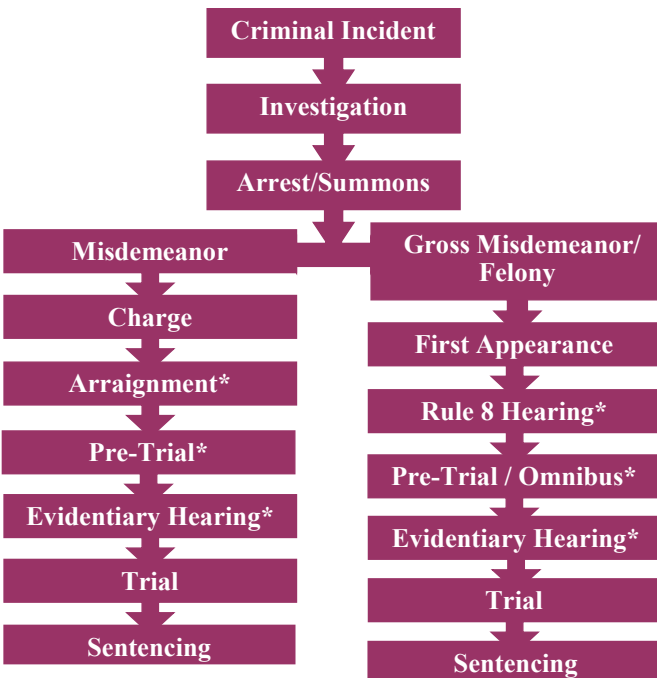


CRIMINAL PROSECUTION PROCESS

Charges are brought against a person by filing a complaint or citation with the court. The complaint contains a brief statement of the facts and sets forth the crimes the defendant has committed based on those facts. A citation, sometimes called a ticket, sets forth the crimes committed by the defendant. Felonies and Gross Misdemeanors are charged by the complaint. Misdemeanors are charged by either the citation or the complaint. Depending upon the charge, the defendant will follow one of two basic paths in the proceeding through the criminal justice system.



*The defendant may plead guilty to these hearings and proceed directly to sentencing.

This is the standard process. Additional or combined hearings may be scheduled at the request of either party.

VICTIM IMPACT STATEMENT

MINNESOTA STATUTES states a victim has the right to submit a Victim Impact Statement to the court at the time of sentencing. The statement may be presented to the court orally or in writing.

VICTIM IMPACT STATEMENT may include the following:

- A summary of the harm or trauma suffered by the victim as the result of the crime;
- A summary of the economic losses suffered by the victim as the result of the crime;
- A summary of the victim's feelings regarding the proposed sentence of disposition.
- A VICTIM IMPACT STATEMENT can affect a judge's sentencing decision. If you want to present either a written or oral statement to the court at this hearing, please contact your advocate or the County Attorney's Office/Victim Services Coordinator.
- If you need assistance in preparing your statement or have any questions, please contact:

Lincoln/Lyon County

**Physical & Mailing address:*
700 North 7th St., PO Box 1193
Marshall, MN 56258

507-532-2350 24/7 crisis * 507-532-9532 bus
lincoln@letswrap.com * lyon@letswrap.com

Redwood County

**Physical address:* 615 S. Mill St.
Redwood Falls, MN 56283

**Mailing:* P.O. Box 1193
Marshall, MN 56258-0993
507-637-3040 24/7 crisis
redwood@letswrap.com

Yellow Medicine County

**Physical & Mailing address:*
MN West Campus, 1593 11th Ave.,
Suite 260, Granite Falls, MN 56241
320-564-2422 24/7 crisis
yellowmedpt@letswrap.com

Toll Free Crisis Line: 1-800-639-2350

Visit our website at:

www.letswrap.com

CRIMINAL PROSECUTION PROCESS



An Explanation of Criminal Court Appearances

Information Distributed by:

WoMen's Rural Advocacy Programs, Inc.



