

The background is a dark blue, textured surface. A piece of white paper is torn and curled on the left side, with the main body of the paper being flat and rectangular. The text is centered on the white paper.

What do Juries *Really* Want?

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**Public Defender's Seminar
Saturday 13 February 2016**

Jury Research

□ Paying attention to theoretical and empirical research about:

- How jurors absorb and retain information
- Effective means of capturing their attention



Build A Compelling Story



Opening Address: Setting the Stage

- Creates a *framework/schema* around which narrative unfolds
- Opening can be at least as important as closing addresses

Example Opening Address





Connecting on an Emotional Level

Types of Reasoning used by Jury

- **Central Process Reasoning**
= rational, considered
approach
- **Peripheral Route Reasoning**
= mental short cuts

If Evidence is Complex...

- **Don't forget peripheral reasoning**
- **Example:
Emphasis attractiveness
of expert**

Example – Expert XX





Captivating Jurors' Attention

Engaging Performance

- Problem: Overemphasis on oral presentation
- Many absorb and retain information through visual means



Solution: **Emphasise Visual Experience**

- Make arrangements with court
- Use of reconstructions

Example – Expert Reconstruction



Engaging Performance: Continued

- Advocacy as performance
- Demonstrating a point,
not just speaking about it
- Hold Jury's gaze during addresses and at
key points in trial
- Use of pauses for dramatic emphasis

