



FRP
BODY

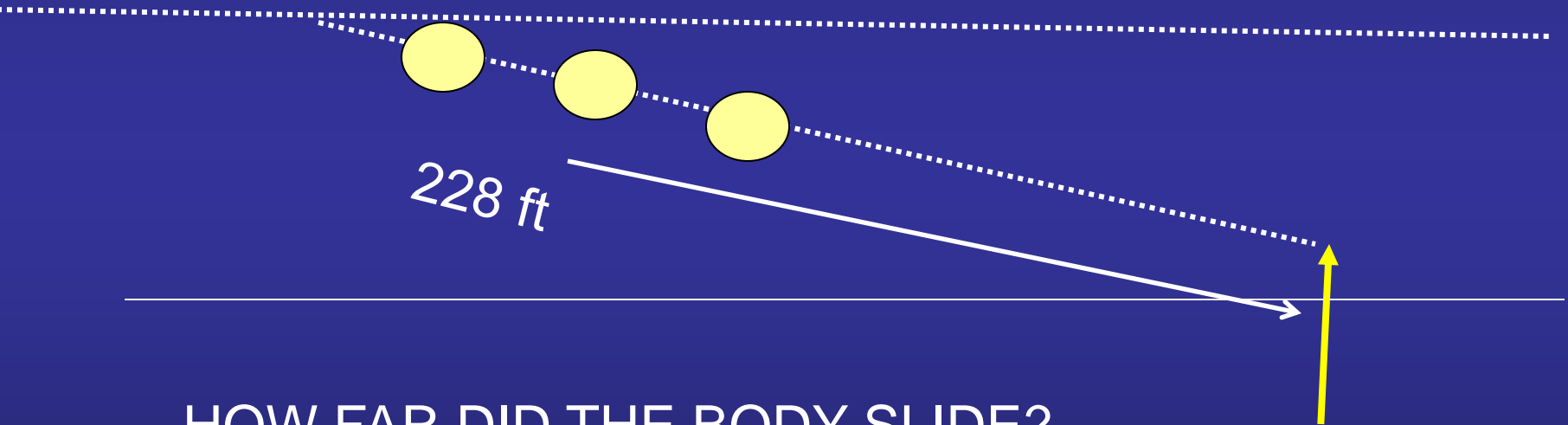
FABRIC EVIDENCE



HOW FAR DID THE BODY SLIDE?

FRP
BODY

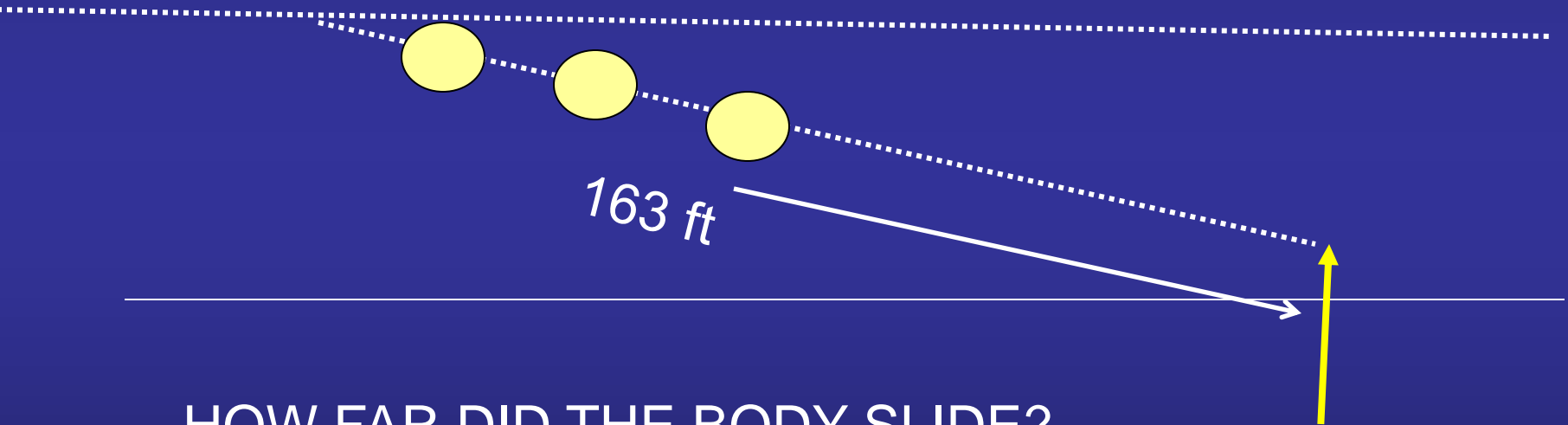
FABRIC EVIDENCE



HOW FAR DID THE BODY SLIDE?

FRP
BODY

FABRIC EVIDENCE



HOW FAR DID THE BODY SLIDE?

