

# Guide to Opening Statement

**Time limit:** 5-7 minutes

**Goal:** Make it a conversation, tell the story in a natural way (organization &

- As Defense → Don't overstate "innocent" (you don't have to prove innocence, just have to create reasonable doubt of guilt (don't take on a burden you don't have when on Defense by saying things like "No evidence of liability *at all*")

## **Opening is:**

- Outline of what the evidence will show
- Storytelling:
  - Who your client is. (Don't refer to anyone on the first name basis unless they are a child/mentally challenged/invalid)
  - Strengths of your case
  - Other side's weaknesses

**Format of Opening** (but be sure to make it flow and not sound like an outline)

- I. Hook
- II. Headline
- III. Introduction/Personalize your client
  - a. *"As you remember from jury selection, my name is (Your first and last name) (client name)..."*
- IV. Story/ Witnesses/ Elements
  - a. Weave witnesses into the story, but don't give away what the witness is going to say exactly – give a teaser of what they'll clue the jury into.
  - b. Remember to weave hook into story
- V. Burden of Proof
  - a. Address who has it (if you have it "welcome the burden" and make it sound lighter/easy to meet in this case b/c of the evidence, if you don't, make it sound heavier)
- VI. Conclusion/ Restate Hook (make it flow naturally)
  - a. Tell the jury what you want them to do
    - i. **Prosecution always ends with:** *"At the end of trial today, we ask that you find the only conclusion that the evidence supports and that justice demands...find the defendant guilty."*

## **General Notes:**

- Opening cannot be argumentative!
  - Argumentative = Making conclusions about what's happening (Ex. "Evidence will show he's lying")
- Memorization/Techniques:
  - Rule #1: Make it sound natural!
- Technique from preparation:
  - Write it out on paper and practice, but sound natural (if you find that you cannot, abandon this method! Sounding natural trumps everything!)
  - You **HAVE TO know and understand the whole case**, not just your parts!
    - Look to the elements and be able to justify everything you do throughout the case

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- Don't look at the other side when they are doing opening, pretrial, or closing. Take notes and give them no signs that they have you "captivated."

### FAQs

#### **Q: Should I move around when I'm talking?**

**A:** *Yes, but only if your movements are purposeful*

*Ex. of purposeful movement: Talking about your client? Move towards/point to/put your hand on the shoulder of your client*

- *In Federal court: Podium is used, so be within arm's length (from anywhere around it)*
  - *Housekeeping may allow moving freely around the courtroom*
  - *Must get judge's permission...it is their courtroom!*

#### **Q: Where do I put my hands?**

**A:** *Where they look natural! **BUT NOT:** behind your back, in your pockets, doing anything fidgety*

#### **Q: How do I keep the jury interested?**

**A:** *There are many techniques, think of how you make a story interesting when telling a friend (but be more formal, of course).*

*Some examples are:*

- *Voice inflection (Ex. If you are a soft talker, get loud during important/vital info; if you're a faster talker, slow down; use pauses effectively)*
- *Purposeful movement*