

Table of Contents

HOW TO BEHAVE IN COURT 2

PRESENTING THE CASE 3

 Opening Statements 3

 Direct Examination 4

 Cross-Examination 5

 Objections - and How the Attorney Can Use Them 6

 Closing Arguments 8

PREPARING THE DEFENSE CASE 10

 Preparation 10

 Delivery 12

 Closing Statement 12

PREPARING THE PROSECUTION CASE 13

 Preparation 13

 Delivery 14

 Closing Statement 15

GLOSSARY 16

How to Behave in Court

Do's	DON'TS
Be polite at all times to everyone in Court.	Never show disrespect for the Court.
Be ready to introduce yourself and your role if asked to do so by the Judge.	Never turn your back on the Court.
Prepare. Show up for court as early as possible so that you can prepare your case.	Do not walk around while questioning the Defendant, unless approved by the Judge.
Always rise when addressing the Court.	Do not lean or slouch.
Keep your distance from the Jury box and the witness stand.	Avoid too many gestures, ummms or aaaaaahs.
Speak loudly and clearly. Neither the Judge nor the Jury wants to strain to hear you.	Never show surprise or anger.
Speak slowly and deliberately. Relax. Take your time. If you are going too slowly, the Judge will tell you to speed up.	Do not hold on to your notes.
Look interested; if you look bored, so may the Defendant and the jury.	Don't underestimate the intelligence of the jury.
Make eye contact with the Defendant.	Don't attack or argue with the Defendant.
Use simple language. The Defendant should understand your question the first time you ask it.	Don't try to confuse the Defendant.
Ask closed questions to confirm information.	Don't ask "why" questions.
Avoid asking repetitive and unnecessary questions.	Don't ask questions for which you can't anticipate the answer.
Be sure you understand the Defendant's answers. If you didn't understand, the jury probably didn't either, so ask a follow-up question.	Don't ask or permit the Defendant to repeat their story once it is given.
Address your objections and arguments to the Judge, not opposing counsel; it is the Judge who will rule on them.	Never argue with the opposing counsel. You can be firm, but be polite. Juries do not like rudeness.
If opposing counsel makes an objection, stop and let the Judge make a ruling.	
Listen to the Defendant's answers.	
Be flexible if you get an unexpected answer.	
Pace yourself so that the jury can keep up.	
Stop when you are done.	
Have fun!	

Presenting the Case

Opening Statements

The opening statement (introduction) is a valuable opportunity to provide an overview of your case to the jury and to explain the facts that will be presented during the course of the hearing.

The primary purpose of an opening statement is to explain to the jury the issues in the case and to provide a summary of the evidence that will be presented during the hearing. This allows the jury members to be prepared to hear the evidence and be better prepared to understand it.

Studies have shown that 80% of jury members' final opinion with respect to their deliberation began after the opening statement.

Preparation

Consider all of the facts that the jury needs to hear. These facts should support the position as Defense Attorney (explaining why the Defendant was driven to commit the offense) or the Prosecution (explaining why the Defendant chose to commit the offense). Think carefully about what the opposing counsel might present as facts and how your facts will explain the opposite.

Strategy

The Opening Statement is your opportunity to "set the stage" for what the jury will hear. Make your presentation forceful, believable, and logical. The Defense explains the Defendant's story from their point of view, and the Prosecution presents the State's case from the Peoples' point of view. Do not present anything that will not be supported in the facts forthcoming in the hearing. The attorney who delivers the Opening Statement should also deliver the Closing Argument. This way the jury hears first what will be proved, and later what has been proved.

Delivery

Look friendly and composed while addressing the jury. Try to make eye contact with each juror as often as possible. It's alright to glance at the outline occasionally, but try not to leave the impression of reading it. Occasionally, point to the Defendant (with an open hand – never just a finger) for emphasis, meaning "this is what the Defendant is saying and feeling" for the Defense, or "this is what the Defendant's intentions were" for the Prosecution. Make your delivery short and to the point. Don't bore the jury or delay the hearing.

Closing

Make a brief statement in closing. Emphasize this is what your side will present as facts. Look into the eyes of the jury and give a friendly smile. Then thank the jury for their time and interest in this case. Tell the judge, "Nothing further, your honor."