FRP
BODY

“Maximum possible separation speed occurs at the start of the fiber trail (point A), which I do not think reasonable.”

“Since it is easier to work with a single value for the Jeep at collision, I think that a fair representation is obtained by the average of B and C above.”

$$(58.5 + 49.4) / 2 = 53.95 \text{ mph}$$

“Maximum Possible Separation
Speed occurs at the start of the fiber
trail (a location in Path Segment A,
which I do not doubt is probable.”

BULLSCHTEIN

“Since
single collision,
I think that the separation is
obtained by the average of B and C
above.”

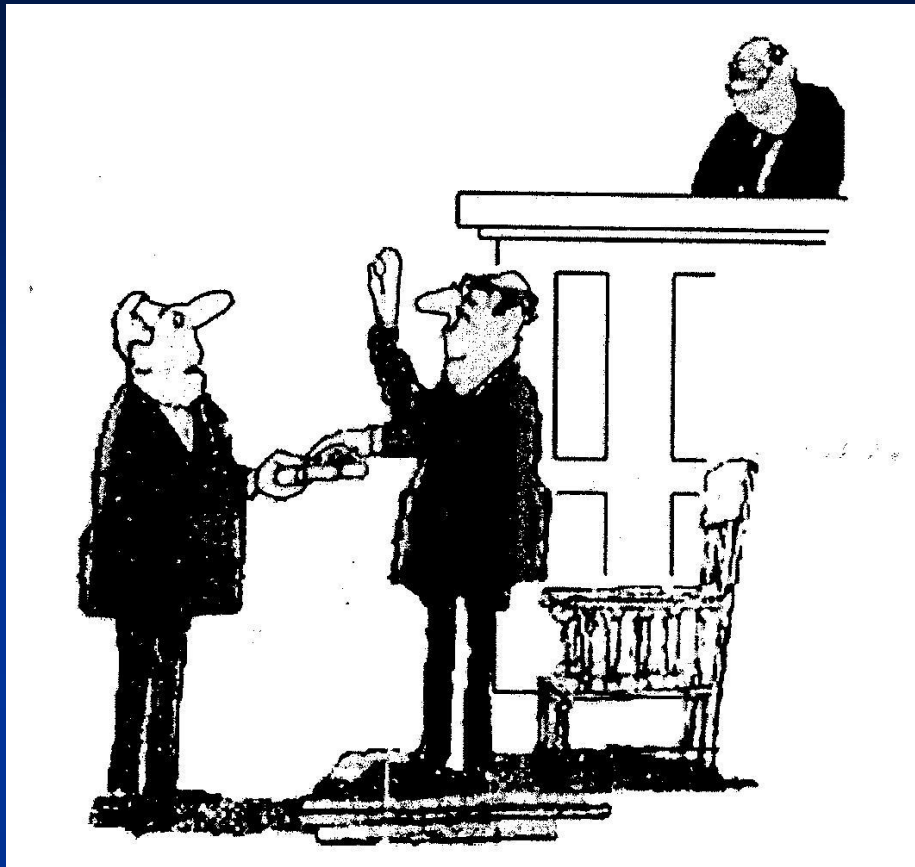
$$(58.5 + 49.4) / 2 = 53.95 \text{ mph}$$

Actual case:

Jury returned guilty verdict after one hour.

Expert's fee was

\$80,000 +



“Do you swear to tell a story that’s worth every dollar you’re being paid?”

Night vision testimony

“ If the driver was someplace bright or had pulled from a traffic stop in the 20 seconds or so prior to the wreck, his night vision would have been shot.”

Sorry, this is my second request for info. Case going to trial soon!

I have a question for the group on a two pedestrian collision with one fatality. The police officer used the Searle Equation among others. He used a .66f deceleration factor (recommened by Searle) a 15 degree takeoff angle and a 125 and 163 foot impact to rest throw distance for the pedestrian. Using the Searle Equation he calculated a speed of 50 mph for the 163 foot distance and 44 mpf for the 125 foot distance. He claimed that the Searle Equation recommened between a 10 and 20 degree angle. According to Jerry Eubanks book (Pedestrian Accident Reconstruction and Litigation) a 33.4 degree angle is recommened when using a .66f value to get minimum speed. There was no evidence of braking (no skid marks) and exactly where impact took place (125 feet to 163 feet). He also reported other speeds as follows: Appel - 61 mph, Barzeley- 55 mph, and Collins 56 mph for the 163 foot distance and 54 mph, 47 mph, 49 mph respectfully for the 125 foot distance. It is unknown, but he probably used the same .66f for all the other equations that he used. This may be a mistake also. I don't know what he may have used for the pedestrian C/M. The pedestrians were impacted just as they stepped off of the center island. Impact occurred to the left of center of the vehicle (2000 BMW 328 ci. One head/windshield impact was low just left of center and the other was on the left A-Pillar at the roof line.