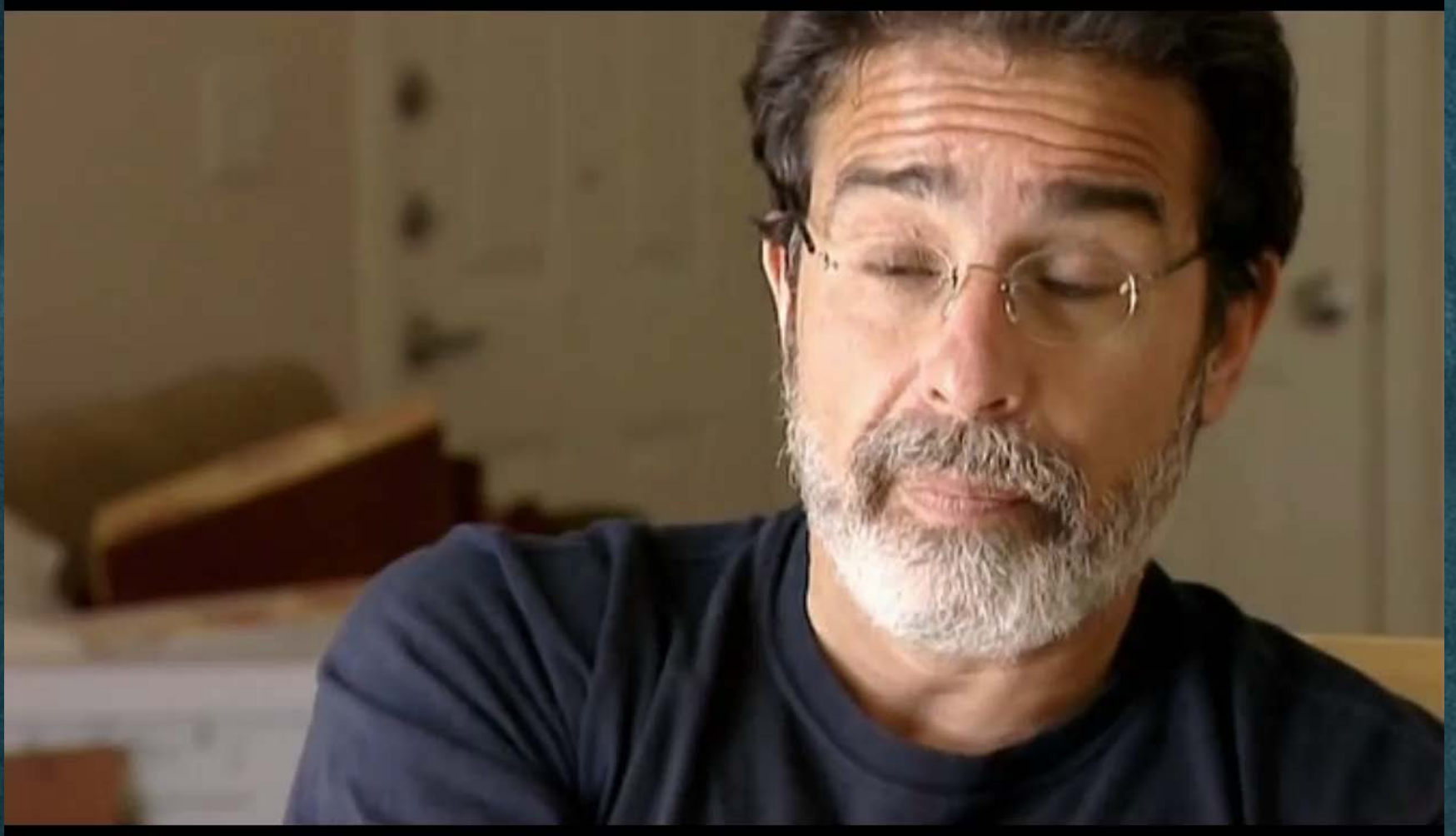
Example Cross Examination Performance



Cementing Memory

- Use of repetition
- Use of key metaphors
- Use of props

Example of Prop Usage



Clear Language: Aids Info Digestion

Avoid Phrases:

- Reasonable Inference
- I Submit
- Fallacy

Use Instead

- ✓ Reasonable Conclusion
- ✓ None
- ✓ Error/Mistake

Turn –ion words into verbs

Avoid Phrases:

- Conduct examination of
- Make adjustments to
- Provide a description of
- Take into consideration

