

# Cross-Examination

FRE 611(b) – Limited to the subject matter of direct, and matters affecting credibility.

Determine whether cross-examination is necessary. Damage can be done if not careful.

There are basic rules to cross-examination:

# Cross-Examination

Be brief and succinct.

Use leading questions (only).

Listen to the answer.

Don't permit the witness to explain or repeat.

Don't make a mountain out of a mole hill.

When in doubt, stick to safe areas of cross, *i.e.* bias or interest, faulty perception, faulty memory, and prior inconsistent statements.

# Areas of Impeachment

Bias, interest and motivation.

Sensory and mental competency of witness.

Character or reputation for truthfulness.

Conviction of a crime (FRE 609).

Commission of bad acts.

Prior inconsistent statement or acts.

# "Three Cs" of Impeachment

## **Commit, credit and confront.**

**Commit** – Lock witness into statement on direct. *"On direct, you testified ..."*

**Credit** – Give credit to prior statement. *"In your prior statement you said ..."*

**Confront** – *"In fact, in your sworn deposition you said something completely different than your story today."*