

IV. WHO'S WHO IN THE COURTHOUSE

A. What is a “clerk?”

Every court in Massachusetts has an office to assist the public with the many papers and scheduling issues involved in the course of a typical case. This office is referred to as the clerk’s office in most of the Trial Court departments. However, it is the register’s office in the Probate and Family Court Department and the recorder’s office in the Land Court Department. The people in these offices are dedicated to keeping the court running smoothly, helping you whenever they can, and maintaining all court records.

The **clerk-magistrate** in the District Court, Boston Municipal Court, Housing Court and Juvenile Court departments performs two separate functions. As “clerk,” he or she is an officer of the court whose main function is to maintain the records of the court. As “magistrate,” he or she has limited judicial authority to hear and decide certain kinds of civil cases. Most courts have **assistant clerk-magistrates** who help the clerk-magistrate carry out these duties.

The **register of probate** maintains the records in the Probate and Family Court.

Assistant registers may review agreements presented in cases which will then be acted upon by the court. They also have the authority to act on some uncontested matters and make recommendations to the judge where appropriate. Assistant registers and **family law facilitators** are available to assist self-represented litigants in the Probate and Family Court.

The **recorder** maintains the records in the Land Court, and also hears and decides certain kinds of cases.

In the Superior Court, the **clerk of court** maintains the records, and **assistant clerks** work with the judge in the courtroom.

In some courts, **sessions clerks** work with the judge in the courtroom.

Many **clerical and support staff** work in the various clerks’ offices and hold a number of different job titles. Although they do not hold the title of “clerk,” they are often referred to informally as “clerks.” Support staff play a key role in the operation of the court.

ALERT!**A clerk may:**

- Help you figure out what papers need to be filed, how to file them and what fees or costs may apply
- Give you information about where things are in the court
- Give you information about where resources are if you need them
- Help you with basic questions about legal procedure
- Answer general questions about how to fill out forms

A clerk cannot:

- Give you legal advice
- Help you decide what to say or write on court forms
- Fill out forms for you unless you have a disability
- Refer you to specific lawyers

B. What is the role of the judge?

The **judge** is like the umpire in a game. He or she is not on either side. The judge considers preliminary matters in a case, which might include temporary orders, motions, and discovery issues. When a case goes to trial, the judge's role varies depending on whether it is a jury trial or a bench trial.

While the judge may tell you the rules of court, he or she is not required to do so. You should not depend on the judge to guide you through the process. Instead, you should seek answers to your questions before coming to court. You will be able to find the information you need through legal research. For assistance, refer to *Appendix A*. If your question involves timing or procedure, the clerk's office may be able to help you.

A judge cannot give you advice about how to present your case. The judge cannot talk to you without the other party present in the courtroom, except in limited situations. The judge cannot talk to you about your case outside the courtroom.

LEARNING THE LANGUAGE

Jury Trial In a jury trial, the judge controls how the facts get presented to the jury and instructs the jury about the law that applies to the case. The jury, as the “trier of fact” decides which witnesses and other evidence to believe. The jury then applies the law to the facts and reaches a verdict. The law does not allow for a jury in all cases. In a civil case, if there is a right to a jury trial, a party must request it in the manner required by law and court rules.

Bench Trial In a bench trial, there is no jury. The judge is the “trier of fact.” In a bench trial, the judge decides which evidence and witnesses to believe. The judge applies the law to the facts and reaches a decision.

C. What does a lawyer do?

A **lawyer** is someone who has passed an examination and is licensed to represent the legal interests of others. Some lawyers represent clients in court. Some lawyers never go to court. Rather, they handle other legal matters, such as the purchase or sale of real estate or the drafting of wills and trusts. Lawyers are frequently referred to as “attorney” or “counsel” or “counselor at law.”

D. Who is responsible for court security?

When you enter the courthouse, you will likely have to go through a security check monitored by a court employee in uniform, typically wearing a blue shirt. This person is an **associate court officer**. If you have questions about where to go in the courthouse, this person can help you.

Security in the courtroom itself is provided by a court employee in uniform, typically wearing a white shirt. This person is a **court officer**. Together with the judge, he or she is responsible for maintaining order in the courtroom.

E. Who records proceedings in court?

Most proceedings in the courtroom are recorded digitally or electronically. However, some proceedings are recorded by a **court stenographer** or **reporter**. He or she is responsible for making a word-for-word written record of everything that is said in the courtroom during a hearing or trial. One purpose of recording the proceedings is to create a record in the event there is an appeal of the case.

F. What is the role of the probation officer in a civil case?

In the Probate and Family Court department, **probation officers** primarily investigate aspects of domestic relations cases for the court and provide dispute intervention services.

In the Juvenile Court department, depending on the case type, probation officers supervise and monitor juveniles, or act as case managers.

Housing specialists in the Housing Court department are not probation officers, but they serve a similar function, providing mediation services and conducting investigations for the court.

G. What does a court interpreter do?

The **court interpreter** is a trained professional who is fluent in English and at least one other language. The interpreter will interpret what is said in the courtroom for the non-English speaker or hearing-impaired person and help him or her communicate with the court. The court interpreter cannot give legal advice. Court interpreters are provided by the court free of charge.

H. Are there other people involved in the court process?

Yes. There are a number of other people who become involved in the court process, depending on the nature of a case. Some examples are: **Americans with Disabilities Act (ADA) coordinators, Alternative Dispute Resolution (ADR) coordinators, law clerks, or court clinicians.**