**Criminal Trial Procedures: An Overview**

***Adapted from nolo.com***

**Most criminal trials follow a uniform set of procedures. Here's a step by step guide to the criminal trial process.**

The many rituals associated with modern trials have developed over centuries. America's common law heritage makes it possible for all states and the federal government to follow a largely uniform set of procedures. Assuming that the trial is carried out to completion, those procedures are as follows:

**Decision by Judge or Jury.** The defense generally decides whether a case will be tried to a judge or a jury, but in some jurisdictions both the prosecution and the defense have the right to demand a jury trial.

**Jury selection.** If the trial will be held before a jury, the defense and prosecution select the jury through a question and answer process called "voir dire." In federal courts and many state courts, the judge carries out this process using questions suggested by the attorneys as well as questions that the judge comes up with on his or her own.

**Evidence issues.** The defense and prosecution request the court, in advance of trial, to admit or exclude certain evidence. These requests are called motions "in limine."

**Opening statements.** The prosecution and then the defense make opening statements to the judge or jury. These statements provide an outline of the case that each side expects to prove. Because neither side wants to look foolish to the jury, the attorneys are careful to promise only what they think they can deliver. In some cases, the defense attorney reserves opening argument until the beginning of the defense case.

**Prosecution case-in-chief.** The prosecution presents its main case through direct examination of prosecution witnesses by the prosecutor.

**Cross-examination.** The defense may cross-examine the prosecution witnesses.

**Redirect.** The prosecution may re-examine its witnesses.

**Prosecution rests.** The prosecution finishes presenting its case.

**Motion to dismiss (optional).** The defense may move to dismiss the charges if it thinks that the prosecution has failed to produce enough evidence -- even if the jury believes it -- to support a guilty verdict.

**Denial of motion to dismiss.** Almost always, the judge denies the defense motion to dismiss.

**Defense case-in-chief.** The defense presents its main case through direct examination of defense witnesses.

**Cross-examination.** The prosecutor cross-examines the defense witnesses.

**Redirect.** The defense re-examines the defense witnesses.

**Defense rests.** The defense finishes presenting its case.

**Prosecution rebuttal.** The prosecutor offers evidence to refute the defense case.

**Settling on jury instructions.** The prosecution and defense get together with the judge and craft a final set of instructions that the judge will give the jury.

**Prosecution closing argument.** The prosecution makes its closing argument, summarizing the evidence as the prosecution sees it and explaining why the jury should render a guilty verdict.

**Defense closing argument.** The defense makes its closing argument, summarizing the evidence as the defense sees it and explaining why the jury should render a not guilty verdict -- or at least a guilty verdict on a lesser charge.

**Prosecution rebuttal.** The prosecution has the last word, if it chooses to do so, and again argues that the jury has credible evidence that supports a finding of guilty.

**Jury instructions.** The judge instructs the jury about what law to apply to the case and how to carry out its duties. (Some judges "pre-instruct" juries, reciting instructions before closing argument or even at the outset of trial.)

**Jury deliberations.** The jury deliberates and tries to reach a verdict. Most states require unanimous agreement, but Oregon and Louisiana allow convictions with only 10 of 12 votes.

**Post-trial motions.** If the jury produces a guilty verdict, the defense often makes post-trial motions requesting the judge to override the jury and either grant a new trial or acquit the defendant.

**Denial of post-trial motions.** Almost always, the judge denies the defense post-trial motions.

**Sentencing.** Assuming a conviction (a verdict of "guilty"), the judge either sentences the defendant on the spot or sets sentencing for another day.