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A Guide to Knowing Your Rights with the Police and Getting Out of Jail: Booklet 2

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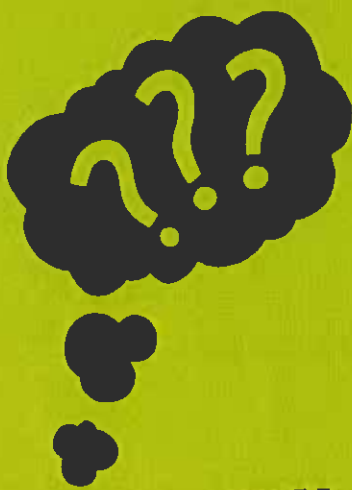
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BOOKLET 2



A GUIDE TO REPRESENTING YOURSELF IN ST. LOUIS MUNICIPAL COURTS



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ARCHCITY
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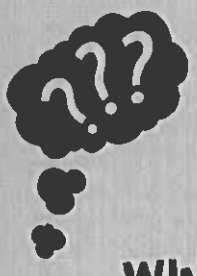
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2019

BOOKLET 2



A GUIDE TO REPRESENTING YOURSELF IN ST. LOUIS MUNICIPAL COURTS



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2019



ArchCity Defenders | archcitydefenders.org | 314-361-8834

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See ***Booklet 1: A Guide to Knowing Your Rights with the Police and Getting Out of Jail*** for what to do if you're stopped by the police, what to do if you or a loved one is arrested, what to do if you get a ticket, and more.

Visit ProSeSTL.org to find forms you can bring to court, organizations offering services, and ways you can get involved to stop the criminalization of communities. Look for this icon (📄) for online content.

Designed by Theresa Williams in St. Louis, Missouri | www.theresawilliamsdesign.com

I AM IN COURT. WHAT CAN I DO?

Do not miss court! If you miss court, a warrant will be issued and you can be arrested for your failure to appear. Your license may also be suspended for missing court. If you missed your court date, immediately call the Court to try to make arrangements for a new court date to avoid a warrant. See your ticket for the Court's phone number.

Before you go to court:

- Call the Court to confirm the date, time, and place.
- Prepare your documents and evidence. Bring anything relevant to your defense. For traffic stops, this includes proof of your insurance at the time of your stop, your current insurance, registration, and driver's license information.
- Check the Court's dress code on the Court's website.
- Do not bring anything to court that you would not want the police to find on you. You will go through a metal detector and the police can search you. Do not bring alcohol, drugs, or weapons (including pocket knives or pepper spray) with you.
- Try not to drive a car to court if there are issues with your license, plates, or registration. Police monitor court parking lots and could give you a ticket.
- Appearing in court can take several hours. Most courts call cases on a first-come, first-served basis so arrive early if you can.
- Call the Court to see if you can bring your children to court.

When you get to court:

1. **Go through security.** Police will check your bags and you will have to go through a metal detector.
2. **Check in with the Court and make sure the Court knows you are there.** Ask for a clerk and check in with them.
3. **Sit down and wait for your name to be called to speak with the Judge.** Your first court date should not be a trial. Instead, the Judge will tell you what you are charged with and ask you for your plea.
4. **You may ask to speak with the Prosecutor to try to negotiate a better outcome.**

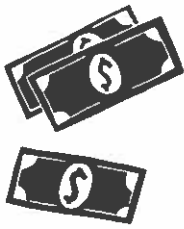
REMEMBER: You have the right to defend yourself with or without a lawyer!

When speaking with the Judge:

The Judge will tell you what the City charged you with and ask you if you want to plead guilty, not guilty, or "guilty with an explanation." Guilty with an explanation has the same effect as pleading guilty.

On your first court date, **do not plead guilty if you are not sure what you want to do!** Once you have pled guilty, it is very difficult to change this plea. If you want to talk to the Prosecutor first, plead not guilty. If you want to show evidence to the Judge, plead not guilty. You will be given another court date.

If you plead guilty: the Judge will find you guilty and then will tell you the fines and court costs that you owe, the date you have to pay them by, points that may be added to your license record, and any other punishment the Judge chooses.



If you cannot afford your fines or court costs, tell the Judge at your first court date. You may be able to reduce your fines and waive court costs or get community service instead.

See page 13 for your options if you cannot afford your municipal fines or fees.

See page 9 for a full range of sentences the Judge may choose.

