



YOUR DAY IN COURT

Trial Procedure for Defendants Representing Themselves In the Lakewood Municipal Court

INTRODUCTION

This folder is designed to give Defendants who represent themselves in Lakewood Municipal Court a general overview of trial procedure, so that they may better understand the mechanics of the trial. It is not meant to be anything more than that. It by no means covers all situations that may arise during the course of a trial, nor does it attempt to cover the various aspects relating to the rules of evidence. It is hoped that it will assist in the orderly presentation and disposition of trial matters.

I. Trial to the Court

Case is called by Court Clerk. Defendant approaches lectern and states that he is ready for trial.

City Attorney advises Court if he is ready for trial.

A. Opening Statement

- 1. The Judge asks if there are any opening statements. The City Attorney may or may not make an opening statement. The Defendant may reserve his opening statement, may waive his opening statement, or may make an opening statement at this time. If an opening statement is made it should be restricted to what the party's evidence will show. The opening statement is not evidence and is not intended to be a narrative of the Defendant's testimony or statements to be made under oath.**

B. City's Case

- 1. The City Attorney will then call the officer or officers involved and any other witnesses he may have. The City Attorney will question the witnesses concerning the facts of the case of which they may have knowledge. After the City Attorney finishes with his questioning of a particular witness, the Defendant then has the right to cross-examine the witness (cross-examination means the asking of questions concerning the facts that the particular witness has testified to). This is not the time**

for the Defendant to testify. His questions should be directed to the witnesses' testimony to test the witnesses' recollection of the facts. Each witness is treated in the same fashion. After the Defendant has cross-examined a witness, the City Attorney may ask additional questions; but those questions may only touch on facts or statements of the witness given on cross-examination.

2. When the City Attorney finishes examining all of his witnesses, he rests his case. The burden is upon the City to prove its case by competent evidence beyond a reasonable doubt to the satisfaction of the Court, or a jury, if a jury trial. If the City fails to so prove, viewing the evidence in the light most favorable to the City, then the Defendant is entitled to an acquittal.
3. If all of the testimony produced by the City is sufficient to prove the charge when the City rests, the defendant may present a defense.

C. Defendant's Case

1. If the defendant elects to proceed, he may call any witnesses he may have at this point and examine them. The City Attorney may then cross-examine those witnesses. The defendant may testify on his own behalf, but he does not have to. If he does testify, he subjects himself to cross-examination by the City Attorney.
2. Testimony should be restricted to the facts of the case or charge before the Court. Written or oral statements made by anyone before trial and not subject to cross examination are generally not admissible at trial. However, there are many exceptions to this general rule. Prior driving habits are not admissible as evidence; nor are the facts of your prior driving record admissible for trial purposes. Likewise, prior behavior or patterns are generally not admissible.
3. At the conclusion of the testimony of the Defendant and witnesses, the City Attorney may call witnesses to rebut any testimony of the Defendant and his witnesses, provided that testimony could not have been reasonably anticipated by the City. Here again, any testimony is restricted to rebuttal of testimony presented by the Defendant. The Defendant has the right to call any witness to rebut that witnesses' testimony.

D. Conclusion

1. When both sides have finished all of their testimony, the Judge will ask for any closing arguments. The City Attorney may make a closing argument. The Defendant may then make his closing argument whether or not the City chooses to make one. If the Defendant does, then the City may rebut that argument. Closing arguments should be confined to showing what that particular side has shown by their evidence.
2. When all of the evidence is completed and final arguments, if any, have been made, the Judge will render his decision.

ALTERNATIVE FORMATS OF THIS DOCUMENT ARE AVAILABLE UPON REQUEST