

DELIVERING AN EFFECTIVE CLOSING ARGUMENT IN A CHILD ABUSE CASE

A truly effective prosecutor will be “closing” the entire trial. From voir dire to direct and cross-examinations, the questions and arguments put before a jury should reinforce the theory of the state’s case. The closing argument, then, should be viewed as a prosecutor’s last chance to clarify issues and attack the defenses put forth in the trial. “An effective closing argument should attack the serious problems in a case and put them in the most favorable light for the judge or jury. Merely reviewing the evidence does not attack, analyze, or solve the real issues that must be resolved by the fact-finder.”ⁱ



How should a prosecutor structure an effective closing argument? “Closing argument is the time to integrate the component pieces of the trial into a finished product; to give perspective, meaning, and context to the evidence introduced throughout the trial; to weave the sometimes disparate and conflicting pieces of evidence into a clear statement that explains what transpired and who is responsible.”ⁱⁱ Instead of just reviewing what each witness said, closing is the time to weave all of the testimony into a single narrative. Think of each witness’ testimony as a single episode in a television series, and the closing argument is the time to explain what the series [as a whole] was all about.

It is important to address the defenses that were raised throughout the trial. To ignore them completely lends credence to their validity. However, a prosecutor must also be cognizant not to waste time chasing down every wild theory put forth by a defendant. One of the most critical jobs a prosecutor will have during the entire trial, and especially during the closing, will be to refocus a jury on the big picture of what occurred, not the minutia the defense will attempt to exploit. Perhaps the police did not collect every piece of evidence fathomable at the crime scene. But does that affect the case as a whole? Highlight the reasons why, when viewed [as a whole] and not individually, a defendant’s guilt has been proven beyond a reasonable doubt.

Discussion of the law and discussion of the facts are not mutually exclusive. When reviewing the legal concepts or the elements of an offense, a prosecutor should continually weave the facts produced at trial to demonstrate how the facts apply to the law. For example, simply saying, “the testimony of a single witness under the law is sufficient to establish a fact,” maybe a correct statement of the law, but not an effective one. However, the following would be much more effective: “The judge is going to tell you that the testimony of a single witness if believed, is sufficient to establish a fact. What does that mean? It means that if you believed Jane when she took the stand in front of a room filled with strangers, when she looked all of you in the eyes, when she broke down crying when she trembled as she told you in excruciating detail what the defendant did to her – if you believed what she told you as being true, then the state has met its burden of proof.”



Tips

- **Perception is key.** Always strive to maintain credibility with a jury throughout a trial. If jurors learn to trust what you say, they may be more inclined to side with the state on close issues. However, if the prosecutor is perceived to mislead jurors, that lack of trust will undoubtedly affect the way they receive the final arguments.
- **Visual aids.** Remember that people learn in different ways. Some jurors may be audial learners, while others may be visual.
 - Utilize PowerPoint or other presentation software to highlight important facts or legal arguments that you want a jury to remember.
 - Photographs and videos always have a powerful evidentiary value. Even if they do not depict the abuse itself, they may aid the jurors in understanding the case in more depth. For example, utilizing photos of the home may aid jurors in understanding and visualizing the placement of the parties, thereby allowing jurors to focus on your arguments versus attempting to form their own visualization.
 - Timelines are especially helpful when dates are important. They can help explain delayed disclosures, multiple offenses, and highlight the consistency of a child's narrative over time.
- **Real-world examples explain complex legal terms.** It is difficult for jurors to grasp legal principles, like reasonable doubt and the burden of proof. The most effective way to quickly explain those complex legal tenets is to formulate a real-world example that easily allows jurors to draw comparisons to everyday applications. This is necessary because child abuse cases often come down to a jury's understanding of proof beyond a reasonable doubt.
- **Draw upon well-known cases.** Many times, the issues present in child abuse cases are complex ones, involving issues such as delayed disclosure, secrecy, power differentials, offender manipulation, recantation, and complex family dynamics. Often, jurors simply cannot fathom child abuse or do not want to believe that it occurs in society. Pointing out well-known cases can assist in reminding jurors that just because a defendant looks or acts a certain way in public does not mean they cannot commit these crimes behind closed doors.
- **Righteous indignation.** A prosecutor should never shy away from providing a passionate closing argument. These cases are among the most abhorrent in our society. A certain degree of righteous indignation is appropriate to convey the seriousness of the crime.
- **Remind the jury to care.** A closing argument should always end with a reminder about why jurors should care. It is their duty to follow the law, and it is their duty to hold offenders accountable if the state has met its burden of proof. Jurors should realize the profound effects these crimes have on child victims and their families. Because of what an offender did, a victim may not have a happy childhood. Because of what an offender did, a victim may continue to experience repercussions throughout his or her life. And if jurors are truly seeking the truth, and not seeking doubt, then they will not be telling a defendant something that he or she does not already know –a defendant is guilty of the crimes charged.

Contact the Association of Prosecuting Attorney's Child Abuse Prosecution Project at www.APAInc.org or at www.childabuseprosecution.org for additional information concerning child abuse prosecution training and materials.

Visit the [Child Abuse Library Online \(CALiO™\)](#) to access the latest research on suggestibility. Or contact the National Children’s Advocacy Center, Digital Information Librarian, Muriel Wells, at mwells@nationalcac.org for assistance.

ⁱ Seckinger, J. H. (1995). Closing argument. *Scholarly Works*. Paper 11, Notre Dame Law School. 51-86.

ⁱⁱ Caldwell, H. M., Perrin, L. T., Frost, C. L. (2002). The art and architecture of closing argument. *Tulane Law Review*, 76, 961.