My question is: isn't the impact vehicle suppose to be braking in order to use the pedestrian formulas and if one does not have specific proof a takeoff angle shouldn't the angle that gives the lowest speed be used which in this case is 33.4 degrees? Just trying to get the driver's speed down a little" His minimum speed was calculated by police to be 44 mph. The speed limit for the roadway is 35 mph. The pedestrian who lived stated that they didn't see the vehicle before impact and both pedestrians were intoxicated. The driver was not under the influence.

You may also respond directly to my e-mail address.

Thanks for any assistance you can provide.

Just trying to get the driver's speed down a little.

[Non-text portions of this message may have been removed]

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WHY YOU ARE MORE CREDIBLE THAN THE DEFENSE EXPERT

You were there!

You have no financial interest.

You made first hand observations –

*everything the defense has
is second hand.*

PRESENTING CREDIBLE TESTIMONY

*You are more credible when you
explain things:*

the “CSI effect”

jurors *like* witnesses who
make them feel smart



CSI:

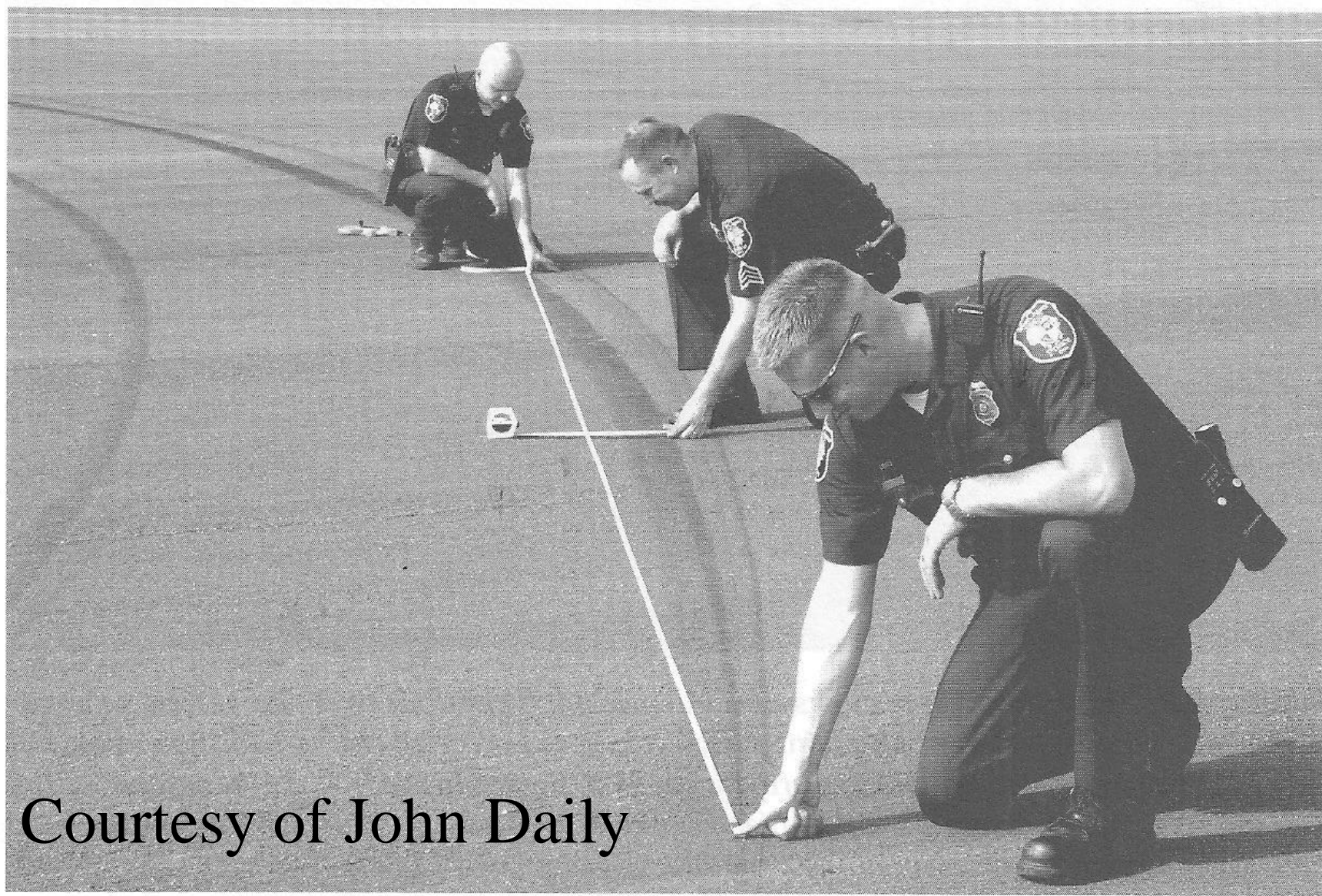
CRIME SCENE INVESTIGATION™

Interactive Crime-Solving Adventure

Jurors want to be a part of the cast...

