

Charles Mwewa Law Lecture Outlines

Disclosure

- All relevant information must be disclosed
- Failure to disclose impedes the defence/defendant
- Crown discretion to deny irrelevant information
- Crown may delay disclosure if protecting witnesses
- Crown's obligation to produce disclosure is continuous one

Identifying Potential Witnesses

- Have enough time to select and prepare witnesses
- Before you interview, know the theory of case
- If more than one, interview them separately
- Schedule interview with witnesses early in the case
- Screen witnesses: Not all witnesses will help your case
- Screen evidence: Evidence may help, hurt or do nothing to your case

Ideal Witnesses

- Must be respectful, polite, sincere, honest
- Must provide sufficient details
- Admit limits
- Feels comfortable testifying
- Believes in evidence
- Inability to volunteer information not being asked
- Listen carefully to questions; ask for clarification if not clear
- Eye contact is important

Key Behaviors Witnesses Must Avoid

- Laughing
- Inappropriate facial expressions
- Speaking out
- Dressing inappropriately
- Looking at counsel after being asked a question

How to Avoid this Behavior

- Talking to witnesses about what is expected from them
- Preparing them thoroughly - there should hopefully be no surprises
- Explain the consequences of misbehaving – they need to understand what is at stake

Witness Statements

- Make sure the witness reviews and signs statement
- Make a memo to file regarding how the witness statement was obtained (when, where, date, time, people present, conditions of interview)
- Should statements be video-taped?
- Should statements be sworn (affidavits)?
- Witness statements may be used to refresh a witness' memory
- Prior witness statements: Credibility; confront or sympathize
- Witness preparation: Review evidence, cross-examine