Pleading guilty:

If you were previously locked up and you are okay with pleading guilty and having a conviction on your record, consider asking the Judge for time served as your sentence instead of fines or fees. You cannot receive time served for minor traffic violations.

If you were stopped for no insurance/no registration and you are now insured or have registration, show the Judge your proof. The Judge may amend the charge and/or reduce how much money you have to pay. You may also ask to speak with the Prosecutor to negotiate to amend the charge.

You should not be sentenced to jail time if you did not have an opportunity to be represented by a lawyer and you could not afford to pay for a lawyer yourself.



Pleading not guilty:

If you plead not guilty, the Judge will give you another date (trial date) when you will have to come back to present your evidence and defend yourself.

You have a right to bring a lawyer to your court date. If the Prosecutor does not want to ask for jail time as punishment, you probably do not have the right to a lawyer paid for by the government.

You can plead not guilty and then ask to negotiate with the Prosecutor to see if you can get a better deal. This conversation is confidential.

See page 5 for how to defend yourself at trial and page 9 for the possible consequences of a municipal conviction.

Negotiating with the Prosecutor:

A prosecutor has the power to dismiss a case, change the severity of the charge, decrease the recommended fine, agree to community service, or change the ticket charge so you don't lose points on your license. You can try to negotiate with the Prosecutor, but you will likely have to plead guilty if you want to agree to what the Prosecutor offers you.

REMEMBER: The prosecutor is not on your side. ANYTHING you share with the prosecutor can potentially be used as evidence against you.

HOW DO I DEFEND MYSELF AT TRIAL?

In municipal court, you decide if you want a trial decided by a Judge (the default) or decided by a jury.

If you want a **trial by jury**, you can request it through a process called certification. Your trial will likely happen in another court called the Associate Circuit Court (See [MO Supreme Court Rule 37.61](#)).

At all trials, the Judge or jury will hear the prosecutor's arguments, then your defense, and then make a decision in your case.

If you are found guilty, you will be sentenced by the Judge. If you want another trial, you have 10 days to ask for a new trial in Associate Circuit Court (*trial de novo* or a review **application**).

- There is a \$30 fee to do this, but the fee may be waived if you fill out an ***In Forma Pauperis form*** and demonstrate to the Judge that you are unable to afford the fee. Find this form at www.ProSeSTL.org.

? JUDGE? EVIDENCE. ???
?? JURY? ARGUMENTS. ! ! !

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If you are found not guilty, you will be acquitted of the charges (no conviction) and there will be no other court dates or punishments.

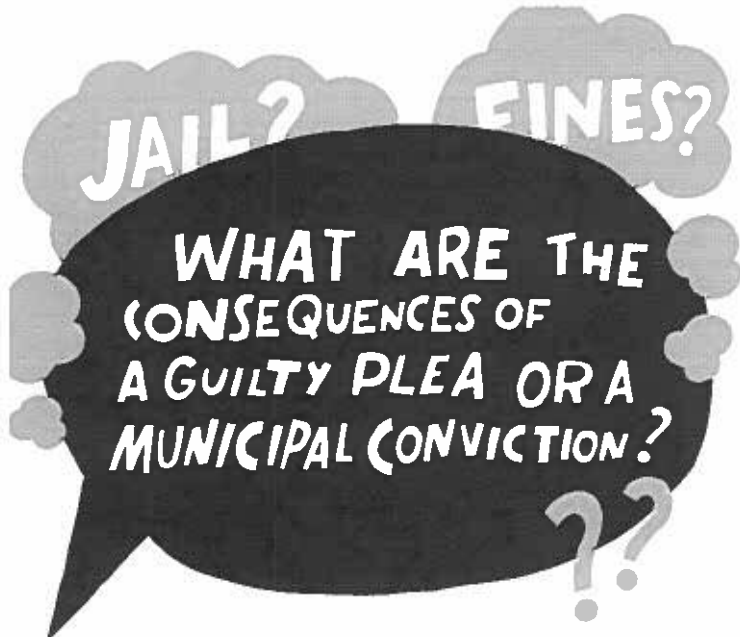
Your rights at trial:

- **You are innocent until proven guilty beyond a reasonable doubt.** The Prosecutor must use evidence to prove you are guilty. This can be as little as the testimony of the ticketing officer. You may want to introduce evidence supporting your side (your defense).
- **You have the right to see and inspect evidence that the Prosecutor will use against you.** Ask for "discovery" the first time you go to court.
- **You can bring in your own evidence to support your case.** Bring anything that helps show you did not do what the police say you did.
- **You should prepare to question witnesses.** You can bring your own witnesses (ask for a "subpoena") and question both your own and the Prosecutor's witnesses.

