



THEORY OF A CASE

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CASE



State's Discovery

Client's Story

Other Factors/Parties



STATE'S DISCO

Good

Bad

Distracting





CLIENT'S STORY

Good

Bad

Distracting





Good

Bad

Distracting





The power of rabbit holes



LISTENING

Your client's story might sound bogus, BUT there are holes to follow that will lead to things



SHOWING

If you case has a theory of an alternate suspect, why not bring their pictures when interviewing witnesses



FLEXIBILITY

Your theory might change,
be flexible, follow the
different rabbit holes to their
end marks

WHEN TO DEVELOP A THEORY?

- As soon as possible, but know it will change as you learn more
- Don't wait until discovery is complete to start investigations, some things can be investigated right away
- Use jury instructions to help formulate your theory

WHAT IS NOT A THEORY?

- The theory of your case is NOT a legal defense
- Self defense isn't a theory
- Necessity isn't a theory
- Think of it as more of a thesis



COMPONENTS OF A THEORY

LEGAL COMPONENT

What jury instructions can you ask for?

What evidence will fall within the rules?



FACTUAL COMPONENTS

What facts are
nonnegotiable?

What evidence will the jury
see?




EMOTIONAL COMPONENTS

Emotions that already exist
in State's case/facts?

Emotions we must develop
through cross or through
client?





EMOTIONS IN STATE'S CASE





Already in State's case?

- Fear
- Sadness
- Pain
- Anger



EMOTIONS TO BRING OUT

- 
- Sympathy
 - Empathy
 - Righteous indignation



**Can you move
State's emotions to
your case?**



Example: Sex Case / Domestic Violence

- Anger about it happening
- Fear of it happening to someone you know
- Anger of false accusation
- Fear of someone "crying rape (wolf)" as a way of handling a situation





QUESTIONS TO ANSWER

- Why did this happen?
- How did this happen?
- Why are we here?
- Who should actually be sitting here?



THANK YOU

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