

## OUTLINE OF CRIMINAL COURT PROCESS

What happens during a criminal case may be confusing to a victim or witness. The following summary will explain how a case generally progresses through Oklahoma's criminal justice system. Specific procedures may be modified by local courts or judges.



### **Crime Committed / Police Notified**

#### **Police Investigate**

Investigation may include interviewing victim, witnesses, suspects; collecting physical evidence; visiting, viewing, photographing, measuring crime scene; identifying suspects; through line-ups ... etc.

#### **Police Make an Arrest (or Request a Warrant)**

When a crime is committed in a police officer's presence --- or the officer has probable cause to believe that certain misdemeanors or any felony was committed that the officer did not see happen --- an officer may arrest a suspect on the spot without an arrest warrant. The officer will later submit a charging/warrant request to the Prosecuting Attorney, suggesting potential charges to be authorized.

#### **Warrant/Charging Request Reviewed by Prosecuting Attorney**

Most cases begin with a warrant request. This is generally the first time that the Prosecuting Attorney's office is involved in a case, unless a prosecutor reviewed a search warrant or visited the crime scene. At this stage, the Prosecutor determines whether a person should be charged with a crime and, if so, what the crime should be. The Prosecutor must thoroughly review all reports and records concerning the case, including witness statements. The Prosecutor also reviews the suspect's prior criminal or traffic record. Occasionally, the reviewing Prosecutor sends the case back to the police to conduct additional investigation.

#### **Warrant Issued**

The Prosecutor can issue a charge if he or she reasonably believes that probable cause exists that the suspect committed the offense. But, most reviewing Prosecutors apply a higher standard --- whether the charge can be proved beyond a reasonable doubt at trial with the information known at that time.

## **Suspect Arrested (if not already in custody)**

The delay between the crime date and the defendant's arrest on an authorized charge can take any length of time (e.g., if the defendant's whereabouts are unknown, or if the defendant has left the State of Oklahoma).

## **District Court Arraignment**

This is the first court appearance for any misdemeanor or felony. Once arrested and charged with a felony, the suspect appears in District Court for arraignment. The defendant is told what the charge(s) is (are) and the maximum penalty if convicted, and is advised of his constitutional rights to a jury or bench trial, appointed attorney, presumption of innocence, etc. The charging document is called a Complaint. The conditions and amount of bond are determined by the judge. In some cases --- generally based on the nature of the charge --- the Judge imposes conditions on the bond, such as "no contact" with the victim. Bond is set in almost every case, but it is up to the defendant's own resources to post the bail money, which allows him to be released.

All further pre-trial procedures are determined by whether the defendant is charged with a felony or misdemeanor:

### **Misdemeanor**

At a misdemeanor arraignment, the defendant will be given a chance to enter a plea to the charge: plead guilty, plead not guilty, or stand mute (i.e., remain silent, which is treated by the court as if the defendant pled not guilty). If the defendant pleads guilty or no contest, the Judge may sentence the defendant on the spot or may reschedule the case for a sentencing date, which will give the probation department time to prepare a pre-sentence report including background information about the defendant and the crime, make a sentencing recommendation, etc. If the defendant stands mute or pleads not guilty, the case will be scheduled for a pre-trial conference.

***Pretrial Conference*** --- All misdemeanor cases are scheduled for a meeting between an Assistant Prosecuting Attorney and the defendant (or his attorney) to determine whether the case will go to trial or be resolved with a plea. These meetings focus on resolving the case short of trial. The Judge and witnesses are not directly involved in misdemeanor pre-trial conferences. If a plea bargain is going to be offered by the Prosecutor, it is done here.

***Pretrial Proceedings*** --- Many other events can occur prior to trial. Depending on the nature of the case, there may be pre-trial hearings on

Constitutional issues (confessions, searches, identification, etc.). The issues are presented to the Court through written "motions" (e.g., Motion to Suppress Evidence, etc.). The judge must determine whether evidence will be admitted or suppressed at the defendant's trial, whether there is some legal reason why the defendant should not be tried, or decide other ground rules for trial.

## **Felony**

At a felony arraignment in District Court, the defendant does not plead guilty or not guilty. He is advised of his right to a preliminary examination. The arraigning judge may also consider a defendant's request for a court-appointed attorney at this time.

*Pre-Exam Conference* --- Some courts schedule a "Pre-Exam Conference" several days before the scheduled Preliminary Examination. The Pre-Exam Conference operates like a misdemeanor pre-trial conference, as a meeting between the Prosecutor and defendant (or his attorney) to see if the case can be resolved without the need to subpoena witnesses for the "Prelim".

