

I have a lawyer. I have an Omnibus Hearing, what's next?

You pleaded not guilty. You have a lawyer. This information will help you talk to your lawyer about your case.

THE PROSECUTOR

Prosecutor: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

IMPORTANT:

- ∞ The prosecutor is NOT your lawyer or your employee.
- ∞ Anything you say to the prosecutor about your case could be used against you at your trial.
- ∞ The prosecutor can't talk to you about your case without your lawyer being present.

What is discovery?

- ∞ Your lawyer and the prosecutor must give each other the evidence

on your case. Evidence is sometimes called discovery.

- ∞ Your lawyer will write the prosecutor and request the evidence.
- ∞ The prosecutor must give you the evidence that tends to show you are not guilty and the evidence that tends to show you are guilty.
- ∞ There is a law that lists the type of evidence you may get on your case. You can find this law at § 46-15-322, MCA.
- ∞ Your lawyer must give the prosecutor certain evidence in your case.
- ∞ There is a law that lists the type of evidence you must give the prosecutor. You can find this law at §46-15-323, M.C.A.

Can I settle my case without a trial?

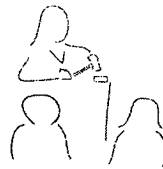
- ∞ Maybe.
- ∞ Your lawyer may talk with the prosecutor about settling your case without a trial. This is called a plea agreement. The prosecutor doesn't have to settle your case.
- ∞ **WARNING:** Anything you say to the prosecutor may be used against you at your trial.

Omnibus Hearing

- ∞ An omnibus hearing is a pretrial hearing.
- ∞ At this hearing, all parts of your case will be discussed and the judge will decide if your case is ready to go to trial.
- ∞ The court may require you to appear in person at the omnibus hearing. Check the court order to see if you have to appear.

If you are required to appear, get to the courthouse 15 minutes early:

- ∞ Check-in at the court clerk's office.
- ∞ Find the courtroom.



Who will be at the hearing?

- ∞ The judge.
- ∞ Your lawyer.
- ∞ You, if required.
- ∞ The prosecutor.

Get ready.

- ∞ The judge needs to know that your lawyer and the prosecutor have all the evidence.
If the prosecutor didn't give your lawyer the evidence you asked for, your lawyer will tell the judge.
- ∞ The judge needs to know what type of defense you will use at your trial.
 - The most common type of defense is a general denial. Use this defense if you didn't commit the offense or the prosecutor won't be able to prove you did it.

- There are certain defenses your lawyer must specifically tell the judge about. These are called affirmative defenses. They are:

- Alibi
- Compulsion
- Entrapment
- Justifiable Use of Force
- Mistaken Identity
- Other: You will need to provide the judge with any other specific affirmative defense.

- ∞ Your lawyer must file all pretrial motions at your hearing. A motion is the name of a paper asking the judge to take some action for you.
- ∞ Some common pretrial motions are a motion to quash arrest, motion to suppress evidence, or a motion to dismiss.
- ∞ The judge will schedule any deadlines, hearings and trial in your case.



- What happens at the hearing?

- ∞ When your case is called, go to where you are told. This might be a table or a podium.
- ∞ Your lawyer will speak for you.
- ∞ Speak only to the judge when asked a direct question.
- ∞ Speak slowly and loudly enough so the people in court can hear you.
- ∞ Give complete answers.
- ∞ Say "Yes" or "No" out loud. You must use words. It's not enough to nod or shake your head.
- ∞ If you don't understand, say "I don't understand the question."
- ∞ Sometimes you will get a copy of the omnibus order when you are still in court.
- ∞ But, sometimes the judge will mail you a copy of the order.
- ∞ Keep this order.
- ∞ You must follow it.

Can I just change my plea to guilty and not go to trial?

- ∞ You have the right to take your case to trial.
- ∞ You and your lawyer may not be able to work out an agreement with the prosecutor. You may decide that you don't want to have a trial and that you want to change your plea to guilty.
- ∞ If you decide to change your plea, talk with your lawyer about what to do next.

Where can I get help?

- ∞ The Montana Law Library web site gives tools for legal research, including Montana State Supreme Court Opinions, the Montana Code, forms, and links to other helpful web sites.

Montana Law Library.

- ∞ The web site is:
<http://www.lawlibrary.state.mt.us>.
- ∞ The toll free phone number is 800.710.9827.

- ∞ **Helpful Tip:** There is an "Ask the Librarian" button on Montana Law Library web site. Law Librarians can't give you legal advice. But, they can help with information on legal research and procedure.