Use photographs or video
to show how you made your
measurements.

“I measured the yaw marks by putting a tape measure across the mark, which defined a chord. Then at the center of the chord I measured perpendicular to the chord out to the mark and that was my middle ordinate. Then I used the chord and middle ordinate to calculate the radius...”



Courtesy of John Daily





Use video to show the
behavior of the impaired
driver.

Booking camera:



**SHOW THAT YOU ARE NOT
BIASED!**



“The glass is half full.”

“The glass is half empty.”

“There are 4.8 ounces of
water in the glass.”

*Including information in your report
that is helpful to the defendant.*

*Answering a question that helps
the defendant.*

*Your investigation does not always
result in an arrest.*

*Including information in your report
that is helpful to the defendant.*

*Answering a question that helps
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that is helpful to the defendant.*

*Answering a question that helps
the defendant.*

*Your investigation does not always
result in an arrest.*

Rule 7

BUILD (and protect) YOUR
CREDIBILITY

email from a prosecutor

“I just prepared for trial with my recon, and if he talks like that to the jury they won’t understand anything he’s saying.”

Why is it difficult to explain
collision reconstruction in
“plain speak”?

Officers testify the way their
instructors sounded when they
learned reconstruction.

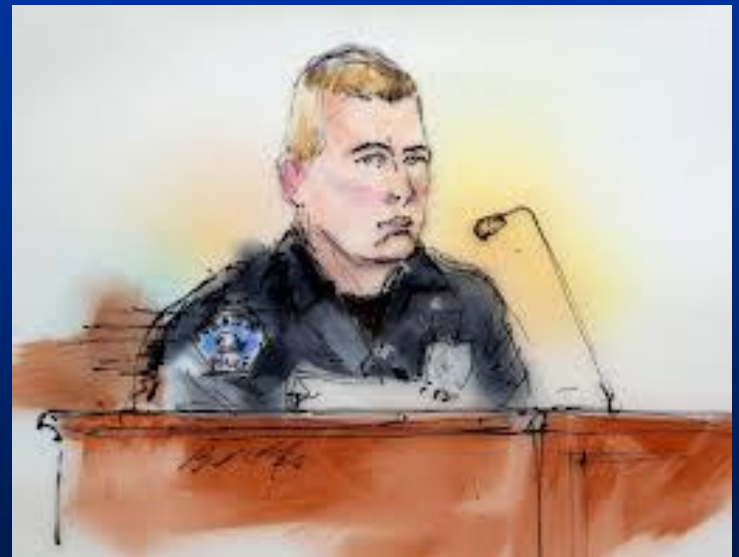


Remember: This is not
your jury pool.

Your instructor trained you
how to do it!



The jury just wants to know
about what you did!



$$\begin{aligned}
 & \psi_i \cos(\alpha_i \pm \omega t) = \Phi \cos(\omega t) \\
 & \Phi^2 = \sum_i \psi_i^2 + 2 \sum_{i,j} \psi_i \psi_j \\
 & \int x(t) dt = \frac{x(t)}{dt} = (v(\omega))^n \\
 & a = \frac{1}{v^2} \frac{\partial^2 a}{\partial t^2} + \frac{\partial^2 a}{\partial x^2} + \frac{\partial}{\partial t} \\
 & v = \sqrt{\left(\frac{g\lambda}{2\pi} + \frac{2\pi\gamma}{\rho\lambda} \right) \tan \theta} \\
 & = \int_{-\infty}^{\infty} (\alpha(k) e^{i(kx - \omega t)} \\
 & \Phi \cos(\omega t) \\
 & E = mc^2
 \end{aligned}$$

***Fewer numbers
are better
because...***



***jurors HATE
math !***



117 .80 51.9880 .20 114.30
.30 115.5 0.7925 .78
118 30 .20 111 .79



JUROR

BAD!

51.98 mph



JUROR

GOOD!

Don't tell them all the numbers,
tell them about them!

