

North Carolina Defender Trial School
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IMPROVE YOUR OPENING STATEMENTS

Ira Mickenberg
6 Saratoga Circle
Saratoga Springs, NY 12866
(518) 583-6730
iramick@worldnet.att.net

An Opening Statement Is:

- The first opportunity to communicate your theory of defense to the jury, along with the emotional themes that support it.
- It is a story.
- It is a shortened form of the story of your case -- a story of innocence or reduced culpability.
- It is like the Prologue to a play -- an introductory speech that gives the audience pertinent facts necessary for them to understand the characters and action.
- It is factual.

An Opening Statement Is Not:

- An argument.
- A road map.
- The table of contents of a book.
- An explanation of how trials proceed.
- An explanation of the burden of proof or presumption of innocence.
- A collection of buzzwords, fungible devices and gimmicks.

***If you give the same opening statement in every case,
you are doing something very, very wrong.***

Components of an Opening Statement

The Hook -- A thirty to sixty second statement that encapsulates your theory of defense and establishes the emotional theme that will make the jury feel it is right to accept your theory. This is the most important part of your opening, because it sets the tone and determines whether the jurors will listen to the rest of your statement.

Story -- The main part of your opening, in which you tell the jury the factual story of your client's innocence or reduced culpability. Your opening should not contain the entire story of the case, in all its detail. It should, however, hit the high points, and tell the jury everything that is essential to reaching the right verdict.

The Conclusion -- In which you tell the jury what you want them to do.

How to Prepare an Opening Statement

1. Know Your Theory of Defense Before You Prepare an Opening

2. Think in Terms of Telling a Story

- a. In what sequence will I tell the story? -- Put the important things up front. A good way to prepare is to ask yourself where the story should start.
- b. Who are the characters in this story? How do I want to portray them?
- c. What events and other facts are so important that I should tell the jury about them in my opening?

3. Think About Emotional Themes

- a. Ask yourself how you want the jury to feel about the case -- On a gut level, what is this case really about?
- b. What facts can you tell the jurors about the case that will make them feel that way.

4. Think About Language

- a. What words or phrases can you use that will make your theory of defense and emotional themes more powerful to the jurors?
- b. Always try to use clear, graphic language. Draw word pictures.
- c. No legalese.
- d. No exaggeration.
- e. Say what you mean.
- f. Shorter is better.
- g. Simpler is better.

5. Don't Write It Out

- a. Use an Outline.
- b. Practice.

6. Don't Do It Alone

- a. Practice before other people -- particularly non-lawyers.
- b. Ask for other people's suggestions and criticism.
- c. Follow other people's suggestions.