

Hearsay and Exceptions

Session Materials

Hearsay Testimony

- A statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.
- In other words: In order to prove an alleged fact, testimony about what another person said.
- Generally disallowed (inadmissible) unless it meets one of the exceptions

Excited Utterance Exception

Federal Rules of Evidence (2006) Article VIII, Court Rule 803

- Person testifying is relaying something originally said by a victim.
- Victim made a statement relating to a startling event or condition made while the victim was under the stress of excitement caused by the event or condition.
 - Document why the victim was under stress (time and proximity to crime of violence, etc.)
 - Delineate by “quotes” in the police report

Present Sense Impression Exception

Federal Rules of Evidence (2006) Article VIII, Court Rule 803

- Person testifying is relaying something originally said by a witness.
- Witness made a statement describing or explaining an event or condition made while the witness was perceiving the event or condition, or immediately thereafter.
 - Delineate by “quotes” in the police report



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Dying Declaration Exception

Federal Rules of Evidence (2006) Article VIII, Rule 804 (b) 2

- Last words of a dying person
 - Presumes that the declarant does not have anything to gain by lying
 - Declarant must believe death is imminent
 - Related to his/her death
 - He/she dies
 - Admissible in homicide and civil cases only

Statement Against Self-Interest Exception

Federal Rules of Evidence (2006) Article VIII, Rule 804 (b) 3

- a.k.a.: “Spontaneous Utterance”
- Statement made that is harmful to the person making the statement (could get them in trouble with the law - charged or sued)
- Similar to Excited Utterance, only the suspect has blurted out something incriminating.
 - Presumes one would not implicate him/herself unless it were true
 - Used to impeach inconsistent testimony or statements
 - *Remember Corpus Delicti rule!*

Child Sexual Abuse Victim Exception

Exclusive to Washington courts

- Hearsay testimony of children is allowed in certain cases
 - Presumes the child to be innocent and therefore credible
 - Must meet these conditions:
 - Related to sexual attack
 - Child under the age of 10
 - Court finds the child to be capable of receiving only impressions of the facts and relating them truthfully

Public and Vital Records Exception

Federal Rules of Evidence (2006) Article VIII, Rule 803 6-10

- Affirmed documents
 - CCDR
 - Birth, marriage, death certificates