NY v. GRAY

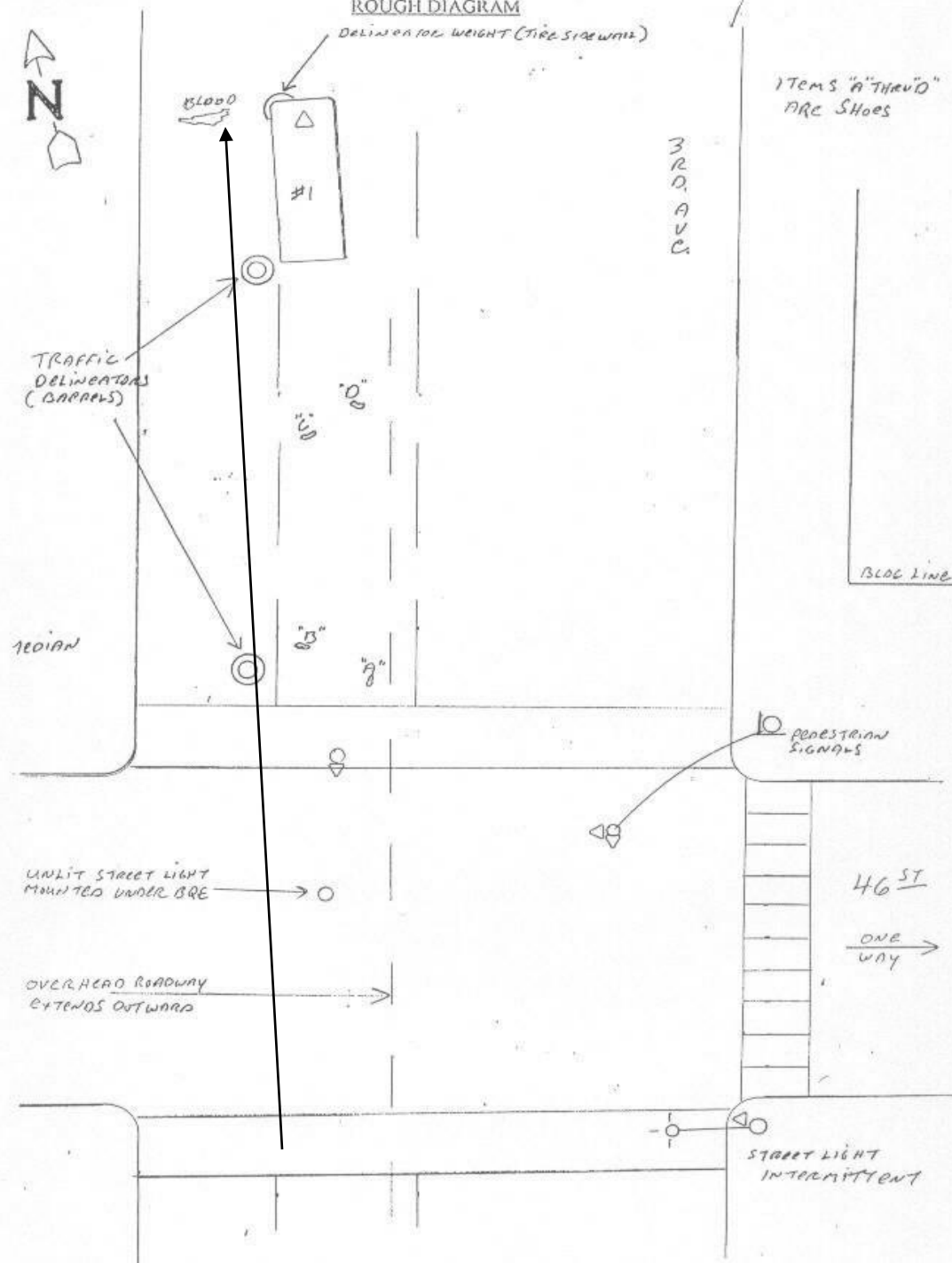
August 4, 2001

9 P.M.

Corner of 46th St. & 3rd Ave., Brooklyn



DELINER FOR WEIGHT (TIRE SIDE WALL)



