

Misdemeanor Cases

This outline describes how misdemeanor cases generally move through the criminal justice system. Cases may deviate from the outline at any time. It can be difficult to predict how a case will move through the process due to our complex legal system. This outline does not include every type of hearing or process in our criminal justice system, and it should not be used for legal advice. The terms “Prosecuting Attorney’s Office” and “State” are interchangeable when referring to the Prosecutor’s Office.

Police Investigation

If a crime is discovered by a law enforcement agency or reported by a witness or victim, the law enforcement agency may respond and investigate to determine if a crime was committed and by whom.

- If no crime has been committed, the law enforcement officer may decide not to write a report.
- If the law enforcement officer believes that a crime has been committed, then a report may be written.
- The law enforcement officer may decide to make an arrest. Law enforcement can only hold suspect for 24 hours if they do not have an arrest warrant.
- If someone is arrested, then the person is booked at the police department or the St. Charles County jail. (Log charges, pedigree, arrest date, photographed, etc.)
- Law enforcement officers may apply for charges through the St. Charles County Prosecuting Attorney’s Office for violations of State law. Some crimes are both misdemeanor violations of State law and violations of municipal laws, in which case the police may elect to send the report to either a city prosecutor or the St. Charles County Prosecuting Attorney’s Office which handles violations of State laws.
- Law enforcement may submit a warrant application, police report and probable cause statement to the Prosecutor’s Office.
- A prosecutor reviews the warrant application and determines what charges to file, if any.
- The decision to prosecute a person for a crime rests solely with the Prosecutor’s Office.
- If charges are filed, a charging document is created by the Prosecutor’s Office, and it is sent to the Court.
- A Judge reviews the charging document for probable cause and a summons or arrest warrant.
- The Court generally issues a summons in most misdemeanor cases. A summons notifies a defendant of the charges and commands the defendant to appear in court on a particular date and time.
- The summons is typically forwarded to the Sheriff’s Department in the county in which the defendant resides. Law enforcement will attempt to serve the summons to the defendant.
- If the defendant cannot be found or if the defendant is avoiding service of the summons, the summons will be returned Non-Est.
- The defendant is required to appear at the arraignment even if the defendant was not successfully served the summons. If the defendant does not appear, then a warrant will be issued for the defendant’s arrest unless defendant has an attorney who stands in for the defendant.
- The Prosecuting Attorney’s Office has the discretion to ask the Court to issue a warrant for the defendant’s arrest instead of a summons. Some of the reasons to request a warrant may include the following: nature of the offense, violence, domestic violence, danger to the community, and/or flight risk.
- If the Prosecutor’s Office requests a warrant, the Court will create an arrest warrant for the defendant and assign bond.
- The Court assigns a docket number to the case and it is assigned to a division (Judge).
- A warrant allows law enforcement to detain a person longer than 24 hours, unless the defendant can post bond.
- The defendant is then transported to the St. Charles County Jail, if not already there.
- The defendant can post bond at any time, if bond is authorized.
- If the defendant is not in custody, the Prosecutor’s Office cannot proceed with the process of prosecution until the warrant is served (arrested).

Arraignment

- Purpose: Charges are read to the defendant, the Court reads the defendant his/her rights, and the defendant enters a plea of guilty or not guilty.
- The Court is very interested in whether defendant has an attorney.
- It is somewhat rare for a defendant to plead guilty at the arraignment, but it can happen at any court date.
- If the defendant does not have an attorney, the Court usually sets aside time for the defendant to find and hire one. The next hearing may be a counsel status hearing.
- A defendant can hire a private attorney or apply for a public defender.
- A defendant can represent himself/herself. This is referred to as Pro Se.
- Defendants are usually present for arraignments. In some cases, an attorney may appear without the defendant and waive the defendant’s right to an arraignment. There are also other reasons why the defendant may not be present.
- The Court will typically set the case for one of the following hearings after an arraignment: setting/disposition hearing, case review hearing, bond reduction hearing, counsel status hearing, and/or indigency hearing. In some cases, multiple types of the above hearings may take place at one court date or multiple dates.

- If the defendant is in custody, it is common for the Judge to arraign the defendant in the county jail or arraign the defendant in court via video system in the County Jail or State Prison.

