



Police shoot, kill suspect who made threats at hazardous waste facility in Tooele Co

- TOOELE COUNTY, Utah -- Officers shot and killed a suspect who was making threats at a hazardous waste facility in Tooele County Sunday after police say the man threatened officers with a gun

Demographic Salt Lake County

18 Cities

18 Storm Water Agencies

18 Code Enforcement Agencies

8 Police Agencies

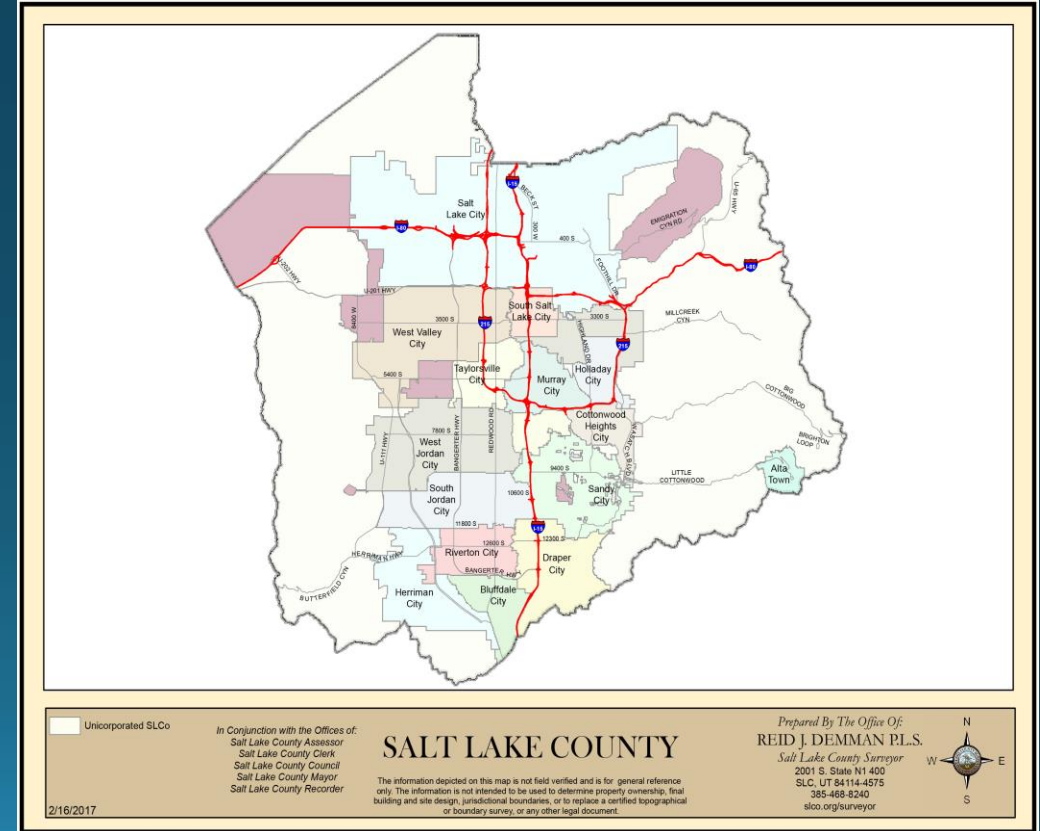
8 Fire Agencies

Agencies vary in regulatory
authority

1 Million People

5 Pretreatment Plants

6 Over 20 Sewer Districts



Building a Criminal / NOV CASE

Introductions

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Environmental Crimes



- The Salt Lake County District Attorney's Office
 - Investigating Environmental Crimes since 1993
 - Illegal disposal of hazardous or harmful materials is to our waterways, landfills or regional waste water systems.
- The most dangerous type of materials are classified as hazardous substance and are extremely dangerous to humans, wildlife and the environment



Before You Can Have a Crime There MUST Be a Violation

A violation can be a:

