

Prosecution Time line

Crime Committed Police Notified

Most reported crimes are investigated by the local police or the county sheriff. A few types of crime may be investigated by other agencies.

Police Investigate

Investigation may include interviewing victims, witnesses, suspects; collecting physical evidence; visiting, viewing, photographing, measuring the crime scene; identifying suspects through line-ups.

Police Make an Arrest (or Request a Warrant)

When a crime is committed in a police officer's presence -- or he has probable cause to believe that certain misdemeanors or any felony was committed that he did not see happen --- an officer may arrest a suspect on the spot without an arrest warrant. The officer will later submit a charging/warrant request to the District Attorney, suggesting potential charges to be authorized.

Charges Presented for Review by District Attorney

Most cases begin with a warrant or charging request. This is typically the first time that the District Attorney's prosecutors are involved in a case, unless they reviewed a search warrant. At this stage, the Prosecutor determines whether a person should be charged formally with a crime and, if so, what the crime should be. (Police do not issue formal charges, prosecutors do.) The District Attorney or his assistants must thoroughly review all reports and records concerning the case, including witness statements. The Prosecutor also reviews the suspect's prior criminal or traffic record. Occasionally, the reviewing Prosecutor may send the case back to the police to conduct additional investigation.

Charge Filed

A Prosecutor can file an Information (or charge) if he reasonably believes probable cause exists that the suspect committed the offense. The Tulsa County District Attorney's Office philosophy requires that there is a "reasonable probability of success" of obtaining a conviction by proving the charge beyond a reasonable doubt at trial with the information known at that time. Decisions are made based on the legally admissible evidence available at the time of the review.

Warrant Issued

The Information is filed in the District Court and signed a prosecuting attorney. (The crime victim does not sign the complaint.) The magistrate or judge then signs a warrant --- an order to bring the defendant before the court.

Suspect Arrested (if not already in custody)

The delay between the crime date and the defendant's arrest on an authorized charge can take any length of time (e.g., if the defendant's whereabouts are unknown, or if he/she has left the State of Oklahoma).

Arraignment/Initial Appearance

This is the first court appearance for any misdemeanor or felony. Once charged and arrested, the suspect appears for arraignment. At arraignment, the defendant is told what the charge(s) is (are) and the maximum penalty if convicted, and is advised of his constitutional rights to a jury or bench trial, appointed attorney, presumption of innocence, etc. The charging document is called an Information. The

conditions and amount of bond are determined. In some cases --- generally based on the nature of the charge --- the Judge imposes conditions on the bond, such as "no contact" with the victim. Bond is set in almost every case, but it is up to the defendant's own resources to post the bail money, which allows him to be released. All further pre-trial procedures are determined by whether the defendant is charged with a felony or misdemeanor.

Misdemeanor

At a misdemeanor arraignment, the defendant will be given a chance to enter a plea to the charge: plead guilty, plead not guilty, or stand mute (i.e., remain silent, which is treated by the court as if the defendant pled not guilty). If he pleads guilty or no contest, the Judge may sentence him on the spot or may reschedule the case for a sentencing date. If the defendant stands mute or pleads not guilty, the case will be scheduled for a pre-trial conference.

Pretrial Conference

In traffic and non-traffic misdemeanor cases, this is the defendant's second court appearance. It is a scheduled meeting between an Assistant Prosecuting Attorney and the defendant (or his attorney) to determine whether the case will go to trial or be resolved with a plea. These meetings focus on resolving the case short of trial. The Judge and witnesses are not involved in misdemeanor pre-trial conferences. If a plea bargain is going to be offered by the Prosecutor, it is done here. Generally, the victim is contacted for a recommendation of sentence.

Pretrial Proceedings

Many other events can occur prior to trial. Depending on the nature of the case, there may be pre-trial hearings on Constitutional issues (confessions, searches, identification, etc.). The issues are presented to the Court through written "motions" (e.g., Motion to Suppress Evidence, etc.). The judge must determine whether evidence will be admitted or suppressed at the defendant's trial, whether there is some legal reason why the defendant should not be tried, or decide other ground rules for trial.

Felony

At an initial arraignment, the defendant is given formal notice of the charges against him and bond is set. The charging document is called an Information. Defendant is given a chance to enter a plea to the charge: plead guilty, plead not guilty, or stand mute (i.e., remain silent, which is treated by the court as if the defendant pled not guilty). If he pleads guilty or no contest, the Judge may sentence him on the spot or may reschedule the case for a sentencing date, which will give the probation department time to prepare a pre-sentence report including background information about the defendant and the crime, make a sentencing recommendation, etc. . If a plea bargain is going to be offered by the Prosecutor, the victim will be consulted about the recommendation of sentence before it is offered. If the defendant stands mute or pleads not guilty, the case will be scheduled for a preliminary hearing.