Serving Survivors of Domestic Abuse in Lincoln, Lyon, Redwood & Yellow Medicine Counties

United Way of Southwest Minnesota



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COURT APPEARANCES FOR GROSS MISDEMEANOR AND FELONY CHARGES

FIRST APPEARANCE

THE DEFENDANT is formally notified of the charges filed, advised of his or her rights, and bail or other release conditions are set. If the defendant cannot afford an attorney, a public defender is appointed by the court to represent the defendant. Sometimes this hearing is combined with the Rule 8 hearing.

RULE 8 HEARING

A RULE 8 HEARING is scheduled within two weeks of the first appearance. At this hearing, defense counsel typically appears with the defendant for the first time. The omnibus/pretrial hearing date is set.

OMNIBUS / PRETRIAL HEARING

AT THE OMNIBUS/PRETRIAL HEARING, the defense attorney can challenge whether there is enough evidence to proceed to trial or may raise questions regarding legal issues in the case. The judge may hear oral testimony and receive documents such as police reports as evidence. Both attorneys may submit oral or written arguments to the judge. If no legal or evidentiary issues are raised, the prosecutor and defendant's attorney may discuss a plea agreement. If a defendant pleads guilty, the judge will schedule sentencing hearing. If the defendant pleads not guilty, the case proceeds to trial.

TRIAL

At the trial, the prosecutor and the defense attorney present their case to a judge or jury. Both sides may call witnesses to testify. At the end of a criminal case, the prosecutor must prove the defendant's guilt beyond a reasonable doubt.

SENTENCING

IF THE DEFENDANT pleads guilty or is found guilty following a trial, the judge will order a pre-sentence investigation (PSI). The PSI will include the defendant's criminal history and personal background. The individual conducting the PSI, usually a probation officer, may conduct the victim of the crime to determine how they have been impacted by the defendant's actions. The PSI enables the judge to learn more about the defendant to be more able to impose the proper sentence.

AFTER THE PSI has been completed, the defendant comes before the judge for sentencing. The victim may attend the sentencing hearing and will be given the opportunity to present a Victim Impact Statement and comment on the sentence he or she feels is appropriate. The victim may also request the court order the defendant pay restitution for any monetary loss caused by the defendant's crime. If the victim chooses not to attend the sentencing, his or her impact may be sent to the judge in writing.

THE JUDGE can only impose a sentence that falls within the boundaries of the state law or the Minnesota Sentencing Guidelines. Keeping those boundaries in mind and weighing all the facts of the case, the judge then sentences the defendant.



COURT APPEARANCES FOR MISDEMEANOR CHARGES

ARRAIGNMENT

The defendant is formally notified of the charges filed, advised of his or her rights, and bail or other release conditions are set. If the defendant cannot afford an attorney, a public defender is appointed by the court to represent the defendant. If he or she pleads guilty, he or she will proceed to sentencing.

PRE-TRIAL HEARING

AT THE PRE-TRIAL, the prosecutor and the defense attorney may discuss a plea agreement. If the defendant pleads guilty, he or she will proceed to sentencing. If the defendant does not plead or does not plead guilty or does not request an evidentiary hearing, the case proceeds to trial.

EVIDENTIARY HEARING

AT AN EVIDENTIARY HEARING, the defendant can challenge whether there is enough evidence to proceed to trial or may raise questions regarding other legal issues in the case. The judge may hear oral testimony and receive documents, such as police reports as evidence. Both attorneys may submit oral or written arguments to the judge.

TRIAL

AT THE TRIAL, both the prosecutor and the defense attorney present the case to a judge or jury. Both sides may call witnesses to testify. At the end of a criminal case the prosecutor must prove the defendant's guilt beyond a reasonable doubt.

SENTENCING

IF THE DEFENDANT Pleads guilty or is found guilty following a trial, a judge may proceed directly to sentencing or schedule a separate sentence hearing. A pre-sentence investigation (PSI) is rarely ordered, but one may be requested.

*"Inaction is inaction.
Silence is indifference.
Justice requires a voice."
-Judge Aquilina*