

# Basic Steps of the Criminal Justice System

This is the basic process that criminal cases follow, but not all cases go through each step. Certain hearings can be waived or the case may be continued (delayed). The whole process may take two to six months, or even longer.

**CRIME OCCURS:** Criminal cases cannot be prosecuted unless witnesses come forward and report criminal acts to the police. By your willingness to be involved, you are working with other citizens, the police, the County Attorney and the courts to reduce crime and make our community safe.

**INVESTIGATION AND ARREST OR CITATION:** If the suspect was not arrested at the time the crime was committed, there are several things that may happen. The Police/Sheriff's Department may continue with its investigation until they believe they have enough evidence to charge the suspect. Further interviews may be conducted during this time. If the Police/Sheriff's Department believe they have enough evidence but cannot locate the suspect, a warrant may be issued for his/her arrest. An arrest is made by the Police/Sheriff's Department or a citation to appear in court is issued. A report by the arresting officer is then sent to the County Attorney's Office. The County Attorney evaluates the facts, circumstances and evidence in the case and determines if the case will proceed and the charges that will be filed.

**INITIAL APPEARANCE:** Persons taken into custody must be taken before a judge within 24 hours of arrest for an initial appearance. The initial appearance assures that the individual was properly charged, that the complaint and affidavit on file are correct, that an attorney is appointed for the defendant (if he/she qualifies) and that a date is set for the preliminary hearing. If the bail amount was not set in the arrest warrant, it is set at this time. In domestic assault cases, No Contact Orders are also issued at this time.

**PRELIMINARY HEARING OR TRIAL INFORMATION:** The purpose of the preliminary hearing is to determine whether there is sufficient evidence to support the charges against the defendant. The State presents evidence showing the defendant probably committed the crime. However, the preliminary hearing almost never happens because the same purpose is fulfilled by the filing of the Trial Information—papers that present the formal charge against the defendant and a summary of the State's evidence to a District Court Judge for approval.

**ARRAIGNMENT AND PLEA:** The arraignment is the formal accusation of the defendant where a plea of guilty or not guilty is entered. The defendant does not need to be present if a written arraignment is filed on their behalf by their attorney. In the majority of cases the defendant will plead not guilty at arraignment and the judge will then set a trial date. The defendant has a right to a speedy trial (right to have the case tried within 90 days of the filing of the trial information), or the defendant can waive his speedy trial right.

**DISCOVERY AND PLEA NEGOTIATIONS:** If the defendant pleads not guilty, the defense attorney has a right to "discover" the State's evidence in the case. Discovery can include viewing physical evidence, evidentiary documents and taking depositions (interviews under oath) of the State's witnesses. Victims and witnesses will be contacted, or may receive a subpoena, if the defense wishes to take their depositions. The Victim/Witness Program will help to prepare you for deposition, as it can be a stressful event. If you need transportation, the Victim/Witness Program will assist in making such arrangements. A defendant may change the plea to guilty at any time.

Most defendants eventually choose to plead guilty as plea negotiations proceed with the County Attorney.

**TRIAL:** If plea negotiations are not successful, the case goes to trial. Once the jury has been chosen and sworn in, the trial proceeds. Here again, not all trials proceed in the same manner. The Victim/Witness Program will prepare you for and accompany you to trial. A trial usually consists of the following steps:

- Opening Statements (State's and then the Defense's)
- State's Witnesses and Evidence
- Defense's Witnesses and Evidence
- Closing Arguments
- Court's Instructions to the Jury
- Jury's Deliberation and Verdict

**SENTENCING:** Victims and witnesses have the right to attend the sentencing hearing. Some charges have mandatory sentences that must be served. Otherwise, the court may order the defendant to serve jail/prison time or may suspend the time and place the defendant on probation. In addition, many convictions also require the defendant to pay a fine. The court can also order the defendant to pay restitution to a victim for damages incurred by the crime (medical, dental, or counseling expenses; property stolen or damaged; even lost wages or child care expenses during court proceedings). Finally, the court may grant the defendant a deferred judgment and place the defendant on probation. If the defendant successfully completes probation on a deferred judgment, the conviction will be removed from his/her criminal history.

**VICTIM IMPACT STATEMENTS:** At the time of sentencing, a victim or survivor has the right to submit a victim impact statement to the court, either in person or in writing. This statement gives you the chance to let the court know the effect this crime has had on you and your family. The Victim/Witness Program has a list of questions to address many different factors and will help you prepare a statement for the court.

### **Any Questions?????**

You have a right to know how the system works. If at any time during the progression of your case you do not understand what is happening or why, ask questions. You are always welcome to contact the Victim/Witness Program of the Winneshiek County Attorney's Office at (563) 382-2959.

### **Threats or Harassment**

On occasion, witnesses are threatened or harassed by the suspect or family members/friends of the suspect.

Tampering with or harassing a witness is a crime. If this happens to you, contact the police or sheriff's department and the County Attorney's Office immediately! There are steps we can take to help protect you.

### **"Victim Rights"**

- To register with the County Attorney and Sheriff so you are notified when the defendant is released from jail.
- To be informed about court hearings and the right to be present, if you so desire.
- To be informed about your case and court procedures regarding your case by the County Attorney's Office.
- To be reasonably protected from the accused throughout the criminal process.

- To apply to the Iowa Crime Victim Compensation Program, which pays for medical expenses and loss of income in cases of violent crimes.
- To make a written Victim Impact Statement at the time of sentencing and/or verbally tell the judge at sentencing how you were impacted by the crime.
- To receive restitution from the defendant for losses resulting from the crime, if the defendant is convicted.
- To register with the Attorney General's Office, Criminal Appeals Division to receive notice of any appeal and the outcome of that appeal.
- To register with the Department of Corrections and Board of Parole if the defendant is convicted and imprisoned in order to receive notice of parole hearings and release dates.