

Pre-Trial Discovery

Demand for Discovery and Inspection

Individuals charged with a crime in Menominee Tribal Court have a right to know the evidence against them. This is a requirement of due process guaranteed to Tribal defendants by the Indian Civil Rights Act of 1968. One of the ways to learn exactly what evidence the prosecutor will use at trial is to ask for it by making a “Demand for Discovery and Inspection.” A Demand for Discovery and Inspection is a document the defendant serves on the Tribe, listing all the evidence the defendant wants shared with them. The Demand for Discovery and Inspection is filed after the arraignment.

The Demand for Discovery and Inspection must not be unduly burdensome or designed to harass or bully the other party. Unduly burdensome means the ask creates unreasonable or unacceptable difficulty, expense, or inconvenience.

In the discovery demand, you can ask for evidence in the Tribe’s possession including:

- **Written or recorded statements of the defendant.** This includes statements made by you about the alleged crime, as well as testimony from state proceedings or grand jury appearances.
- **Written summaries of oral statements from the defendant.** The prosecution has to give you a written summary of any oral statements you made that the prosecution plans to use at trial.
- **Names and addresses of witnesses.** You can ask for a list of witnesses the prosecution intends to call at trial, along with their addresses.
- **Witness statements and reports.** You are allowed to access any written or recorded statements of prosecution witnesses, including reports or statements from experts.

- **Physical evidence.** You can demand to see and copy any physical evidence the prosecution plans to use at trial. This includes police body camera video and police squad car video. In some cases, you may want to ask for the squad-to-squad audio as well as the body camera video and dispatch audio.

- **Criminal record of witnesses.** You can ask for the criminal record of any witness the prosecution intends to call at trial.

The prosecution can also serve a demand for discovery and inspection on you. Generally, demands for discovery and inspection are not filed with the Court. However, if you or prosecution fail to cooperate with a discovery demand, the prosecutor can file a motion to compel discovery.

If a party does not provide discovery after the Court orders them to do so as a result of a motion to compel, that evidence will be excluded from use at trial.

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