

Steps in a MI Felony Criminal Case

1. Crime/Investigation

Before there can be any arrests or prosecutions, a crime must occur. The police are called to investigate and based upon their findings; they will decide if a crime has occurred. Sometimes the police have enough information to make an arrest at the scene and other times they do not. Maybe the suspect wasn't there to be questioned or a more thorough investigation was needed to determine what had happened and who committed it. When the police believe that they have enough evidence, they will ask the prosecutor's office to authorize a complaint.

2. Arrest

The suspect at this point becomes a criminal defendant once he is arrested and charges are formally filed by the prosecutor's office. Either the suspect is arrested at the scene or the suspect is arrested after an investigation and the police have obtained an arrest warrant based on probable cause.

3. Arraignment

This occurs at the district court and is the first time you will see either a judge or magistrate. You will be informed of your criminal charge or charges. If it is a felony charge, the judge will inform you that you have the right to an attorney at public expense or reduced cost if you cannot afford one. If you request a court-appointed attorney, you will need to complete some paperwork regarding your finances to determine if you are eligible.

4. Probable Cause Conference

Within 7-14 days of your first arraignment, you will be scheduled to appear for a Probable Cause Conference. That is a meeting between your attorney (if you have one) and the prosecutor assigned to your case. Plea offers and negotiations will take place to see if the case can be resolved without going to trial and decide if there will be a Preliminary Exam. Other issues may be discussed such as evidentiary issues, problems with discovery (police reports, evidence), or modifying the bond amount or conditions. However, most judges are reluctant to modify bond conditions if the preliminary exam is left on.

5. Preliminary Exam

For felony cases, you are entitled to have a Preliminary Exam within 5-7 days after the Probable Cause Conference and no later than 21 days after your arraignment. Misdemeanor charges do not have Preliminary Exams. If misdemeanor cases are not resolved at the Pretrial Conference, they proceed to trial. Also known as a probable cause hearing, the prosecution has the burden of proving at the Exam that a felony has been committed and more likely than not, you are the one that committed it. It is a very low standard and is not the "beyond all reasonable doubt" standard at trial. The Preliminary Exam is like a mini version of a trial. The prosecution will call witnesses and present evidence (usually only a bare minimum) and at the conclusion will ask the judge to bind the case over to the circuit court for trial. Since the burden of proof is so low, the prosecution meets their

burden of proof most of the time and the case usually gets bound over (or continues on) at the circuit court. However, the testimony can result in a dismissal, reduction in charges, or additional charges. Many times, the defendant waives their right to a Preliminary Exam and the case automatically goes to the circuit court. Deciding on whether or not to have or waive the Preliminary Exam should be thoroughly discussed with a lawyer before making that decision.

6. Plea Hearings

If your case is resolved with a plea prior to trial the court will conduct a plea hearing. The first step in a plea hearing will consist of the Judge explaining to you the charge you are pleading to and the maximum possible penalty for the charge. The judge will then explaining the rights you have if you take your case to trial and whether you understand that you give up those rights by pleading guilty. The full extent of the offer in your case will then be placed on the record. Next, the Judge will confirm that you are pleading guilty of your own choice, and that no additional offers were made. The final step will be you placing a "factual basis" on the record, which means you will tell the court what you did that makes you guilty or in the case of a no contest plea the Judge will review documents, most likely the police report, to determine what occurred. You will then proceed to the sentencing phase.

7. Pretrial Conference

Once the case is bound over to the circuit court, a new prosecutor and a new judge will be assigned to your case. Much like the Probable Cause Conference at the district court, the Pretrial Conference (or Status Conference as some courts call it) is a meeting between your lawyer and the prosecutor to discuss your case and possible resolutions without going to trial. If not, trial will be set. If the case is resolved with a plea, then you bypass the trial stage and proceed to sentencing.

8. Pretrial Motions

These occur before the scheduled trial date. They can include a variety of issues such as: suppressing evidence, dismissing the charges, excluding the prosecutor from using a defendant's past criminal record, jury instructions ... Your case will dictate what motions will be filed and heard if any. There may still be some preliminary issues that can be resolved on the day of trial known as "motions in limine." These could range from asking the judge to give rulings on admissibility of evidence, types of questioning to permit or restrict, or just simple housekeeping matters. Once these are complete, the trial begins.

9. Trial

You will have the choice of either having a trial by jury or a trial by judge. Ask your lawyer for advice on which one you should choose. You always have a right to a jury trial. If you want the judge to decide if you are guilty or not guilty, all parties have to agree. Since the prosecution has the burden of proving your guilt beyond all reasonable doubt, they get to have the first and last word.

a. Jury Selection

The process begins with jury selection where both the prosecution and defense get to question potential jurors which are members of the community. After some potential jurors have been dismissed either for cause or by peremptory challenges, the case will start.

b. Opening Statements

The prosecution begins their "case in chief" with their opening statement. The defense has the option of presenting an opening statement after the prosecution or they can wait until their "case in chief." Opening statements are a preview of the case. The lawyers tell the jury what evidence they believe will be presented at trial and what the evidence will show.

c. Prosecution's Case

The prosecution will then begin their case by calling witnesses and presenting evidence against the defendant. The defense will have an opportunity to cross-examine those witnesses and make challenges to the evidence. After the prosecution is done presenting evidence and calling witnesses, the defense has an opportunity to present their case if they choose to.

d. Defense Case

The defense will usually start by making a motion for "directed verdict," which means that the prosecution has not met their burden of proof and the case is so lopsided in favor of the defendant, the judge should automatically enter a verdict in favor of the defendant without the case preceding any farther. Usually the motion is denied. The defense will then present their case in chief where they call witnesses and present evidence and the prosecution has the chance to cross-examine those witnesses and challenge the evidence just as the defense did against the prosecution. In some cases, the defense will not call any witnesses. After the defense rests their case, the prosecutor can then call "rebuttal witnesses" to refute or contradict what the defense witnesses said.

e. Closing Arguments

Once the defense is finished with their case in chief and/or the prosecution has presented their rebuttal witnesses, the trial concludes with closing arguments. This is where the lawyers argue to the jury what they believe the evidence presented at trial proved. Again, the prosecution has the chance to rebut the defenses argument and get in the last word because they have the burden of proof. Once arguments are done, the case is submitted to the jury and deliberations begin.

10. Sentencing

If you are found not guilty or if the jury cannot agree on a verdict, then congratulations you are free to go! If not and the jury finds you guilty, the next phase will be sentencing. If you plead guilty to the charge, then obviously you bypass the trial portion and go straight to sentencing. The probation department will arrange a meeting with you and ask you a series of questions about your background, life, and previous criminal history if any. In their report they will make a recommendation as to what sentence you should receive. The current crime you are convicted of is scored for points based on the severity of the crime as well as any past crimes you have been convicted of. These factor into sentencing guidelines which present a range as to how much time you should spend in

prison, if any. For example, your guidelines might be 16-24 months. That gives the judge a working knowledge as to what you should be sentenced to.

11. Appeals

After either your guilty plea or conviction, you can appeal the decision if you somehow believe you were treated unfairly or improperly. Sometimes you have an automatic right to appeal, but most of the times you have to "leave to appeal" meaning that the appeals court has discretion on whether or not to accept your appeal. If you are convicted at trial, you have an automatic right to make sure you were treated fairly and properly. If you are convicted with a plea, you give up an automatic right to an appeal and the Court of Appeals has the option of granting or declining your appeal.