

# **Your Day in Court**

## **A Brief Outline for Trials in Criminal/Traffic Cases**

### **Introduction**

Everyone is entitled to their day in court. The following information is a general overview of trial procedures, however this does not cover the rules of evidence nor offer legal advice. You must consult your own attorney for legal advice.

A trial is the time for each side in a court case to present their own explanation. Depending on the type of trial, a case may be tried before a judge (bench trial) or before a jury with a judge presiding (jury trial).

The Utah Rules of Criminal Procedure or Utah Rules of Civil Procedure control the order in which the parties speak. The Utah Rules of Evidence describe what the parties may say or introduce into evidence at the trial.

The link to these rules are located at <https://www.utcourts.gov/resources/rules/>.

### **Trial Preparation**

You should make copies of documents, charts or photographs well before the trial. The court will issue an order, called a subpoena, to require witnesses to help you explain your case. A request for subpoenas from the court clerk, needs to be made at least two weeks before your trial.

### **Role of Judge, Jury and Lawyers**

The judge, jury and lawyers are officers of the court and have different roles during the trial.

The judge will supervise the trial, decide legal issues and instruct a defendant on the law. In a bench trial, the judge will also decide the case (guilty or not guilty).

The jury, must follow the law as they weigh the evidence and decide the factual issues. Factual issues relate to what did or did not happen in the case.

The lawyers present evidence and try to persuade the judge or jury to decide the case in one way or another.

### **Jury Selection**

Prior to a jury trial, the clerk calls a panel of prospective jurors. The potential jurors are asked questions about their background and general beliefs to determine any biases or prejudices. This process is called “voir dire”. If the judge feels that a juror is not qualified for the case, the juror is excused for cause. There is no limit to a party’s challenges for cause. Both sides are also entitled to a certain number of peremptory challenges, which means they may excuse some prospective jurors without stating any reasons.

### **Trial Overview**

There are basically three parts to the trial:

- An introduction
- The presentation of evidence
- The closing statements

The introduction and the closing statement are not evidence. They are brief statements about how each side views the evidence. The main part of the trial involves presentation of evidence.

The prosecution speaks first because they are required to prove the case beyond a reasonable doubt. Then the defendant, has an opportunity to speak or present evidence.

### **Opening Statement**

During the introduction or opening statement, each side may take one or two minutes to outline evidence they intend to present and facts they expect to prove. The parties often skip this step. If the evidence is from only a few witnesses, it may not need an introductory statement. An opening statement is a brief overview. It is not a narrative of testimony to be given nor statements to be made under oath.

### **Prosecutor's Case**

The city attorney will call witnesses, some of whom may be police officers. The city attorney will question the witnesses concerning the facts in the case. After the city attorney has finished questioning a particular witness, the defendant, then has a right to cross-examine the witness. Cross-examination means asking questions concerning the facts to which the witness has testified or about what happened at the time of the alleged crime.

This is not the time for the defendant to testify. The cross-examination questions should be about the witness's recollection of facts. Each witness is treated in this fashion.

After cross-examination is completed, the city attorney will have the opportunity to conduct a redirect examination. Redirect examination means the city attorney may ask additional questions about the witness's answers during cross examination.

When the city attorney finishes calling witnesses, the prosecution will rest or end its case.

### **Defendant's Case**

If the defendant decides to present evidence, the defendant may testify under oath. It is not and cannot be required that a defendant testifies. However, if the defendant chooses to testify, the prosecution has the right to cross-examine.

The defendant may also present other witnesses at this time. The prosecution may also cross-examine these witnesses.

Testimony should be restricted to facts about the charges against the defendant. At the conclusion of the defendant's case, the city attorney will have an opportunity to call witnesses in an attempt to refute the defendant or defendant witnesses' testimony. If the prosecution calls rebuttal witnesses, the court will allow the defendant to call witnesses to refute that testimony.

### **Evidence**

The prosecution has the burden of proof or the responsibility to prove its case beyond a reasonable doubt. Therefore, the prosecution must present evidence at the trial. Because the defendant entered a not guilty plea, the defendant is presumed innocent. The defendant, is not required to present evidence at the trial because of the presumption of innocence.

Photographs, video and some written documents may be used as evidence. Parties should bring the original evidence to be numbered and submitted to the court. When possible, the parties should bring the original evidence and two copies. The clerk will mark the original evidence for the court as it is presented in trial. The prosecution will use one copy and the defendant will use the third copy. The Rules of Evidence generally do not allow notarized and other written statements to be used as evidence. Since the person who wrote the statement is not in court, they cannot be cross examined.

Hearsay evidence is usually inadmissible. Hearsay is testifying about what another person said or told you. Hearsay is considered unreliable because it is secondhand or retold information.

### **Objections**

Rules govern what evidence may be presented. On the basis of these rules, the parties may object to proposed evidence. If they do, the judge will rule in one of two ways. If the objection is sustained, the proposed evidence will not be allowed. If the judge overrules the objection, the evidence will be allowed.

Jurors should not evaluate the evidence on the basis of whether objections are made.

### **Closing Arguments**

After all the evidence has been presented, each side has an opportunity to summarize the case in their closing statement. This statement is limited to about five minutes. This is a time to review the evidence introduced during the trial. It is not a time to introduce new evidence. The closing statement is an opportunity to explain the parties view of the case and evidence already presented. The prosecution speaks first, followed by the defendant. The prosecution has an additional opportunity to speak after the defendant finishes, because the prosecution has the burden of proof. Each side has the same total time. The prosecution just has an opportunity to split its time between two speeches. After the closing statements, the court or jury will decide the case.