

APPEAL: A higher court's review a lower court's decisions and/or rulings.

ARRAIGNMENT: A court hearing at which the defendant is read the charges against him/her. A bond will be set.

AUTHORIZE: Prosecutor's decision to issue criminal charges.

BAIL or BOND: A fixed sum or terms (e.g., no contact with a victim) upon which a defendant is released into the community and not held in jail pending trial. The terms and sums are to ensure that the defendant appears for further court proceedings and to enhance public safety.

BENCH TRIAL: Trial before a judge without a jury.

BOUND OVER: The transfer of a felony case from District Court to the Circuit Court after a preliminary examination or a waiver of preliminary exam.

COMPLAINT: The written document that sets out the charges against the defendant.

DEFENDANT: The person charged with a crime.

FELONY: A crime for which a defendant may be sent to prison for more than one year.

MISDEMEANOR: A crime for which a defendant may not be sentenced to more than one year in the county jail.

MOTION: A request made by a party that the court make a ruling or decision on an issue related to a case.

NO CONTEST: A type of plea used when the defendant cannot recall his/her criminal actions or where the defendant may be sued civilly for the conduct. A no contest plea exposes the defendant to the same penalty as if he/she had pled guilty.

PERJURY: A deliberate lie or untruth regarding a material fact made under oath.

PLEA: A defendant's response to a criminal charge (guilty, not guilty, or no contest).

PLEA BARGAIN: An agreement between parties for the defendant to plead guilty or no contest under certain

terms and conditions (e.g., reducing/dismissing charges, agreeing to the terms of a sentence, etc.).

PRELIMINARY EXAMINATION: A District Court hearing in felony cases to determine if there is probable cause to believe that a felony was committed and that the defendant committed that felony.

PRE-SENTENCE INVESTIGATION: A probation department's review of a convicted offender's personal and criminal background and the impact the crime had upon the victim. A report is prepared and read by the judge before the judge imposes a sentence.

PRETRIAL CONFERENCE: An informal meeting between a Prosecutor and the defendant or his/her attorney to attempt to resolve the case or discuss legal issues surrounding the case.

PROBABLE CAUSE CONFERENCE: Like a pretrial conference, in felony cases, but held prior to the preliminary examination.

PROBATION: A sentence where the defendant is released to the community with supervision by the court.

PROSECUTING ATTORNEY: Attorney representing the People of the State of Michigan against a criminal defendant.

RESTITUTION: Amount of money, determined by the court, to be paid to a crime victim for property loss or injuries caused by the defendant's criminal acts.

SUBPOENA: A court order directing someone to be present at a time and place for a hearing.

SUMMONS: Court order for a defendant to appear for an arraignment.

VICTIM: A person or entity who suffered a direct physical, financial, and/or emotional harm, or is threatened as a result of a criminal act.

WAIVE: To give up a right.

WARRANT: A court's written order commanding the police to do an act. (Search warrants direct police searches; arrest warrants direct police arrests.)

THE PROCESSES AND PROCEDURES OF A CRIMINAL CASE



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CRIMINAL PROCESS AND PROCEDURE

The following is a brief outline of how a case progresses through the criminal justice system. (*Italicized* words are defined at the end of this brochure. **Bolded** words are rights provided by the Crime Victim's Rights Act of 1988.)

MISDEMEANOR CASE

1. After an investigation, the police either (1) make a report and keep it on file, or (2) fill out a request for a *warrant* and submit it, along with their report, to the *Prosecuting Attorney* for review, seeking criminal charges.
2. When the *Prosecuting Attorney* reviews the *warrant* request, he/she may (1) *authorize* charges by signing a *complaint*; (2) deny charges due to lack of evidence to prove that a crime was committed or identity of who committed that crime; or (3) return the case to the police for further investigation and resubmission.
3. If the *Prosecuting Attorney* *authorizes* charges: (1) the District Court issues an arrest *warrant* or a *summons*; (2) if a *warrant* is authorized, the police will arrest the *defendant* on that *warrant*, and (3) **Victim's rights information is mailed to the crime victim.**
4. Once the *defendant* appears in court, he/she is *arraigned* on the charges in District Court. At the *arraignment*, the defendant may *plead* not guilty, guilty, or *no contest*. If the judge accepts the defendant's guilty or *guilty* or *no contest plea*, a sentencing date is set.
5. If the *defendant* *pleads* NOT guilty, a *pretrial conference* is scheduled. If the *pretrial conference* does not resolve the case with a plea or otherwise, the case will be set for either a *bench trial* or a jury trial. If the *defendant* is convicted, the judge will impose sentence.
6. The probation department sometimes prepares a *pre-sentence investigation* report with a sentence recommendation. Later the judge imposes a sentence at a hearing in the courtroom based on the information provided by the probation department, the *Prosecuting Attorney*, the *victim*, the *defendant*, the case facts, the *defendant's* criminal history, and the limits imposed by the Legislature.

