

# NATIONAL DEFENDER TRAINING PROJECT

## 2017 PUBLIC DEFENDER TRIAL ADVOCACY PROGRAM

University of Dayton School of Law, Dayton, Ohio  
Friday, June 2, 2017 to Wednesday, June 7, 2017

### HOW TO LOCK IN A CHALLENGE FOR CAUSE

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Thanks to Ann Roan and many other fine defenders for their advice, materials and input They had the

first.

idea

**Step #1. Mirror the juror's answer:** "So you believe that . . . ."

- a. Use the juror's exact language
- b. Don't paraphrase
- c. Don't argue

**Step #2. Then ask an open-ended question inviting the juror to explain:**

- "Tell me more about that"
- "What experiences have you had that make you believe that?"
- "Can you explain that a little more?"

*No leading questions at this point.*

**Step #3. Get other jurors to say they have the same problem**

"That's a pretty common belief. Does anyone else share that idea?"

- a. Get other jurors to acknowledge the same belief, idea, impairment, bias, etc.
- b. Don't be judgmental or condemn it. Be mild, calm and accepting.

**Step #4. Now switch to leading questions to lock in the challenge for cause:**

**Step #4(a). Reaffirm where the juror is (ie: impaired):**

“So you would need the defendant to testify that he acted in self-defense before you could decide that this shooting was in self-defense”

**Step #4(b) If the juror tries to weasel out of his impairment, or tries to qualify his bias, you must strip away his excuses and qualifiers, and force him back into admitting his impairment as it applies to this case:**

Q: “So you would need the defendant to testify that he acted in self-defense before you could decide that this shooting was in self-defense.”

A: (Trying to weasel out) “Not necessarily. There are situations where I wouldn’t need him to testify.”

Q: (Open-ended question getting him to explain the situations he thinks he would be unbiased) “Could you please tell us what those situations are?”

A: “Well, if the victim said it might be self-defense, or if there was some scientific evidence that showed it was self-defense, I wouldn’t need your client to testify.”

Q: (Stripping away his excuses) “How about where there was no scientific evidence at all, and where the supposed victim absolutely insisted that it was not self-defense. Is that the situation where you would need the defendant to testify before finding self-defense?”

**Step #4(c) Immunize the juror from rehabilitation**

“It sounds to me like you are the kind of person who thinks before they form an opinion, and then won’t change that opinion just because someone might want you to agree with them. Is that correct?”

“You wouldn’t change your opinion just to save a little time and move this process along?”

“You wouldn’t let anyone intimidate you into changing your opinion just to save a little time and move the process along?”

“Are you comfortable swearing an oath to follow a rule 100% even though it’s the opposite of the way you see the world?”

“Did you know that the law is always satisfied when a juror gives an honest opinion, even if that opinion might be different from that of the lawyers or even the judge? All the law asks is that you give your honest opinion and feelings.”