

Adult Court Process

The following is a brief description of the process used when a person accused of committing a crime is prosecuted. If the person accused is a juvenile, the steps involved in prosecuting the offender are different. Please refer to the Juvenile Court Process for more information. If a juvenile is transferred from the juvenile justice system to stand trial as an adult, this Adult Court Process will be followed.

The Crime

A victim of or witness to a crime should immediately call 9-1-1 or the law enforcement agency (Police, Sheriff or Department of Public Safety) that has responsibility for the area where the crime occurred.

Initial Investigation

In most cases, an initial investigation of a crime is conducted by a police patrol officer who travels to the crime scene or the location of the victim shortly after the crime is reported. The patrol officer will interview the victim(s) and any witness(es) and will begin an initial report describing the crime.

Identification technicians may also respond if there is a need to take special photographs of the crime scene or the victim, to record possible fingerprints, to collect physical evidence, and to draw a composite of any suspects.

The patrol officer completes an incident report. If necessary, the report is forwarded to detectives who investigate that particular type of crime.

Follow-up Investigation

The patrol officer's report may be reviewed by a supervisor who may assign the case to a detective for a more complete follow-up investigation. During a follow-up investigation, detectives may contact witnesses for formal statements, obtain further physical evidence, and request further descriptions of suspects or stolen property.

Formal Charging Procedure

When the investigating officer believes that a suspect has been identified and that there is sufficient evidence, the case is submitted to the prosecutor for review. If the offense has been committed in Linn County, the Linn County Attorney's Office will review the case and make a charging decision.

If the prosecutor believes the report provides sufficient evidence to indicate that the alleged offender has committed a crime, and if in his/her judgment the case has a reasonable likelihood of a conviction at a trial, the prosecutor will file a criminal complaint or seek an indictment from the Grand Jury. If the prosecutor believes that the report provides "insufficient legal evidence" to justify a criminal charge, he/she may return the report to the submitting agency for more investigation, decline to prosecute ("turn down" the report), or refer the case to another, more appropriate agency for civil or administrative review.

If filed, the criminal complaint/indictment is then presented to a judge, who will either issue a warrant authorizing the arrest of the suspect, or a summons requiring the suspect to appear in court on a specific day.

Arrest and Initial Appearance

When a defendant is arrested at or near the scene of the crime or as a result of an arrest warrant, he/she is taken to jail. Within twenty-four (24) hours after the arrest, the defendant must be taken before a judge or magistrate for an Initial Appearance (IA). An IA is the first time the defendant appears before a judge or magistrate. At the IA, four events take place:

- The defendant is informed of the criminal allegations.

- The defendant is advised of the right to an attorney. If the court finds the person cannot afford an attorney, an attorney will be appointed.
- Conditions of the defendant's release are established. Some defendants are released at this time on their own recognizance (OR), a personal promise to return to court when required. When released on OR, the defendant is not required to post bond because it is believed that he/she has sufficient community ties to assure his/her appearance. Defendants with serious criminal records or those who have a history of not returning to court as required, are required to post a cash bond before being released.
- A court date is set for the next proceeding.

Defendants who are released, with or without bond, have limited travel restrictions. Contact between the defendant and victims or witnesses are also restricted. It is against the law for anyone to harass or intimidate a witness. Any harassment should be reported to the investigating law enforcement agency or the police as soon as possible. Remember that if the harassment is not reported, it probably will not stop.

Preliminary Hearing/Grand Jury

Except in the case of simple misdemeanors, when criminal charges are filed by complaint, a preliminary hearing is scheduled to determine whether or not there is sufficient evidence to justify holding the defendant for trial. Preliminary hearings require the attendance of the prosecutor, the defendant, and the defense attorney.

However, in almost all cases, the County Attorney will file a Trial Information with the Court. If the Court approves the Trial Information, the preliminary hearing is not held and the defendant is ordered to appear for an arraignment.

If the Grand Jury considers evidence of criminal conduct, a group of citizens (usually 7 people), selected at random, participate. They may consider evidence of a crime before or after charges have been filed. In Grand Jury proceedings, as in preliminary hearings, the victim(s) or witness(es) may be called to testify. Sometimes the Grand Jury determines that there is insufficient evidence to justify a trial. In such cases, the grand jurors issue a "No True Bill." When at least five grand jurors vote to indict, the grand jurors issue a "True Bill" or indictment. Unlike preliminary hearings, grand jury investigations are secret. The prosecutor may not discuss the results of grand jury proceedings unless there is an open indictment or a court order allowing discussion. An indictment is open if it has been served on the defendant or if the defendant is in custody on the same charges that appear on the indictment.

Arraignment

An arraignment is the first Court appearance for the defendant after being formally charged by information or indictment. The arraignment may be a Not Guilty Arraignment or a Guilty Plea Arraignment. The arraignment serves several purposes:

- The defendant is informed for the first time of the exact nature of the charge(s) against him/her.
- The defendant is advised that he/she should have an attorney and if he/she cannot afford an attorney, one will be provided at public expense.
- The defendant is asked to enter a plea to the charge(s) against him/her.
- At a not guilty arraignment, a defendant normally pleads "not guilty" and a pretrial conference and a trial date are set.
- At a guilty plea arraignment, the defendant normally enters a plea of guilty based upon a plea agreement negotiated at an earlier preliminary hearing.

Defendants are entitled to a speedy trial (Rule 2.33; Iowa Rules of Criminal Procedure). If the defendant does not waive his right to a speedy trial, the defendant must be brought to trial within ninety (90) days of the filing of the Trial Information.

