

# Trial to Court

The Court calls the case and the parties to the trial are asked if they are ready for trial. If all parties are ready for trial, the trial begins with opening statements. If the parties are not ready for trial, they must explain to the judge why they are not ready or what action is being requested prior to trial on which the judge must make a ruling.

## **Opening Statements**

Each party, the Prosecutor and the Defendant, are given the opportunity to make an opening statement. An opening statement is not required. The Defendant may reserve the opening statement until after the prosecution has rested its case, or it may be waived. The opening statement is intended to allow the parties to state to the Court what the evidence presented will show, and is not the time to argue the case. It is not evidence to be used by the Court in making a decision and is not a narrative of testimony to be given or statements to be made under oath.

## **City Prosecutor's Case**

The Prosecuting Attorney will call the City's witnesses, which may include a police officer. The Prosecuting Attorney will question the witnesses concerning any knowledge they may have of the facts in the case. After the Prosecuting Attorney finishes questioning a particular witness, the Defendant then has the right to cross-examine the witness. Cross examination means asking questions concerning the facts to which the particular witness has testified. This is not the time for the Defendant to testify. The cross-examination questions should be directed to the witness' testimony to test the witness' recollection of facts. Each witness is treated in the same fashion. After the cross-examination is completed, the Prosecuting Attorney will have the opportunity to conduct a redirect examination, which means the Prosecuting Attorney may ask additional questions only on facts or statements of a witness given on cross-examination.

When the Prosecuting Attorney is finished calling all the City's witnesses, the City will rest its case. The burden is upon the City to prove its case beyond a reasonable doubt by competent evidence presented to the Court. If the City failed to prove its case at this point in the trial, the case may be dismissed.

When the City determines it has presented sufficient evidence to prove its case, then the City rests. Then the duty to proceed with the trial shifts to the Defendant.

## **Defendant's Case**

If the Defendant elects to proceed, he/she may testify under oath, but is not and cannot be required to testify. If the Defendant does testify, the Prosecuting Attorney has the right to conduct a cross-examination of the Defendant. The Defendant has the right not to testify; if they so choose, and the Court cannot, by law, infer guilt based on their decision not to testify. If the Defendant has any felony convictions on their record, the Prosecuting Attorney may ask about them. Also, the Defendant may have witnesses testify at this time in the trial. If the Defendant calls a witness they must ask the witness questions. The Prosecuting Attorney may cross-examine those witnesses.

If the Defendant has any documents or photographs to present into evidence, he/she must inform the Judge. Testimony should be restricted to the facts or charge before the Court. Testimony as to what someone said is not admissible as evidence unless the person who made the statement is present for cross-examination. Prior driving habits and prior driving records are not admissible as evidence at a trial.

At the conclusion of the testimony presented by or on behalf of the Defendant, the Prosecuting Attorney will be given the opportunity to call witnesses who may rebut the testimony of the Defendant and those witnesses. If the Prosecuting Attorney calls witnesses to rebut the Defendant or Defendant's witnesses for the first time, the Defendant is allowed to call rebuttal witnesses.

If the defendant has questions about trial procedures, he/she may ask the Judge. While the Judge may not act as the Defendant's lawyer or help present the case, the Judge will answer procedural questions.

## **Conclusion of the Trial**

When both sides have finished presenting their testimony and evidence, they will be given the chance to make a closing argument. The City makes the first argument, then the Defendant, and the City can then rebut the Defendant's argument. Arguments must be based on the evidence presented at trial. A closing argument is each side's summary of the matters presented to the Court as viewed by each party. Closing arguments are not required and are not received by the Court as evidence nor used to render a final decision.

When all evidence is presented and final arguments are completed, if any, then a decision will be rendered by the Judge.

If a guilty verdict is rendered against the Defendant, the Judge will then decide on a sentence. Before announcing the sentence, the Defendant will be given the opportunity to tell the Court about favorable matters that should be considered while deciding on the sentence.