Pre-Sentence Investigation and Report

If the defendant pleads guilty or no contest, the Oklahoma Department of Correction's Probation Department may prepare a report for the judge summarizing the crime and the defendant's personal and criminal background. The probation officer concludes the report with a recommended sentence. If the defendant stands mute or pleads not guilty, the case will be scheduled for a preliminary hearing.

Preliminary Hearing

A contested hearing before a Special Judge/Magistrate, sometimes called a "probable cause hearing". The Prosecutor presents witnesses to convince the Judge that there is probable cause to believe that a crime was committed and that the defendant committed the crime. Because the burden of proof is much less than at a trial, the Prosecutor generally does not call all potential witnesses to testify at the "prelim"; generally, the victim and some eye witnesses plus some of the police witnesses testify. The defendant (usually) has an attorney, can cross examine the witnesses, and can present his own evidence (including witnesses). If probable cause is proven, the defendant is "bound over" (i.e., sent to) District Court for trial. If probable cause is not proven, the felony charge can be dismissed or reduced to a misdemeanor for trial in District Court. A defendant can decide not to have a Preliminary Hearing. Those cases are sent to District Court after such a "waiver".

District Court Arraignment

After the case is sent to District Court, the defendant is formally arraigned (given formal notice of the charges against him or her). He or she is again advised of his/her constitutional rights, and enters a plea to the charge (guilty, not guilty or stand mute).

Pre-Trial Conference

A Prosecutor and the defendant's attorney meet to determine whether the case will go to trial or be resolved with a plea.

Pretrial Proceedings

As with misdemeanors, the District Court Judge may be asked to resolve pre-trial issues, some of which determine whether the case will continue to a trial, be resolved with a plea, or be dismissed.

Trial (Jury or Bench/Judge)

A trial is an adversary proceeding in which the Prosecutor must present evidence to prove the defendant's guilt beyond a reasonable doubt. The defendant is not required to prove his or her innocence or to present any evidence, but may challenge the accuracy of the Prosecutor's evidence. Both the defendant and the Prosecutor (representing the People of the State of Oklahoma) have the right to a trial by a jury. Sometimes, both sides agree to let a Judge listen to the evidence and decide the case without a jury; this is called a "bench trial" or a non-jury trial. In a jury trial, the jury is the "trier of fact"; in a bench trial, the judge is. After the evidence is presented, the judge or a jury will determine whether the evidence proved that the defendant committed the crime. Here is a general outline of the steps in a jury trial:

1. Residents of Tulsa County are randomly selected from a list of licensed drivers, and are summoned to the court.
2. A blind draw selects twelve people from that group in felonies (six in District Court misdemeanors);
3. The Judge, Prosecutor and defense attorney question the jurors about their backgrounds and beliefs;
4. The attorneys are permitted a limited number of "peremptory" challenges to various jurors (or an unlimited number in felonies);
5. After twelve (or six) acceptable jurors remain, the Judge administers an oath to the jury and reads basic instructions to the jury.
6. The Prosecutor gives an opening statement to outline his case and evidence to the jury;
7. The defense may give a similar opening statement, or wait until later in the trial;
8. The Prosecutor calls his witnesses, which the defense may cross examine;

9. The defense may call witnesses, if it wants, and the Prosecutor may cross-examine them;
10. The defense rests;
11. The Prosecutor may present "rebuttal" witnesses/evidence to challenge evidence presented by the defendant;
12. The Prosecutor rests;
13. The Prosecutor presents a closing summary to the jury;
14. The defense attorney presents a closing summary to the jury; 15. The Prosecutor may present a rebuttal a summary;
15. The Prosecutor may present a rebuttal argument to the jury to respond to the defendant's attorney's closing;
16. The judge gives the jury detailed legal instructions about the charged crimes, the deliberation process, etc.
17. The jury deliberates and returns a verdict.

Sentence

Oklahoma is one of only three states that allow juries to determine a sentence if a defendant is convicted at trial. If a defendant pleads guilty, sentences are at the judge's discretion. The judge will consider recommendations from the prosecutor, and sometimes the information in the pre-sentence report before determining the sentence. The parties may correct factual errors in the pre-sentence report and offer additional evidence relevant to the judge's sentencing decision. Oklahoma has habitual offender laws that enhance punishment for repeat offenders. The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail or prison, or a combination.