Discovery (Rule 2.14; Iowa Rules of Criminal Procedure)

Discovery is the process where both the prosecutor and defense must disclose information to the other party. This process is done during a pretrial status conference and includes providing the defense attorney with a copy of the police report and any other written information. The rules of discovery also allow attorneys to interview prospective witnesses in the case. In Iowa, the defense has the right to interview all of the State's witnesses prior to trial. You may call your victim advocate to determine your rights before attending any interviews or discovery depositions.

Pretrial Actions/Hearings

After the arraignment and before a trial, there are many activities performed in preparation for trial.

Defendants who plead not guilty are scheduled for a Pretrial Conference (PTC). Here defendants have a hearing before a Judge to narrow the issues in controversy surrounding the case and perhaps settle it prior to the trial date. A PTC is generally held eleven (11) days before trial and is the first court appearance after arraignment. Motions to continue the trial may be made by either party and are granted upon a showing of good cause.

Plea Negotiation / Agreement

In any of the hearings discussed above, the defendant may change his/her mind and decide to plead guilty. If this happens, a Guilty Plea Hearing is held. Here the defendant pleads guilty and gives up his/her right to a trial. The Judge can reject the plea agreement and the case will still go to trial or he/she can accept the plea and proceed to sentencing. The County Attorney prosecuting the case may discuss the possibility of a negotiated case settlement with the defense attorney. The defense attorney may seek an agreement enabling the defendant to plead guilty to the original charge(s) or to some lesser charge(s), a dismissal of certain charges, a commitment from the County Attorney not to file additional charges, or an agreement to recommend a particular sentence. The County Attorney will make diligent efforts to confer with the victim concerning any plea agreement.

If an agreement is reached, the attorneys and the defendant appear before a Judge for a guilty plea hearing. The defendant enters a plea of guilty as agreed, and signs a form declaring that he/she is knowingly giving up various rights, including his/her right to a trial and the right to cross-examine witnesses. Upon the acceptance of the plea agreement the Judge will enter a finding of guilt against the defendant and set the matter for sentencing.

Trial

If a plea agreement is not reached, the case may go to trial. All parties to the case including prosecution witnesses and defense witnesses will be subpoenaed (summoned) in advance to testify before a Judge or a Judge and jury. Witnesses are excluded from the courtroom until they are finished testifying. The reason for this rule is to ensure that a witness is not influenced by the testimony of another witness.

Once the jury is selected and sworn, the prosecution and the defense make opening statements to the jury to explain the case. The County Attorney (the State) then presents the case against the defendant. It is the responsibility of the State to prove "beyond a reasonable doubt" that a crime was committed and the defendant is guilty of committing that crime. To meet this burden of proof, the County Attorney presents evidence and calls witnesses to testify. Witnesses are required to testify under oath and may be cross-examined by the defense attorney.

After the prosecutor presents the case against the defendant, the defense has an opportunity to present its evidence. On advice of counsel, the defendant may or may not testify on his/her behalf. As in the case with the prosecution witnesses, defense witnesses are subject to cross-examination by the prosecutor.

Following the defense's case, rebuttal witnesses may be called by the prosecutor to discredit statements and facts presented by the defense. At the end of the trial, attorneys for the prosecution and defense

make their final arguments to the Judge or the jury. The Judge instructs the jury in matters of law as applied to the case and about the duty of the jury.

The State must prove its case "beyond a reasonable doubt." Since a unanimous verdict is required by law, a jury that is unable to reach agreement on a verdict is declared "hung" by the Judge. The State may then request that the case be retried. If the jury returns a verdict of "not guilty," it means that, in the jury's opinion, the State failed to prove the case beyond a reasonable doubt and the defendant is released. If this occurs, the State cannot appeal the jury's verdict and the matter cannot be retried. If the jury returns a verdict of "guilty," the Judge sets a sentencing date.

Sentencing

If the defendant pleads guilty, or if the defendant is found guilty, the Judge will set a date for the defendant to be sentenced. In felony cases, sentencing will generally be held about six weeks after the guilty plea or guilty verdict. Prior to sentencing, the court will request a Pre-Sentence Report on the defendant from the Department of Correctional Services (only for felony cases).

The Pre-Sentence Report discusses the defendant's life and any other crimes he/she may have committed and will contain a recommendation for a specific sentence. The Pre-Sentence Investigator will contact the victim(s). The victim(s) may also submit a written statement to the Judge through the Pre-Sentence Investigator. This statement may contain the victim's request for restitution (payment of monetary losses suffered by the victim). In some situations, when either the County Attorney or the defense attorney has strong feelings about the recommended sentence, testimony especially relevant to the sentence may be heard at a special sentencing hearing. If you are a victim of a crime, you are allowed to make a statement to the Judge at the time of the sentencing.

Iowa law requires the Judge to order the defendant to pay restitution if the victim has suffered a monetary loss directly related to the crime. Restitution is not available to compensate for pain and suffering in criminal cases. Restitution will be paid as a condition of probation or parole. Restitution payments are paid to the Clerk of the Court, who then mails the payments to the victim.

Sentencing Options

Probation

If the defendant is placed on probation, he/she will be under many restrictions of conduct and travel. Any inappropriate action by a defendant placed on probation, including unauthorized contact with victims and witnesses, should be reported to the Department of Correctional Services.

Prison/Parole

The Judge may sentence an offender to prison for a felony offense and a misdemeanor offender generally will serve their term in the Linn County Jail. All offenders who are sentenced to prison are first transported to the Oakdale Classification Center for evaluation for approximately sixty (60) days and then transferred to a state penal institution. The length of the sentence depends on the gravity of the offense, but may be shortened by "good time" credits earned in prison. There is a mandatory minimum 70% of the sentence that must be served for certain select violent offenses before the offender is eligible for parole. If you are a registered victim, you have the right to be notified of a parole hearing and to be heard at the hearing. You also have the right to be notified by the Iowa Department of Corrections when the inmate is released from prison.