

TRIAL  
PROCEDURE FOR  
UNREPRESENTED DEFENDANTS

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## ***TRIAL PROCEDURE FOR UNREPRESENTED DEFENDANTS***

It is this court's firm belief that the interests of justice are best served when all parties to a proceeding are fully informed. It has been this court's experience that many defendants who appear for trial without an attorney feel unprepared.

This pamphlet was created to more fully inform unrepresented defendants who appear for trial. It is not meant to tell you what evidence to present at trial. It has been prepared to inform you of basic trial procedure, clear up the most commonly held misconceptions about trial procedure and answer some of the most frequently asked questions.

### ***GENERAL INFORMATION***

A trial is a proceeding in which the prosecutor will try to convince the magistrate that you have committed the offense(s) with which you have been charged. The prosecutor is required to prove your guilt beyond a reasonable doubt.

### ***TRIAL DAY PROCEDURE***

You should check in with the clerk of court when you first arrive. Expect also that the prosecutor may want to discuss the case with you prior to trial. For the most part, the cases are tried in the order that they are scheduled on the docket. Please be prepared to spend several hours at court on the day that you appear. While the court makes every effort to move its docket as quickly as possible, it has no way to accurately predict the length of each individual trial.

### ***TRIAL PROCESS***

When the actual trial begins, both sides will have an opportunity to make an opening statement. An opening statement is a brief statement of the nature of the prosecution and defense cases. Since the prosecution has the burden of going forward with evidence, it will proceed first at each stage of the trial. You may waive your opening statement if you wish. It is common in minor traffic trials for the prosecution to waive their opening statement if they do not feel that the evidence is lengthy or complicated.

Next, the prosecution will present its evidence through its witnesses. In many cases, the only witness for the prosecution is the officer who issued the citation. You will be given opportunity to "cross-examine." That means ask questions of the witness once the prosecutor has completed its examination.

Once the prosecution has completed questioning its witnesses and rested, you will have an opportunity to present any evidence through witnesses including yourself. Because of the fifth amendment privilege against self-incrimination, you do not have to testify, but you may if you wish. However, the magistrate may only consider evidence presented through the testimony of witnesses. If you or other witnesses do not testify, the magistrate may only consider the evidence offered by the prosecution. Remember, this will be your only opportunity to present your side of the story so you must bring all of the witnesses or other evidence you want to present to the court on the day of trial. Once you or any of your witnesses have completed their testimony, the prosecutor will have the opportunity to cross examine them.

After you have completed presenting your evidence and rested, each side has an opportunity to present a closing argument. This is your opportunity to tell the court why you feel the evidence has shown that the magistrate should find you not guilty.

## ***EVIDENCE***

The magistrate is required by law to follow the Ohio Rules of Evidence in all criminal and traffic trials regardless of whether the defendant is represented by an attorney. These rules are complicated. Space does not permit a complete discussion of the issue, however, the following is a basic guideline to assist you:

(1) A witness should testify about things they actually saw or heard. In many (though not all) cases a witness cannot testify about what someone else saw or heard.

(2) Evidence must be directly relevant to the issues at trial. For example, it is generally not permissible to offer evidence in a traffic trial about tickets the officer has issued to other people.

(3) If you decide to testify, you may testify in narrative form. In other words, you don't have to ask yourself questions, but may just tell your story.

(4) If you want to offer a photograph or other physical evidence (such as a document), you must first show the item(s) to the prosecutor and then identify the object including how it was prepared. If it was not prepared by you or is not relevant, the court may not accept the evidence. However, you may present a photograph taken by someone else, if you (or another) can identify the photo, and can testify that it fairly and accurately shows the subject of the photo. If the evidence was prepared by someone else, that person will probably have to appear before the magistrate will consider this evidence.

## ***ANSWERS TO COMMON QUESTIONS***

### ***DO I NEED TO HAVE AN ATTORNEY TO REPRESENT ME?***

You may have an attorney represent you at trial if you wish, but you do not have to have one.

### ***CAN I BRING IN STATEMENTS FROM WITNESSES TO PRESENT TO THE MAGISTRATE?***

The magistrate will not consider affidavits or other written statements in place of the appearance of a witness at trial. If you want the magistrate to consider the evidence of a witness, he or she must be present at trial.

### ***HOW DO I GET A WITNESS TO COME TO TRIAL?***

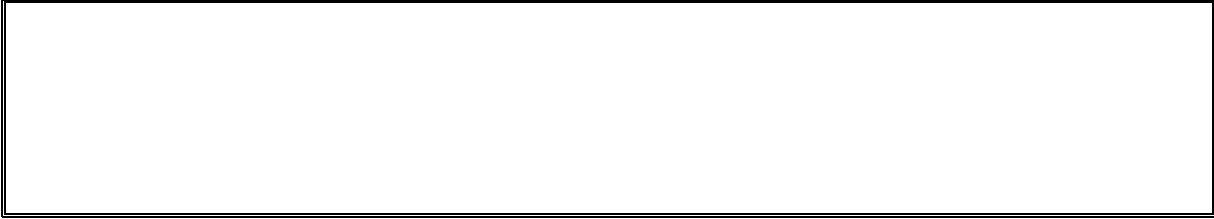
If you want a witness to come to court and they refuse to come voluntarily, you must request the clerk of court to issue a subpoena requiring that person to come to court to testify. They must receive the subpoena at least seven days prior to trial.

### ***CAN I ASK THE PROSECUTOR FOR CERTAIN INFORMATION THAT I WILL NEED FOR TRIAL?***

If you think the prosecutor has certain information in its possession that you will need to use at trial, you must make a discovery request to the prosecutor for that information at least seven days prior to trial.

### ***WHAT IF I CAN NOT COME TO COURT ON THE DAY SCHEDULED FOR TRIAL?***

If you can not appear on the day scheduled for trial you must file a Motion for Continuance prior to trial. You must appear for trial on the day scheduled if the court does not notify you that it has granted your motion. Please include your telephone number with your request.



## **MAYOR'S COURT**

**THE INFORMATION IN THIS PAMPHLET IS GENERAL IN NATURE AND MAY NOT APPLY TO EVERY OHIO MAYOR'S COURT. THIS INFORMATION SHOULD NOT BE TAKEN AS A SUBSTITUTE FOR LEGAL COUNSEL, IT IS NOT INTENDED TO ADVISE ANYONE ON A SPECIFIC LEGAL PROBLEM, NOR TO SUGGEST A PARTICULAR COURSE OF ACTION. FOR MORE SPECIFIC INFORMATION, CONTACT YOUR ATTORNEY OR LOCAL COURT.**

**Prepared by: Joseph Candito, Magistrate**