Direct Examination

Direct Examination is the process of getting information from the Defendant in a clear and logical order (the observations and activities of the Defendant), so that each Juror understands, accepts and remembers the testimony.

The purpose of direct examination is to expose the facts of the case to the jury. Research shows that juries will remember the information that they hear first and last. So this round of questioning is as important as the closing arguments.

Strategy

There are two techniques to choose from for Direct Examination.

Narrative Technique

If the Defendant is able to tell their story with only limited guidance, the Defense Attorney may choose to open direct examination with this technique. The Defendant should appear calm and comfortable with the idea of having to be on the witness stand.

- Ask the Defendant to tell their story first.
 - When properly prepared, they will need to answer only a few open questions.
- If an important point is missed, ask some specific questions.
 - If that doesn't work, ask the Defendant to refresh your memory.

Direct Questions Technique

For a Defendant who needs a lot of guidance to tell their story, this method may be a better choice. The Defendant might be very emotional, nervous, or just not able to explain themselves clearly.

- Explore the Defendant's background.
 - The Defense will want to find positive information to support their request for a lighter sentence.
 - The Prosecution will want to find negative information to support their request for a more severe sentence.
- If the Defendant is unable to tell their story without guidance, use short, closed questions like:
 - Who was there?
 - What was said?
 - Where was it said?
 - How much did he want?
- Ask about the scene first so the jury can picture it.
- Then ask questions to establish the timeline of events; ask what happened first, then what happened next... and so on.

Cross-Examination

Cross-examination is the process of asking questions after direct examination by your opponent. It must be limited to facts uncovered during direct examination.

The purpose of cross-examination is to undo any damage done to your position during direct examination. Damage may have been done by objectionable questions and answers or by damaging evidence. It is your chance to change the Jury's impression of your opponent's position. Either attorney can make their opponent's position seem confused or less believable.

- Make a deliberate decision whether to cross-examine. It may not always help your case.
- Choose only a few points to address.
- Make your strongest points at the beginning and at the end.
- Vary the order of your points; don't go logically, go back and forth.
- Closed, leading questions are most effective for cross-examination.
- Asking for repetition and additional details often strengthens the other side's case.
- Do this only if facts brought out have been contradicted.
- Asking trick questions usually doesn't accomplish much, and may create sympathy for the Defendant.
- Listen to what the Defendant says to get ideas for your closing argument.

Objections - and How the Attorney Can Use Them

Reasons for Objecting

- To protect the Defendant from harassment or embarrassment.
- To exclude improper evidence.
- To expose opposing counsel's unfair tactics.

When to Object

- Object as soon as the question is asked.
- If the question is answered before you can stand and object, object and then move to strike the answer for the appropriate reason.

How to Object

- Stand up quickly.
- State the objection in a firm, loud voice.
 - Example: "Objection Your Honor, leading the witness."
- If necessary, cut into the answer of the Defendant.
- It is best not to put any dramatics into your standing or into your voice.

Definitions of Objections

Ambiguous and/or Unintelligible

Defendant and/or counsel cannot figure out what the question means.

Very important that the question be properly stated so the Defendant will give the correct answer, rather than an attempted answer.

Asked and Answered

Used when the question has already been asked and has been answered by the Defendant. This is important when opposing counsel has not spent time listening to the answers of the Defendant. Repeated answers slow the court process.

- Example: "What grade are you in?"

Argumentative

Permits opposing counsel to badger your Defendant into changing their story even though they may not mean to do so.

Assumes Facts Not in Evidence

Question may trap the Defendant into affirming the truth of the assumed fact, without their meaning to do so.

This type of questioning usually begins with "Do you know ...?", "Have you heard...?" or "Do you remember...?"

Beyond the Scope of Direct-Examination

Used when opposing counsel wants to present information that was not presented during Direct Examination. This usually happens when opposing counsel discover they forgot to present something to the Jury and now want to make the Jury aware of it.

- Example: "Did you actually have \$25.00 in your pocket when you stole the CD?"
This objection is to be used during the Cross-Examination portion of the hearing.

Calls for Speculation

Questions that ask the Defendant to guess an answer without other parties being present to confirm the answer. This is allowed for such things as time, distance etc. However, the thoughts or motives or another person cannot be answered by the Defendant.

- Example: "Do you think your friends wanted to break into the house also?"

