LAW CLASS
How Courts Work

Steps in a Trial

Pre-trial Court Appearances in a Criminal Case

State procedures are not all the same. Here’s the procedure used with some variations in many states in which a prosecutor files charges.

**Misdemeanors**

The first step is an initial appearance (often referred to as an arraignment), before a judge, at which

•The charge is read to the defendant, and penalties explained.

•The defendant is advised of his/her right to trial, and right to trial by jury .

•The right to counsel (legal representation) is explained, and the judge appoints a lawyer if the defendant requests one and is found to be indigent (too poor to afford a private lawyer).

•The defendant enters a plea. If counsel has been requested and appointed, or if the defendant indicates that private counsel will be retained, a plea of not guilty is entered. If the defendant enters a not guilty plea, a trial date will be set. If the defendant pleads guilty, either a date will be set for sentencing or the judge will impose probation, fines or other sentences immediately. In some cases, the judge or magistrate may allow a defendant to plead nolo contendere , or no contest. In many jurisdictions a plea of no contest is equivalent to a guilty plea, except that the defendant does not directly admit guilt.

•Assuming the defendant has pled not guilty, the judge sets the amount of bail .

**Felonies**

The process is quite similar here, except that there is the additional step of the preliminary hearing because of the more serious nature of the charges.

Step 1

As with misdemeanors, the first step is an initial appearance or an arraignment before a judge, at which

* The charge is read to the defendant, and penalties explained.
* The defendant is advised of his/her right to a preliminary hearing and the purpose of that procedure, as well as his/her right to trial and right to trial by jury in trial court.
* The right to counsel (legal representation) is explained, and the judge appoints a lawyer if the defendant requests one and is found to be indigent (too poor to afford a private lawyer).
* The defendant does NOT enter a plea. The matter is set for preliminary hearing (hearing to establish if a crime has been committed and if there is probable cause to believe that the defendant committed the offense(s) alleged in complaint).
* The judge sets the amount of bail.

Step 2

The second step is the preliminary hearing, at which:

* The government must demonstrate to a judge that there is sufficient evidence, or probable cause, to believe the suspect committed the crime with which he or she is charged.
* Defendants usually must be present at this hearing, although they do not commonly offer evidence in their defense.
* If the court finds there is no probable cause, the matter is dismissed (this would be the equivalent of a grand jury declining to press charges). If this happens, defendants are released.
* If the court finds there is probable cause, the matter is transferred to trial court. Many courts use the term bound over, as "the defendant is bound over to the district or circuit court for trial."-