Use Instead

- ✓ Examine
- ✓ Adjust
- ✓ Describe
- ✓ Consider

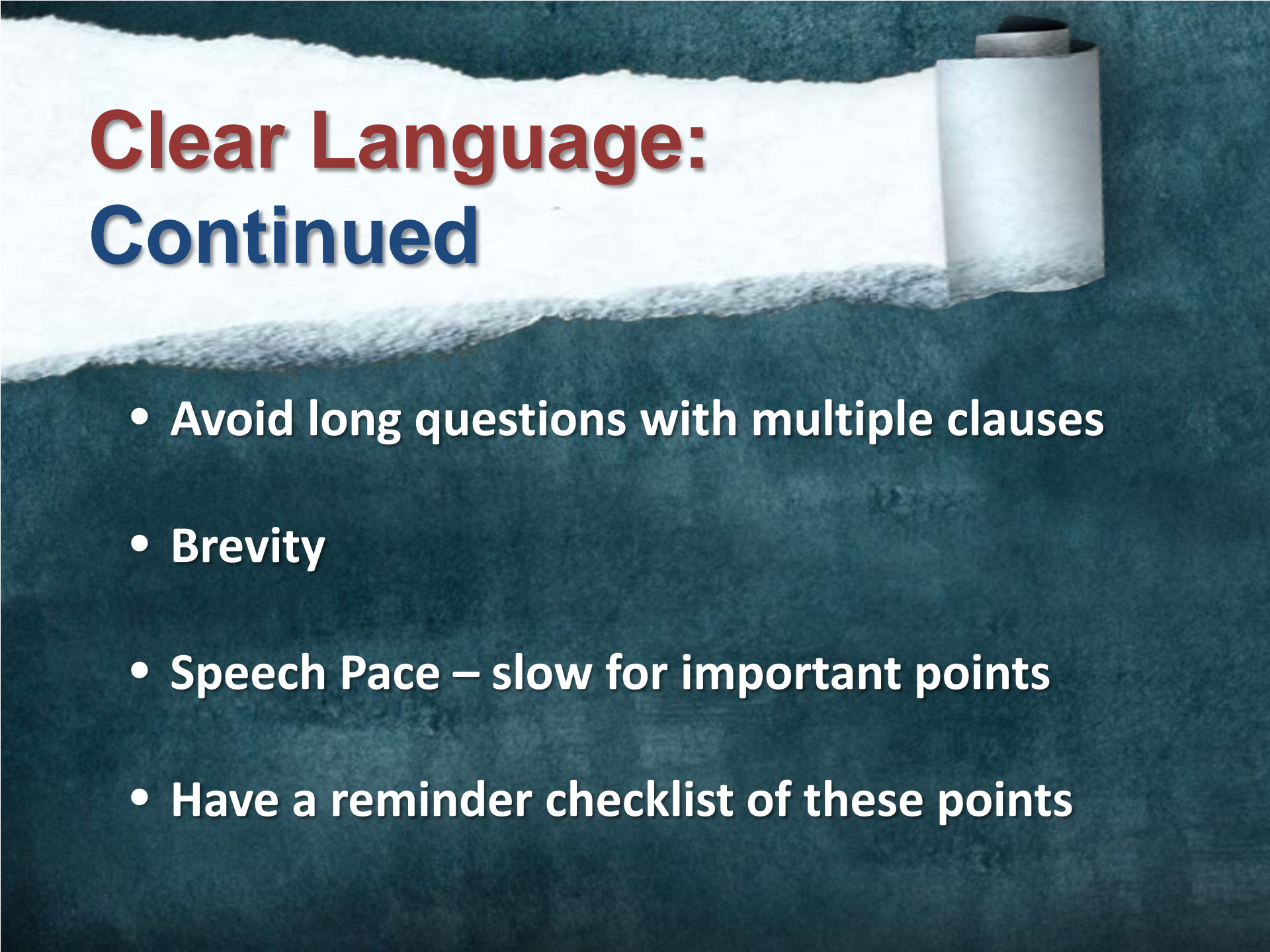
Eliminate legalese

Avoid Phrases:

- Instant case
- Thereafter/subsequent to
- During the course of
- Notwithstanding the fact that

Use Instead

- ✓ Here, this case
- ✓ Later/after
- ✓ During
- ✓ Although



Clear Language: **Continued**

- Avoid long questions with multiple clauses
- Brevity
- Speech Pace – slow for important points
- Have a reminder checklist of these points