Compound Question

If forced to answer the question, the Defendant may answer one part not meaning to answer the other part. However, if the answer is permitted to stand, it will cover both sections of the question.

- Example: "Isn't it true that you were drinking a beer on the beach, and someone said you were harassing the public with name calling?"

Irrelevant

Used when the opposing counsel wants to bring up facts that are not directly involved in the offense. The answer from the Defendant has little or nothing to do with the offense. The question is unconnected with the case.

- Example: "Do you keep your bedroom neat and clean?"

Leading

Question suggests or encourages a particular answer from the Defendant. This is not allowed during Direct Examination, but is allowed during Cross Examination. Attorneys should be cautioned to be aware of the proceedings in the court.

- Example: "You really want to change your life and stop stealing?"

Closing Arguments

The closing argument is the last time attorneys get to talk to the Jury. It is the wrap-up of the hearing and the last chance to explain to the Jury why each position is the right one.

The purpose of the closing argument is to review the important facts for the Jury. Refresh their minds by presenting the facts and position in a logical pattern that will be accepted and believed by the Jury.

Preparation

- Do not write out your whole closing argument and try to memorize it.
- Use a written outline with a logical structure.
- Prepare a blank sheet with the headlines in BIG PRINT.
- Here is a possible outline:
 - Introduction – thank the Jury for giving their time and attention. Explain the issues of the case briefly.
 - Who – remind the Jury of who was involved.
 - Where – remind the Jury where the offense happened.
 - What – remind the jury of what happened, from the beginning to the end.
 - Opposing Point of View – explain what the other side said/will say and explain why you are right.
 - Highlight any hard to believe points from the opposing case.
 - Your Point of View
 - Acknowledge any weak points in your own case and explain why they are not so important.
 - Instructions – state your recommended sentence.
 - Conclusion – stop at a strong point and thank the jury again, then return to your seat.
- At the end of cross-examination, add material from the hearing to your outline.
- Change anything that needs to be changed because of testimony or events that you did not prepare for.
- Combine the facts uncovered in the hearing, along with the arguments presented.

Strategy

- Argue only the facts. Include instructions to the jury along with the facts.
- Convince the jury that the sentence requested is the one they should return.
- Avoid personal opinions.
 - For example, stay away from “and based on the facts I think a sentence of X is appropriate.”
 - Instead, try “and based on the facts, you can find a sentence of X to be appropriate.”
- Use analogies or short stories if appropriate. Keep them short and to the point.
 - For example: “Two wrongs do not make a right.”
- Use rhetorical questions. Try to put yourself in a juror’s shoes. What would they be wondering? Ask the question, and then answer it the way you want it answered.
 - Example: “You may be thinking that this is a shame. And you know what? You’re right, it is a shame.”
- Argue your own strengths. Do not focus on the opposing counsel’s weaknesses. Pointing out only the opponent’s weaknesses makes one look like a bully.
- Volunteer your weaknesses. There are some things that are so bad for your argument that the opposing counsel will be sure to raise them in their closing argument. If you tell the jury, especially before your opponent does, you will look more believable.
- Shorter is better. Juries have a limited attention span. Focus only on what is important to support your position. Keeping out unimportant information will help keep it shorter.

Delivery

- Deliver the closing argument logically and confidently, recapping the important points of the whole case.
- Use a friendly, conversational tone.
- Appeal to the emotions of the Jury.
- Look the Jury in the eye to keep their attention.
- Glance down at your outline, but don’t give the impression of reading it.
- State clearly and slowly the sentence you are recommending.
- Close by thanking the jury for their time and attention.

Preparing the Defense Case

Explain to the client how the session will proceed:

- There will be a long wait before the client's case will be called.
- The client and defense attorneys will enter the courtroom together and sit at the counsel table together.
- The Judge will ask the client to move to the witness stand and be sworn in.
- The Prosecuting Attorney will ask questions about the offense, then the Defense will have an opportunity to ask questions.
- The Prosecuting Attorney may then ask some more questions that will be followed by the Defense Attorney. This is Cross-Examination.
- The Judge will tell the Jury what to do and the Jury will leave to decide on the punishment. The client will be asked to leave the courtroom with their parents while the Jury deliberates.
- When the Jury has finished, the client will be returned to the same table with the Defense Attorneys. The client and their attorneys stand while the Jury reads the punishments.
- The client will be asked if they understand the sentence. If the client doesn't understand they should say so, or wait until one of the Youth Court Coordinators goes over the punishments right after court.

