

## CRIMINAL PROSECUTION PROCESS

Charges are filed against the individual who allegedly committed the crime by filing a complaint or citation with the court. The complaint contains a brief statement of the facts and sets forth the crimes the defendant has committed based on those facts. Depending upon the charge, the defendant will follow one of two basic paths in proceeding through the criminal justice system.

CRIMINAL INCIDENT  
~  
INVESTIGATION  
~  
ARREST

MISDEMEANOR CHARGE	GROSS MISDEMEANOR /FELONY CHARGE
~	~
ARRAIGNMENT	FIRST APPEARANCE
~	~
PRE-TRIAL HEARING*	OMNIBUS/PRE-TRIAL HEARING*
~	~
TRIAL	TRIAL
~	~
SENTENCING	SENTENCING

*\*The defendant may plead guilty at these hearings and proceed directly to sentencing.*

*Note: This is the standard process. Additional hearings may be scheduled at the request of either party.*

## VICTIM IMPACT STATEMENT

MINNESOTA STATUTE states that a victim has a right to submit a Victim Impact Statement to the court at the time of sentencing. The statement may be presented to the court orally or in writing.

VICTIM IMPACT STATEMENT may include the following:

- A summary of the harm or trauma suffered by the victim as a result of the crime;
- A summary of the economic losses suffered by the victim as the result of the crime;
- A summary of the victim's feelings regarding the proposed sentence or disposition.

A VICTIM IMPACT STATEMENT can affect a judge's sentencing decision. If you want to present either a written or oral statement to the court at this hearing, please contact the Victim Witness Assistance Coordinator with your intentions approximately one week before the sentencing date.

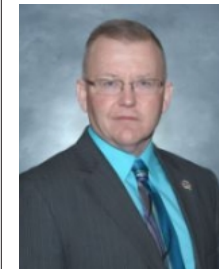
*If you need assistance in preparing your statement or have any questions, please contact the Victim Witness Assistance Program.*

**507-765-2805**



## Criminal Prosecution Process

~  
An Explanation of Criminal Court Appearances



**Brett A. Corson** Fillmore County Attorney

101 W. Fillmore St.  
P.O. Box 307  
Preston, MN 55965

Phone: 507-765-2530  
Email: bcorson@co.fillmore.mn.us

## **COURT APPEARANCES FOR GROSS MISDEMEANOR AND FELONY CHARGES**

### **FIRST APPEARANCE**

THE DEFENDANT is formally notified of the charges filed, advised of his or her rights and bail is set. If the defendant cannot afford an attorney, a public defender is appointed by the court to represent the defendant. The pre-trial and trial dates are set.

### **OMNIBUS/PRE-TRIAL HEARING**

AT THE OMNIBUS/PRE-TRIAL HEARING, a judge decides if there is enough evidence for the case to proceed to trial. If the defendant pleads guilty, he or she will proceed to sentencing. If the defendant pleads not guilty, the case proceeds to trial. Often a plea agreement is discussed at this time.

### **CONTESTED OMNIBUS HEARING**

IF THE DEFENSE ATTORNEY raises questions regarding legal issues on the case, this hearing may be scheduled. The judge may hear oral testimony and may request written arguments from both attorneys.

### **TRIAL**

AT THE TRIAL, both the prosecutor and the defense attorney present their case to a judge or jury. Both sides may call witnesses to testify. At the end of a criminal case, the prosecutor must prove the defendant's guilt beyond a reasonable doubt.

### **SENTENCING**

IF THE DEFENDANT pleads guilty or is found guilty following a trial, the judge will order a pre-sentence investigation (PSI). The PSI will include the defendant's criminal history and personal background. The individual conducting the PSI (usually a probation officer), may contact the victim of the crime to determine how they have been impacted by the defendant's actions. The PSI enables the judge to learn more about the defendant so that he or she is better able to impose the proper sentence.

AFTER THE PSI has been completed, the defendant comes before the judge for sentencing. The victim may attend the sentencing and will be given the opportunity to give a Victim Impact Statement and comment on the sentence they feel would be appropriate. The victim may also request that the court order the defendant to pay restitution for any monetary loss caused by the defendant's crime. If the victim chooses not to attend the sentencing, his or her input may be sent to the judge in the form of a letter.

THE JUDGE can only impose a sentence that falls within the boundaries of state law or the Minnesota Sentencing Guidelines. Keeping those boundaries in mind and weighing all the facts of the case, the judge then sentences the defendant.

## **COURT APPEARANCE FOR MISDEMEANOR CHARGES**

### **ARRAIGNMENT**

THE DEFENDANT is formally notified of the charges filed, advised of his or her rights and bail is set. If the defendant cannot afford an attorney, a public defender is appointed by the court to represent the defendant. The pre-trial and trial dates are set. If the defendant pleads guilty, he or she will proceed to sentencing.

### **PRE-TRIAL HEARING**

AT THE PRE-TRIAL HEARING, a judge decides if there is enough evidence for the case to proceed to trial. If the defendant pleads guilty, he or she will proceed to sentencing. If the defendant pleads not guilty, the case proceeds to trial. Often a plea agreement is discussed at this time.

### **TRIAL**

AT THE TRIAL, both the prosecutor and the defense attorney present their case to a judge or jury. Both sides may call witnesses to testify. At the end of a criminal case, the prosecutor must prove the defendant's guilt beyond a reasonable doubt.

### **SENTENCING**

IF THE DEFENDANT pleads guilty or is found guilty following a trial, a judge may proceed directly to sentencing or schedule a separate sentencing hearing. A pre-sentence investigation (PSI) is not automatically ordered, but one may be requested.