

How to Write a Defense

Opening Statement for a Mock Trial

THE INTRODUCTION:

Good morning, my name is Ralph Jurgensen, and it is my pleasure to represent so and so on this very important case. The defendant stands here falsely accused of _____, a very serious crime. At the conclusion of the case we will ask for a verdict of not guilty.

THE THEME:

Ladies and gentlemen of the jury, this case is about... [mistaken identity] or [a person who acted out of self-defense] or [a person who mentally ill and didn't know what he was doing]. *[It can often be hard for a mock trial student to think of a theme. However, there are a limited number of defenses an accused party can use. Either the defendant was mistaken for another, was forced to act out of self-defense, was insane or suffering from diminished capacity, or perhaps committed a crime but just not the specific crime that the prosecutor alleges.]*

CONTRADICT THE STATE'S THEORIES:

The prosecution hopes that their witnesses will say.... However, in fact the testimony will show... *[Remember in a trial, the prosecution gives their opening statement first. The prosecutor will outline his or her case and will accentuate the positive or only highlight the points of the case that helps get a conviction. In every mock trial packet there are inconsistencies in the case or facts that help the defense. You need to be prepared to list all the evidence that helps you in your opening] For example: Ladies and gentlemen of the jury, the state has claimed that they have an eyewitness who identified my client as the burglar. However this supposed eyewitness really has poor vision, and it was very dark out on the night in question.*

or

Ladies and gentlemen of the jury, the state has claimed that my client confessed to killing Mr. Jones, however, my client was coerced and threatened by the police.

or

Ladies and gentlemen of the jury, the prosecution has indicated that my client's fingerprints were found on the crime scene. However, there is a legitimate explanation for this. My client was employed as a caretaker for the premises just 6 months prior.

or

Ladies and gentlemen of the jury, the prosecution has explained that three witnesses saw my client stab the defendant. However, what the prosecutor didn't say is that my client

suffers from mental illness. He was literally out of his mind that day in question, and we have an expert witness who will testify that my client is insane.

SUMMARIZE EACH WITNESS:

Ladies and gentlemen of the jury, the defense will call three witnesses to the stand, the first witness will testify that she was with my client on the night in question, and my client wasn't even near the town of Springfield where the crime is alleged to have occurred. Our second witness is so and so, and he will testify that my client had no motive to commit the burglary because my client was gainfully employed, and is a person of honest character.

or

Ladies and gentlemen of the jury, the defense will call two witnesses to the stand. First will be Mr. Johnson who will testify that he observed my client on the night of the altercation, and Mr. Johnson will testify that my client was clearly provoked, and only struck the alleged victim after he was threatened. Secondly we will call Dr. Smith to the stand to testify that she was employed as an emergency room physician on the night of the incident. Dr. Smith will testify that she treated the alleged victim for a fracture and she noticed that the alleged victim was highly intoxicated when he came into the emergency room.

[Whatever your case is, or what your defense is, you will want to summarize what each witness is expected to say.]

CONCLUSION:

At the conclusion of the case we would ask you to find that my client is innocent. The state has not met its burden of proof, and we would ask for a verdict of not guilty. Thank you.