Preparation

Your Focus: Mitigating Circumstances

These are conditions or happenings which do not excuse or justify criminal conduct, but are considered out of mercy or fairness in deciding the degree of the offense the prosecutor charges or influencing the reduction of the penalty upon conviction. For example, a boy fights with another boy after months of being pushed, taunted, ridiculed and injured.

Mitigating factors are any evidence presented regarding the Defendant's character or circumstances of the crime, which would cause a Jury to seek a lesser penalty.

Mitigating factors may include:

- The absence of any prior record or conduct
- The Defendant was under extreme distress or emotional pressure.
- The dress outside influence played in the criminal act.
- The degree the Defendant felt he had no other choice but to commit the act.
- The age of the Defendant.
- The degree in which the Defendant participated in the crime.

Get to know your client!

- Always learn and use the first name of the Defendant. The Defense Attorney speaks on their behalf so it should be personal.

Get to know the facts about the offense.

- Think about the cause(s) that brought about the offense. The Defendant did what he/she did for a reason.
- Discuss what was going on before the incident took place. Some of these answers might tell why the incident took place.
- Find out what happened during the incident. Be sure to take notes, not questions at this point.
- Find out what happened after the incident? Was there an arrest, school punishment, home punishment, embarrassment, etc.?
- Ask how the Defendant feels about the incident AND being in Youth Court.
- Restate the entire incident from your notes to the Defendant.
- Ask the Defendant to point out any errors or misunderstandings. You're still not ready to start preparing the questions yet. Get the story correct in your own mind. This will help should the Prosecution bring up something that damages your case. If you know and understand the story you are in a better position to bring it up again in Cross Examination and reduce the effect on the Jury.
- Look for details that might impress the Jury to lessen the punishments for the Defendant. The Defendant has already pleaded Guilty so you're not trying to "get the Defendant off". You're trying to get the Jury to see the incident from the Defendant's point of view.

Preparing your Opening Statement

Briefly describe the position that you will take on behalf of the state.

- What will you prove about the Defendant and their offense?
- Thank the jury in advance for their attention and efforts.

Preparing Your Questioning Strategy

- Consider which of the 2 styles of Questioning (Direct or Narrative) described in the previous section will work best for your case, and with your Defendant.
- Decide what questions you can ask the Defendant that will bring out all the facts you want the Jury to know about this incident.
- Group your questions so that they help the jury:
- Get to know about the Defendant
- Understand the offense
- Understand any other punishments the Defendant has experienced.
- Write your questions in big letters on your notepad so that you can glance down at it to remind you where you want to go next, but look at the Defendant when asking a question.

- REMEMBER: Everything must be entirely honest. The Defendant is under oath. Make every question fit this case.

Delivery

- Address the Defendant by name.
- NEVER read your questions directly from the notepad.
- If you're nervous and have totally forgotten what you wanted to say, pause for a moment as if you are checking your notes, or turn to the Judge and ask, "Your Honor, may I have a moment?" Then go back to the table and quietly ask your co-attorney if they remember what you were looking for. Of course, you can only do this once, so write your questions in a way you can best recall them, yet not READ them.
- Feel free to look first at the Defendant then at the Jury as you ask the question.
- Don't ask your client anything that will make them look bad.
- Keep it simple; focus on those questions your client can answer easily.
- If you want the Defendant to "explain" something to the Jury, then use your open hand to point to the Jury. (Don't be rude and just use a finger.)
- Listen carefully to the answer the Defendant gives. It may not be what you want. Re-state the question, or ask another that goes along with the question you just asked. Don't just go on to the next planned question.
- Make notes of the things the prosecution says that you want to refute in your Re-Direct or Closing Argument. Keep your questions in logical order.
- Always return paperwork to the Court Clerk at the end of each hearing.

Closing Statement

- Always be listening to the questions of opposing counsel and the Defendant's answers.
- Take notes while the opposing counseling is examining.
- Focus on the answers given by the Defendant that strengthen your case to the Jury. These facts should support your request to give the Minimum number of Community Service Hours and the Minimum number of Jury Duties for this offense.
- Make your facts support the type of punishments you will be asking for.

