

How to Prepare for Trial

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Where do I begin???

the

LAW

The Law

- **Statute**
- **Jury Instructions**
 - **Elements of Charge**
 - **Legal Defenses**
- **Case Law**
- **Evidentiary Rules**

Review Everything

- **Discovery**
- **View Physical Evidence**
- **Go to the Scene**

Know the Negative Case

- **What doesn't add up**
- **What is the ideal case**
- **What police didn't do**

Know the Positive Case

Witnesses

Exhibits

Character Evidence

Photos

Experts



Build Your Theory of the Case

What are the Facts Beyond Change?

theory must incorporate these

What are the good facts???

What is the legal defense?

Like a movie genre

There are only six

**Your
LEGAL Defense**

Is NOT Your Theory

WHAT'S YOUR GENRE?

1. Nothing happened.

- Mistake
- Set-up



WHAT'S YOUR GENRE?

2. It happened, but **I**
didn't do it.



- Mistaken ID
- Alibi
- Set-up

WHAT'S YOUR GENRE?

3. It happened, I did it, but it
wasn't a **CRIME**



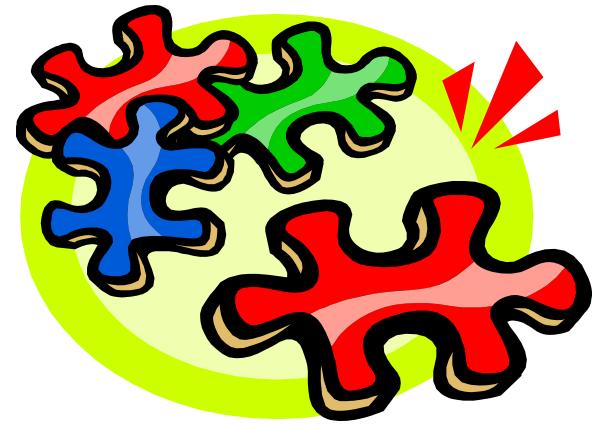
WHAT'S YOUR GENRE?

4. It happened,

I did it,

It was a crime,

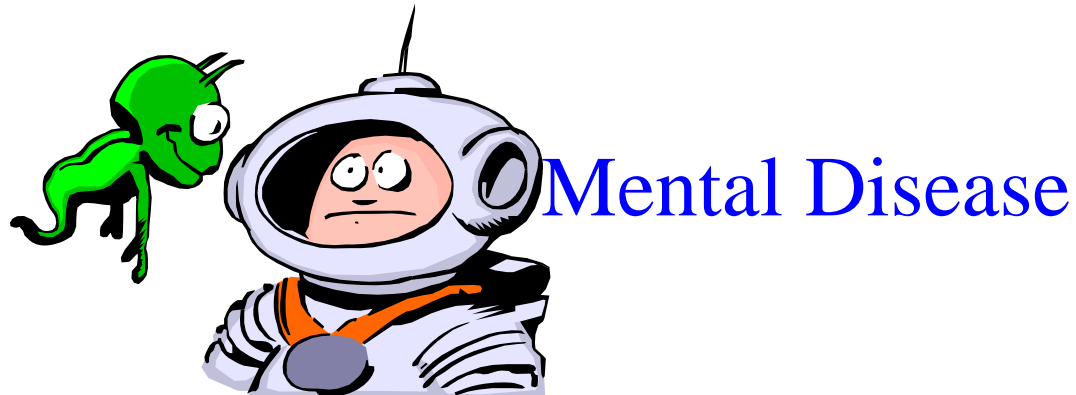
But it wasn't THIS crime!



Lesser-includeds

WHAT'S YOUR GENRE?

5. It happened,
I did it,
It was the crime charged,
But I'm not responsible.



WHAT'S YOUR GENRE?

