

05 - Criminal Issues

All cases for crimes committed within the 46th Circuit Trial Court are initially handled by the district division. Normal hours of operation are 8:00 a.m. to 4:30 p.m., Monday-Friday.

The District Division has three judges and seven magistrates who can hear cases. While judges handle all types of court activity, magistrates are restricted to certain duties. Magistrates can sign warrants for arrest, hold arraignments, set bonds, and remand defendants to the County Jail. They cannot accept pleas, conduct preliminary examinations, or conduct trials.

The following explains what happens in the district division after you are arrested.

What is an arraignment?

After your arrest on a felony or misdemeanor, you first appear in court for arraignment. During your arraignment, the court tells you the specific criminal charges being brought against you, whether or not you are eligible to be released on bond, and the amount of the bond. If you cannot afford an attorney, you may ask the court to appoint one for you.

Arraignments are held in front of a magistrate or judge.

If you are charged with a misdemeanor and your arraignment is before a magistrate you cannot enter a guilty plea at that time. You must wait until the pretrial hearing. After your pretrial, you can plead guilty or go to trial before either a jury or judge (bench trial). If you are arraigned before a judge, you may enter a plea of guilty or not guilty. The judge may sentence you immediately or delay sentence and request that the probation department prepare a pre-sentence report.

If you are arrested for a felony, your arraignment normally follows the day after your arrest. Felony arraignments are held before a judge or a magistrate who sets a date for a preliminary exam within 14 calendar days following arraignment.

If you are eligible and able to post bond, you are released to appear on your preliminary examination date. If you are not eligible for a bond or cannot post it, you are sent to the county jail until your examination date.

What is a preliminary examination?

If you have been arrested and arraigned for a felony, the next step in the legal process is to appear before a district division judge for a preliminary examination. A representative of the county prosecutor's office will be in court to present the case against you. The judge then decides whether or not there is sufficient evidence to believe that you have committed the crime for which you have been charged. You should have a lawyer to represent you at this hearing. If you signed an appointment of counsel form at or following your arraignment, an attorney appointed by the presiding judge will be present to represent you.

If the judge determines that there is sufficient evidence against you to go to trial, he/she binds you over for trial in the circuit division. An arraignment in that court is set by the district division judge following your preliminary exam.

What is a pretrial hearing?

For individuals arrested and arraigned on misdemeanors, the pretrial conference is the next step in the legal process. You have the right to be represented by a lawyer at this conference. If you signed an appointment of counsel form at or following your arraignment, an attorney appointed by the presiding judge or the criminal division will be present to represent you.

Often there is an agreement at pretrial which will resolve the case. If there is a plea bargain, the defendant will plead guilty at the next court hearing. If there is no agreement, the judge will conduct a status conference and set the matter for motions or a trial.

If there is a guilty plea, the judge may sentence the defendant immediately, or may delay sentence until a pre-sentence report is prepared by the probation department.

Who do I contact if I have any Questions about a Case?

You can contact the clerk if you have procedural questions. However, clerks cannot give legal advice. You should contact an attorney for legal questions.

Where do I go if I want to post bond for someone being arraigned at the District Division?

During regular court business hours, bonds can be posted at the clerk's office. After business hours, you must go to the county jail to post bond.

GLOSSARY OF TERMS

Arraignment – A court hearing at which the defendant is informed of the specific criminal charges for which he or she is being charged.

Bond, Bail, or Bail Bond – A promise that the defendant in a misdemeanor or felony case will appear in court when required. This promise is normally guaranteed by the defendant or someone else posting money or property with the court. There are four types of bonds: personal recognizance bond, cash bond, ten-percent bond, and surety bond.

A personal recognizance bond is the only type of bond in which the defendant is released by pledging only his or her word to return to court.

Defendant – The person who has been charged with a crime.

Docket – A list of cases set for hearing by a court on a specific day.

Felony – A crime punishable by more than one year in state prison. Examples of felonies include homicide, kidnapping, criminal sexual conduct, and armed robbery.

Misdemeanor – A less serious type of crime, in which the maximum punishment is no more than one year in jail. Examples of misdemeanors include retail fraud (shoplifting), larceny under \$100, assault and battery.

Plea – A defendant's response to a criminal charge (guilty, not guilty, no contest). A no contest (nolo contendere) plea is treated the same as a guilty plea, except the defendant does not have to admit guilt.

Preliminary Examination – A hearing before a district division judge following arraignment at which the judge must determine whether sufficient evidence had been presented so that there is probable cause believe that a crime has been committed and that the defendant committed the crime. Preliminary exams are held in felony cases.

Pretrial - A conference between the prosecutor and defendant (or defendant's attorney) to determine how the case may be resolved. A plea agreement may be discussed.

Probation – Allowing a defendant convicted of a crime to remain out of jail or prison as long as they fulfill certain conditions. Persons on probation are supervised by probation officers. The 46th Circuit Trial Court has its own probation division, in the misdemeanor division of the Court.

Sentencing – Final step on the legal process, in which a penalty is applied by a judge for someone who is convicted of, or plead guilty to, a crime.

Warrant of Arrest – An order issued by a judge or magistrate to a police officer requiring the arrest of the person named in the warrant.