Preparing the Prosecution Case

Preparation

Your Focus: Aggravating Circumstances

These are any activity or persons which add to the crime or offense which increases its guilt or adds to the injury of the crime beyond the parts and effect of the crime itself. Sometimes aggravating circumstances can be considered with the intent of the Defendant. For example, a girl makes a list of things to steal in a store before committing the robbery.

Aggravating Circumstances may also include:

- The history of the Defendant's record and conduct.
- The aggressiveness of the Defendant in the commission of the crime.
- The degree others were influenced by the Defendant to commit the crime.
- Prior planning of the crime by the Defendant.

As the Prosecuting Attorney you are limited in what you know. You must rely on the Summary Information provided by the Youth Court office. Organize this information into a logical, sequential format. It's not time yet for writing out specific questions. Make notes on your notepad.

First, learn about the Defendant so that later you can create a picture of the Defendant for the Jury.

- Be sure you know his/her age, grade, and school.
- Where do they live?

Next, explore the offense itself.

- Was it planned? When? Why? How? By Whom?
- Then, follow up with the arrest and punishment.
- How severe was it and by whom?

Discuss with your co-attorneys how the Defendant benefited had he/she not been caught.

Opening Statement

Briefly describe the position that you will take on behalf of the state.

- What will you prove about the Defendant and their offense?
- Thank the jury in advance for their attention and efforts.

Questioning Strategy

Remember, this is a separate case from all others. Make sure the questions you choose fit this case.

- Write your questions down in large print so that you will only need to glance at them while questioning the Defendant.
- Include questions to uncover:
 - Things you could not find out from the information you were provided
 - If the offense was committed with a group, ask about peer pressure
 - Ways this crime affected others, especially the Defendant's family
 - Has the Defendant learned a lesson as a result of this arrest?
- Look for all the facts that will influence the Jury to return with a STIFF punishment so that others will not want to commit the same offense.

Delivery

- Always rise whenever you address the Judge or the Jury
- Never read the questions directly from your notepad.
- Always address the Defendant by his/her first name and make eye contact.
- Make eye contact with the jury; you are representing the State and you want them to feel you are asking the questions they would like to ask.
- Open Direct Examination by saying, "John/Joan, you have been charged with (insert offense) and admitted guilt. Is this correct?" My name is (insert name) and I am the Prosecuting Attorney for this case."
- If age, grade, and school haven't been mentioned yet, begin there.
- If it's already been mentioned, and you want to make a point of his/her age, begin by stating something like:

"I understand you are xx years old in the XX grade at XHS."
- Ask about the people he/she associates with there. What do they do together? Remember, you are trying to draw a picture of the Defendant for the Jury.
- If you get nervous and forget what you were going to say, pause as if you were examining your notes, or turn to the Judge and say, "Your Honor, may I have a moment?" Go back to the table and ask your co-attorneys if they remember what the note meant. Don't expect to use this technique more than once.
- Use gestures to point out what you want the Jury to focus on.
- You represent the community. If you want to stress a Defendant's answer, repeat it for the Jury. However, don't do this too often as the Court will think you can't hear.
- If Defense enters conflicting information which deflates your presentation you will want to be ready to re-direct with the facts already stated by the Defendant.

- Be sure someone at the Prosecution table is taking notes as the answers are now the facts.
- This is where your team will focus to create questions for Cross Examination and Re-Direct and the Closing Statement.

Closing Statement

- Always be listening to the questions and answers.
- Take notes while the opposing counseling is examining.
- Focus on the answers given by the Defendant that strengthen your case to the Jury. These facts should support your request to give the Maximum number of Community Service Hours and the Maximum number of Jury Duties for this offense.
- Make your facts support the type of punishments you will be asking for.

Glossary

Advocate

To speak in favor of; one who supports or defends a cause; one who pleads in another's behalf.

Aggravating Circumstances

Any circumstance attending the commission of a crime or tort which increases its guilt or enormity or adds to its injurious consequences, but which is above and beyond the essential constituents of the crime or tort itself.

Ambiguous

Liable to more than one interpretation; uncertain or indefinite.

Bailiff

Court officer responsible for maintaining order in the Courtroom.

