

## Trial Date and Time

This dates and times of court trials are set by the Clerk of Court's office at the Portsmouth District Court. The Clerk sends an order of notice to the Police Department and issues subpoenas to any civilian witnesses. The date and time appearing on the subpoena are those supplied by the Court.

Witness are encouraged to appear shortly before the listed trial time to review any statements which had been given to the Police and have any questions answered. If you arrive early, look for the Officer who investigated the incident or the Prosecutor.

There are times when a case does not proceed to the trial at the time listed on the Court Docket. The delay is often a result of an earlier scheduled trial taking more time than was anticipated. This is a matter over which the Police Department has no control. Such delays typically do not last very long without the Court making some accommodations, however there may be exceptions

The Defendant in a criminal trial does have some control over the timing in a criminal case. Every criminal defendant has a Constitutional right to a trial and to have the witness testify under oath subject to cross-examination. If the offense could result in imprisonment, the Defendant has a right to be represented by Counsel and to have one appointed if they cannot afford one. The defendant may demand all these rights, requiring the State to bring forth all its Witnesses and Investigators to Court in order to prove the charge beyond a reasonable doubt.

After the trial has been scheduled, a Judge is prepared to hear the matter, and, the witnesses are present to testify, the accused may plead guilty, bringing an abrupt end to the whole case. The Defendant need not give advance warning of his or her intention to plea guilty.

In some cases, the Police Department and the defendant will reach a plea agreement in lieu of going to trial.

If the Police Department is aware of any change in plea in advance of the trial, every effort is made to contact the witness by phone to save them the inconvenience of going to Court.

## Subpoenas

Civilian witnesses in most criminal cases will be served a subpoena to appear in court. The subpoena is a record for the Prosecutor that the witness was notified and demonstrates to the Court that the State has made a good faith effort to proceed with the case. The subpoena places the witness under an obligation to appear at the listed date and time for the hearing and to remain until the trial is completed or the witness is excused. Once sworn to testify, the witness has a duty to answer all questions truthfully. Failure to

appear in answer to a subpoena may result in the arrest and punishment of a witness by the Judge for Contempt of Court.

### Compensation

Witnesses that are subpoena to appear in the Portsmouth District Court are allowed a witness fee, set by the State of New Hampshire, for each day or part of a day they are in attendance. The State also pays a mileage fee, set by the State of New Hampshire, round trip to the Courthouse. The witness fee and mileage allowance are combined in one check.

A list of witnesses eligible for a fee is submitted by the Prosecutor at the conclusion of the case. The witness should show the Prosecutor the subpoena and make any claim of mileage so that the witness can be compensated. Upon arrival at Court, turn in your subpoena to the Clerk's Office. The Clerk will send your request to the State of New Hampshire. Witnesses should allow eight to ten weeks for the State to mail the check.

### Juvenile Hearings

By State law, juvenile proceedings are not open to the public and are held in rooms separate from those used for adult criminal trials. Witnesses in juvenile cases are cautioned that it's a criminal offense to publish the names or address of juveniles involved in crimes. Additionally it should be noted that juvenile hearings are generally held at the Portsmouth Family Court located in Portsmouth, NH.

### Sequestration

It is not uncommon for the Defense to request that the Judge make an order of sequestration for witnesses. Such motions are routinely granted by the Court in order that the testimony of one witness will not be influenced by the testimony of another. In such a case, each witness who may be called to give testimony in a trial will be instructed not to discuss his or her testimony or any aspect of the case with anybody, either before or after he or she testifies, until the trial is over. Violation of an order of sequestration may result in a mistrial and a finding of contempt of court against the erring witness by the Judge.

### General Information

The Court has the prerogative to schedule matters specially at any time in the week. Two of the fifty-two weeks in the year are lost to holidays, leaving the Greenland Police Department with roughly 250 days in which to try its criminal cases. Many of the cases scheduled for trial result in negotiated plea of guilty and no hearing is held.

The average hearing takes approximately one hour but due to the crowded docket, witnesses may expect to be in court an average two hours of more. There is a delay of approximately three months between the Defendants plea of not guilty and the date

scheduled for trial. Priority is given to the cases of persons in jail, in these instances the delay between arraignment and trial is less than three weeks.

It often seems to some witness that they have wasted their time in going to Court without giving testimony. However, many Defendants would not plead guilty unless the witnesses were there to testify. Instead, the accused or the defense attorney would demand his or her rights to trial and to confront the witnesses. Thus, in such a case, the witness has played a vital role in the administration of justice; first, by reporting what he/she has observed and second, by coming forward to testify.

