

Opening Statements

Once the jury is seated the prosecutor and the defense attorney will present opening statements outlining the case and what they intend to prove. Statements are generally less than an hour in length.

Witnesses

Prosecution witness will testify first and are then “cross-examined” by the defense. The prosecutor may then “rebutt” any issues raised by the defense. Following testimony, most witnesses are excused and can then attend the trial if they wish.

Sometimes, witnesses are “subject to recall,” in which case they need to remain available, avoid exposure to other’s testimony and are not allowed to remain in the courtroom.

Defense witnesses testify next and are cross-examined by the prosecution. Defendants generally do not testify on their own behalf, as they are presumed innocent and it is the prosecution’s responsibility to prove otherwise.

Closing Arguments

The prosecution gives a closing argument, explaining to the jury how the evidence presented supports the charges. This is followed by the defense attorney with the defense viewpoint. In conclusion, the prosecutor gives a final argument. Closing arguments are not evidence, and cannot be considered by the jury.

Verdict

Following the trial, the jury is given instruction by the judge explaining legal matters pertinent to determining a verdict. The jury then retires to deliberate and seek a unanimous conclusion. If the verdict is reached, it must be unanimous by all twelve jurors. If it is a court trial, the judge will retire to chambers to consider his or her decision.

When a verdict is reached, the bailiff notifies court personnel to return to the courtroom. A jury verdict document is given to the judge and then read aloud by the court clerk. The jury returns a verdict of guilty, not guilty, or they are unable to reach a verdict (called a hung jury).

Sentencing

At the sentencing the judge considers the recommendations in the pre-sentence report, oral and written impact statements from victims, statements on behalf of the defendant, arguments by the attorneys, and legal requirements for fixed sentences.

In addition to any jail term, the judge may order the defendant to reimburse the victim for financial losses (restitution), pay fees for probation and rehabilitation services, and pay a fine to the California Victims of Crime Compensation Board to help other victims. The defendant may be remanded to jail immediately or given a surrender date, depending on various factors.

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How to Testify

Be Truthful

Just tell the facts as you know them, simply and concisely. Don’t guess or speculate about an answer, even if you think you should know the answer. If you don’t understand the question, ask that it be explained.

Answer Only the Questions Asked

The prosecutor will guide you through a sequence of questions, many of which can simply be answered “yes” or “no.” Do not try to say everything at once or volunteer information.

Remain Calm and Courteous

Slow down and think before you respond. Being courteous makes a good impression on the court and jury. Wait until a question is finished before answering. Don’t try to outwit the questions or lose your temper because it may diminish the impact of your testimony.

Court Calendar Information

Limited court calendar information is available online:

www.nccourts.net

Select the “Online Services” tab at the top of the page, then “Case Information,” finally select the green “access now” button.

More detailed case status information may be available by calling the Victim Witness Assistance Center.

