

Anatomy of a Criminal Prosecution

A Crime is Committed

Police Notified

Most reported crimes are investigated by the local police, the county sheriff or the state highway patrol. A few types of crime (e.g., criminal non-support, public health related crimes, etc.) may be investigated by other agencies. Please note that the Prosecuting Attorney does not take initial crime reports. All crimes should be reported to your local law enforcement agency.

Police Investigate

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

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 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 then contact the Prosecuting Attorney to get authorization for a specific charge and discuss whether or not the offender should be jailed or released.

Warrant/Charging Request Reviewed by Prosecuting Attorney

Most cases begin with a request from law enforcement for the Prosecuting Attorney to review a case for potential charges. This is generally the first time that the Prosecuting Attorney is involved in a case, unless he reviewed a search warrant or visited the crime scene. At this stage, the Prosecutor determines whether a person should be charged with a crime and, if so, what the crime should be. (Police do not issue charges, prosecutors do.) The Prosecuting Attorney 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 sends the case back to the police to conduct additional investigation.

Complaint Issued

The Prosecutor can authorize a charge by way of a Complaint, prior to submission of the case to the Grand Jury, if he reasonably believes that probable cause exists that the suspect committed the offense. The Prosecutor may also decide not to authorize a Complaint but rather to wait to present the case to the Grand Jury. This decision is usually based upon the seriousness of the offense alleged and the likelihood of the suspect fleeing the area. Although the Prosecutor must only believe that probable cause exists, most Prosecuting Attorneys apply a higher standard -- whether he reasonably believes that he can prove the charge beyond a reasonable doubt at trial with the information known at that time.

Warrant Issued

The Complaint is filed in the Municipal Court and signed under oath by an officer from the investigating police department. (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 date that an offense is committed 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 Ohio). Generally, the suspect is arrested shortly after the issuance of the warrant

Municipal Court Initial Appearance

This is the first court appearance for any felony charge brought by way of Complaint. At a felony initial appearance in Municipal Court, the defendant does not plead guilty or not guilty. He is advised of his right to a preliminary hearing within 10 days of the arrest, if the defendant is incarcerated, or within 15 days in all other cases. The court advises the defendant of their right to an attorney and reviews requests for court-appointed attorneys at the arraignment. 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. In certain cases the defendant may be released on his personal recognizance, which means the defendant is released upon his promise to return for further proceedings. Defendants released on their personal recognizance are subject to additional serious charges should they fail to appear in the future.

Preliminary Hearing

A Preliminary Hearing is a contested hearing before a Municipal Court Judge or 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) the Grand Jury for consideration for Indictment. If probable cause is not proven, the felony charge can be dismissed or in some cases reduced to a misdemeanor for later disposition in the Municipal Court. A defendant can decide not to have a Preliminary Hearing. Most felonies are bound over after such a "waiver".

Grand Jury

The Ohio Constitution provides that "no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury." Grand Juries in Ohio are made up of nine citizens who decide if there is probable cause to issue an Indictment (a formal charge issued by the Grand Jury) against a person for the commission of any felony offense. The Prosecutor presents all proposed charges, whether or not the defendant has been previously charged by way of a Complaint, to the Grand Jury and calls witness who testify under oath as to the facts that would support such a charge. The defendant is not entitled to participate in the proceeding and is generally not present at the Grand Jury. Provided that seven of the nine Grand Jurors agree that probable cause exists, the Indictment is issued and filed with the Clerk of Courts. If the Grand Jury finds that probable cause does not exist, no Indictment is filed and the case against the defendant is over. All testimony to and deliberations of the Grand Jury are secret.

Service of Summons and Indictment

After an Indictment is filed with the Clerk of Courts, an arrest warrant is issued for the accused to be arrested and brought before the Court of Common Pleas. In some cases of low level felony offenses, the accused is not arrest, but is issued a Summons to appear at the Court of Common Pleas at a date certain.

Common Pleas Court Initial Appearance

After a person is arrest on an Indictment, they are brought before the Court of Common Pleas for an initial appearance, usually within 24 hours. At this hearing, the Defendant is read the charges and explained the possible penalties for each charge. The defendant is advised of his right to a trial by jury and of his right to an attorney. The defendant is afforded an opportunity to apply for a court appointed attorney if the defendant is unable to hire an attorney due to financial hardship. 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. In certain cases the defendant may be released on his personal

recognizance, which means the defendant is released upon his promise to return for further proceedings. Defendants released on their personal recognizance are subject to additional serious charges should they fail to appear in the future. Defendants who are issued Summons to appear rather than being arrested go through the same procedure.

