



VERA CAUSA GROUP

Meeting Common Defenses

Vera Causa Group

VCG Faculty Rachel Smith

VCG Faculty Bobby Carter

Topic	Details	Attorney Notes
Educate Officers on Common Defenses	<ul style="list-style-type: none"> • Know policies and procedures • Work with administration to regularly offer POST training hours • Include conversation on discovery and Brady obligations in pretrial and witness preparation • Educate officers on common defenses 	
Authentically consider potential defenses	<ul style="list-style-type: none"> • Do the right thing for the right reasons • Investigate potential defenses 	
Address defense argument at every stage	<ul style="list-style-type: none"> • No need to be overt but combatting defense begins before the defense attorney says a word • Preliminary hearing = listen and understand suggestions on defenses • Pretrial motions • Voir Dire <ul style="list-style-type: none"> ○ Address issues presented by a defense without ever saying the word “defendant” • Defense of “putting the system on trial” • Attacking the system in pretrial • Make sure your written responses are more than just cutting and pasting of the law • Be an advocate • Be transparent in discovery • File discovery/disclosure notices in writing in the court • Use protective orders where necessary <ul style="list-style-type: none"> ○ Attacks on prosecutors 	

	<ul style="list-style-type: none"> ▪ Motions to disqualify prosecutors – respond in writing ▪ Use of speaking objects ▪ Attacks on discovery issues ▪ Guard your social media 	
Defense of attacking police credibility	<ul style="list-style-type: none"> ○ It's not obvious <ul style="list-style-type: none"> ▪ Police credibility undermined before charges even filed or court begins ○ Pretrial motions <ul style="list-style-type: none"> ▪ Respond in writing ▪ File motions in limine ▪ Know when records obtained ○ Go beyond discovery requirements <ul style="list-style-type: none"> ▪ Look at the CAD records ▪ Listen to the Dispatch ▪ Visit the scenes ○ Corroborate, Corroborate, Corroborate <ul style="list-style-type: none"> ▪ Photos ▪ Lay witness consistencies ▪ Sight, Sound, Smell details ▪ Visual trial 	
Alibi	<ul style="list-style-type: none"> ○ Follow your rules – double check when your response is due ○ Should not be a surprise ○ Ask: If alibi were true – what else would be true? ○ Gather evidence <ul style="list-style-type: none"> ▪ Time sheets ▪ Ring cameras ▪ Cell records ▪ App location data ▪ Social media is your friend ▪ Interview defense witnesses 	
Self Defense	<ul style="list-style-type: none"> ○ Know current law and instructions ○ Know the facts <ul style="list-style-type: none"> ▪ Detailed pretrial interviews ▪ Consistencies and Inconsistencies ▪ Physical evidence ▪ Ask yourself: what do the injuries mean? ▪ Visual trial ○ Pretrial witness preparation <ul style="list-style-type: none"> ▪ What to expect on cross? 	

	<ul style="list-style-type: none"> ▪ Ask who was the Initial aggressor? ▪ Ask if could retreat? ○ Plan ahead for cross ex of defendant <ul style="list-style-type: none"> ▪ Point counter point ○ Plan for argument 	
Some Other Person Did It (SOPDI)	<ul style="list-style-type: none"> ○ Right thing for the right reason ○ Ensure Discovery is complete ○ Reverse Alibi – the other person ○ Evidence of them to the exclusion of the defendant, then motion in limine ○ Evidence of them plus the defendant – use it to your advantage ○ Interview other person <ul style="list-style-type: none"> ▪ See if make a good witness ○ Physical evidence Electronic Data 	
Bad Id	<ul style="list-style-type: none"> ○ Know your law and instructions – pull them ○ Process of the police – pretrial them ○ If possible, make it a visual trial <ul style="list-style-type: none"> ▪ Diagrams ▪ Photographs ▪ Electronic evidence ○ Education on difference between identification and description ○ Don't concede objectionable items/questions/arguments ○ Closing argument <ul style="list-style-type: none"> ▪ Motive ▪ Ability ▪ Identification 	
Consent	<ul style="list-style-type: none"> ○ Motion in limine ○ Evidence of force ○ Exhibits – best corroboration ○ Double check social media ○ Understand the motives – 	
Mental Disease or Defect	<ul style="list-style-type: none"> ○ Experts <ul style="list-style-type: none"> ▪ Plan ahead ▪ Understand foundations. ▪ Know how to read the reports ▪ Research, research, research ○ Evidence of choices made//logical actions <ul style="list-style-type: none"> ▪ Diagrams ▪ Photos ▪ Social media 	

	<ul style="list-style-type: none"> ▪ What did they not do? ▪ Cover-up? ▪ Excuses? ○ Voir Dire Questions <ul style="list-style-type: none"> ▪ Explore sympathies. ▪ Eliminate ○ Design Direct <ul style="list-style-type: none"> ▪ Questions emphasizing choices, logic ▪ Explore Attitude, Demeanor ○ Cross Examination <ul style="list-style-type: none"> ▪ Plan ahead for defendant <ul style="list-style-type: none"> • Every logical action ▪ Plan ahead for doctor <ul style="list-style-type: none"> • Motive • Knowledge, skill, training • Facts relied upon and omitted. • Plan for concessions – narrow issue ○ Reach out 	
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