

Anatomy of an Indiana Prosecution

1: Crime Committed

2: Police Notified

3: Police Investigate

Investigation may include interviewing victim, witnesses, suspects, collecting physical evidence, visiting, viewing, photographing, measuring crime scene, identifying suspects through line-ups, etc.

4: Police Make an Arrest (Or Request a Warrant)

When a crime is committed in a police officer's presence -- or he has probably cause to believe that certain misdemeanors or any felony was committed that he did not see happen -- an officer may arrest a suspect on the spot without an arrest warrant. The officer will later submit a charging / warrant request to the Prosecuting Attorney, suggesting potential charges to be authorized.

5: Warrant / Charging Request Reviewed By Prosecuting Attorney

Most cases begin with a warrant request. This is generally the first time that the Prosecuting Attorney is involved in a case, unless he reviewed a search warrant or visited the crime scene. At this stage, the Prosecutor determines whether a person should be charged with a crime and, if so, what the crime should be. The Prosecuting Attorney must thoroughly review all reports and records concerning the case, including witness statements. The Prosecutor also reviews the suspect's prior criminal or traffic record. Occasionally, the reviewing Prosecutor sends the case back to the police to conduct additional investigation.

6: Warrant Issued

The Prosecutor can submit a Probable Cause affidavit to a Judge asking for an arrest warrant to be issued if he believes that probable cause exists that the suspects committed the offense. However, most Prosecutors apply a higher standard -- whether he believes that he can prove the charge beyond a reasonable doubt at trial with the information known at that time. The Judge, after reviewing the Probable Cause Affidavit, may elect to issue the requested arrest warrant.

7: Suspect Arrested (If Not Already In Custody)

The delay between the crime date and the defendant's arrest on an authorized charge can take any length of time (e.g. if the defendant's whereabouts are unknown or if he/she has left the State of Indiana).

8: Initial Hearing

This is the first court appearance for any misdemeanor or felony. Once arrested and charged with a felony, the suspect appears in Court for arraignment. At arraignment, the defendant is told what the charge(s) is(are) and the maximum penalty if convicted, and is advised of his constitutional rights to a jury or bench trial, appointed attorney, presumption of innocence, etc. The charging document is called a Complaint. The conditions and amount of bond are determined in some cases -- generally based on the nature of the charge -- the Judge imposes conditions on the bond, such as "no contact" with the victim. Bond is set in almost every case, but it is up to the defendant's own resources to post the bail money, which allows him to be released.

All further pre-trial procedures are determined by whether the defendant is charged with a felony or misdemeanor.

Misdemeanor

At a misdemeanor arraignment, the defendant will be given a chance to enter a plea to the charge: plead guilty or not guilty. If he pleads guilty, the Judge may sentence him on the spot or may reschedule the case for a sentencing date, which will give the probation department time to prepare a pre-sentence report including background information about the defendant and the crime, make a sentencing recommendation, etc. If the defendant pleads not guilty, the case will be scheduled for a pre-trial conference.

Pre-Trial Conference: In traffic and non-traffic misdemeanor cases, this is the defendant's second court appearance. It is a scheduled meeting between an Assistant Prosecuting Attorney and the defendant (or his attorney) to determine whether the case will go to trial or be resolved with a plea. These meetings focus on resolving the case short of trial. The Judge and witnesses are not involved in misdemeanor pre-trial conferences. If a plea bargain is going to be offered by the Prosecutor, it is often done here.

Pre-Trial Proceedings: Many other events can occur prior to trial. Depending on the nature of the case, there may be pre-trial hearings on Constitutional issues

(confessions, searches, identification, etc.). The issues are presented to the Court through written "motions" (e.g., Motion to Suppress Evidence). The judge must determine whether evidence will be admitted or suppressed at the defendant's trial, whether there is some legal reason why the defendant should not be tried, or decide other ground rules for trial.

Felony

Pre-Trial Conference: As with misdemeanors, the Court attempts to determine by talking with the Assistant Prosecuting Attorney and the defendant's attorney if the case will go to trial or be resolved with a plea.

Pre-Trial Proceedings: The Judge is called upon to resolve various pre-trial issues, some of which determine whether the case will continue to a trial, be resolved with a plea, or be dismissed.

9: Trial (Jury or Bench / Judge)

A trial is an adversary proceeding in which the Prosecutor must present evidence to prove the defendant's guilt beyond a reasonable doubt. The defendant is not required to prove his or her innocence or to present any evidence, but may challenge the accuracy of the Prosecutor's evidence. Both the defendant and the Prosecutor (representing the People of the State of Indiana) have the right to a trial by a jury. Sometimes, both sides agree to let a Judge listen to the evidence and decide the case without a jury; this is called a "bench trial". In a jury trial, the jury is the "trier of fact"; in a bench trial, the judge is. After the evidence is presented, the judge or a jury will determine whether the evidence proved that the defendant committed the crime.

Here is a general outline of the steps in a jury trial:

- Residents of Porter County are randomly selected from a list composed of property owners and registered voters, and are summoned to the Court as potential jurors;
- The Judge, Prosecutor and defense attorney question the jurors about their backgrounds and beliefs (see voir dire);
- Misdemeanors and "D" felonies have six member juries; Murder and "A", "B" and "C" felonies have twelve member juries;
- The attorneys are permitted a limited number of "preemptory" challenges to various jurors (or an unlimited number of challenges for good cause);
- After twelve (or six) acceptable jurors remain, the Judge administers an oath to the jury and reads basic instructions about the trial process;

- The Prosecutor gives an opening statement to outline his case and evidence to the jury;
- The defense may give a similar opening statement, or wait until later in the trial;
- The Prosecutor calls his witnesses; which the defense may cross examine;
- The State closes its proofs;
- The defense may call witnesses, if it wants, and the Prosecutor may cross-examine them;
- The defense rests;
- The Prosecutor may present "rebuttal" witnesses / evidence to challenge evidence presented by the defendant during his proofs;
- The Prosecutor rests;
- The Prosecutor presents a closing summary to the jury;
- The defense attorney presents a closing summary to the jury;
- The Prosecutor may present a rebuttal argument to the jury to respond to the defendant's closing summary;
- The judge gives the jury detailed legal instructions about the charged crimes, the deliberation process, etc.;
- The jury deliberates and returns a verdict.

10: Pre-Sentence Investigation and Report

The court's probation department prepares a report for the judge summarizing the crime and the defendant's personal and criminal backgrounds. Generally, the victim is contacted for a recommendation of sentence. The probation officer concludes the report with a recommended sentence.

11: Sentence

Sentencing in Indiana varies with the crime and can be the most confusing part of the criminal process. Most often, sentences are within the judge's discretion, but each class of crime does have a maximum which can be imposed. At the time of sentencing, the judge will consider the information in the pre-sentence report and additional evidence relevant to the judge's sentencing decision. The Judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail or prison, or a combination. The judge must also order the defendant to make restitution to any victims who have suffered financial harm.