

*The Mission of the
Jackson County Attorney's Office:*

*To Promote Justice, public safety
and effective government by
prosecuting crime, protecting those
in need, and representing Jackson*

AN OVERVIEW OF HOW THE CRIMINAL PROCESS WORKS



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Criminal Prosecution Process

In Minnesota, a crime is considered a wrong against the State, and it is the people of the State who file charges against the defendant not the individual victims of the crime. The County Attorney represents the people. Through the Attorney's staff, they file criminal charges and prosecute criminals on the people's behalf.

The prosecution of a crime by the County Attorney is a step-by-step process. This process is sometimes long, complicated, and confusing. This brochure is designed to outline the process to better understand it.

In Minnesota, when a crime is committed, it is reported to the police and an officer from the agency where the offense occurred conducts an investigation. Officer(s) interview victims, witnesses, gather physical evidence, and obtain information about the crime. After conducting the investigation, the officer, many times in consultation with the County Attorney, determines if there is a enough evidence to prove a certain person committed a crime and refers their case information to the prosecutor for that jurisdiction.

Charging

The officer brings all the information gathered during the investigation to the prosecuting attorney for review whether charges will be filed. The prosecuting attorney reviews the information, decides what charges the evidence will support and files charges if the prosecutor believes there is sufficient admissible evidence. There are occasions when the attorney will determine there is not enough information/admissible evidence to prove that a crime has been committed, or crucial evidence obtained could not be used at trial. In those instances, the attorney may decline to file charges or request further investigation from the officer.

Charges are filed against the individual who committed the crime by a written complaint. The complaint contains a brief statement of facts and sets forth the crimes the defendant has committed based on those facts. The complaint may charge the defendant with one crime or several crimes, all

of which arise out of the facts alleged in the complaint. The defendant is given a copy of the complaint, and a court appearance is scheduled.

First Appearance, Rule 5 Hearing

The "First Appearance" hearing is when the defendant first appears in Court before a Judge. Under the law, a person in custody must be taken before a judge for a first appearance within specific timelines. At this hearing, the defendant is formally notified of the charges filed. The judge informs the defendant of the their right to have a lawyer and sets bail. If the defendant cannot afford an attorney, a public defender is appointed by the Court.

The amount of bail is set after determining the likelihood of the defendant attending future hearings, the seriousness of the crime, and the possible danger to others from the release of the defendant. Defendants may be released by the Court on their "own recognizance," without having to post bail. Other defendants may have to post an amount of money ranging up to several hundred thousand dollars. Defendants posting bail or those released on their own recognizance may be required to abide by other conditions

Omnibus Hearing

At or soon after the conclusion of the first appearance, an "Omnibus Hearing" is scheduled. At this hearing the defendant has the opportunity to request that the complaint against them be dismissed and/or the evidence against them not be used at trial.

The defendant may require the Judge to determine, by the facts presented in the complaint and in the police reports, whether there is enough evidence to show that a crime has been committed and that they committed it. The defendant may also request the Judge to determine whether the defendant's Constitutional Rights were violated during the investigation or prosecution of their case. The defendant

may allege, for example, that the arrest was conducted improperly, that he or she was forced to make a confession, or that the police seized evidence without having the right to do so. The Judge will make a ruling regarding these issues during or soon after the Omnibus Hearing.

The Judge will read the charges to the defendant at or soon after the Omnibus Hearing and the defendant will enter a

Guilty Pleas, Settlement Conference and Plea Negotiations

The defendant may plead guilty at any hearing. Most but not all pleas of guilty are the results of a plea agreement. Plea agreements are essentially contracts between the state and the defendant where the defendant agrees to plead guilty under certain terms and conditions. Since both the State and the defendant risk losing everything should the case go to trial, plea agreements are a means to arrive at a reasonable and certain disposition without the necessity of a trial.

The County Attorney's Office makes a plea agreement offer to the defendant only after thoroughly reviewing all aspects in the case. In each instance, the victim(s) is made aware of the offer. The victim may comment on the offer. All plea agreements are subject to the Judge's approval and the defendant must formally waive his right to a trial and accept the guilt before the Court will accept the defendant's plea of guilty. Victims have the right by law to be notified of all plea agreements.

Pre-Trial Hearing

During the Pre-trial hearing, a trial is scheduled if the defendant does not choose to enter into a plea agreement and plead guilty. A list of witnesses that will be called at trial is given to the Court by both parties. The remaining time is used to narrow the issues in dispute in order to save time at trial.

Trial

A trial is the ultimate determination of the defendant's guilt. At the trial, each party presents its case before a judge or a jury. Criminal proceedings follow certain procedures during the course of a trial. Some of the distinct events, which occur at trial, are as follows:

- *Jury Selection: If a jury is to be used, the trial must begin by first selecting the jury. A group of persons are brought in for Jury selection and are asked questions by the Judge and attorneys to confirm that they can be fair and impartial. If they can't be fair, they will be removed from the jury.*
- *State's Case: After opening statements, the prosecutor presents witnesses, testimony and physical evidence. The defense attorney may question (cross-examine) the State's witnesses.*
- *Defendant's Case: After the State's case is completed the defense attorney presents their witnesses and physical evidence or they may choose not to present any evidence since the defendant is presumed to be innocent and the State has to prove the defendant committed the alleged offense "beyond a reasonable doubt." It is the defendant's choice whether they testify at trial. The prosecutor can not require a defendant to testify. If a defendant does not testify the prosecution can not comment on the defendant's choice not to testify. If defense witnesses do testify, the prosecutor can cross-examine them.*
- *Closing Arguments: Each attorney will provide a summary of the evidence presented during the trial in attempt to persuade the Judge or Jury that their side should prevail.*
- *Jury Instructions: The Judge will instruct the jury on the issues to be decided and the rules that apply after closing arguments.*
- *Jury Deliberations: The jury discusses and evaluates the evidence and jury instructions they heard in a private room. Once a unanimous verdict has been reached, delib-*

erations are concluded. If a unanimous verdict is not reached, it is called a hung jury and a mistrial can be declared and a new trial ordered.

- *Sentencing: If the defendant pleads guilty or is found guilty, the Judge may order a pre-sentence investigation which includes the defendant's criminal history, personal background, marital and economic status, employment situation, education history, chemical dependency history and psychiatric difficulties. The victim will be contacted so they can express how they have been impacted by the defendant's actions. The victim may also request restitution as a condition of the defendant's sentence. The victim may attend the sentencing and present their victim impact statement in person or on paper. The victim may also request the County Attorney to present their impact statement to the court. The Judge can only sentence the defendant within the boundaries of State law. Once the defendant is sentenced, the prosecution process is complete.*

Minnesota Sentencing Guidelines

Minnesota Sentencing Guidelines establish a rational and consistent sentencing standard that reduce sentencing disparity within the state and ensure the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the offender's criminal history.

Criminal Cases

In criminal cases, defendants may be ordered to pay fines, restitution, community service, and/or incarceration. Additional conditions of probation may be ordered to reduce the risks to public safety. In a criminal case the prosecutor determines the charges and does not represent the victim. The Jackson County Attorney's Office provides information and assistance to victims through victim/witness programs.