Organise Information Visually

Example of Diagrams & Animation



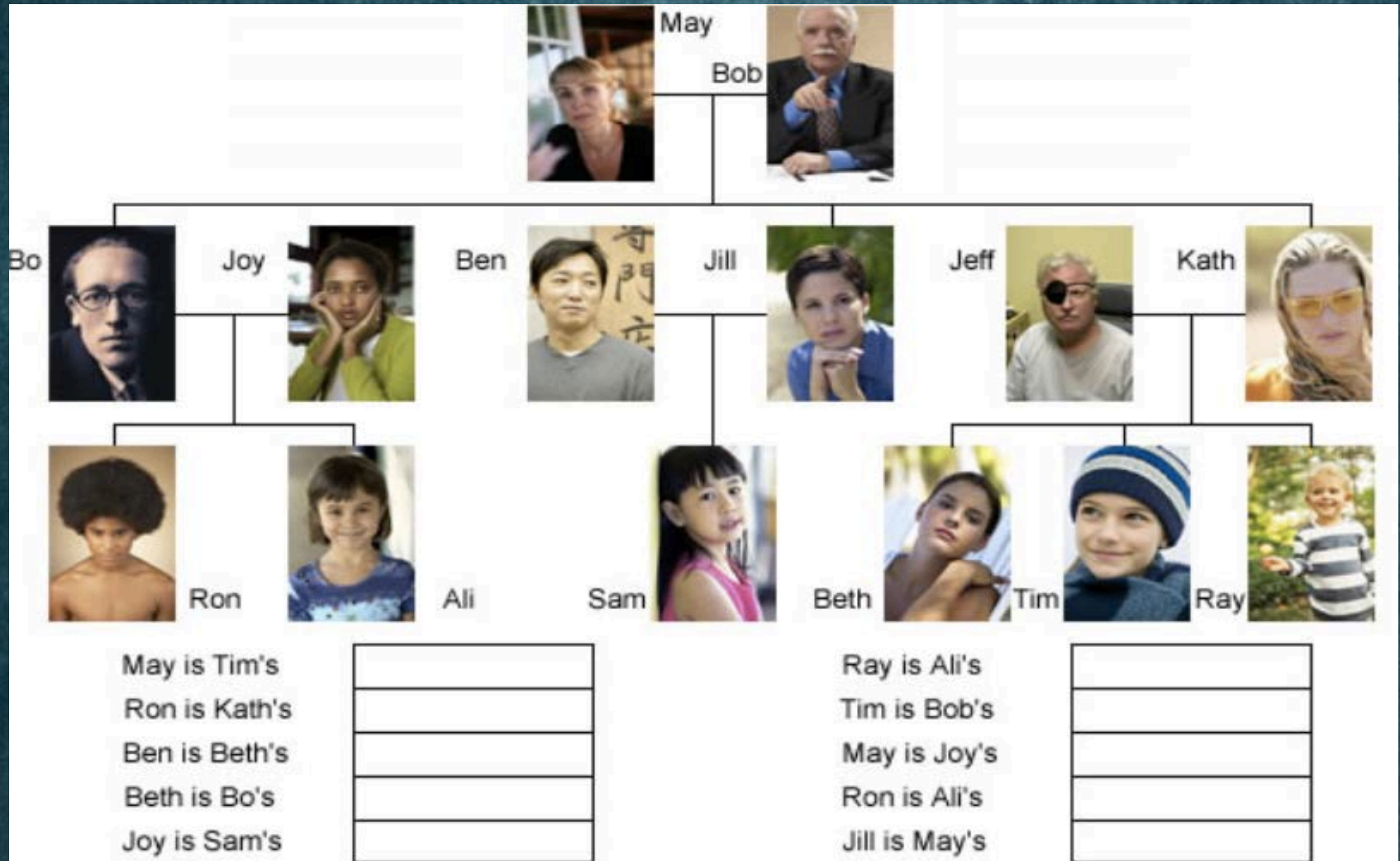
Tables, Diagrams, Photo

- For prior inconsistent representations, play tape of representation or display written statements on screen
- Diagrams to highlight relationships
- Tables visually break up chunks of information, enable skimming

Example Chronology for Jury

Date	Time	Witness	Event	Reference
15 August 2008	5.50pm	Angela Smith	Saw car had left headlights on parked in front of 16 <u>Bilsons Rd</u> , near a clump of trees.	T.423 L30-38 Ex A
15 August 2008	5.52pm	Angela Smith	Did not hear engine running, saw one person inside vehicle on approach.	T.425 L3 T.425 L18-26
17 <u>August 2008</u>	5.45pm	Adam Jones	Had Skype chat session with Bill SANDERSON, he said he would not be back from Aunt DOROTHY's place until 9-10pm	T.251 L44-49 Ex D
17 August 2008	6.03pm	Adam Jones	Finished Skype chat with Bill SANDERSON	T.252 L3 Ex D

Example Family Tree Diagram



Written Aids and Summaries

- Use summaries of expert evidence
- Timing of providing summaries to jury is important
- Before the expert gives the evidence is ideal



5

Create Closure with a Bang



**Powerpoints during
Closing:
Tie Loose Ends
Together**

Mr Smith was NOT the killer because

1. He had no reason to kill his loved one—
evidence show he was very close to his brother
(T1750, L13)
2. He had no financial motive as alleged—
Evidence shows he was wealthier than the deceased
(T230, L5)
3. Forensic evidence shows multiple assailants
were involved (T 1890, L27-29)
4. The deceased had an outstanding large drug
debt to the Nomad Bikies Gang at time of
death (T2104, L30-48)

Example Final Address



Jury Research

- *Juries in the 21st Century* (The Federation Press, 2012) by Jacqueline Horan
- *Communicating with jurors in the twenty-first century* (2007) 29 *Australian Bar Review* 75 by Jacqueline Horan
- *Psychology and Law* (Guildford Press, 2005), by Neil Brewer, Neil and Kipling Williams
- *Stories, Scripts and Scenes: Aspects of Schema Theory* (Harvard University Press, 1984) by Jean Matter Mandler
- *Anchored Narratives, the Psychology of Criminal Evidence* (Havester Wheatseaf, 1993) by Wagenaar, Van Koppen and Crombag, ,
- *Narrative Theory, Psychology and Law* (2000) *Australian Journal of Law and Society* by Samantha Hardy