



# PREPPING MAJOR CRIMES ON PD TIME

Commissioner Jeremy T. Schmidt

# The Trial First Mentality



A philosophical approach to framing all cases



The goal:

Focus efforts  
Inspire confidence  
Get results!



The only two  
things we all  
posses:



Time

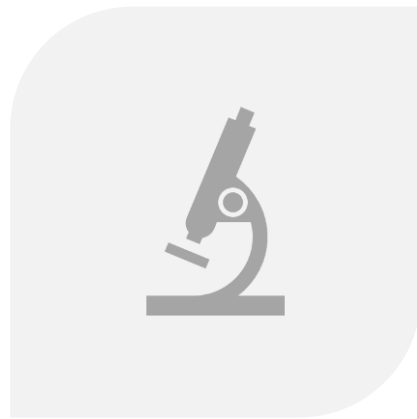


Energy

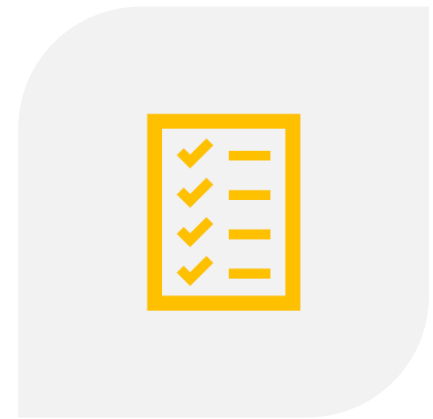
# Three phases of prepping for trial



**COMMUNICATION**



**INVESTIGATION**



**PREPARATION**

# Communicate with Confidence

- Three substantive meetings with your client:
- 1.) Introduction: you to each other, to the case, to the process
- 2.) Discovery review: in depth look at the case, the evidence and what you need to find out.
- 3.) Resolution discussion: Trial? Plea? Alternative resolution?

# Communicate with Confidence

- **Introduction:**
- Focus on where you are in the system:
- Major Felony offense: What it means to be charged with a felony, the specific RCW and elements, the collateral consequences, the sentencing ranges
- Review the general facts (usually the PC) emphasize you will be going into more detail later
- What are the options for resolution: Trial, Plea or an alternative resolution.
- I always say: I prepare every case with the plan that it is going to trial. This helps us both be as prepared as possible and to negotiate from a position of strength.

# Communicate with Confidence

- **Discovery review**
- Focus on:
  - inconsistency with the states case/theory
  - What you can't change
  - Where can you look for additional information



# Communicate with Confidence

- Resolution Discussion:
- Trial: it can be win it all or lose it all, but this our default position
- Plea: only plea if there is a reason to do so
- Alternatives: Is the juice worth the squeeze?



# Investigate with Intention

- 1) Review discovery
- 2) Interview witnesses
- 3) Find what's missing

Investigate  
with  
Intention

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**REVIEW DISCOVERY:**

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LEGAL VS. FACTUAL ISSUES

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WITNESS INCONSISTENCIES

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THINGS THAT CAN'T BE CHANGED

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THINGS THAT SUPPORT YOUR CLIENT'S  
THEORY

# Investigate with Intention

- Interview Witnesses
- -All about what they will say, and how they say it
- Avoid: gotcha moments
- In person important: Alleged victims, heavily involved investigators, major experts

Investigate  
with Intention

What's missing?

Experts

Alibi

Eyewitnesses



# Prepare with a purpose

1

Have motions in limine and joint trial management reports (at least your part) prepared by readiness

2

Have your opening, direct questions and a cross outline prepared the week before trial

3

Jury instructions and closing as you go!

# Prepare with a purpose

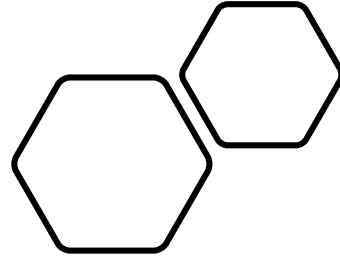
Red=client meetings Blue=Investigation Green=Preparations

- Preparation timeline:
- 1.) Introduction meeting
- 2.) Review Discovery
- 3.) Discovery review meeting
- 4.) Prepare case theory-theory/theme
- 5.) Interview witnesses
- 6.) Find what's missing
- 7.) Resolution discussion
- 8.) Prepare motions in limine, and joint trial management reports
- 9.) Trial Readiness
- 10.) Prepare opening, directs, outline of cross
- 11.) Trial!!

# Sample 60-Day Schedule

- January 2, 2023: Case assigned
- January 3<sup>rd</sup> or 4<sup>th</sup>: Introduction meeting- 1 hour
- January 11<sup>th</sup>: Arraignment
- January 25<sup>th</sup>: Review Discovery-2 hours
- January 26<sup>th</sup> or 27<sup>th</sup>: Discovery review meeting-2 hours
- January 30<sup>th</sup>: Prepare case theory-theory/theme-1 hour
- February 1<sup>st</sup>-10<sup>th</sup>: Interview witnesses-Find what's missing 1-2 hours per interview
- February 10<sup>th</sup>: Resolution discussion- 1 hour
- February 10<sup>th</sup>: Prepare motions in limine, and joint trial management reports-2 hours
- February 13<sup>th</sup>: Trial Readiness
- March 3<sup>rd</sup>: Prepare opening, directs, outline of cross-3 hours
- March 13<sup>th</sup>: Trial!!

Everyone has  
a plan...until  
they get hit!



- Triage
- Continuances:
  - Witness availability
  - Client availability
  - Conflicts in schedule
  - Strategy





# Jeremy T. Schmidt

[jtschmidt@spokanecounty.org](mailto:jtschmidt@spokanecounty.org)