Without the witness assistance, the crime might not have been solved, or if solved, dismissed because the witness was not present in Court prepared to testify. It should be remembered that testifying in Criminal Court is the responsibility of all citizens who wish to remain free in a system governed by laws. Effective courtroom presentation is primarily a matter of confidence. The culmination of every police investigation, which leads to the identification and arrest of persons suspected of crime is a hearing or trial in a court of competent jurisdiction. It is at this point that a determination is made as to the guilt or innocence of the accused offenders. The defendant is presumed innocent until proven guilty and conviction is based upon a finding of guilt beyond a reasonable doubt. The court will consider not only the quality and quantity of the evidence itself, but also the manner in which it is presented, the witnesses personal appearance, demeanor, attitude and ability to express themselves in a convincing manner, exerts a significant influence on the eventual decision of the Judge

### [Personal Appearance](#)

Although it is common knowledge that a person's appearance is not necessarily related to his character and indeed can be manipulated to impress falsely, there is no doubt that the personal appearance of witnesses influences opinion of their testimony. The defense counsel usually instructs the defendant to appear in court well-groomed and neatly dressed to project a clean-cut image. Attorneys themselves are professionally concerned with gaining the acceptance of the jury and the Judge and typically are well-groomed and wear stylish suits of good taste. Your appearance should similarly be non-offensive. A clean conservative suit or outfit will make the best impression. Also, it is highly recommended that the child care be arranged for, rather than bringing children to Court.

[Weapons in Court](#) NH RSA 159:19 Courtroom Security: No person shall knowingly carry a loaded or unloaded pistol, revolver, or firearm or any other deadly weapon as defined in RSA 625:11, whether open or concealed or whether licensed or unlicensed, upon his or her person or within any of his possessions owned or within his or her control in courtroom or area used by a court. Whoever violates the provisions of this paragraph shall be guilty of a class B felony. The provisions of this section shall not apply to marshals, sheriffs, policemen or other duly appointed or elected law enforcement officers, bailiffs and court security officers, or persons with prior authorization of the court for the purpose of introducing weapons into evidence.

## Basic Trial Procedure

The right to a speedy, public, and impartial trial is guaranteed to every citizen by the United States Constitution as well as the New Hampshire Constitution. In a District Court, the case is tried without a jury and the Judge performs the jury's function of weighing the evidence, determining the credibility of witnesses, finding the facts, and ultimately issuing a verdict. Following opening statements, the prosecutor begins to introduce the state's case. The state presents its evidence first because it must prove the defendant's guilt beyond a reasonable doubt. This is the so-called standard of proof in criminal cases. Probability of guilt is not sufficient, nor is the defense required to prove innocence.

Presentation of evidence begins with the direct examination of the prosecution's witnesses. The purpose of this examination is to produce evidence that proves the state's case against the defendant. You are usually a witness for the prosecution. The defense counsel has a right to cross-examine witnesses for the prosecution. The purpose of the cross-examination is usually to discredit the testimony of the witness or to impeach their credibility. The defense attorney is not always limited in their questioning to issues raised by the prosecutor and they may cross-examine the witness concerning any matter which is relevant to the case. The prosecutor may wish to conduct a redirect examination to clarify evidence that may have become distorted during cross-examination. Unlike cross-examination, the scope of redirect examination is limited to matters brought out in the previous examination by the defense. The same is true if the defense counsel wishes to conduct a recross-examination. The defense counsel may also call witnesses for direct examination. The prosecution can cross-examine each of the defense witnesses, just as the defense attorney cross-examines the state's witnesses. The defendant may choose to testify; however, they have a constitutional right, protecting him or her from self-incrimination, not to testify. If the defendant testifies, they are treated much like any other witness.

## Rules for Testifying in Court

1. On the stand, sit comfortably, but maintain good posture and an alert appearance.
2. Testify to what you know from personal knowledge to be the truth.
3. Speak naturally and calmly in a distinct and clearly audible tone of voice, describing in straightforward language the events of the case in the order in which took place.
4. Maintain a courteous attitude, self-control and personal composure at all times avoiding any impression of being contentious or prejudiced. The use of "Your Honor" when responding to the Judge and "Sir or Ma'm" when answering the attorneys, is appropriate and desirable.

5. The defense attorney may try to bait you into making sarcastic or derogatory remarks. When this tactic is employed, you must exercise verbal control by remaining calm and replying in a straight forward manner.
6. Respond to questions without hesitation or evasion and without expressing personal views or drawing conclusions.
7. Make every effort to avoid errors or inconsistent statements which could undermine the confidence of the Judge in his or her credibility.
8. Confine your testimony to the particular case and do not volunteer information or go beyond the scope of the questions under discussion.
9. When a question is asked, look directly at the person asking the question. If you do not hear or do not understand the question, request it be repeated. Pause briefly and consider the question before answering.
10. Do not guess! If you do not remember or do not know a particular fact, simply say so.
11. At times, attorneys may object to a particular question or to certain testimony. When an objection is made, do not begin to answer or continue an answer until the objection is ruled on. Follow the instructions of the Judge.
12. If you have discussed the case previously with the prosecutor, so state if he asked. Pretrial discussion is perfectly legitimate.
13. If you make a mistake in testimony, voluntarily correct the error as soon as possible.

## Appeals

The Defendant generally has the right to appeal the finding of guilty or the sentence that is imposed by the District Court to the Rockingham County Superior Court. In such a case, the State retains custody over the evidence until the conclusion of the appeal. Further, the witnesses may have to testify again at Superior Court. The County Attorney conducts the prosecution of all criminal cases in the Superior Court and his office will coordinate witness activities.

## Further Information

If you need further information, you may contact the Prosecutor's Office for the Greenland Police Department by telephoning (603) 431.4624 and explaining you are a Witness for the State in need of assistance.