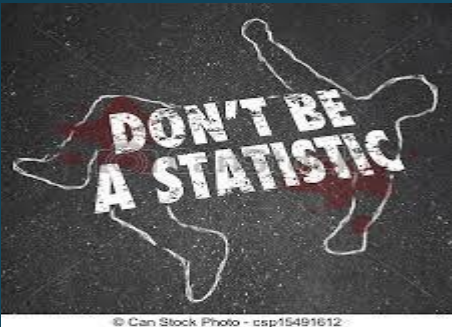
- Ordinance (city or county)
- Regulation
- State Rule
- State or federal criminal code or statute



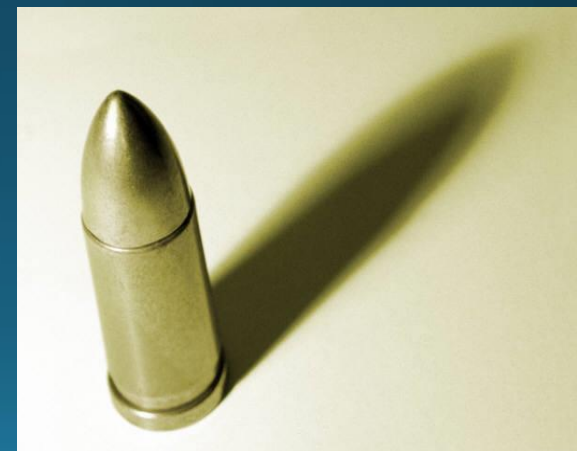
Building a Criminal/NOV CASE

You have ONE SHOT at doing it right:

- Know the BURDEN OF PROOF for the case
- Facts & Evidence MUST meet that
burden of proof.



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Examples of Environmental Crimes

- Concrete Wastewater Discharge
- Carpet Cleaners Discharge
- Restaurant Grease & Wastewater
- Auto Shops (Cleaning wastewater)
- Oil Lube Businesses
- Chemical Applicators



There are Many Other Environmental Crimes

- Illegal Dumping
- Waste Tires
- Medical & Biohazards Wastes
- Used Oil
- Methamphetamine Labs (Chemically Contaminated Properties) I.E. Hotel Rooms, Apartments, Residence.
- Hoarding
- Lead Acid Batteries
- Anti-Freeze



Enforcement Remedies and Selection

- Warning Letter
- NOV
- Civil Action
- Immediate Compliance Orders
- Criminal Action



NOV vs. Criminal Case

Purpose or goals of enforcement action

- Need for Immediate Action to Protect Public Health/Safety
- Violation Severity
- Past History or Education About the Violation
- Resources

Criminal Cases take a lot of Time & Commitment

Environmental Crimes

Environmental Crimes are different from other Crimes

- Criminal Violations (other than Traffic Violations) REQUIRE INTENT!
- Environmental Crimes, REQUIRE ONLY NEGLIGENCE!

Parallel Proceedings

- Cost recovery: For all Agencies involved.

Burden of Proof Evaluation

Civil and Administrative Actions

- *Preponderance of the Evidence*
- The standard one party must meet in order to win a civil case is known as the preponderance of evidence. Preponderance means majority, **thus 51 percent of the evidence is needed to win the trial**. Essentially at the start of the case, before any evidence is introduced, the two sides can be seen as equal. As one side introduces evidence, the case begins to tip in that direction. Once the trial is over, whichever side has provided the greater evidence is said to have the preponderance of evidence in their favor. The judge or jury decides if the evidence is greater on one side or the other based on the facts presented by the lawyers.

