

GUIDE TO THE COLORADO CRIMINAL JUSTICE SYSTEM

The People Involved:

1. The Accused or the Defendant: person accused of committing a crime.
2. The District Attorney: Lawyer who brings charges against a defendant, decides what plea bargains to offer, and who represents the State of Colorado.
3. The Judge: Neutral party who makes rulings on issues of law, decides what sentence to be imposed, and presides over a jury trial.
4. Jury: Citizens from the community who are chosen to hear the evidence in a case and decide on the guilt or innocence of the accused. In the case of a misdemeanor, 6 persons sit on the jury. In the case of a felony, 12 persons sit on the jury.
5. Public Defender: Lawyer for the indigent accused who represents the accused in all phases of his/her criminal case. Public Defenders are appointed only when the accused has been declared indigent and has qualified for free representation.
6. Alternate Defense Counsel: Lawyer for the indigent accused who represents the accused in all phases of his/her criminal case when there is a conflict with Public Defender representation. Alternate Defense Counsel is appointed only when the accused has been declared indigent, has qualified for free representation and a conflict of interest with Public Defender representation has been found by the Judge.
7. Private Counsel: An attorney for the accused who is chosen by the accused to represent him/her in the criminal matter. Private counsel representation is paid for by the accused.
8. Interpreter: Neutral party who interprets for the accused in order to facilitate communication between the accused and the attorney. The interpreter also performs this job in the courtroom in order that the accused be able to understand everything that is said during the proceedings in his/her case.

The Process:

1. Arrest: An officer may arrest a person when probable cause exists to believe he/she committed the offense. A police officer does not need a warrant to arrest someone he believes committed a crime.
2. 1st advisement: This is the first time the accused is brought into court. During this hearing, the judge will advise the accused that they are under "investigation". This means the District Attorney has not filed charges yet. The Judge will advise the accused what crime they are being investigated for committing. Bond will be set on all cases except those involving investigations for homicides.
3. 2nd advisement: During this hearing, the judge will advise the accused what crime or crimes they have been charged with committing. The judge may also hear arguments to reduce bond.
4. Bond Hearing: A hearing in which the accused may ask the court to reduce the set amount of bond. Bond is an amount of money which is required to get out of jail while resolution of the criminal case. The posting of bond does not mean the case is over. You cannot pay to have a criminal case dismissed or thrown out. If the accused does not come to court after posting bond, the accused will be arrested.

5. Preliminary Hearing: At this hearing, the District Attorney will be required to present sufficient evidence to prove that it is more likely than not that the accused committed the crime or crimes he/she is charged with committing. The District Attorney is not required to put on all of their evidence or even the testimony of the victim. The court will allow statements of witnesses to come into evidence through a detective or other police officer. The accused will not testify. With few exceptions, only persons charged with a class 1, 2, or 3 felony or who are in jail on a class 4,5, or 6 are entitled to this hearing. Any person may waive their right to a preliminary hearing. Waiving the hearing is not unusual and is done to keep open a plea bargain. By waiving a preliminary hearing, the accused does not waive any other of his/her rights.

- A. Plea bargain - An agreement by the accused, his lawyer, and the District Attorney which may involve a reduction of charges, dismissal of some charges, or agreement on sentencing

6. Arraignment: A hearing in which the accused either enters a plea of not guilty and sets a jury trial or enters a plea of guilty to the agreed on plea bargain.
7. Jury Trial: A proceeding in which either 6 or 12 members of a jury determine the guilt or innocence of accused. A trial consists of many parts which occur in the following order:

- A. Jury Selection -A group of people who live in the community are chosen at random and sent a notice to appear on a certain date. Those people's names are usually obtained from voter registration, property ownership lists, vehicle registration, and other sources. Once the persons arrive at the courthouse, they are sent in smaller groups to individual courtrooms. In the courtrooms, the Judge, District Attorney, and Public Defender have a chance to ask the group questions that relate to the case. After questioning is over, the District Attorney and Public Defender have the opportunity to ask 3-6 (sometimes more) persons be excused from the jury. Once all sides have excused 3-6 (sometimes more) jurors, the remaining persons will make up the jury of 6-12.

- B. Opening Statement - Both sides address the jury to explain what they believe the evidence will show.

- C. Direct examination - Questioning of a witness by the lawyer who presents the witness.

- D. Cross-Examination - Questioning of a witness by the opposing lawyer. The purpose of cross-examination is to show the witness has a bias, is untruthful, or mistaken for some reason. Other times it is to highlight favorable facts.

- E. Closing Argument - Arguments presented by each side to persuade the jury that their side is correct and should win the trial.

- F. Jury Deliberation - Jurors sit together and discuss whether or not the District Attorney presented enough evidence to prove the accused guilty of the charges beyond a reasonable doubt. If the jury finds the District Attorney presented enough evidence, they will find the accused guilty. If the District Attorney did not present enough evidence, they will find the accused not guilty.

8. Sentencing: Occurs either after a plea of guilty is entered or after a finding of guilt by a jury. This is when the judge decides what punishment the accused will be given. Before deciding the punishment, the judge will have a report prepared by the probation department. If the accused is in jail, the probation officer will come and interview the accused. If the accused is not in jail, it is the accused's responsibility to report to the probation office for an interview. The accused has a right to speak on his/her behalf at sentencing and may present witnesses on his/her behalf.

This document is a general guide to help you understand the basics of the Colorado Criminal Justice System and is not intended to be all inclusive. You should ask your lawyer any additional questions you may have about the process you will go through in your criminal case.