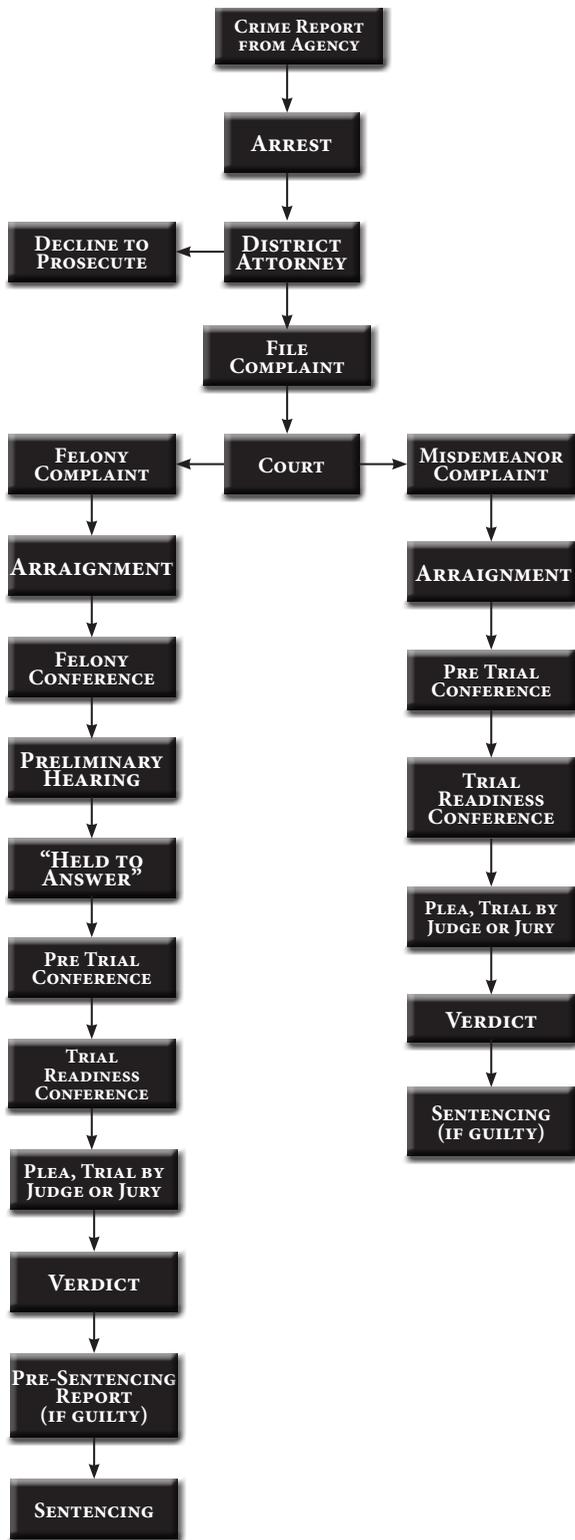


Felony & Misdemeanor Case Overview

**Nevada County
Victim Witness Assistance Center
201 Commercial Street
Nevada City, CA 95959
(530) 265-1301**

**10075 Levon Avenue, Suite 101
Truckee, CA 96161
(530) 582-7832**

victim.witness@co.nevada.ca.us



Arrest

After the crime occurs, a law enforcement officer is responsible for apprehending, arresting and booking or citing the suspect. The accused may be held in custody or released. The officer provides the District Attorney with a Declaration in Support of Complaint and the crime report.

Felony

A Felony is a crime punishable by one or more of the following: state prison term; fine; restitution; county jail; probation; or death.

Misdemeanor

A misdemeanor is a crime that is punishable by one or more of the following: up to one year in the county jail; fine; probation; conditions addressing restitution; education/counseling for anger management, substance abuse, or community service.

Filing Complaint

The District Attorney reviews case facts and makes a decision as to which charges to file in a document called a "complaint." If the evidence is insufficient to prosecute, the DA may decide not to prosecute or to have law enforcement investigators pursue further evidence. Complaints are assigned a case number.

Arraignment/Plea (APR/PL)

An arraignment is the first court appearance of a defendant and is rarely attended by victims. The purpose is to officially inform the defendant of the charges filed. If the defendant appears with an attorney, he or she may also enter a plea at the time. If the defendant cannot afford a private attorney, a Public Defender will be appointed to provide legal representation at reduced hourly rates based on the defendant's ability to pay.

Once counsel is retained, the defendant may enter a plea of guilty, not guilty or nolo contendere ("no contest," meaning the defendant is not going to "contest" the charges). In terms of sentencing, a "nolo" plea is treated the same as a guilty plea.

Felony Conference (FC)

There may be several felony conferences wherein the judge, attorneys and defendant make decisions regarding bail reduction, evidence discovery and admissibility, and plea bargains. If an acceptable plea bargain is reached, sentencing may be deferred to a later date.

Preliminary Hearing (PX)

In felony cases, there is a preliminary hearing where witnesses testify before the judge who determines if there is sufficient evidence to support the charges and proceed to Superior court. It is a "mini-trial," with the same structure as a jury trial, but the burden of proof is lower. The prosecutor needs to prove that it is more likely than not the crime occurred and was committed by the named defendant.

If this is proven, the defendant is "Held to Answer" and the case moves to the Superior Court level.

The Preliminary hearing may be closed to the public if the defendant so requests, but witnesses may have an advocate or support person with them during their testimony. Victims do not always have to testify at a Preliminary Hearing.

Superior Court Arraignment/Plea

If the defendant is held to answer, he or she is arraigned on charges in a document called "Information." The defendant again enters a plea, this time before the Superior Court judge.

Pre-Trial Conference (PT)

There may be several pre-trial conferences and motions in which the judge, attorneys and defendant make decisions regarding bail reduction, evidence discovery and admissibility, trial schedules, and plea bargains. In misdemeanor cases, if a plea bargain is reached, sentencing may occur immediately, therefore, it important that victims who so desire prepare Victim Impact Statements in advance so there are part of the court's record.

Trial Readiness Conference (TRC)

To confirm that both defense and prosecution are ready for trial, and discuss any pending issues.

Jury Trial (JT)/ Court Trial (CT)

If no plea agreement is reached at a pre-trial conference, the defendant has a choice of trial by judge ("court trial") or jury. Trials are open to the public, but witnesses are excluded from the proceedings until their testimony is concluded and the judge excuses them.

Trial days generally begin at 9am and concluded at 5pm with breaks mid-morning, at lunch, and mid-afternoon.

Jury Selection

If the defense requests a jury trial, the defense and prosecution select twelve people plus alternates on the first day of trial. This can take hours or days, depending on the seriousness of the charges.