Case Review Hearing

- Purpose: A case review hearing is a very generic term for describing a court date, and it is often used to describe a lot of different scenarios. The Court will usually set a case review hearing if it needs to review the status of the case.
- The Court will often set this court date when a defendant is arrested due to a warrant it issued. Once arrested, the Court will often set this court date a few to several days into the future to start the case moving through the system. The Court will often check if the defendant has an attorney. If the defendant does not have an attorney, the court will usually set the case for a counsel status hearing.

Bond Reduction Hearing or Bond Hearing

- Purpose: If a defendant is unable to post bond, then the defendant/defense attorney can ask the Judge to reduce the bond or change conditions of the bond.
- A defendant or defendant's attorney makes arguments for lowering the bond.
- A prosecutor will give arguments for why the bond should stay the same, whether the bond should be increased, or consent to the bond reduction.
- At a bond reduction hearing, the Judge will consider the following: the nature of the crime, whether the defendant is a flight risk, whether the defendant has ties to the community, and/or other relevant information.
- The victim may be able to give a victim impact statement concerning the bond reduction depending on the type of crime and whether the victim has returned a written request for be notified and to invoke his or her victims' rights.
- The Judge makes the final decision about the defendant's bond.
- The Judge could release the defendant on his/her own recognizance. This means the defendant is not required to post any monetary bond up front.
- Friends or family members could come up with the money or property to post bond.
- The defendant can hire a bondsperson to post the bond for a fee, if allowed by the Court.
- Some bonds may be cash only, in the defendant's name only, or allow a defendant to post ten percent of the bond.
- Depending on the type of crime, the Prosecutor's Office may receive less than 24 hour notice or no notice at all of a request for bond reduction.
- Defendants/defense attorneys can request a bond reduction at any point in the process or multiple times.

Counsel Status Hearing

- Purpose: The Judge gives the defendant time to obtain an attorney.
- The defendant is required to appear before the Court and give the Court the status of counsel.
- If the defendant has counsel, the defense attorney will enter into the case. This is referred to as an entry of appearance. Typically, the defendant is not required to appear, if counsel has been obtained.
- If the defendant does not appear and no counsel appears, the Court may issue an arrest warrant for the defendant.
- If the defendant does not have an attorney, the defendant may ask for more time to seek counsel.
- Judges have the discretion to give more time to the defendant. A case may be set several times for a counsel status hearing before an attorney is obtained by the defendant.
- If the defendant cannot afford an attorney, the defendant may apply for a public defender.
- If the defendant does not meet the selection criteria for a public defender, the defendant may ask for an indigency hearing.
- An indigency hearing is an appeal to the Judge, asking the Judge to order the Public Defender's Office to represent the defendant.
- Generally speaking, if the defendant has a job, property, or assets, the public defender system will turn down a defendant.
- A counsel status hearing may take place at any time during the legal process. For example, the defendant's attorney may withdraw from a case due to a conflict, nonpayment for services, or for other reasons.
- It should be noted that a defense attorney can withdraw at almost any point in the case at the discretion of the Judge.
- If the defendant fails to hire an attorney in a reasonable time, the Court could rule the defendant waived his or her right to an attorney.

Setting and/or Disposition

- Purpose: Setting and/or disposition is a very generic term for describing a court date, and it is often used to describe a lot of different scenarios. The case either ends or it is set for a new court date. "End" can be defined as the following: defendant pleads guilty, charges are dropped, or the case is dismissed by the Court.
- The setting and/or disposition is one of the most common court dates.
- The defendant may or may not be present at a setting/disposition.

Motions

- Purpose: The Judge sets aside time for both sides to file and argue legal issues before the Court.
- The Court will often set a motions hearing date, if the case is set for trial.
- Both the prosecutor and defense may file motions to resolve various legal issues before the trial.
- Generally, motions are filed to suppress evidence, statements, witnesses, and/or identifications.
- The defendant may or may not be present at the motions hearing.
- It is possible that a defendant could plead guilty at a motions hearing.