PRESENTING THE RECON TESTIMONY *without the math.*

People of NY v. Joe Gray

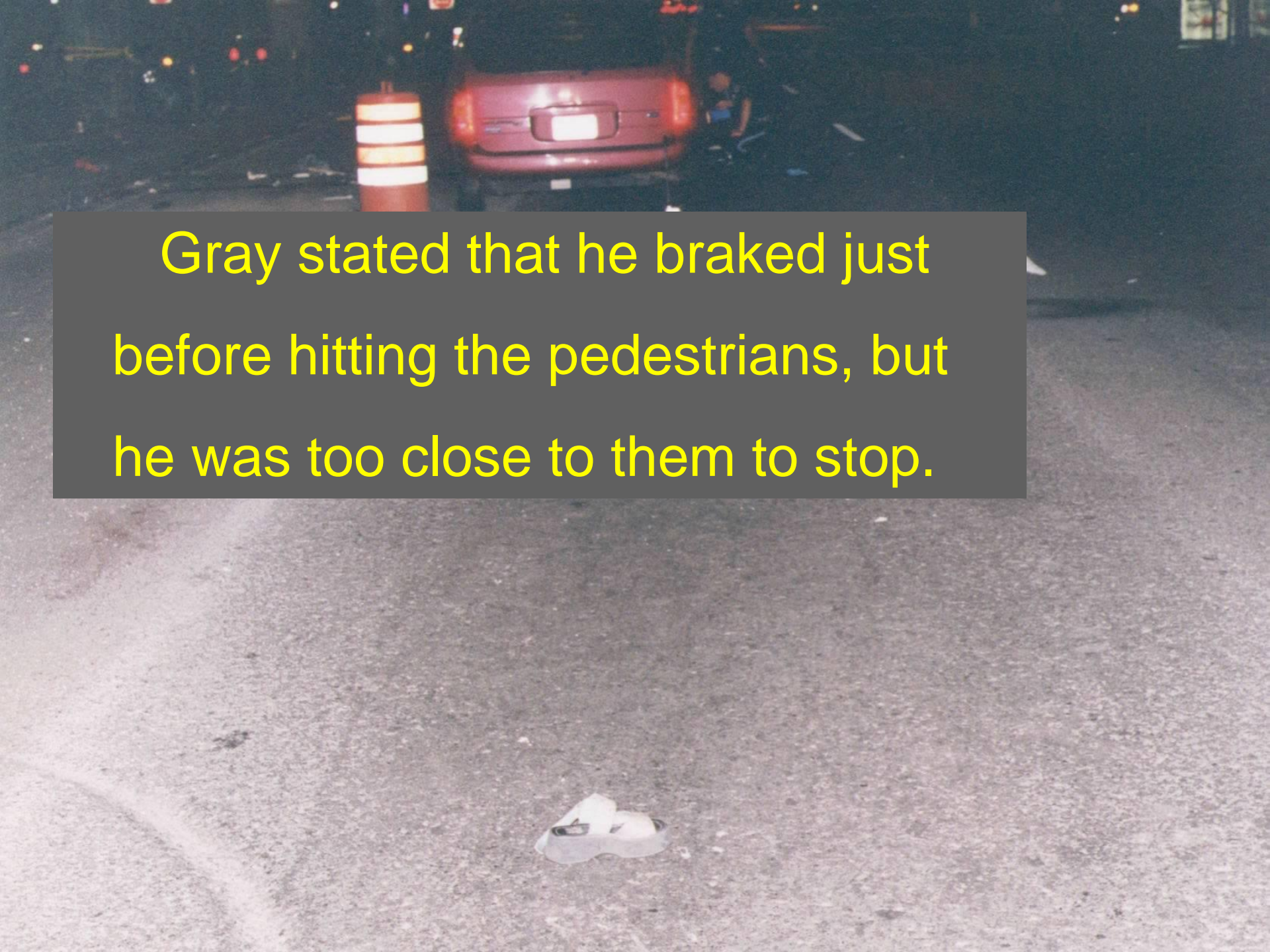
Speed from throw distance:

Appel	55.0 mph
Searle	54.2 mph
Sterbatchoff	49.2 mph
Wood	53.8 mph
Bratten	51.3 mph
Limpert	54.2 mph

