

# The Trial Process

## **Will I have to be sequestered away from my family during a long trial?**

Long trials are rare. Most last only one day. Two-day trials are rare. Juries are very seldom sequestered. Years go by with not one jury in the County being sequestered. The courts cannot guarantee that the trial won't be long, or that you won't be sequestered, but both events are highly unlikely.

## **What's the difference between a criminal and a civil case?**

**Criminal** "In a criminal case a person called the defendant is charged with a violation of the law. The attorney representing the state or local government is called the prosecutor or County Attorney.

In criminal cases the judge will inform the jury about the law, and the jury must decide if the defendant has broken that law. Criminal verdicts in Montana must be unanimous. In criminal cases, the prosecution must prove beyond a reasonable doubt that the defendant committed the crime.

Prior to the criminal trial, the defendant will have appeared before the judge to plead guilty or not guilty to the criminal charges. This hearing before the judge is called an arraignment.

**Civil** "Civil cases involve disputes (usually about money) which the parties haven't been able to solve between themselves, and have turned to the court system to resolve. The person bringing the complaint in a civil suit is called the plaintiff. The one defending him or herself against the complaint is the defendant.

In a civil case, the jury is asked to determine which side is favored by the preponderance of evidence. Civil jury decisions can be made by a two-thirds majority of jurors. A unanimous verdict is not required, as it is in a criminal trial.

## **What is my most important job as a juror?**

As a juror, your major job is that of fact finder. You must listen carefully for the facts presented as evidence by each side, and use your life experience and common sense to make a judgment. It is very important to keep an open mind while all the evidence is being presented. Making your mind up early in the trial, before all the evidence is in, could result in a failure to reach a fair and just verdict.

## **How is a trial conducted?**

1. The trial usually begins with opening statements from each side. These are summaries reviewing what each side intends to prove during its presentation of the case. Note that these statements are not evidence.
2. Each side presents its case, with witnesses and other evidence. Witnesses called by either side are subject to cross-examination by the other side.
3. The judge delivers instructions to the jury regarding the relevant law.
4. The prosecution (or plaintiff) and defense present closing arguments. The prosecution (plaintiff) then presents a rebuttal of the points made by the defense.
5. The jury retires to deliberate.
6. The jury reaches and announces its verdict.

**What is happening when a lawyer "objects" to a question asked by the other side?**

Throughout the trial, the judge may be asked to decide questions of law. Usually these questions concern objections to testimony that one side wants to present. By law, it is the judge's job to decide such questions. A ruling by the judge does not indicate that he or she is taking sides. The judge is just determining that the law does or does not permit that question to be asked.

**Why will the jurors sometimes be asked to leave while the judge talks to the lawyers?**

Sometimes the judge will ask jurors to leave the room while lawyers make arguments for and against admission of a particular piece of evidence or on some other point of law. Jurors are asked not to speculate about what was discussed, but instead to base their reasoning only on what is presented to them.

**At what point can I discuss the trial with others?**

It is important that you not discuss the trial with anyone (even fellow jurors) until the jury is sent out to deliberate. In a multi-day trial you must not discuss the case with family members, friends, or anyone else. If someone approaches you in the courthouse or elsewhere and tries to discuss the trial with you, leave immediately, and report the incident to the court (the judge). The bailiff will deliver any written messages you wish to convey to the judge.

Jurors must make their decision on the basis of the evidence presented at the trial, and not on the basis of any outside information about the case. For this reason jurors are prohibited from reading, watching, or listening to any media accounts of the trial, and from visiting the crime scene themselves or trying to discover any information about the crime scene on their own.

**What happens during deliberations?**

At the beginning of deliberations, you will be asked to select a foreperson. It is that person's job to preside over the deliberations and you should enter the discussion with an open mind and freely exchange views. You shouldn't hesitate to change your opinion if the deliberations convince you that they were wrong initially. You are obligated to reach a verdict whenever possible. But no juror is required to give up any opinion which he or she is convinced is correct.

**What happens after jury service is completed?**

After you return to the courtroom and your verdict is announced, the judge will formally dismiss you from jury service. You may then freely discuss the case, but you are not required to discuss the case with anyone. One or more of the lawyers in the case may want to discuss the verdict or the deliberations with you. You may talk to them if you wish, but are under no obligation to do so.