

# DELIVERING AN EFFECTIVE OPENING STATEMENT IN A CHILD ABUSE CASE

The opening statement is an opportunity to present to the jury the potential highlights of the prosecution's case. Preparation is the key to an effective opening statement. A thorough understanding by the prosecutor of the facts and issues of the case is essential.

It is important for the prosecutor to write an outline of the opening statement and use it to prepare. The prosecutor needs to make sure the facts presented to the jury are organized in a relevant way and flow nicely. Relating the proposed evidence in chronological order is usually the most effective and easy-to-follow way of introducing the facts to the jury. The prosecutor should use the outline to properly prepare the opening statement. The prosecutor though should resist the urge to hold a notepad when delivering the opening statement. Consistently glancing down at a notepad or outline during the opening statement can be distracting to jurors.

In preparing an opening statement, developing a theme and theory is the first step for engaging the jury's attention and making the opening statement easier to follow and understand.

In a child abuse case, the themes may vary but some common themes may be grooming and manipulation, authority figure abuse, or a targeted neglected child. Developing the right theme in an opening statement and weaving this theme throughout the prosecution's case to closing argument can be strategically effective.

Define the theory of the case concerning how the defendant perpetrated the crime.

In child abuse cases, the prosecutor has an opportunity to convey in an opening statement the facts of the case to the jury as the child experienced it. In particular, the use of sensory details can be effective. For example, the prosecutor in an opening statement can relay to the jury at the time of the abuse what the child victim touched, what she smelled, how it tasted, what she saw and heard.

It is not effective in an opening statement to simply state for the jury a list of potential witnesses and a summary of what their expected testimony will be. It is much more interesting and effective to attempt to engage the interest of the jury with sensory details of the abuse. For example, the statement "the defendant opened the bedroom door and climbed on top of her" is not as detailed and sensory as "the child heard the creak of the doorknob, heard his footsteps on the hardwood floors, and felt the heaviness of his body as he climbed on top of her. A powerful smell of cigarettes overwhelmed her."

One issue that faces the prosecutor is how to address challenging facts in the opening statement. For example, if there is a delayed disclosure or recantation in the case, a decision on how to address this matter in opening statement needs to be made by the prosecutor. The prosecutor has an opportunity here in the opening statement to bring attention to and explain challenging facts before the defense introduces the challenging

facts in the defense opening. For example, “You will hear from Suzy that she disclosed about the sexual abuse by her mother’s boyfriend four years after the abuse. It was at that time her mother’s boyfriend moved out of the house and Suzy felt comfortable to disclose.”

The prosecutor should not underestimate the importance of presence and diction in an opening statement. Be loud and be clear. Do not rush through the opening statement. The prosecutor should take a moment, after a particularly sensitive aspect of the opening statement, for a short pause and let the jury contemplate what was said.

The prosecutor should make eye contact with the jury if possible, but always be respectful of the physical boundaries between the prosecutor and the jury box.

At the conclusion of the opening statement, the prosecutor should thank the jury for their attention and not forget to tell the jury that at the conclusion of the evidence he or she will be back in front of them asking them to return a verdict of guilty against the defendant on all charges.

#### TIPS:

- Be thoroughly prepared
- Do not read your opening statement to the jury
- Be confident and clear
- Develop a theme and theory
- Use sensory details to relay facts of the case
- Address challenging facts
- Do not argue but deliver opening statement in a persuasive manner



#### References:

Champagne, F. (2018, November). *5 Tips for Engaging Opening Statements*. American Bar Association. Retrieved from <https://www.americanbar.org/groups/litigation/committees/trial-practice/practice/2015/5-tips-for-engaging-opening-statements/>

Contact the Association of Prosecuting Attorney’s Child Abuse Prosecution Project at [www.APAInc.org](http://www.APAInc.org) or at [www.childabuseprosecution.org](http://www.childabuseprosecution.org) for additional information concerning child abuse prosecution training and materials.