What happens at trial:

1. **The Prosecutor will present their evidence to try to prove that you committed the offense beyond a reasonable doubt.**
 - The Prosecutor may share documents with the Judge. The Prosecutor must share these documents with you. You can ask for these documents before trial (**ask for "discovery"**).
 - The Prosecutor may question witnesses (like the police). You can then ask those witnesses questions as well.
2. **You will then have the opportunity to present your case.**
 - Bring your evidence to court—especially documents, photos, videos, etc. that show you did not commit the offense or that weaken the Prosecutor's case.
 - Bring witnesses that support your case.

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There are many possible consequences for convictions or guilty pleas, and municipal courts can order different kinds of punishments.

- **FINES:** If you plead guilty or are found guilty, a municipal court will usually punish you by making you pay a fine. If you cannot afford your fine, see page 13. Do not leave court with a fine you cannot afford.

- **PROBATION:** A court can sentence you to probation. You can receive bench or supervised probation of each type of probation (listed below). Bench probation normally means that you do not have to report to anyone. If you violate the rules of your probation (especially by picking up another charge), the court can revoke your probation and sentence you to fines or jail depending on your type of probation. Types of probation include:

- **SIS Probation or "Suspended Imposition of Sentence":** This is usually only for someone's first charge. If you successfully complete your probation term without a violation, you will not be convicted under Missouri law; however, it could show up as a guilty plea on background checks. The charges should not appear on most non-government background checks. If you violate your probation and it is revoked, it can become a conviction and you can receive any sentence (e.g. fines or jail) within the original range of punishment.

Note: Even if you complete SIS probation without an issue, this type of probation still counts as a conviction for immigration purposes and punishments for future criminal cases. An SIS can also impact some professional licenses.

- **SES Probation or "Suspended Execution of Sentence":** SES probation is considered a conviction. If you successfully complete this probation, you will not receive the suspended (back up) sentence. If you violate your probation and it is revoked, the Judge will automatically give you your original suspended sentence.
- **JAIL:** Most municipal courts do not usually sentence people to jail as punishment. However, if the charges are serious (e.g. assault or DWI), or you have a number of prior convictions, jail time is still possible. This is usually based on what the Prosecutor recommends to the Judge. **BUT: You cannot be sentenced to jail if you were not represented by a lawyer, could not afford a lawyer, and did not waive your right to a lawyer.**

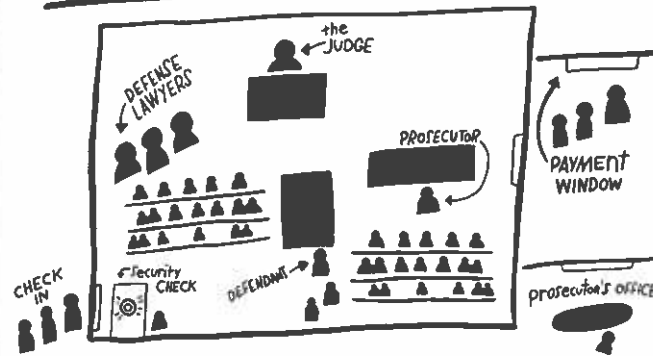
Other consequences of a municipal conviction:

- **Future criminal charges:** If you are convicted of a municipal offense and are later charged for a similar offense, you may be charged as a prior offender and get more serious charges or harsher sentences. Certain offenses could even become felonies because of prior municipal cases if prosecuted in state court.
- **Effect on your background check:** If you are convicted, the conviction can appear in public background searches. A completed SIS probation may still appear on background checks depending on the type of search.
- **Impact on your driver's license:**
 - Higher costs for car insurance
 - Points on your license and possible suspension or revocation of your license, especially with moving violation offenses (speeding, driving while suspended, DWI, driving without insurance, etc.)
 - Visit [the DOR website](#) and see Form 889 for the points you may get and for information on how to reinstate a suspended license.
 - Call the Department of Revenue at 573-526-2407 for **step-by-step instructions** on what to do to reinstate or make your license valid.
 - In some cases, you can get a special hardship license to drive to essential locations. Apply by filling out **Form 4595** and showing proof of insurance. You will have to make an argument to a judge. Only Missouri residents can obtain this license (not people without immigration status, people without an address, or people with out-of-state residence).

