

## Trial Skills for Child Welfare Cases: Laying Your Evidentiary Foundation Webcast Q & A

- Q: Is the predicate for a body cam video worn by a police officer the same as for a regular video? Do you need to call the officer to testify.
- A: Yes, the predicate for a body cam video is the same. Unless you have someone else who can identify the scene, the voices, and that the video is an exact duplicate of the original, you would need to call the police officer to lay your foundation for the video.
- Q: Is expert testimony as to the best interest of the child required when seeking to enter a child's hearsay statement?
- A: Not necessarily. You need the expert to testify that admission of the hearsay statement in lieu of testimony is necessary to protect the welfare of the child.
- Q: Does the decision in *K.C.P.*, 142 S.W.3d 574, (Tex. App.—Texarkana 2004) allow you to offer drug tests that were previously kept out over a sustained objection once a parent admits to drug use or does it only state that records that were inappropriately admitted are not necessarily reversible error?
- A: You could definitely make the argument that allowing the drug tests in after a parent's admission of use is not reversible error according to *KCP*.
- Q: Regarding threshold levels for drug testing, what are we to do with zero tolerance drug test results that return positive for a substance below the Substance Abuse and Mental Health Services Administration (SAMHSA) cutoff guideline?
- A: While some private employers may customize their drug testing panels to be more sensitive to certain drugs based upon their needs, the Department wouldn't use a test result that is below the SAMHSA cutoff guidelines. The SAMHSA cutoff guidelines are meant to provide a threshold level to account for incidental exposure.