*Felony Preliminary Examination* --- This is a contested hearing before a District Court Judge, sometimes called a "probable cause hearing". The Prosecutor presents witnesses to convince the Judge that there is at least probable cause to believe that the charged crime(s) was (were) committed and that the defendant committed the crime(s). Because the burden of proof is much less than at a trial, the Prosecutor generally does not call all potential witnesses to testify at the "prelim"; generally, the victim and some eye witnesses plus some of the police witnesses testify. The defendant, through his attorney, can cross-examine the witnesses and present his own evidence (including witnesses). If probable cause is established, the defendant is "bound over" (i.e., sent to) for trial. If the Judge decides that there is not probable cause that the defendant committed the charged crime(s), the judge can bind the case over on different charges, can reduce the charges to misdemeanors for trial in District Court, or can dismiss charges. A defendant can give up his right to a Preliminary Examination. Most felonies arrive in District Court after such a "waiver".

*Pre-Trial Conference* --- The Court may schedule a meeting between an Assistant Prosecuting Attorney and the defendant's attorney to determine whether the case will go to trial or be resolved with a plea.

*Pretrial Proceedings* --- The Court Judge may be called upon to resolve various pre-trial issues, some of which determine whether the case will continue to a trial, be resolved with a plea, or be dismissed; whether evidence will be admissible at trial; etc.

## **Trial (Jury or Bench/Judge)**

A trial is an adversary proceeding in which the Prosecutor must present evidence to prove the defendant's guilt beyond a reasonable doubt. The defendant is not required to prove his or her innocence or to present any evidence, but may challenge the accuracy of the Prosecutor's evidence.

Both the defendant and the Prosecutor (representing the People of the State of Oklahoma) have the right to a trial by a jury. Sometimes, both sides agree to let a Judge listen to the evidence and decide the case without a jury; this is called a "bench trial". In a jury trial, the jury is the "trier of fact"; in a bench trial, the judge is. After the evidence is presented, the judge or a jury will determine whether the evidence proved that the defendant committed the crime.

Here is a general outline of the steps in a jury trial:

1. residents of the local county are randomly selected from a list of licensed drivers, and are summoned to the Court as potential jurors;
2. a blind draw selects twelve people from that group in felonies (six in District Court misdemeanors);
3. Voir Dire: the Judge, Prosecutor and defense attorney question the jurors about their backgrounds and beliefs;
4. the attorneys are permitted a limited number of "peremptory" challenges to various jurors (or an unlimited number of challenges for good cause);
5. after twelve (or six) acceptable jurors remain, the Judge administers an oath to the jury and reads basic instructions about the trial process, etc.;
6. the Prosecutor gives an opening statement to outline the People's case and evidence to the jury;
7. the defense may give a similar opening statement, or wait until later in the trial;
8. the Prosecutor calls witnesses, which the defense may cross examine;
9. the People close their proofs;
10. the defense may call witnesses, if it wants, and the Prosecutor may cross-examine them;
11. the defense rests;

12. the Prosecutor may present "rebuttal" witnesses/evidence to challenge evidence presented by the defendant during his proofs;
13. the Prosecutor rests;
14. occasionally, the trial judge will let the defense present "sur-rebuttal" witnesses to respond to the Prosecutor's rebuttal witnesses' testimony;
15. the Prosecutor presents a closing summary to the jury;
16. the defense attorney presents a closing summary to the jury;
17. the Prosecutor may present a rebuttal argument to the jury to respond to the defendant's attorney's closing summary;
18. the judge gives the jury detailed legal instructions about the charged crimes, the deliberation process, etc.;
19. the jury deliberates and returns a verdict.

**A criminal case jury verdict must be unanimous.**

### **Pre-Sentence Investigation and Report**

The court's probation department prepares a report for the judge summarizing the crime, and the defendant's personal and criminal backgrounds. Generally, the victim is contacted for a recommendation of sentence. The probation officer concludes the report with a recommended sentence.

### **Sentence**

Sentencing in Oklahoma varies with the crime and can be the most confusing part of the criminal process. Most often, sentences are at the judge's discretion. The judge will consider the information in the pre-sentence report (subject to factual corrections by the parties), additional evidence offered by the parties, comments by the crime victim, and other information relevant to the judge's sentencing decision. For felonies, the District Court judge will consult "sentencing guidelines" (originally established by the Oklahoma Supreme Court, but now applicable by "Truth in Sentencing" laws). The sentencing guidelines factor in aspects of the defendant's criminal conduct and his prior record, to determine the minimum jail/prison sentence. The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail or prison, or a combination. The judge must also order the defendant to make restitution to any victims who have suffered financial harm.

### **Appeals**