REMEMBER: Courts can suspend your license if you fail to appear at your court dates; you will need to show you are in compliance by resolving your case in order to get rid of this type of suspension.

Note: Some criminal charges or arrest records can be removed from your criminal record if you expunge them. Expunging a conviction seals the record, which means that you can answer "no" on applications that ask if you have a conviction. Sometimes your record will still come up on a background check. See resources on www.ProSeSTL.org for related forms and more information on the expungement process. 🌐

COURT



I HAVE MUNICIPAL FEES I CANNOT AFFORD. WHAT DO I DO?

KNOW YOUR OPTIONS & BE PREPARED.

??

MOTION FOR ADJUDICATION OF INDEGENCY

INVESTIGATE THE DEBTOR'S FINANCIAL SITUATION TO DETERMINE WHETHER THE DEBTOR IS ELIGIBLE FOR ADJUDICATION OF INDEGENCY.

1. DEBTOR'S NAME: _____

2. DEBTOR'S ADDRESS: _____

3. DEBTOR'S PHONE NUMBER: _____

4. DEBTOR'S EMPLOYER: _____

5. DEBTOR'S ANNUAL INCOME: _____

6. DEBTOR'S MONTHLY EXPENSES: _____

7. DEBTOR'S ASSETS: _____

8. DEBTOR'S LIABILITIES: _____

9. DEBTOR'S SOCIAL SECURITY NUMBER: _____

10. DEBTOR'S MARITAL STATUS: _____

11. DEBTOR'S EDUCATION: _____

12. DEBTOR'S MILITARY SERVICE: _____

13. DEBTOR'S OTHER INFORMATION: _____

- THINGS TO BRING:
- DOCUMENTS OF YOUR FINANCIAL SITUATION:
- PAY STUBS
- PUBLIC BENEFIT DOCUMENTS
- BILLS
- A FILLED OUT "AFFIDAVIT OF INDEGENCY."

* The Court cannot put you in jail for failing to pay a fee you cannot afford. The Court can only put you in jail if you fail to go to court to explain that you could not afford the fine or if the Court finds that you could afford to pay the fines and chose not to go. Go to court to explain to the judge that you cannot afford to pay your fines.

How to reduce the fine:

- Explain to the Judge that you cannot afford the fine. Say: "I have the right to inform the Court of my inability to pay the fine based on Missouri Supreme Court Rule 37.65. I would like to find an alternative."
- Provide details explaining any income you earn, public benefits you receive, and costs you have. Bring all documentation of your financial situation and ask to show it to the judge.
- The judge may ask you to fill out a motion to reduce your fines. This is a court document that explains to the judge why you cannot afford your fines. Find an example of the form online at www.ProSeSTL.org.

REMEMBER: You can tell the judge you cannot afford a fine at all court hearings. Also, you can be locked up for failing to come to court on a payment date or if the Court finds you can afford to pay the fine.

If the judge finds I cannot afford my fine:

Talk to the judge about what you will be able to do. Here are the options under Rule 37.65:

- The Judge can decrease or eliminate court costs and fines.
- The Judge can give you more time to pay.
- The judge can order community service.
- The judge can order court-approved programs instead, like driving school, job training, or mental health or drug treatment.

Note: You can normally do your hours at any nonprofit, church, or community center. Always double-check with the Court first to confirm whether your site will be approved since some courts have their own list of approved places. You will need to get a letter from that site on letterhead with a signature stating that you completed your hours.

This guide is created by ArchCity Defenders to support people representing themselves in court. This information is provided for general informational purposes only. We have tried to make it as accurate and up-to-date as possible, but laws can change and your individual situation may be different. Nothing in this guide should be understood as legal advice from ArchCity Defenders. We expressly disclaim all liability that results from actions taken or not taken in reliance on this guide. If you have further questions, please consult a lawyer. We do not intend this information as advertising or solicitation. By providing this information, we are not acting as your lawyer.

Many parts of the criminal legal system are unjust, promote continued marginalization of specific communities, and were designed to promote profit over justice. Often, judges, police, and prosecutors all play a part in systems that harm our communities. This guide offers individuals tools to push back, by empowering individuals and offering detailed tips to defend yourself. Ultimately, we believe that only by organizing together to change the system will communities be safe from its abuses.

Visit www.ProSe.STL.org for links to service providers, court forms, volunteer opportunities, and other helpful information.

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