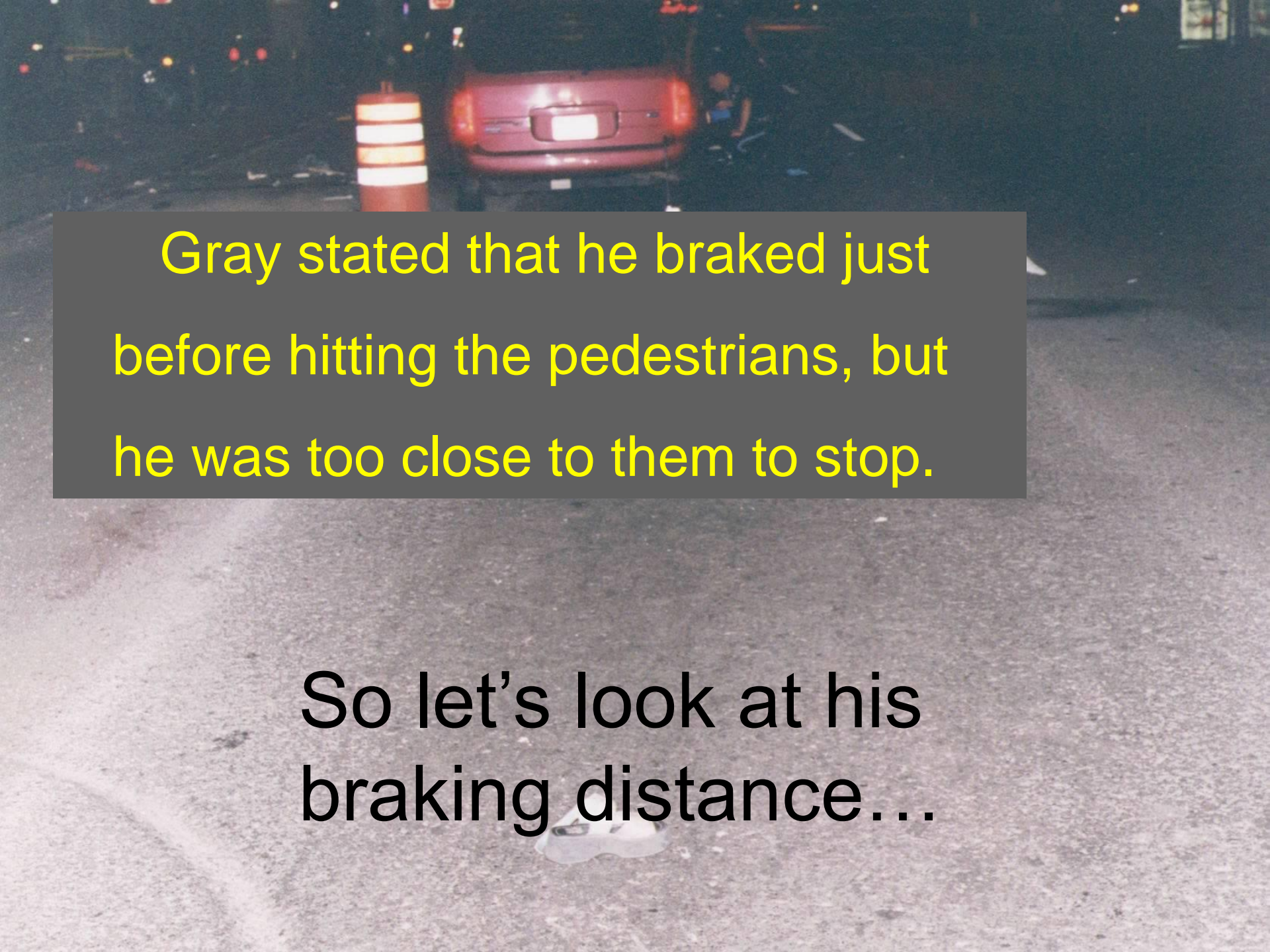
Speed from throw distance: (*without the math*)

Appel	55.0 mph
Searle	54.2 mph
Sterbatchoff	49.2 mph
Wood	53.8 mph
Bratten	51.3 mph
Limpert	54.2 mph

As if this weren't bad enough...



Gray stated that he braked just before hitting the pedestrians, but he was too close to them to stop.



Gray stated that he braked just before hitting the pedestrians, but he was too close to them to stop.

So let's look at his braking distance...

Speed from throw distance: (*without the math*)

Appel	55.0 mph
Searle	54.2 mph
Sterbatchoff	49.2 mph
Wood	53.8 mph
Bratten	51.3 mph
Limpert	54.2 mph

Speed from braking distance	52.4 mph
-----------------------------	----------

RESULT ONE:

DEFENSE EXPERT DID NOT TESTIFY

RESULT TWO:

CONVICTION

Testimony without #'s

(in the handout)

What a def atty told me in SLC:

*LESS MATH LIMITS
CROSS EXAMINATION*

Rule 8

LIMIT THE NUMBERS
TO THOSE NEEDED TO
TELL YOUR “STORY”

PREPARING FOR TRIAL



Preparing for trial:

Meet with the prosecutor

Remember: your
reputation is on the line

Preparing for trial:



What should you
discuss when you meet
with the prosecutor?

Getting ready for trial :

- READ THE REPORTS, STATEMENTS
- GIVE THE PROSECUTOR YOUR RESUME
- PLAN THE ORDER OF YOUR TESTIMONY ***
- BECOME FAMILIAR WITH THE COURTROOM
- GET ACQUAINTED WITH THE EXHIBITS

Preparing for trial:

DISCUSS ANY PROBLEMS
WITH THE PROSECUTOR...

