

## **Stages in the Criminal Justice System**

This is an overview of how most felony criminal cases proceed. Since each case is different, please discuss the details of your case with the attorney for the state.

### **1. The criminal investigation.**

Local, State, and/or Federal law enforcement agencies investigate offenses in our jurisdiction. If there is not enough evidence against a specific individual, the case may be closed by the investigating agency. The District Attorney's Office is not an investigative agency.

### **2. Review of the case by the prosecutor.**

Once the investigation is completed the investigative agency will present the case to the District Attorney to determine if there is enough evidence to charge the suspect with an offense, and if so, what type of offense. The attorney's duty is to review the case and determine if there is enough evidence to proceed to court, and to look for possible legal problems that may affect the case. The attorney may also request additional investigation or information.

The police and/or the attorney for the state may contact you as they analyze the evidence.

If there is enough evidence, and the law supports a criminal case, the suspect may be charged with a crime by a legal document called an "information" or by an "indictment" these terms are discussed below. Once someone has been charged with a crime, they are generally called a "defendant".

### **3. The complaint**

A complaint is an affidavit that charges a person with a crime. It must be sworn to by someone with knowledge of the crime. You might be asked to swear to a complaint as part of the investigation process, and that complaint is generally necessary to get an arrest warrant for the suspect.

### **4. The arrest warrant**

If the defendant is not already in jail, the judge may review the complaint and issue a warrant for the arrest of the defendant.

### **5. When the defendant is arrested.**

When a defendant is arrested and taken before a judge, the judge will inform the defendant of the charges, what the defendant's rights are, and at what amount bond will be set.

### **6. The defendant's bond.**

In most cases, the defendant will be entitled to have a bond set. The amount of the bond is determined by the judge. The main purpose of the bond is to make sure that the defendant shows up in court when required. The judge may also take into consideration the seriousness of the offense, the defendant's ability to make the bond, the safety of the victim, and the safety of the witnesses. The bond may not be set so high as to punish defendants by keeping them in jail before the trial.

## **7. The indictment or information.**

In most felony cases, the legal document that sets out exactly what the defendant is charged with is called an "indictment" It is returned by a grand jury. In misdemeanor cases, the charging document is called an "information", and it is prepared by the attorney for the state. In some felony cases, the defendant may agree to waive an indictment and allow the Court to proceed by an information.

## **8. The grand jury.**

The grand jury determines if there is enough evidence to proceed to trial with the case- it does not conduct a full trial and the level of proof required to return an indictment is much lower than the level needed to make a finding of guilty at trial. If there is not enough evidence to proceed, the grand jury will return a "no bill". If there is enough evidence, the grand jury will return an "indictment". You and other witnesses may be called to testify before the grand jury; however, grand juries often make decisions without live testimony. The proceedings before the grand jury are not open to the public, and the grand jury's deliberations are secret.

## **9. Pretrial court settings.**

Once a case goes to court, it may appear a number of times on the court's docket before it is set for trial. It is often set for the defendant to enter a plea of guilty or not guilty, and may be set for various pretrial motions. Often the defendant will file pretrial motions to "discover" the evidence held by law enforcement and the prosecutor, and may file other motions to "suppress" evidence that the defendant claims should not be used at trial. The court may require hearings on these motions, and you may be required to testify at some of these hearings.

## **10. The trial.**

At the trial of your case, the attorney for the state is required to prove "beyond a reasonable doubt" that the defendant committed the crime charged. The trial may be in front of a jury or a judge. The attorney for the state will call witnesses to testify about the crime, and you may be called to testify. Once the attorney for the state puts on all of the state's witnesses, the defendant may put on witnesses. However, the defendant does not have to put on any witnesses, and the defendant has the constitutional right to remain silent. The defendant is presumed to be innocent in all criminal cases and does not have to defend anything- s/he may simply hold the State to their burden of proof. After all testimony has been heard, the jury or the judge must decide if the state proved its case beyond a reasonable doubt- if the defendant is "guilty" or "not guilty".

### **11. The punishment stage of the trial.**

If the defendant is found guilty, then the judge or jury must set punishment. Both sides once again will be allowed to offer evidence on what the proper punishment should be. The punishment range is different for different crimes. Generally, misdemeanor crimes are punishable by time in the county jail and/or a fine, and felony crimes are punishable by time in the state prison/state jail and/or a fine. In addition, a defendant may be eligible to be released on probation without going to jail or prison. The attorney for the state can tell you what the punishment range is in your case.

### **12. Appeals.**

Every convicted defendant has the right to appeal his or her case to an appellate court. Generally, the defendant appeals on the grounds that some error occurred at the trial that requires a reversal of the conviction. It is not uncommon for these appeals to take years. During the time when the appeal is pending, the defendant is entitled to a bond if the sentence was 15 years or less. If the case is reversed, the court of appeals may order a new trial. The law in this area can be very complicated. If your case is appealed, please speak with the attorney representing the state for more information.

### **13. Parole.**

Every defendant who is sentenced to a term in prison will, at some time, become eligible for release before serving all of the sentence. As with appeals, this area of the law is very complicated. Generally, the law provides that a person convicted of a more serious crime will spend a greater portion of his or her sentence in prison. In addition, you have the right to participate in any parole proceeding involving the defendant in your case, including appearing in person before a member of the parole board. If you want to be involved in those proceedings, fill out a Victim Impact Statement or notify the victim services office for parole directly at (800) 848-4284. This office will also need to know any change in your address.