

ROLE OF DEFENSE ATTORNEY

BEFORE TRIAL - TO PREPARE

- I.** Review the case summary and charge(s).
 - a. Look for any mitigating factors.
 - b. Determine if there is a good explanation or reason for the behavior surrounding the offense.
 - a. Find the weak points in your case. Prepare ways to handle them if the prosecution should bring them up. When you contact the defendant inform him/her of the weak points of your case and how you plan to handle them.

- II.** Contact the defendant.
 - a. Introduce yourself. Explain you will be handling the case.
 - b. Discuss the charges and the facts of the case.
 - c. Determine what you could use as mitigating factors.
 - d. Tell the defendant to dress nicely and meet you before court.

- III.** Review witness statements. Determine if you want to present statements in mitigation.
 - a. Decide if you would like to present a witness statement (other than what is contained in the case summary) or statement in mitigation i.e. character references, proof of restitution, grades, etc. A maximum of two documents may be submitted.
 - b. Statements should help to explain the circumstances or the reason for the behavior surrounding the offense or qualities of the defendant. These documents should assist the jury in setting sentence.
 - c. Written statements must be signed by witnesses or supporters.
 - d. Call the teen court coordinator to request witness information.
 - e. Opposing counsel must be given copies of the statements before trial.

- III.** Prepare an opening statement.
 - a. Describe the event and state the facts as known.
 - b. Use visual images. Tell the jury a story of what happened.
 - c. Describe any mitigating circumstances and defendant's remorse.
 - d. Personalize the defendant's side.
 - e. Develop a theme for you case.

- IV.** Anticipate the theory of the prosecution and what their aggravating factors will be.

- IV.** Prepare direct examination questions for the defendant.
 - a. Questions should help describe the event and explain the circumstances or reasons for the behavior surrounding the offense.
 - b. Be clear and logical, so the jury will remember.
 - c. Use open-ended questions. You want to let the witness testify.
 - d. Listen to answers carefully and let the witness explain.
 - e. Make sure to emphasize any previous punishment the defendant may have received.

f. Know the answer before you ask the question. You should have reviewed and discussed the questions with your client prior to the hearing.

V. Ideas for direct examination questions:

a. Questions regarding background and strengths of the defendant.

What school do you attend?

Who do you live with?

What other activities do you participate in?

b. Questions concerning the offense to help the jury understand the event.

Why were you there?

Who else was present?

What happened next?

c. Previous punishment and important factors:

What consequences have you suffered as a result of this offense?

What have you learned from this experience?

Have you been grounded?

Did you pay restitution?

Are you sorry?

VI. Anticipate on questions for redirect

a. Redirect should clarify the defendant's story by clearing up issues raised by the prosecutor on cross-examination.

b. Compose a few of questions to handle the negative aspects of your case.

VII. Talk to the defendant about his/her statement

a. This is an opportunity for the defendant to make any last comments to the jury. This is often the deciding moment in a juror's mind.

b. Walk your client through their statement and remind them their attitude and how they present themselves to the jury will probably impact their sentence. They should not chew gum, swing in the witness chair or do anything that may damage their credibility. Eye contact is very important.

VIII. Prepare a sentencing recommendation

a. You and the defendant should agree upon a recommendation.

b. Include reasons/justification behind the recommendation. Explain why the defendant deserves the recommended sentence.

IX. Prepare a closing statement

a. Highlight mitigating factors and previous punishments.

b. Summarize facts and favorable evidence that helps your client.

c. Rebuke what the prosecution might say.

d. Be creative and persuasive.

e. Use eye contact.

- f. Consider what the other side might say.
- g. Use rhetorical questions.
- h. Include a recommended sentence.