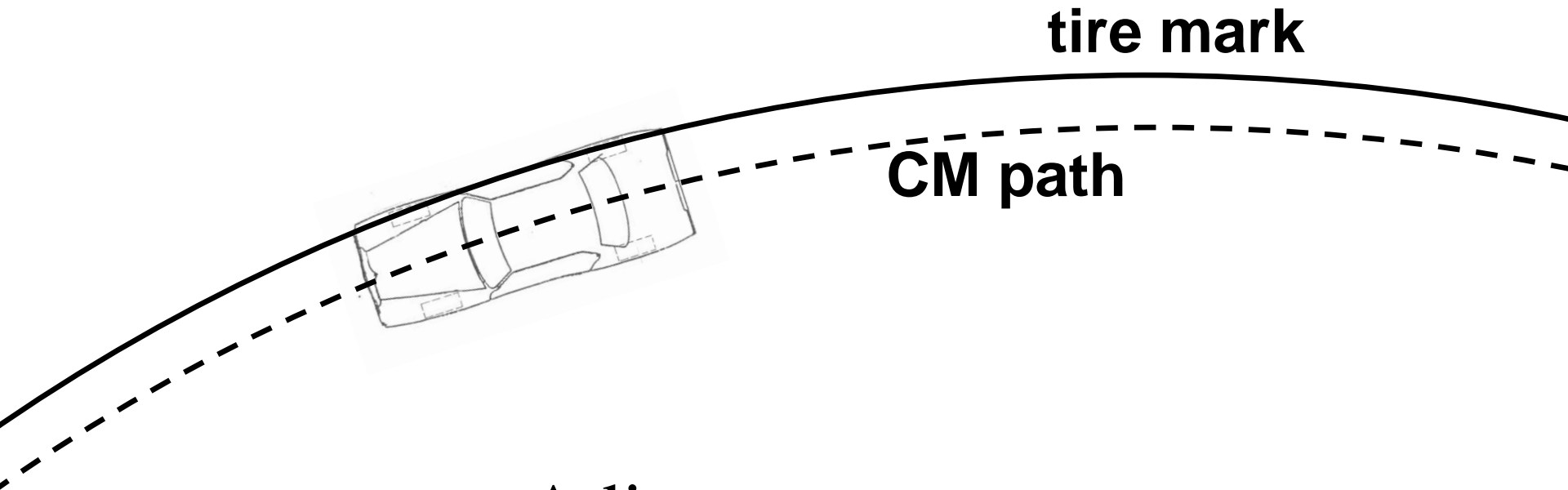
yaw radius = 225 ft

drag factor = .82

What is the speed estimate from
the yaw mark ?

$$S = \sqrt{15 f R} = \sqrt{15(.82)(225)}$$

52.6 mph



Adjustment:

$$R_{CM} = R_{\text{tire mark}} - TW/2$$

yaw radius = $225 - 2.5 = 222.5$ ft

drag factor = .82

What is the speed estimate using the adjusted radius ?

$$S = \sqrt{15 f R} = \sqrt{15(.82)(222.5)}$$

52.3 mph

The prosecutor can *inoculate*
the witness against a pending
cross examination attack!



WHAT CAN THE
PROSECUTOR TELL YOU
ABOUT THE DEFENSE
ATTORNEY?

WHICH ONE OF THESE IS
THE DEFENSE ATTORNEY?





How else can you find out
about the defense attorney ?

Prepare with the exhibits.



What do you see
in this photograph?

I don't have a clue what she wants me to talk about?



We should have
reviewed the exhibits
together!

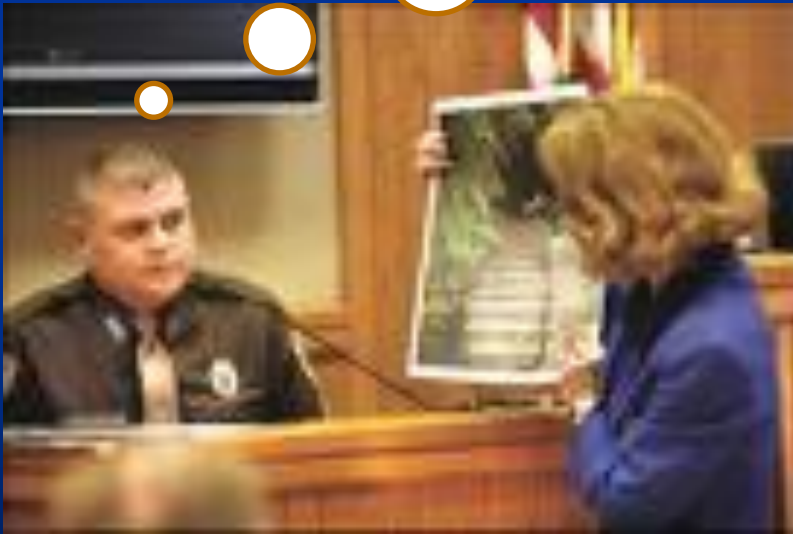


Photo of Damage



Better Photo of Damage?



Trial Exhibit?





Rule 9

BE FAMILIAR WITH THE
EXHIBITS

TANGIBLE EVIDENCE :





“COLD SHOCK”

Jurors love to
touch the
evidence.



Physical evidence:

Any material object that plays some actual role in the matter that gave rise to the litigation.

EDR report

lamp (filament analysis)

breathalyzer printout

Evidence of impairment:

2:15 AM

A handwritten signature in black ink on a white background. The signature is cursive and appears to read "David Brown".

7:40 AM

A handwritten signature in black ink on a white background. The signature is cursive and clearly reads "David Brown".

2:10 PM

A handwritten signature in black ink on a white background. The signature is cursive and reads "David Brown".

Rule 10

JURORS LIKE TO TOUCH
THE EVIDENCE