Arraignment

An Arraignment is a proceeding where the defendant is present with his attorney. The defendant is again advised of the charges and the possible penalties for each charge. The defendant is then asked to enter a plea to the charges against him (guilty, not guilty, no contest or not guilty by reason of insanity). The Court will establish a date for the Pre-Trial Conference.

Pre-Trial Conference

A Pre-Trial Conference is a meeting held at the Common Pleas Court between the Prosecuting Attorney and the defendant's attorney to discuss the status of the case and determine whether the case will go to trial or be resolved with a plea. There may be multiple pre-trial conferences in any particular case.

Other Pretrial Proceedings

Either the Prosecutor or the attorney for the defendant may file various pre-trial motions asking the Judge to resolve certain issues, some of which may determine whether the case will continue to a trial, be resolved with a plea, or be dismissed. These proceeding differ greatly depending on the specific facts of each case and can cause considerable delays to the resolution of cases.

Trial (Jury or Bench/Judge)

If the case is not otherwise resolved by a plea or dismissal, a trial will be scheduled by the Court. 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. The defendant has an absolute right to a trial by a jury in all felony cases. Sometimes, the defendant waives his right to a jury trial and decides to let a Judge listen to the evidence and decide the case without a jury; this is called a "bench 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 beyond a reasonable doubt.

Here is a general outline of the steps in a jury trial:

1. residents of Williams County are randomly selected from a list of registered voters, and are summoned to the Court as potential jurors. These individuals comprise the jury pool;
2. a blind draw selects twelve people from that group in felony cases;
3. the Judge, Prosecutor and defense attorney question the jurors about their backgrounds and beliefs (this is called voir dire);
4. the attorneys are permitted a limited number of "peremptory" challenges to various jurors or an unlimited number of challenges for good cause, jurors subject to a peremptory challenge and jurors found to be correctly challenged for good cause are excused from the jury and replaced with a new member of the jury pool;
5. after twelve acceptable jurors remain, the Judge administers an oath to the jury and reads basic instructions about the trial process, etc.;
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;
8. the Prosecutor calls his witnesses, which the defense may cross examine;
9. the Prosecution closes their case;
10. the defense may call witnesses, if it wants, and the Prosecutor may cross-examine them;
11. the defense rests;
12. the Prosecutor may present "rebuttal" witnesses/evidence to challenge evidence presented by the defendant during his proofs;

13. the Prosecutor rests;
14. the Prosecutor presents a closing summary to the jury;
15. the defense attorney presents a closing summary to the jury;
16. the Prosecutor may present a rebuttal argument to the jury to respond to the defendant's attorney's closing summary;
17. the judge gives the jury detailed legal instructions about the charged crimes, the deliberation process, etc.;
18. the jury deliberates and returns a verdict.

Pre-Sentence Investigation and Report

The Court's probation department prepares a report for the judge summarizing the crime, and the defendant's personal and criminal backgrounds. If there is a specific victim of the offense, the victim is permitted to provide a victim impact statement. The probation officer concludes the report with a recommended sentence.

Sentence

Sentencing parameters in Ohio vary greatly depending on the degree of the offense committed. In all cases, the Judge is solely responsible for determining and pronouncing the sentence. Most often, sentences are at the judge's discretion. At the time of sentencing, the Judge will consider 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. For certain felony crimes, the Judge may be required to issue a mandatory prison sentence or take other actions mandated by statute. The Judge may also consider different alternatives, such as a fine, probation (now called "community control"), community services, a sentence to jail or prison, or a combination any of these. The Judge may also order the defendant to make restitution to any victims who have suffered financial harm.

Appeals

After sentence is imposed the Defendant may appeal to the Court of Appeals if the Defendant believes there was any error committed in his plea, conviction or sentence. If the trial court judge has issued a ruling that prevents the Prosecutor from going forward with a case, such as suppression of the evidence of the crime, the State, through the Prosecuting Attorney may file an appeal of the court's decision. Appeals from the Williams County Common Pleas Court are heard in the Sixth District Court of Appeals in Toledo. Appeals from Court of Appeals decisions are heard in the Ohio Supreme Court, although in most situations, the Ohio Supreme Court may chose whether or not to hear the appeal.

Appellate Procedure

After an appeal is filed, the defendant and Prosecutor file briefs that summarize the case facts, frame the legal issues to be decided, and present persuasive written arguments (supported by constitutional, statutory or prior case decision authority). After the briefs are filed, the case will be scheduled before the appellate court judges for oral argument. At the oral argument the Prosecutor and the attorney for the defendant have an opportunity to argue the merits of their positions to the appellate court judges and answer questions about their cases from the judges. The appellate court will eventually issue a written opinion. Depending on the outcome of the appeal the matter may be referred back to the Court of Common Pleas for a new trial or other proceedings.