Criminal

Beyond a Reasonable Doubt

- In criminal cases, the burden of proof is always placed upon the prosecution to make its case. The term **"beyond a reasonable doubt"** refers to the **idea that the defendant must be clearly proven as guilty on each charge to the extent that any rational individual will see them as guilty.** As long as the defense can satisfy a judge or jury that there is some doubt of the defendant's guilt, regardless of the amount of evidence, there is an argument for a verdict of not guilty



Evaluate available evidence

- Direct
- Circumstantial



Direct

Caught in the Act

- Eye witness testimony
 - Statement
 - Interview
 - Affidavit



Direct Evidence

Direct evidence supports the truth of an assertion (in criminal law, an assertion of guilt or of innocence) directly by picture, eye witness or video

Direct Evidence Leaves No Doubt to that Fact





Circumstantial

Circumstantial evidence is evidence that relies on an inference to connect it to a conclusion of fact—like a fingerprint at the scene of a crime. By contrast, direct evidence supports the truth of an assertion directly—i.e., without need for any additional evidence or inference.



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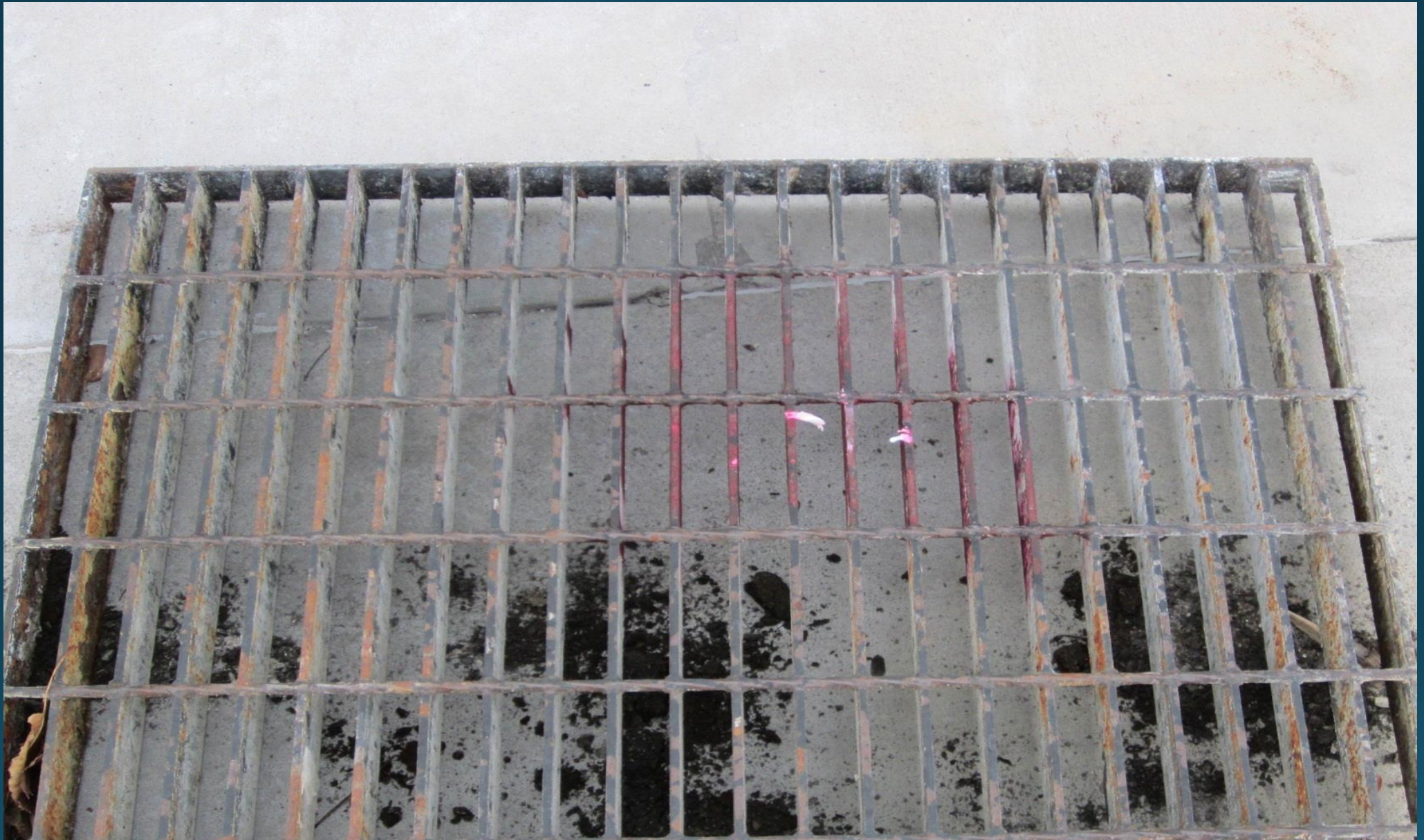
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Eyewitness Evidence