Bench Trial/Jury Trial

- Jury Trial Purpose: A hearing before a jury and the jury determines if the defendant is guilty or not guilty. Both prosecutors and defense have the opportunity to present arguments, evidence, and witnesses.
- Bench Trial Purpose: A hearing before a judge and the judge determines if the defendant is guilty or not guilty. Both prosecutors and defense have the opportunity to present arguments, evidence, and witnesses.
- The State must prove there is proof beyond a reasonable doubt that the defendant committed a specific crime or crimes. As a result, the State must present evidence. The defense is not required to present a case or make arguments at a trial.
- If a Judge sets the case for a trial, it does not mean that a trial will take place. Cases are often set for a trial a few times before the trial actually takes place. If there are multiple trials scheduled for a certain date, older cases often get the priority setting. Other factors can also determine which case will get a priority setting.
- The defendant has the right to ask for a jury or bench trial despite the evidence in the case. However, very few cases end in a jury trial. Bench trials are much more common with misdemeanor cases than jury trials.
- The defendant could plead guilty on the trial date or even during the trial.
- A jury trial can last anywhere from one day to several months. Most jury trials last a few days to a week. Most bench trials only last a few hours. Bench trials could last a couple of days in rare circumstances.
- The basic stages of a trial include the following:
 - Jury Selection/Voir Dire – The prosecutor and defense are allowed to ask potential jurors a range of questions relating to the law and the case. In the end, 12 jurors are selected to hear the case. This is not necessary in a bench trial because the judge determines if the defendant is guilty or not guilty.
 - Opening Statements – The prosecutor and defense have the opportunity to give statements about what the parties intend to present during the trial.
 - Presentation of Evidence – Both sides have the opportunity to present legally relevant evidence and testimony.
 - Closing Arguments – Both sides have the opportunity to summarize and give arguments about evidence that was presented in trial
 - Jury Instructions – The Judge gives the jury an important set of documents that aide the jury in its deliberations. The instructions give the jury the statutory elements and defines various legal terms such as proof beyond a reasonable doubt. This stage is not needed in a bench trial because the judge knows the law.
 - Jury deliberations – The jury discusses the case, reviews the jury instructions and determines if the defendant is guilty or not guilty of the crime(s). In a bench trial, the judge deliberates. In bench trials, the judge could return the verdict immediately. The judge can also take the case under advisement and deliver a verdict in a few days to a few weeks.
 - Verdict – The verdict is the final decision of whether the defendant is guilty or not guilty. All 12 jurors must agree on the verdict. If the verdict is not unanimous, the case will end in a mistrial, and the State has the option of retrying the case on a future date with a new jury. In a bench trial, the judge returns the verdict.
- Some jury trials are referred to as bifurcated. In certain cases, when a jury returns a guilty verdict, a sentencing phase takes place. The jury recommends a sentence to the Judge after evidence is presented to the jury by prosecutors and the defense.
- In non-bifurcated trials, the Judge decides sentencing after evidence is presented to the Judge by prosecutors and the defense.
- Defendants can waive their right to a jury trial and request a bench trial. In a bench trial, the Judge determines if the defendant is guilty or not guilty.

Pleading Guilty in a Misdemeanor Case.

- Most defendants plead guilty. However, the defendant has a right to a jury or bench trial.
- Predicting a guilty plea on a misdemeanor case can be difficult because the defendant can plead guilty at any court date.
- A case may be set several times before the defendant decides to plead guilty.
- The Judge can only accept a guilty plea if the Judge believes there is proof beyond a reasonable doubt that the defendant committed a crime(s).
- In most cases, the defendant is pleading guilty to an agreed upon sentence.
- The defendant will either be sentenced on the date of the plea hearing or a sentencing hearing, which may take place on a later date. In misdemeanor cases, the defendant is almost always sentenced on the day the defendant pleads guilty.
- The defendant can plead guilty with an open sentence or against the recommendation. This means the defendant is going to let the Judge decide on the sentence.

Other Important Notes

- On average, a misdemeanor case takes around 6-9 months to move through the court system. The process can be slower or faster depending on a number of factors.
- A misdemeanor criminal case can easily have 10-15 court dates or more before ending. Many of these court dates are necessary by law.
- Continuances are a normal process in the legal system. Defense attorneys and prosecutors are allowed to request a continuance, if the attorney has an appropriate reason to ask for one. The judge decides whether a continuance should be granted, if the attorneys disagree.
- Plea-bargaining may take place at any time during the process.
- A defense attorney may withdraw from the case at any time with permission from the Judge.
- It is possible that any court date could change or be continued to a future date at any time.
- It is possible that a defendant could be sentenced on a different day than the plea. The court will usually set a case for a sentencing hearing if the court is going to consider sentencing at a later date.
- The prosecutor can refuse to file charges or drop charges at any time.
- A warrant may be issued for the defendant, if the defendant fails to appear for a court date.
- It is not necessary for a victim or witness to attend a hearing UNLESS the person receives a subpoena or is ordered by a Judge. However, most court hearings are open to the public.
- Most defendants plead guilty and a trial is not needed; but defendants have the right to request a trial.