

Impeachment by Prior Inconsistent Statement

Commit, Credit, Confront

Triggering Event: ANY statement that is inconsistent with a prior statement

Example¹: Q: You arrived at class shortly before 1pm?
A: No I didn't. / No, I got there just after 1pm. / I don't know.

COMMIT

1. Your testimony today is that you arrived at class just after 1pm? (Yes)
2. Your testimony today is that you did not arrive at class just before 1pm? (Yes)

CREDIT

Deposition (choose a series of applicable questions)	Statement Not Under Oath (choose a series of applicable questions)
<ol style="list-style-type: none"> 1. This isn't the first time you've been asked questions about this case? 2. You gave a deposition in this case? 3. On [date]? 4. You were asked questions at the deposition? 5. That was [#of months] after the incident? 6. That was closer in time to the events here? 7. You took an oath? 8. An oath to tell the truth? 9. That's the same oath you took here today? 10. You had a chance to review the transcript? 11. You made no changes? 	<ol style="list-style-type: none"> 1. This is not the first time you've talked about/discussed this case? 2. You gave a statement in this case? 3. A statement at [location of statement]? On [date]? 4. That was [# of weeks/months] after the incident? 5. That was closer in time to the events in this case than we are today? 6. You described the events of the [incident]? 7. You had an opportunity to review your statement? 8. You had an opportunity to make changes if needed? 9. You made no changes? 10. You signed your statement? 11. Your signature affirms it as your statement?

¹ Before impeaching by prior inconsistent sworn testimony, you should first attempt to illicit the testimony without referring to the prior statement. In-court testimony is usually better than impeachment.

CONFRONT

Deposition	Statement Not Under Oath
<ol style="list-style-type: none">1. Referring court and counsel to page [#], line(s) [#] of [witness'] deposition.2. At that deposition, you were asked the following question and gave the following answer: Question: "What time did you arrive at class?" Answer: "Just before 1pm" Did I read that correctly?	<ol style="list-style-type: none">1. Referring court and counsel to [witness'] statement, paragraph [#],2. In that statement, you made the following claim: I arrived at class just before 1pm. Did I read that correctly?