

HOW A CASE IS PROSECUTED

We hope reading this pamphlet will give you a better understanding of how the criminal justice system works in Hancock County. It is important that you, as the victim of a crime, understand the system which exists to protect your welfare and that of society. We are describing what happens as a typical case moves through the system, but every case is unique. We realize we cannot anticipate every question and hope you will call if you have any further questions.

OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM AND WHAT WE MUST PROVE

Before you can understand the operation of the criminal justice system, you must understand the presumption of innocence and the burden of proof in the prosecution of an alleged offender. These are fundamental principles of our legal system, established in our constitution. No one contends they should be abolished, but they do make prosecution difficult.

The law presumes every person accused of a crime to be innocent and requires every part of the legal system, including, but not limited to the judge and prosecuting attorney to treat the accused as it would an innocent person until guilt is established in the courts (or by a plea of guilty). The accused need prove nothing. The defendant is not required to testify, offer any evidence, or even present a defense of any kind. The accused is not required to prove that (s)he did not commit the crime.

The law requires the Prosecuting Attorney prove the crime “beyond a reasonable doubt.” This means if your case goes to trial and the judge or jury has a reasonable doubt as to the defendant’s guilt, they must resolve the doubt in favor of the defendant and find the accused not guilty. This is a very high burden of proof, much higher than required in a civil case where the burden of proof is by a “preponderance of the evidence”, which means more likely than not.

Guilt beyond a reasonable doubt must be established by legally admissible evidence. The rules of evidence are too complex to describe here, but it must be recognized that the law has very strict rules about how evidence may be obtained and how it may be used by the Prosecuting Attorney in an attempt to establish guilt.

JUVENILE CASES

In contrast to the adult criminal justice system, the probation officer at the discretion of the court initiates an action against the juvenile. The matter may be handled informally by the probation officer. However, if the matter is to be handled formally, then the Prosecuting Attorney’s Office files a “Petition for Delinquency” to initiate formal action against the juvenile. The Prosecuting Attorney’s Office will represent the probation officer in any pre-adjudicatory hearings and the adjudicatory hearing itself. The burden of proof on the State and the Constitutional rights of the juvenile are the same as in the adult criminal justice system, except the juvenile does not have a right to a trial by jury. For additional information on the juvenile justice system, may contact the probation department at (317) 477-1135 or the Prosecuting Attorney’s Office at (317) 477-1139.

CASE FILING AND TRIAL

An adult criminal case is formally initiated by the Prosecuting Attorney filing an “Information” or a grand jury returning an “Indictment.” Most adult criminal cases are initiated by the Prosecuting Attorney filing an information. Assuming that an arrest has not already been effected, the Prosecuting Attorney is required to establish probable cause before the court by a hearing or an affidavit to determine if probable cause exists to establish that the accused may have committed a crime as is defined by the Indiana statutes. If a fact-finding hearing is held, it may be necessary that you testify on behalf of the State of Indiana.

There may be other pre-trial hearings where your presence and testimony may be required. If the (Deputy) Prosecuting Attorney determines that your testimony is necessary, (s)he will notify you of the date and the purpose for your presence.

When the trial date has been finally determined, you will be notified by our office of the date of the trial. For your convenience a brochure entitled “Information for Witnesses” has been prepared by the Prosecuting Attorney’s Office to advise you on what you may reasonably expect as a witness. If you don’t already have the brochure, “Information for Witnesses”, please contact the Prosecuting Attorney’s Office for a copy.

DISPOSITIONS (SENTENCING)

Because of the caseloads that exist in today’s criminal justice system, it is sometimes necessary that the Prosecuting Attorney engage in plea negotiations with the defendant and his/her counsel. The Hancock County Prosecuting Attorney’s Office has a policy of obtaining input and opinion from both the victim, if any, and the law enforcement agency charged with the investigation of the particular crime. Although Indiana law only requires notification to the victim, Dean Dobbins Prosecuting Attorney has a policy that insures substantial victim input and seeks the approval of the victim and police officer in the negotiation of felony cases, if a plea agreement is to be reached.

Following a verdict of guilty or a plea of guilty by the defendant, the court will order in felony cases a “pre-sentence investigation”. The Prosecuting Attorney’s Office invites your input at the sentencing stage of the criminal justice process. As an interested party, if you would like to have input into the pre-sentence investigation, please contact the probation office at (317) 477-1135.

It is the intent of the Prosecuting Attorney’s Office to represent all law abiding citizens of Hancock County and particularly the victim in a case. Therefore, we invite you to call the Prosecuting Attorney’s Office if you have questions about the handling of your own case. Phone: (317) 477-1139



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