

Oh S%&@!

Your Guide to

Surviving the Oklahoma

Criminal Justice System

What to Expect at the Courthouse,
From Arrest to Disposition of Your
Criminal Case



Marcy Fassio, Fassio Law, PLLC

Oh S%&@!

Your Guide to Surviving the Oklahoma Criminal Justice System¹

What to Expect at the Courthouse, From Arrest to Disposition of Your Criminal Case²

You've been arrested; maybe for DUI, drugs, assault, or even murder. What now?

This report will guide you through the courthouse process and tell you what to expect next.³

Most cases start with law enforcement, the police. It could be by an arrest or it could be by a person calling the police to report a crime. Either way, the first step is generally the police investigation. The course of an investigation varies depending on the circumstances and could include running forensic tests like DNA or blood alcohol level, talking to witnesses and interviewing the alleged victim, attempting to interview suspects, gathering reports and documents, and maybe having CSI (Crime Scene Investigation) process the scene. Depending on the complexity of your case, the police investigation could take anywhere from a day to a month, or even longer.

¹ Criminal Court proceedings vary by county. This Guide provides a generalized overview of the process, but may vary depending on the county in which you are charged. Also, this Guide addresses the procedure in Oklahoma State Court. Other Courts, for example federal court or municipal court, have different policies, rules, and procedures.

² This Guide is for informational purposes only, it does not constitute legal advice, nor does it create an attorney-client relationship or privilege. You should consult an attorney for information and advice regarding your specific needs and circumstances.

³ The court process for a person charged with a crime is very complex, with lots of contingencies and nuance. This Guide is a summary only and is not intended to cover every possible situation. Your case may or may not follow this general outline.

After the police complete their investigation, they present charges to the District Attorney's Office. The police, generally the detective in charge of the case, will either go over to the D.A.'s office, or the D.A. (or Assistant District Attorney) could go to the police department, or they could even do it by phone. Basically, the detective "staffs" the case by telling the district attorney what evidence they have uncovered during their investigation. The D.A. will then make the decision on what charges to file, if any. From there, the District Attorney's Office prepares the paperwork, in the form of a document called an "Information," which sets forth the charges – specifying what charges are filed against whom. This paperwork is filed at the office of the court clerk in the county where the alleged crime took place. At that point, charges have been filed against you.

ARRAIGNMENT

Anyone who is charged with a crime in Oklahoma will have an arraignment. An arraignment is basically the formal setting where a person enters a plea, 99.9% of the time a plea of "not guilty." The judge then informs the defendant (the person charged with a crime) of their next court date. If you are in custody, this is usually done from the jail, via closed circuit camera. If you are not in custody, arraignment is done in person, at the courthouse.

If you were arrested and then bonded out of jail, your arraignment will be scheduled even before charges are filed. If you have not been arrested, the process is a little different.

The court process also varies a little depending on whether you are charged with a felony or a misdemeanor. Generally speaking, but not always, a felony is a crime that

carries a potential punishment of more than one (1) year in jail, whereas a misdemeanor is a crime that carries a potential punishment of one (1) year in jail or less.

Once you have been arraigned, the judge will give you a court date, sometimes before a different judge, for a conference of sorts. Different counties refer to this court date as different things. For example, in Oklahoma County and Cleveland County, if you are charged with one or more felonies, the next court date is referred to as a Preliminary Hearing Conference, or “PHC.” Some other counties refer to it as a Pre-Preliminary Hearing. If you're charged with a misdemeanor, your next court date will be referred to as a Disposition in Oklahoma County, or a Misdemeanor Sounding Docket (MSD) in Cleveland County. Regardless of what it is called, the purpose of the court date following arraignment is for your attorney to talk, or conference, with the assigned district attorney; so for this Guide, I will refer to it as a conference date.

CONFERENCE DATE

No matter how it's referred to in the various counties, your court date after arraignment is basically a conference date. It means, as the name suggests, that it's a time for conferencing. Assuming you have an attorney, your attorney will meet with the D.A. and discuss the circumstances of your case. They may discuss the recommendation/offer, the strengths or weaknesses of the case, or various things pertinent to your case. Often, the first conference date is the time when your attorney will request that “discovery” (the police reports) be provided by the district attorney. At this point, most cases are rescheduled for another conference date, to give your attorney the opportunity to review the discovery before moving forward. Alternately, you can set your case for a preliminary hearing, waive your preliminary hearing, or even enter a guilty plea. These

options are discussed in more detail below. Generally, but not always, a case will have 2-3 conference dates before moving forward.

PRELIMINARY HEARING (For Felony Charges Only)

First of all, misdemeanors are not entitled to a preliminary hearing. If you are charged with a misdemeanor, you will have a conference date, probably several conference dates, and if your case is not resolved through a conference date, your case can be set for trial. This section applies only to felony charges.

