

## The Trial Process Overview

### Officers of the Court:

**Judge** - a public official authorized to decide questions brought before a court

**Court Clerk** – responsible for giving the oath to jurors and witnesses, is also responsible for court paperwork and physical evidence (These duties can also be done by the bailiff.)

**Bailiff** – keeps order in the court, calls witnesses, is in charge of and makes sure no one tries to influence the jury

**Court Reporter** – records, word for word, everything that is said as part of the trial

**Lawyers** – there is a lawyer for both sides in a trial. One side is the plaintiff (civil case) or prosecutor (criminal case) (the side who is accusing another person or group of some wrongdoing or crime) and the other is the defendant (the side being accused of a wrongdoing or crime).

### Steps in a Trial

Directions: For each trial step, summarize the section in your own words and using complete sentences.

#### *1. Selection of a Jury*

Jurors are selected from the pool of available jurors. The judge or the lawyers then ask them questions about if they have any knowledge of the case or have had specific experiences that might cause them to be biased or unfair. The questioning of the potential jurors is known as voir dire (to speak the truth). The attorneys may ask the court to excuse some jurors from the trial. After both parties have agreed upon a jury, the jurors are sworn in by the court clerk. The jurors not selected are excused.

The jurors' role is to listen to the evidence and to determine the facts of the case. They are instructed not to discuss the case with outsiders or each other (until the judge gives them the instruction to do so).

## ***2. Opening Statements***

The purpose of opening statements by each lawyer is to tell jurors something about the case they will be hearing. The opening statements must be limited to facts that will be proven by the evidence.

In a trial, the two sides are known as the plaintiff or prosecutor (plaintiff in a civil case or prosecutor in a criminal case) and the defendant. In a criminal trial, the prosecutor (or government) must prove beyond a reasonable doubt that the defendant is guilty. In a civil trial, the plaintiff has to prove that the defendant is responsible for a wrongdoing. The defendant is the side accused of wrong doing either criminally or civilly. The defendant does not need to prove that he or she is innocent.

## ***3. Testimony of Witnesses & Evidence***

The plaintiff or prosecutor's case is presented first. As each witness testifies, the lawyer representing the plaintiff/prosecution asks questions in what is called direct examination. Then the defendant's lawyer proceeds with cross examination, where they get to ask questions. Physical evidence, such as documents, weapons or photographs are presented as proof for either side. Once the plaintiff/prosecutor's side has questioned all of their witnesses, the defendant can present their case and question their own witnesses.

If one attorney objects to a question, they present their objection to the judge. Objections may be made by the other side for many reasons. The judge will either sustain or overrule the objection. If the objection is sustained, the lawyer can rephrase the question or ask another question. If the objection is overruled, the lawyer does not have to change the question and the witness must answer the question as asked. When each side has presented all their evidence, they "rest" their case.

<p><b>4. Closing Arguments</b></p> <p>The lawyers summarize the evidence and try to persuade the jury to believe their side over the other.</p>	
<p><b>5. Jury Instructions</b></p> <p>The judge reads the instructions of law to the jury, defines the issues the jurors must decide on, and informs them of the laws that govern the case.</p>	
<p><b>6. Deliberation – Jury Discussion</b></p> <p>Finally, the jury retires to the deliberation room to consider the case and reach a verdict. The jury elects a foreperson who will see that discussions are conducted in an orderly fashion, all issues are fully and fairly discussed, and that every juror is given a fair chance to share their thoughts. If the jurors have questions during their deliberation they may write them down and have the bailiff deliver them to the judge. When a verdict has been reached, the jurors agreeing to the verdict sign a form and notify the bailiff. In a criminal case, the jury will find the defendant guilty or not guilty. The verdict is read by the clerk and the judge dismisses the jurors.</p>	

Reading adapted from: [http://www.hamilton-co.org/MunicipalCourt/Jury/steps in a trial htm](http://www.hamilton-co.org/MunicipalCourt/Jury/steps%20in%20a%20trial.htm), Accessed November, 2012 & <http://www.americanbar.org>