Eyewitness identification, in criminal law, a witness

"has actually seen an event and can so testify in court".



Shutter was full

Christmas Vacation



At the Scene

- Start gathering information “Notes”
- This is the time to slow down and evaluate what you have.



Another day in the Neighborhood



Building a Criminal/NOV case

- Identifying Environmental Crimes
- Enforcement Process and Tools
- Agency Services
- Public Health & Safety

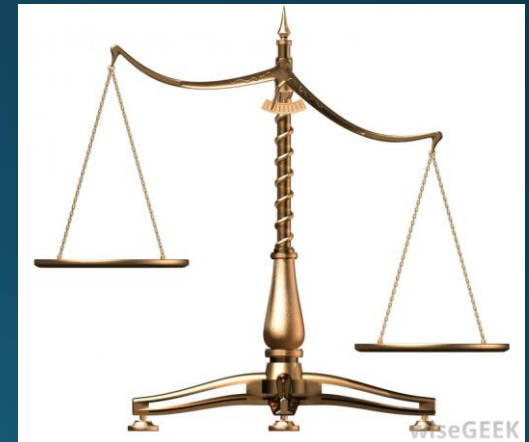


Evaluate Your Needs

- This is the time to evaluate what you have and what you will need to make this case.
- Interviews: how many ?

Evidence Gathering Issues

- Do we need a search warrant to access property
- Evidence collection: Who will collect it
- Photo of crime scene and evidence
- Sample collection & contamination
- Chain of Custody





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Team Work

- Police Department
- Fire Department
- Code Enforcement
- Stormwater Personnel
- Sewer District
- Salt Lake County Health Department E/R Team
- E/R Team Hotline [\(801\)580-6681](tel:8015806681)
- District Attorney Investigator
- (801) 201-1548 cell



What Crime was Violated?

Elements that are Needed:

- Who?
 - What?
 - When?
 - Where?
 - Why?
 - How?
-
- What elements do I need to establish for this violation?