FELONY CASE

The process for a *felony* is the same as *misdemeanor* case items 1-4, except that the *defendant* cannot enter a guilty or no contest plea at the District Court *arraignment*. In a *felony* case, once a *defendant* has been *arraigned*, a *probable cause conference* is scheduled within 14 days and a *preliminary examination* is scheduled within 21 days after the *arraignment*.

1. A *defendant*, with the *Prosecuting Attorney's* consent, may *waive* a *preliminary examination* and be *bound over* to Circuit Court without an evidentiary hearing. If the *defendant* or the *Prosecuting Attorney* wants the *preliminary examination*, a hearing is held and testimony is taken. The *Prosecuting Attorney* has the burden of proving to a District Court Judge that there is probable cause to believe that the crime charged was committed and that the *defendant* committed it. If the judge decides that the burden has been met, the case is *bound over* to Circuit Court.
2. The *defendant* is *arraigned* on the charges in Circuit Court and may *plea* not guilty, guilty, or *no contest*.
3. If the defendant *pleads* not guilty, the case is set for a pretrial conference or a status conference with the defense attorney and the *Prosecuting Attorney*. If a *plea bargain* is reached and the *defendant* *pleads* guilty or *no contest*, the case is sent to the probation department for a *pre-sentence investigation* and recommendation, and a sentencing date is set for a later date. If the case cannot be resolved at this time, it proceeds to trial.
4. If the case is set for trial, witnesses, including the *victim*, will receive a *subpoena*. The witnesses will need to appear as scheduled and be prepared to testify. The trial prosecutor will likely meet with the prosecution witnesses before the trial date to preview the testimony and prepare the witnesses to testify.
5. If the case goes to trial, the judge or jury listens to the evidence and then decides whether the *Prosecuting Attorney* has proven beyond a reasonable doubt that the defendant committed the crime(s) charged. If the defendant is found not guilty, the defendant cannot be retried for the same crime, and is acquitted. If the judge (or judge in a *bench trial*) finds the defendant guilty, the case is sent to the Circuit Court probation

department for preparation of a pre-sentence investigation report and a sentencing recommendation.

6. A probation agent reviews the case and the defendant's background, the victim's impact statement, then makes a written recommendation to the judge regarding an appropriate sentence (including restitution).
7. The judge then imposes the sentence at a hearing in the courtroom. The *Prosecuting Attorney*, the victim, the defendant, and his/her attorney may comment to the court on matters they believe are important regarding the sentencing. The **victim is offered the opportunity to speak** about the impact the crime has had on his/her life. Both the *Prosecuting Attorney* and the defense attorney will address the judge with any concerns/objections they have with the probation department's sentencing recommendation. The defendant has the opportunity to personally address the court. The judge must weigh the probation department's information, and any other information it received from the *Prosecuting Attorney*, the victim, the defendant, the case facts, the defendant's criminal history, and limits imposed by the Legislature., including the felony sentencing guidelines, when imposing an appropriate sentence.
8. The defendant has the right to *appeal* a trial based conviction, and may have the right to appeal the sentence. However, the sentence is often carried out while the defendant goes through the appeals process.



DEFINITIONS

ADJOURNMENT: Postponement until a later date, at the defendant's the judge's, or the *Prosecuting Attorney's* request. Adjournments happen for many reasons: witnesses, attorneys, or defendants have scheduling conflicts or are ill; an older case may be heard that day, causing newer cases to be postponed; necessary motions or legal issues may need to be decided before the hearing or trial can be held; etc.

ADVOCATE: A person who assists the victim with support, information, resources, etc.

CRIMINAL CASE FLOWCHART