6. It happened,
I did it,
It was the crime charged,
I'm responsible,
SO WHAT?!?



Jury Nullification

Theory Building

The Traditional Approach

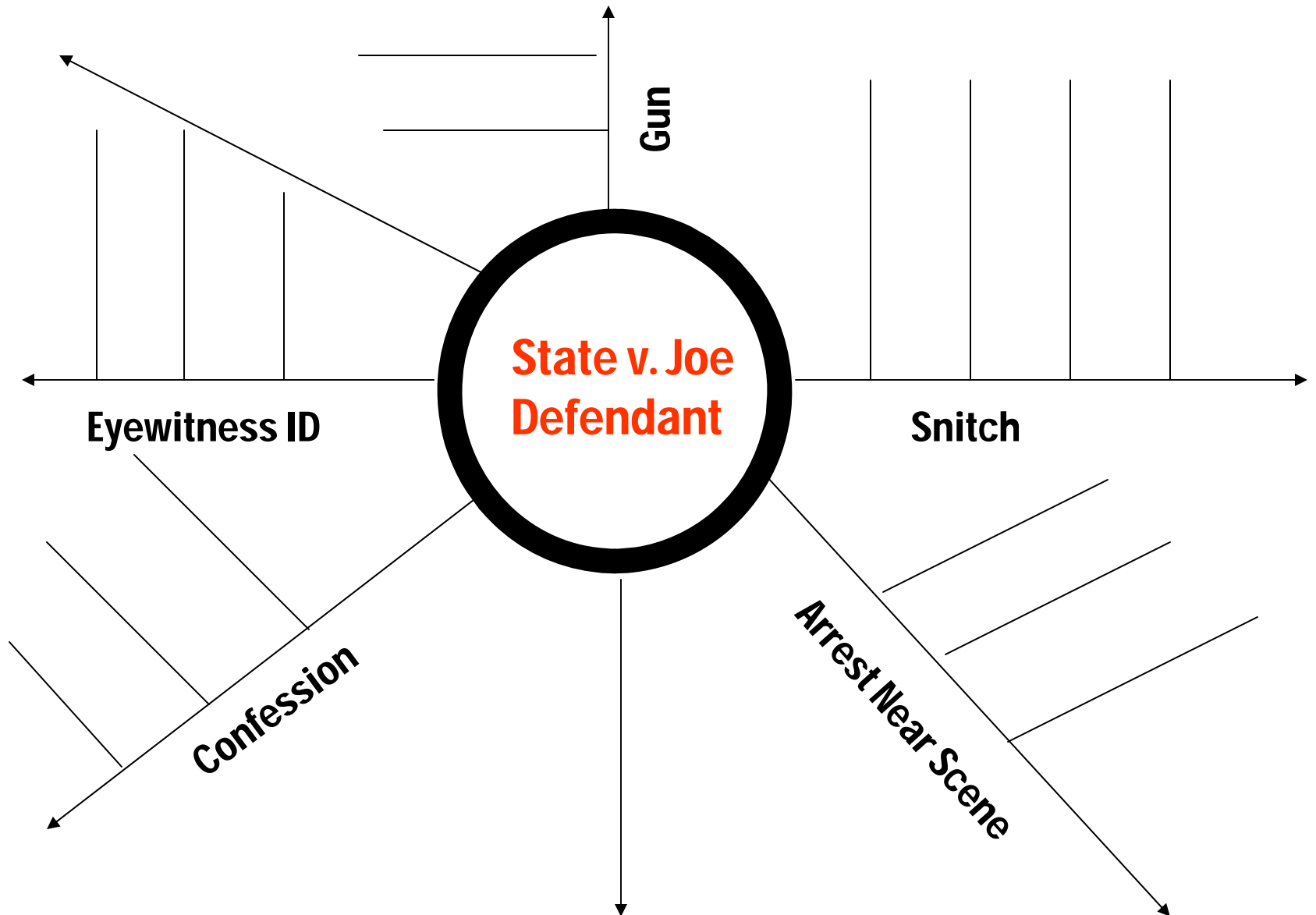
Bad Facts

1. ...
2. ...
3. ...

Good Facts

1. ...
2. ...
3. ...