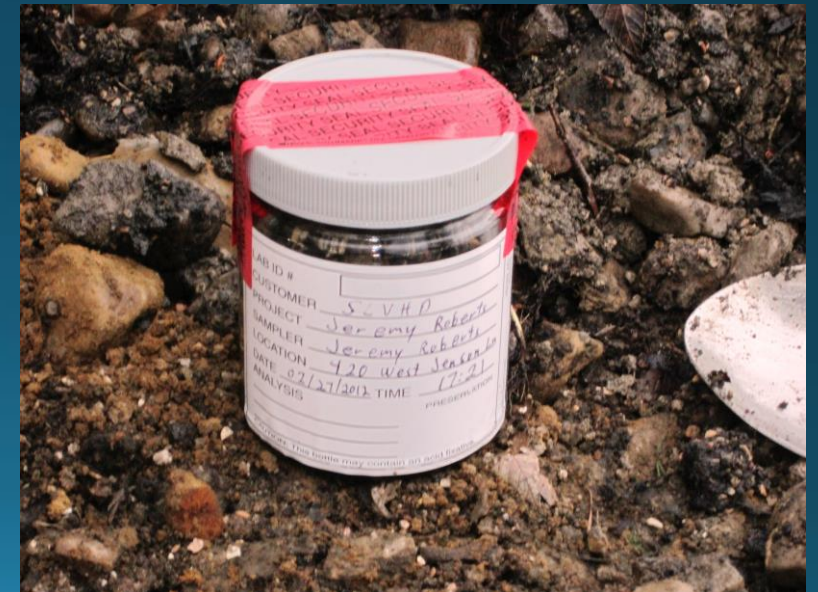
Investigative Report

- Log#:
- Case Name:
- Date of report:
- Time:
- Location:
- Violation:
- Evidence
- Witness/Subject Information:
 - Name:
 - D.O.B.
 - Address:
 - Telephone number / Cell number:
 - Occupation & Work address:
 - Vehicle Plate number:
 - Action Sought:



Evidence

- Other Agencies Reports
- Witness statements
- Eye witness reports
- Pictures: of Subject working and Vehicle used
- Statement from Subject



Pre-filing Evaluation

- Using your Investigator: B.C.I. Info.
- Possible Arrest warrants.
- Do We Have elements contained in the statutes, ordinances or regulations?
- Burden of proof necessary for remedy.
- Facts & evidence available to meet the burden of proof.

Filing of Information

- Know and understand your case
- Know elements of specific violations
- Know your evidence
- After filing of Information
- Signing of Information before a Judge
- Court Summons
- Warrant of arrest

This is Good time to talk about interviewing & Techniques of Interviewing

- Who interviewed someone today?



Honey, his organic food is cheaper,
he uses the septic tank
water.



som^{ee}cards
user card



Rapport Building

- Identify yourself immediately
- Establish trust by having a friendly conversation
- Don't be Overbearing
- Try to defuse the intensity of the experience
- Remember their talking with you may cost them their JOB
- Our demeanor often makes our success or failure with the witness



A good interviewer is a good listener.



- Interviewing takes time – be patient!
- **Gather all the facts you can before you start your interviews.**
- Remove the witness from other potential witnesses.
- If the suspect is on location at time of contact with a witness, remove the witness to another location to be interviewed

Interview Witness

Always interview witness “First”

- Take Notes
- Take Written Statements
- Ask Witnesses to describe what they saw
- Ask them who else saw it



Signs of resistance to be interviewed

Legs & Feet:

- Movement of legs and feet
- Legs crossed with the knee raised to protect the abdomen.
- Legs crossed with arms holding the leg in place as a barrier.

Head and Neck:

- Head down can indicate a negative attitude or submission.
- Head back looking down the nose.
- Head nodding or head shaking



A successful interview, asks:

- *When?*
- *Where?*
- *Who?*
- *What?*
- *How?*
- *Why?*

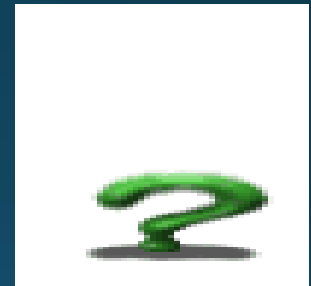
Mandatory questions to ask witnesses:

- What did you see or hear?
- When did this occur?
- Describe what happened and who did what and where?
- What did the complainant tell you?
- When did they tell you this?
- Do you know of any other relevant information?
- Are there other persons who have relevant information?



Open Ended Questions

- Questions prompt the witness or suspect to give a narrative response NOT a “Yes or No” answer.
- What happened?
- What happened next?
- And then what?
- Why did they do that?
- Don't be quick to go to the next question, Give them time to answer. Then WAIT. SILENCE IS OKAY.



Signs of Deception



- There is no guaranteed way to determine if a subject is lying.
- There are no typical nonverbal behaviors that are associated with deception.
- Not all liars display the same behavior in the same situation.
- Additionally, behaviors will differ across deceptive situations

Verbal Indicators of Deception

- Skipping around in sentences.
- Stopping sentences or leaving off the end.
- Inappropriate laughter.
- Starting to speak in the third person.
- Telling the interviewer that they have done things (similar to the things currently under investigation) wrong in the past.
- Repeating the interviewer's question.
- Asking the interviewer to repeat the question.
- Asking the interviewer "are you accusing me"?
- Giving very short answers.
- Overgeneralizations (any, all, never, always etc).
- Saying "I can't recall".



