

Gross Misdemeanor & Felonies

Gross Misdemeanors: Punishable by up to a \$3,000 fine and one year in jail

Felonies: Punishable by more than one year in prison

The Criminal Process

1. The process begins when a law enforcement agency sends to the prosecutor its reports together with a request that the defendant be charged with a crime or crimes. The prosecutor will review the reports and decide if they contain enough information to believe that there is a substantial likelihood of conviction the accused if the matter goes to trial.
2. If the prosecutor believes there is sufficient information, a complaint will be issued charging the accused with a crime. If the prosecutor does not believe there is enough information, the prosecutor will either inform the agency that additional information is needed to charge, or that charges will not be issued.
3. The complaint is signed by a law enforcement officer and a judge; then filed with the Court Administrator's Office. Court Administration sets a court date called a First Appearance, also known as a Rule 5 appearance.
4. At the first appearance, or Rule 5 appearance, the defendant is advised of his or her legal rights. The defendant may apply for the services of a Public Defender. If the defendant has hired a private attorney, the attorney should be present. Failure of the defendant to appear will result in a warrant being issued for the arrest of the defendant. The defense attorney receives a copy of the complaint and police investigation. No plea is entered. A Rule 8 hearing is scheduled.
5. At a Rule 8 hearing, the defendant may enter a plea of guilty if a resolution has been reached. If a plea of guilty is not entered, a Scheduling Order is given by Court Administration. This Scheduling Order contains the next three court dates and the defendant is required to appear for all those dates, unless otherwise informed by the Court.

6. At an Omnibus hearing, legal issues and motion can be brought before the judge to make a ruling. If no motions are brought before the Court, a plea of guilty or not guilty is entered. If a plea of not guilty is entered, the case continues to a pre-trial conference.
7. At a pre-trial conference, the prosecutor and the defense attorney attempt to resolve the case and/or any additional legal issues. If a plea of guilty is not entered, the case continues for a Jury Trial.
8. At a Jury Trial, the prosecutor and the defense attorney select a jury and present evidence. If a defendant is found guilty, the defendant is scheduled for Sentencing. If a defendant is found not guilty, the case is over. The prosecutor has no right to appeal a not guilty verdict.
9. At Sentencing, the Judge determines the punishment the defendant will receive. In most cases, the sentence will be based upon a Pre-Sentence Investigation conducted by the Community Corrections Department, also known as the probation office. Felony sentences are based upon the Minnesota Sentencing Guidelines, which take into account the seriousness of the offense and the criminal history of the defendant.