



# FAYETTE COUNTY

## OFFICE OF THE COMMONWEALTH'S ATTORNEY

### WHAT TO EXPECT DURING A TRIAL

#### TRIAL STEPS

##### 1) JURY SELECTION (VOIR DIRE)

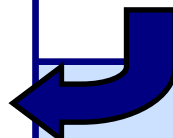
Seating is limited in the courtroom, and it is important jurors do not have contact with the parties, so you may not be able to be in the courtroom during this part of the trial. This step can last hours or even days.



##### 2) OPENING ARGUMENTS

The prosecutor will make their opening statement to the jury first. The defense may make theirs next, they may reserve it until later in the trial after the prosecution rests its case, or waive it completely.

**\*Notify your victim advocate/prosecutor if you wish to assert your right to be present during opening arguments. The separation of witnesses rule can impact whether or not you are able to be present.**



##### 3) EVIDENCE PHASE

The Commonwealth (prosecutors) will call their witnesses and present their evidence to the jury. The defense team may ask each witness questions, which is called "cross-examination." The defense will then present their witnesses and evidence. The prosecutors can also cross-examine witnesses. The prosecutor cannot call the defendant to testify.



##### 4) JURY INSTRUCTIONS

The jury will be given written instructions on how to proceed according to the law. The Judge must read each charge the jury is required to consider.



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### 5) CLOSING ARGUMENTS

The defense will provide a summary of the evidence they presented and will often request the jury find their client not guilty. The prosecutor will speak last and will ask the jury to find the defendant guilty.

### 6) JURY DELIBERATION/VERDICT

The jury will leave the courtroom into the “jury room” to deliberate privately on their decision of guilty or not guilty. This can take hours or days.

Several things can happen:

- Find the defendant *NOT GUILTY* on some or all of the charges.
- Find the defendant *GUILTY* on some or all of the charges.
- Find the defendant guilty of a lesser charge (for example: not guilty of murder, but guilty of manslaughter 1<sup>st</sup> degree).
- There can be a “hung jury.” This means they are at a stand still and cannot reach a decision. This would end the trial, and the judge would declare a mistrial.

### 7) SENTENCING

If the jury finds the defendant guilty, they will then receive instructions on how to sentence the defendant. The defense can present any evidence in mitigation of punishment, including witnesses to discuss the defendant’s childhood and family life. Sometimes the defendant testifies. The Commonwealth will present the jury with the defendant’s prior criminal convictions, one victim/witness, and ask the jury for a sentence. The jury will then return to the jury room to deliberate on the sentence.

### 8) FINAL SENTENCING HEARING

The Judge will set a separate formal sentencing date where they will impose the defendant’s sentence. The victim can write a Victim Impact Statement.

**\*Notify your advocate if you wish to speak at sentencing.**



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### COURTROOM ETIQUETTE

#### **DO:**

- 1) Have support with you. Trials can be emotionally exhausting, so try to have a supportive friend or family member sit with you. Your advocate will also be there for you
- 2) Stand when the judge enters and exits the courtroom. Do the same for the members of the jury
- 3) Put your phone on silent
- 4) Remove your hat in the courtroom
- 5) Do your best to compose emotions. The judge will not allow outbursts that may distract the jury. If you need to vent your frustrations, let your advocate know and step outside the courtroom

#### **DON'T:**

- 1) Talk to the jury. They should have a button on that says "Juror"
- 2) Talk about the case outside of the courtroom – you never know who is around you
- 3) Wear anything that references the case. (shirts with pictures of the victim, lanyards, etc.) The judge will not allow anything that could bias a jury member
- 4) Direct comments toward the defendant or their supporters
- 5) Take photos or videos inside the courtroom





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### FREQUENTLY ASKED QUESTIONS

**Where do I park?** *The courthouse parking garage is located at 105 Barr. St. (\$10/day)*

**Where is the courtroom?** *After going through security, look at the screen next to the elevator to see the floors/room numbers for each Judge.*

**Will the defendant testify?** *The defendant has the right to remain silent. They are not required to testify.*

**Who is testifying for the defense?** *The Commonwealth is required to share our witnesses with the defense, but the defense does not have to tell us who they will call, so we never know for certain.*

**What does my advocate do?** *Your advocate is there to support you, provide information, and help you communicate with the prosecutor. They can provide water, a fidget tool, a room for breaks, and they can help you make a safety plan.*

**What role can the victim/victim's family play in the trial?** *In a homicide case, one family member will testify about the victim. In any trial family/friends may attend the trial. If you are the victim in the case and receive a subpoena, you are required to testify.*

**How long will the jury deliberate?** *There is no time limit. The judge determines the daily schedule.*

**Who is in the courtroom?** *The judge, clerks, secretaries, defense attorneys, the defendant(s), the prosecutors, defendant's family/support, members of the jury, bailiffs, and sometimes media. The courtroom is open to the public.*

**May I see a courtroom before the trial?** *Yes, you can request your advocate show you a courtroom before the trial .*





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### PLANNING FOR SAFETY DURING TRIAL

If you have concerns about your physical safety during trial, speak to your Advocate. They can help you establish a safety plan and connect you to outside resources, such as a Sheriff's Deputy escort to/from the courthouse.

#### Emotional Safety Planning

**The Commonwealth will often show videos, 911 calls, crime scene photos, autopsy photos, etc. to the jury.**

It is okay to leave the courtroom if you do not wish to view/hear certain evidence. If you want to leave, let your advocate know, and they can direct you out of the courtroom at the appropriate time.

**If you are testifying, you may need a break.**

Discuss with your advocate and prosecutor what you will do if you start to feel overwhelmed during your testimony. Consider what you will hold in your hand, where you will look, and how to ask for a brief break.

**Be prepared to hear unpleasant things about you or the victim.**

Often the defense will say things about you or the victim that are not easy to hear. Let your advocate know if you need to step outside the courtroom to take a break.

**Trials are an Unknown**

Juries can be unpredictable. Be prepared for an outcome that you don't want. Have supportive people with you and discuss any of your concerns with the prosecutor and advocate.