If your case is set for a preliminary hearing, this means the district attorney is required to put forth evidence⁴ to show “probable cause” that: 1) A crime was committed and 2) The named defendant is the person that committed the crime.⁵ This is a very low burden, so the district attorney is able to put forth enough evidence the vast majority of the time. If the district attorney cannot meet this low burden, because they do not have enough evidence or for whatever reason, the judge will enter a demurrer (meaning find that there is not enough evidence) and dismiss the case.⁶ Again, this is rare.

WAIVING YOUR PRELIMINARY HEARING

You can also choose to waive your right to a preliminary hearing, which means you choose not to have your preliminary hearing, and you are formally saying that you are not going to contest the charges at this stage. Sometimes, there are strategic advantages to waiving your preliminary hearing.

⁴ The State can utilize 3 forms of evidence: witness testimony, exhibits, and/or stipulations.

⁵ If the State has charged you “after former conviction,” they must prove those prior convictions as well.

⁶ If the judge does dismiss your case at preliminary hearing, the State has the option to appeal this ruling. Appeal issues also may arise after motions, pleas, or trials. A discussion of appellate issues is beyond the scope of this Guide.

FORMAL ARRAIGNMENT

If the judge finds that there is probable cause, or if you waive your preliminary hearing, the next step is formal arraignment. In Oklahoma County, the formal arraignment is immediately. In some other counties, formal arraignment will be a separate court date.

After formal arraignment, some cases are set directly for trial, depending on the county in which you are charged, other cases have additional conference dates. For example, in Oklahoma County, after formal arraignment, your case will be set for pre-trial conference, or “PTC.”

PRE-TRIAL CONFERENCE

At pre-trial conference, your attorney and the D.A. can discuss additional things that came to light during the preliminary hearing, one or both parties can be working on things to try to reach a plea bargain that is acceptable to both parties, or the case may be moving toward motion hearings, blind plea, or trial.

POSSIBLE RESOLUTIONS: AGREED PLEA, BLIND PLEA, MOTIONS, DISMISSAL, OR TRIAL⁷

AGREED PLEA

An agreed plea occurs when you reach an agreement with the district attorney as to the disposition of your case. This can be done at any point in the proceedings. If the parties can reach an agreed plea, meaning the D.A. and the defendant agree on the charges and the sentence, the case can be resolved in accordance with that agreement. This would resolve, or end, the case. The sentence could include prison, probation,

⁷ These options cover the vast majority of cases. However some circumstances fall outside of these listed resolutions, for example, if a defendant is mentally incapable of standing trial.

usually with a probation officer and probation conditions, fines, or whatever else the parties agreed to.

BLIND PLEA

If you want the judge to decide your sentence, you have the option of doing a blind plea. For a blind plea, the defendant enters a plea of guilty (or no contest), so they are not contesting the charges. However, they do not want the State's offer, or are unable to reach an agreement with the State, so they want the judge to determine their sentence. After entering the plea, the D.A. makes argument to the judge for the sentence that they think is appropriate; and then your attorney makes argument to the judge for the sentence that you want. The judge then issues the ruling on the sentence.

MOTIONS

In some circumstances, there may be legal issues that need to be litigated, such as a claim of illegal search and seizure, or various other legal technicalities that may be relevant to a case. In that situation, your attorney should study the specifics of your case and the applicable law, then draft a motion asking for a dismissal or suppression of evidence, or whatever may be called for in your circumstances. Once your motion is filed and served, the district attorney has the opportunity to respond by filing a response motion. The motion is then argued to the judge, and both sides present oral argument to supplement the written motions and briefs. At the conclusion of the motion hearing, the judge will rule on the motion, either sustaining the motion or overruling it. If your motion is granted, that means you get what you asked for - the case is dismissed or the evidence is suppressed or whatever relief you were seeking. If the motion is denied, then the case continues to proceed.

DISMISSAL

Although it is rare, occasionally a case will be dismissed. This can happen because of the ruling on a motion, as discussed above, or because your attorney is able to work something out with the district attorney.

JURY TRIAL OR BENCH TRIAL

A trial is complicated and has a lot of moving parts. This will be discussed in a separate Guide.

CONCLUSION – CALL FASSIO LAW TODAY!

Hopefully this Guide has answered some of your questions about what to expect at the courthouse if you, or a loved one, have been charged with a crime. To get the best outcome possible you need an attorney who is familiar with the “system” and knows how to find, and fight for, every advantage. To make sure you get through this process as smoothly as possible, with experienced and knowledgeable guidance, please call Fassio Law today! 405-593-8444.