

**OFFICE OF THE FEDERAL DEFENDER
EASTERN DISTRICT OF CALIFORNIA**

TRIAL

IN GENERAL: The U.S. Constitution guarantees you the right to a trial by jury, except in some misdemeanor cases. The trial date will usually be set when you are arraigned, but in almost every federal case this date is rescheduled. Federal trials can be complicated, and you must help your attorney and other members of your legal team with anything that they ask you. Some decisions, like whether to testify, are yours to make after advice from your attorney. Other decisions, involving legal strategy and the way that your case should be presented, are for your attorney to make. You will be kept informed about these decisions.

It is the prosecutor's job at a trial to prove that you are guilty. It is not your job to prove you are innocent. If the prosecutor does not prove the charges beyond a reasonable doubt, you must be found not guilty.

SPEEDY TRIAL ACT: The law says that you must be tried no earlier than 30 days or later than 70 days after your first appearance. There are exceptions which can extend the 70 day limit. You may hear the term "excludable time." This means that a certain period of time the court needs to make decisions about your case, or a certain period of time your lawyer needs to prepare your case, is not counted toward the 70 day limit. We say that "the clock stops" for those periods of time.

JURY: A jury of 12 people will hear your case and decide the facts. You, your attorney, the prosecutor, and the judge will all participate in deciding who should be on the jury. The jury will be selected and then sworn in. You can give up your right to a jury if you and your lawyer decide you would be better off having the judge decide your case, and if the prosecutor also agrees to waive the jury.

OPENING STATEMENTS: Each side will get to make a statement to the jury about what the case is about, what the evidence will be, and what the jury will have to decide.

GOVERNMENT CASE: The government will

then call witnesses and show evidence to the jury about the charges against you. After the prosecutor questions a witness, your attorney will have the chance to ask that witness questions. This is called cross-examination.

YOUR CASE: After the government finishes, your attorney will have the chance to present any witnesses and evidence that will help your case. The defense does not have to present any evidence. If it does, the government will be able to cross-examine your witnesses. You will also have to decide if you want to testify. Your attorney should help you with this decision, including telling you the risks that are involved. The final decision about whether you testify is yours.

REBUTTAL: If you put on a defense case, the government will have the chance to rebut it. That means showing the jury evidence to contradict your defense.

CLOSING ARGUMENTS: When both sides are done presenting their evidence, each side gets a chance to tell the jury what they think the evidence means, and how the jury should decide the case. The prosecutor goes first, then your lawyer, then the prosecutor. This is because the government has the burden of proving its case against you.

JURY INSTRUCTIONS: The judge will tell the jury what the law is, and what questions they will have to answer about your guilt or innocence. The lawyers for both sides will have a chance to help the judge choose what instructions to give.

JURY DELIBERATIONS: The jury will leave the courtroom and try to decide on a verdict. Every one of the jurors must agree. If they cannot agree on a verdict, then the judge may call a mistrial. A mistrial may mean that you must go through the whole trial process again.

Remember, no two trials are alike. Your attorney will answer any specific questions you have about your particular trial.