Closing Statement

Final arguments made by Defense and Prosecuting Attorneys to the Jury in order to convince them of the guilt or innocence of the accused.

Compound

To combine so as to form a whole; a combination of two or more elements or parts.

Confidential

Communicated or effected secretly; entrusted with the confidence of another.

Contradictory

To express or assert the opposite of (a statement; to deny the statement of; to be inconsistent with; to utter a contradictory statement.

Court

The building, hall, or room in which cases are heard and decided; the regular session of a judicial assembly.

Court Clerk

Prepares all documents for judicial proceedings.

Cross Examine

The questioning of witnesses for the opposing side during a trial or hearing.

Cumulative

Enlarging or increasing by successive addition.

Defendant

One against whom an action is brought.

Defense

Something that defends or protects; an argument in support or justification; the action of the Defendant in opposition to complaints against him/her.

Defense Attorney

Lawyer responsible for representing the accused.

Deliberation

Formal discussion and debate of all sides of an issue; thoughtfulness in action or decision; careful and thorough in deciding or determining.

Demeanor

The way in which one behaves or conducts oneself.

Distortion

A factual misrepresentation.

Extenuating Circumstances

Such as render a crime less aggravated, heinous, or reprehensible than it would otherwise be, or tend to palliate or lessen its guilt. Such circumstances may ordinarily be shown in order to reduce the punishment or damages.

Evidence

The data on which a conclusion or judgment may be based; the documentary or verbal statements and material objects admissible as testimony in a court of law.

Hypothetical

To SUPPOSE; an explanation accounting for a set of facts that can be tested by further investigation. THEORY; something considered to be true for the purpose of investigation or argument: ASSUMPTION; of, relating to, or based on a hypothesis; contingent; conditional.

Impeach

To challenge or discredit.

Imply

To involve or suggest by logical necessity; to say or express indirectly.

Inadmissible

Not admissible. OBJECTIONABLE.

Irrelevant

Having no applications or effects in a specified circumstance.

Judge

A public official authorized to hear and decide cases brought before a court of law; to act or decide as a Judge.

Jury

Group of individuals who hear evidence in a trial and determine guilt or innocence of the Defendant.

Jury Foreperson

Individual selected by fellow Jurors to act as spokesperson for the Jury in dealing with the Judge.

Leading Question

Question presented to a Defendant by either Prosecuting or Defense Attorney that puts words into the Defendant's mouth rather than allowing the Defendant to answer in their own words.

Mitigating Circumstances

Such as do not constitute a justification or excuse of the offense in question, but which, in fairness and mercy, may be considered as extenuating or reducing the degree of moral culpability.

Offense

A breach of a social or moral code: SIN; a violation of law: CRIME.

Omission

An act or instance of omitting; something left out or neglected.

Opening Statement

Initial short presentation made to the Jury by the Prosecuting and Defense Attorneys that outlines their view of the case to be tried.

Overruled

A Court's denial of a motion or point raised to the Court "such as in overruling an objection."

Peer Jury

In a juvenile case, a Jury composed of Youth.

Prosecute

To initiate legal or criminal court action against; to seek to enforce or obtain by legal action; to initiate and conduct legal proceedings; to act as Prosecutor.

Prosecuting Attorney

Attorney responsible for proving guilt of the accused, and representing the people of the jurisdiction.

Refute

To prove to be false or mistaken: DISPROVE; to deny the accuracy or truth of.

Sentence

A judicial decision; the penalty imposed; an opinion, especially a formal one made after deliberation.

Speculation

The act of speculating; profound contemplation; an opinion, theory, or conclusion reached by speculating.

State Attorney

State elected official responsible for representing community in investigating and prosecuting violations of the law.

Summation

A concluding statement containing a summary of principal points, especially of a case before a court of law.

Sustained

To support; to approve; to adequately maintain (e.g., the Judge sustained the objection because he found it to be true).

Swear In

Act of administering an oath to tell the truth or properly perform a duty made by participants in a trial.

Testimony

A declaration or affirmation of truth or fact, as that given before a court; evidence in support of a fact or assertion; PROOF; the collective written and spoken testimony offered in a legal case.

Verdict

A court judgment, especially a judicial decision of what punishment is to be inflicted on a convicted person; an opinion, especially one given formally after deliberation.

Unintelligible

Lack of being understood.