Phrases That Indicate a Lie:

- "I swear on the bible that I didn't..."
- "To tell you the truth..."
- "To the best of my knowledge..."
- "You may not believe this but..."
- "I know that this sounds strange but..."



Non-Verbal Indicators

Truthful person

Appears at ease

Good eye contact

Sincere expressions

Sits upright/leans forward

Sits still or changes position smoothly

Arms opened

Attentive & alert

Deceptive person

Appears Anxious

Very Ridged Body

Poor eye contact

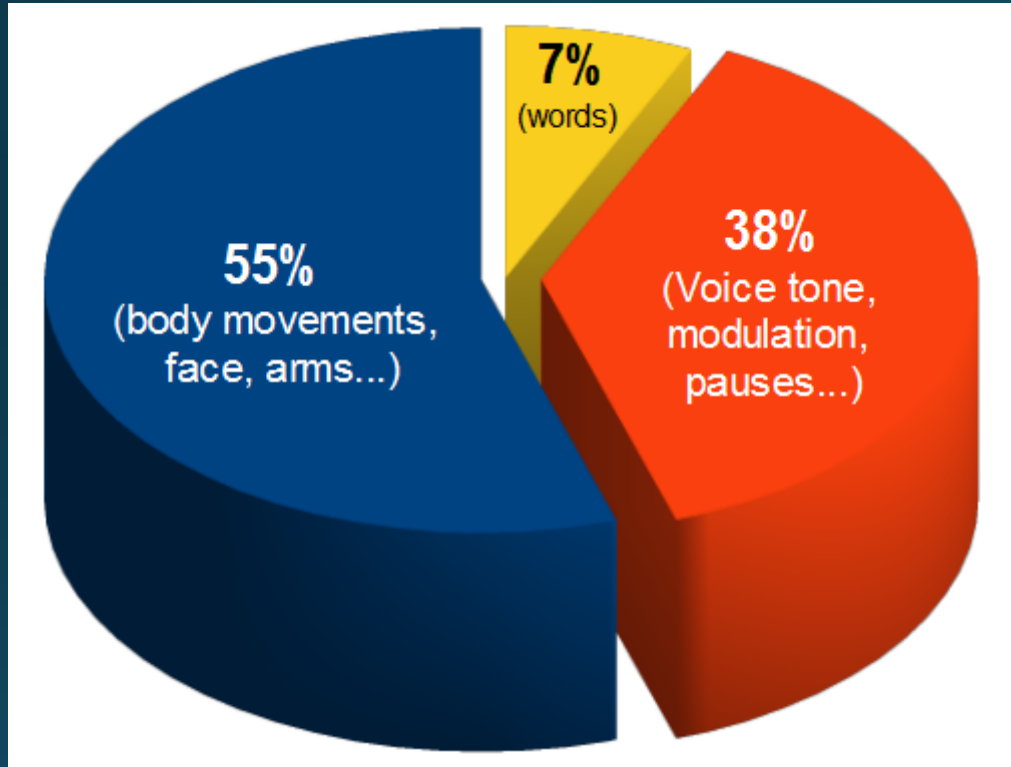
Posture Changes

Dry Mount, Swallowing

Covers Mouth

Lots of Blinking

Crossed Arms



Communication by Facial Expressions



articles-junction.blogspot.com

Recording or Video Equipment in an Interview

WARNING*:

- Know & understand the laws
- Agency policies

PROS:

- Minimizes note taking distractions
- Provides a more detailed account of the interview
- Tape can be played for court/jury- less challenges
- Aids in preparing your reports

CONS:

- Interview is discoverable
- Transcription Cost
- Your Behavior



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Questions

