

VICTIM/WITNESS PROCEDURES AND INFORMATION

MISDEMEANOR CASES

WHAT HAPPENS AFTER A CRIME IS REPORTED?

If the suspect is not arrested immediately, the officer involved will make a written report regarding the incident. At this time, the report is either sent to the prosecuting attorney's office for prosecution or is given to an investigator for further evidence. This process may take 2 to 3 weeks. For that reason, if you have any questions you will need to contact the investigating officer until the report is received in this office. If you receive or remember additional information pertaining to the incident, you will need to contact the officer so a supplemental report can be filed.

WHAT HAPPENS IF A SUSPECT IS ARRESTED?

If a suspect is arrested, the officer will take him/her into custody for a 24 hour hold. During the 24 hours, the officer will provide a brief report regarding the crime to the prosecutor. The prosecutor will then review the report and determine if criminal charges should be filed. The appropriate paperwork will be prepared and signed by the prosecutor. The judge then decides whether a warrant should be issued for the person's arrest. This must be done within the 24 hours. Even if the suspect is released, the prosecutor has three years to file a felony charge.

WHAT IS THE PROSECUTOR'S JOB?

A crime committed against a person violates state law and thus is a crime against the state. The prosecuting attorney in the county where the crime occurred is the attorney who handles the case. In our country a person is presumed innocent until proven guilty. The prosecutor has the burden of proving that the defendant committed the crime.

Before charges can be filed, the prosecutor must determine from the report if there is enough evidence to prove by law that a crime was committed. It could take the prosecutor weeks to review the report due to the large quantity of reports that are received on a daily basis. The prosecuting attorney's job is to represent the State. Although, he will take into consideration the victim's thoughts and opinions. It is important to realize that the prosecutor is not the victim's personal attorney

TYPES OF COURT HEARINGS:

ARRAIGNMENT: The first hearing is referred to as the arraignment. At this hearing, the judge will formally read the charge, advise the defendant of their rights, and ask them if they plead guilty or not guilty. If the defendant pleads guilty, the judge will determine an appropriate sentence. If the defendant pleads not guilty, the case will be set for an advise of counsel hearing. The arraignment can be waived by the defendant's attorney.

ADVICE OF COUNSEL: The defendant has the right to obtain an attorney. At this hearing, an attorney must appear for the defendant or the attorney must file paperwork informing the court that he is representing the defendant.

DISPOSITION HEARING: If the prosecutor and the defense attorney can determine a reasonable plea agreement, the case could be resolved at this hearing. This hearing was established to allow the system to move more swiftly. Any plea agreement made would be based on the evidence in the case and the information provided in the victim impact statement. The agreements could include jail, probation, restitution, fines, treatment, counseling, community service, etc. If a reasonable plea agreement can not be determined, the case is scheduled for court trial.

COURT TRIAL: In some cases the defendant's attorney will request a jury trial and a court trial would not be held. If the defendant's attorney does not request a jury trial, then both the prosecutor and defense attorney must present their case to the judge. The judge will then review the

evidence and make a decision of guilty or not guilty. Your testimony may be needed at this hearing.

PLEA AGREEMENT: An agreement can be made at any time prior to the jury trial between the prosecutor and defense attorney. This is where the defendant agrees to plead guilty under certain terms and conditions. Since both the prosecutor and defendant take the risk of losing should the case go to trial, plea agreements are a means to arrive at a reasonable disposition without the necessity of a trial.

JURY TRIAL: Both the prosecutor and defense attorney must present their case to the jury. Testimony is taken under oath and all victims and witnesses that were subpoenaed MUST appear. The jury will then review the evidence and make the decision of guilty or not guilty. All the jurors must agree or it is considered a "hung jury" and the trial would have to be held again. If found guilty, sentencing may occur immediately by the jury, or at a later date by the judge. If the defendant is found guilty, he/she is released of all charges.

SENTENCING: For each crime, the law specifies a range of punishment. If the jury recommends a sentence for the defendant, the judge cannot increase the punishment but can reduce it. In some cases where the defendant has prior criminal convictions only the judge can determine the sentence. In certain serious criminal cases, the victim has the right to make a statement to the court regarding how the crime has affected their life. This is called a victim impact statement.

MISDEMEANOR MAXIMUM PUNISHMENT:

Class A – up to 1 year in jail and/or up to \$2000 Fine
Class B – up to 6 months in jail and/or up to \$1000 Fine
Class C – up to 15 days in jail and/or up to \$750 Fine
Class D – up to \$500 fine
Infraction – up to \$400 fine

CONTINUANCE: Any time during court proceedings either the defendant, the defendant's attorney, the prosecuting attorney or the court may ask for a continuance for a number of reasons. Therefore, you should always call this office before court to verify that the hearing will still be held.