

COURTROOM PROCEDURE

A trial generally proceeds as follows:

The **OPENING STATEMENT** in a criminal case, the State's Attorney or Attorney General will make the opening statement, explaining the charge and the case against the defendant. The lawyer for the defendant (or accused) may either give an opening statement or reserve it until the state rests its case against the accused.

EVIDENCE: After the opening statements, in a criminal case, the State's or City Attorney or Attorney General will call witnesses, each of whom will take an oath and give testimony. During the examination (questioning of witnesses), exhibits (such as writings, photographs, plans) may be offered as evidence in the trial. If the Judge rules the exhibits are to be received into evidence, Jurors may examine them and they will be taken into the jury room during deliberation. Under certain circumstances, jurors may, under court supervision, leave the courtroom to look at a particular site or object.

When examining a witness the State asks the questions first, and this is called **DIRECT EXAMINATION**. The defendant's lawyer then **CROSS-EXAMINES** the witness. Generally, cross-examination is limited to questions concerning matters brought up in direct examination.

After cross-examination, the State may again question the witness (this is called **REDIRECT**), and this may be followed by re-cross examination.

This process of examining and cross-examining witnesses and receiving exhibits continues until the State's evidence is before the Jury. At this time, in criminal cases, the State's or City Attorney or Attorney General says, "the State (or City) rests".

DEFENDANT'S EVIDENCE: After the State has rested, the defense calls witnesses to defend against the claim of the State.

The defendant's lawyer examines the witnesses first on direct examination, then the State lawyer cross-examines. The defendant's case continues in essentially the same manner as the State until the defendant's lawyer states to the court, "Defendant rests".

According to federal and state constitutions, the defendant in a criminal case is not required to testify or offer any evidence in defense of the charge against the defense.

REBUTTAL EVIDENCE: The State may call witnesses to respond to testimony given in the defendant's case. This is called **REBUTTAL**.

PREPARATION OF INSTRUCTIONS: After both parties have rested, there is usually a recess while the Judge, with assistance of the lawyers involved, prepares instructions for the Jury.

These instructions tell the jury what the law is concerning this particular case. **THE JURY IS RESPONSIBLE FOR DETERMINING THE FACTS OF THE CASE. THE COURT AT ALL TIMES DETERMINES THE LAW.**

ARGUMENT: The case is then argued by lawyers. In this argument, the lawyers review the testimony and usually state their respective theories of the case to the jury. The State begins the argument and is followed by the lawyer for the defendant. Each side is entitled to the same amount of time (set by the Judge) to argue, although the State has the privilege of dividing the time and making a **CONCLUDING ARGUMENT.**

DELIBERATION: Court bailiffs are sworn to take charge of the Jury which withdraws to a private place to decide the issues. Jurors take with them their recollection of the testimony of the witnesses, the exhibits introduced at the trial and a copy of the court's instructions. The Jury returns to the courtroom after having reached a verdict.

DECISION: The court's instructions tell the Jury how many of them must agree to reach a decision. After a decision has been reached, or if agreement is impossible, the Jury returns to court.

In a criminal case, the Judge will ask the Jury if a verdict has been reached. The foreperson will have completed and signed a written form stating the verdict, unless agreement was not reached. The foreperson will pass their finding to the bailiff who will give the information to the Judge. The Judge will then state orally that the defendant was found guilty or not guilty of the various charges, or that the Jury cannot agree on a verdict.

Either side may then request that the jury be POLLED. This means that each Juror must state orally whether they voted for or against the majority decision. Hearing the announcement of the verdict is the climax of the trial and usually a very emotionally laden time for the victim's family. The advocate and attorneys' will be glad to talk with you in the Witness Center after the trial.

The standard of proof in criminal cases is "beyond reasonable doubt", the highest burden of proof required in any trial proceeding. If any doubt based on reason exists as to any element of the offense as charged, the verdict of the Judge or Jury must be "not guilty". Evidence must establish the facts so clearly, positively, and explicitly that there can be no reasonable doubt that the case was proven.

SENTENCING TRIAL OR HEARING

If the defendant is convicted in the criminal trial, the case will proceed to sentencing. Sentencing will be scheduled for a later hearing.

In Oklahoma, the Judge makes formal sentencing decisions based in part on what the Jury decided, as well as testimony heard from both sides at the hearing and after review of a PSI (Pre-sentence Investigation) report prepared by a probation officer.

In all death penalty cases, a Jury must decide unanimously that the appropriate sentence is death. If they do not, or if they cannot reach a decision, no sentence of death may be imposed.

Survivors have the right to make a statement at formal sentencing regarding the impact the crime had on them, emotionally and financially. Other Homicide Survivors can help you in preparing a victim impact statement and restitution request. The Homicide Advocate has an outline available to assist you upon request it will be provided to you.

Victim Testimony at Jury Trial

Victim Impact Statements to be heard by the Jury at trial should be submitted to the prosecutor at least thirty days before trial begins unless you only wish to speak at the sentencing. The victim impact statement will be reviewed by the Judge, for the sentencing. Be aware that the defense attorney will also read your remarks.

Your statement should not repeat evidence already presented, but should simply tell what the impact of the crime has had on you and your family.

Evidence and procedures are different during sentencing than during the trial. Defense witnesses may give subjective testimony about the defendant and why they feel he should receive a particular sentence. State witnesses can also give such testimony from their perspective. Talk to the prosecutor if you have questions about this.

Since the goal of your impact statement is to convey the effect your loved one's death has had on you, it is not expected that you testify free of emotion.

Following are some suggestions which should help you testify with relative ease and maximum credibility.

- Dress conservatively, clothing should not be flashy or in any way detract from what you are saying. No strapless dresses, No spaghetti straps or halter tops, No mini-skirts, No hats.
- All cell phones and pagers MUST be on silent or turned off while in the court room.
- Court rooms may be cold so please feel free to bring a sweater or jacket.
- Seats are hard so you are also welcome to bring a cushion if you anticipate being in the courtroom for an extended period of time.

- Take notes or a written statement with you if you think you need them. However, be aware that the Judge, attorneys, and Jury may be allowed to examine them.
- Be descriptive as you tell of the physical, emotional and financial impact of the crime. Describe particular events that were/are painful for you. Your goal is to enable the Judge or Jury to come as close as possible to understanding how you feel.
- Talk about your pain and avoid bitter or disparaging remarks about the defendant.
- Always be honest. Take your time. Pauses in your statement indicate that you are taking this seriously and thinking before you speak. If you approach this task with integrity, your testimony will be respected.