

Objections to Police Testimony

1. Preserving Objections

- Preserving objections (*Johnson*, 2017 UT 76, ¶ 15)
- Framing objections to the trial court (ABA Std. Def. Function § 4-1.5)
- Avoid waiving or abandoning objections
- Standing objections / objecting to each instance of improper testimony
- Grounds for objections (*e.g.*, *Lewis*, 2020 UT App 132, ¶ 17 n.2)

2. Impermissible Vouching for Credibility (Utah R. Evid. 608)

- Direct vouching (*e.g.*, *Rimmasch*, 775 P.2d 388, 391–92)
- Functional vouching—“human lie detector” (*Valdez*, 2021 UT App 13, ¶ 55)
- Anecdotal statistical testimony (*e.g.*, *Rammel*, 721 P.2d at 500)

3. Improper Expert Testimony (Utah R. Evid. 702, 705)

- Expert vs. lay testimony—“based on experience and training” (*Lewis*, ¶ 17 n.2)
- Scope of expertise / lack of expertise
- Lack of foundation/reliability (*e.g.*, *Rammel*, 721 P.2s at 501; *Lopez*, 2018 UT 5, ¶ 24)
- Expert Notice Statute (Utah Code § 77-17-13(6))

4. Improper Lay Testimony (Utah R. Evid. 602(a), 701)

- Must be based on personal knowledge & helpful (*Barner*, 2020 UT App 68, ¶ 14)

5. Hearsay (e.g., Utah R. Evid. 801-807)

- Harm from hearsay (*e.g.*, *McCray v. State*, 716 A.2d 302, 308 (Md. App. 1998))
- Objecting to potential exceptions that State may invoke (*e.g.*, Rule 801, 803)
- “Investigative exception” (*e.g.*, *U.S. v. Hinson*, 585 F.3d 1328, 1337 (10th Cir. 2009))
- Residual exception—“rare” (Rule 807; *State v. Nelson*, 777 P.2d 479, 482 (Ut. 1989))
- Hearsay within hearsay (Rule 805)

6. Irrelevant, Unhelpful, Prejudicial Testimony (Rules 401-403 & 701-702)

- Stand alone or backstop objections

7. Reports / Recorded Exhibits / Exhibits Going Back to Jury

- Exhibits going back to jury (Utah R. Crim. P. 17(k) & *Wyatt*, 2021 UT 32, ¶¶ 21–23)