Mind Mapping the Evidence



STEP TWO:
**Developing the Story
of Your Case**



**Write the trial story
3-5 paragraphs**

STEP TWO:

Develop the Story in every phase

Create a Trial Notebook

Develop it backwards

Prepare cross of each witness

- 1. List the points each witness makes for prosecution and defense**
- 2. Theory of the witness**
- 3. Topics for cross- prepare in chapters, write specific questions**
- 4. Organize in the persuasive order**
- 5. Prepare for evidentiary problems**

Are defense witnesses needed?

- 1. Write the story the witness will tell**
- 2. Write the questions that will develop the story**
- 3. Prepare with but don't rehearse the witness**
- 4. Anticipate cross examination**
- 5. Evidentiary preparation**

Opening

Tell a Story

Voir Dire

- 1. What are the issues you are concerned about**
- 2. Ask open ended questions**
- 3. Go for the most important things**
- 4. DO NOT, DO NOT, DO NOT**

GIVE LECTURES ON THE LAW



the devil is in the details

witness list
Jury Instructions
Motions in Limine
Motions for directed verdict
Record Sidebars
polling the jury

Motions in Limine

- **Boilerplate**
 - **Exclude 904.04 evidence**
 - **Exclude client statement until after admissibility hearing**
 - **Witness sequestration**
 - **Preliminary jury instructions**
 - **Witness lists not named by party calling**
 - **Recording all trial phases**

Motions in Limine: Case Specific

- **Redact client statement**
- **Exclude aliases**
- **Exclude gang membership**
- **Can't call complainant "victim" in self defense or sex assault consent cases**
- **Exclude post-offense conduct**

Know your courtroom

Where do I sit

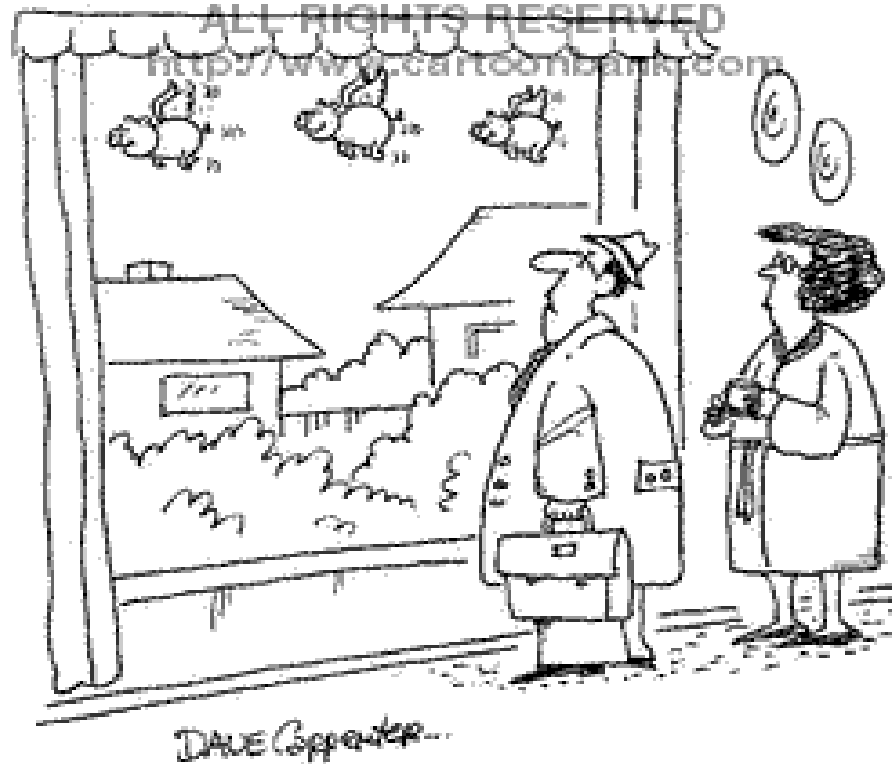
Where do I stand

ALL RIGHTS RESERVED
<http://www.cartoonbank.com>



"Get you off? You'll be lucky if I can defend you with a straight face!"

BE A TRUE BELIEVER



"You know, we just might win that trial today."

