

Frequently Asked Questions

Q1. What is a subpoena?

Answer: A subpoena is an official court order requiring you to appear at the time and place it specifies - usually to provide testimony. It continues to bind you to appear at every subsequent setting until the case is finally disposed. You should have your subpoena with you when you appear. You should read your subpoena carefully. The subpoena will tell you when and where to appear. It may also inform you of any additional items and documents you must bring. Failure to appear constitutes contempt of court. If you should move or change your phone number, please contact the St. Louis County Attorney's Office immediately. Your subpoena may give a specific time or it may direct you to call before you come.

Q2. How does a complaint become a criminal case?

Answer: Local law enforcement officers investigate a case and, if they feel there is sufficient evidence, a request is made of the County Attorney's Office to issue a criminal complaint. If after reviewing the facts the prosecutor feels that a person should be charged with a crime, a complaint and a summons or arrest warrant are prepared. The judicial cycle then begins. The complaint is the formal charge.

Q3. What is an omnibus hearing?

Answer: An omnibus hearing is a pretrial hearing on evidentiary issues in felony and gross misdemeanor cases. If this hearing is "uncontested," it is usually held within two weeks of the arraignment. If this hearing is "contested," with a need for testimony, it will usually be held no sooner than four to six weeks after the arraignment because these contested hearings have to be assigned to a specific district court judge.

The defendant and his attorney will be at the omnibus hearing along with a prosecutor from the County Attorney's Office. At the uncontested omnibus hearing, the defendant may waive the hearing, entering a not guilty plea, and the matter will be set for a jury trial. The defendant may also plead guilty at the uncontested omnibus hearing. A third alternative at the uncontested omnibus hearing is for the presiding judge to determine whether there is sufficient evidence to proceed to trial based on a reading of the police reports in the district court file.

At a contested omnibus hearing, there is usually testimony from law enforcement officers about the facts being relied upon for probable cause; about statements taken from the defendant; and/or about evidence seized from the defendant. Based on this testimony the district court judge is asked to make a decision whether there is sufficient probable cause for the defendant to stand trial, as well as whether statements and other evidence obtained from the defendant by law enforcement officers are admissible evidence at trial. Only if the judge determines there is insufficient facts for probable cause will the case be dismissed. Otherwise a trial, guilty plea, or

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Q4. What if the judge decides there is not sufficient evidence at the omnibus hearing?

Answer: If the judge decides probable cause has not been established, the court then dismisses the case. This means that all legal action has come to an end and the defendant is released.

Q5. Do cases always go to trial if they are not dismissed?

Answer: Most cases are resolved without the necessity of a trial. Often there is no real question of guilt, and the only question to be resolved is the amount and degree of punishment. Because both the state and the defense usually have a good idea of what punishment would likely result if the case were tried, the question can usually be fairly resolved by plea agreement.

A plea agreement is simply an agreement in which both the state and the defense agree on a suitable resolution. If the judge agrees at the plea hearing and sentencing, the case is settled in the most efficient manner. Should the judge believe the sentence is inappropriate, however, he/she may assess a lesser punishment than the plea agreement suggested, or he/she may reject the plea agreement and proceed as if an agreement had never been reached. This could mean the defendant could withdraw his guilty plea. This often means the case must be tried. A victim's input is critical, but county attorney has to make the final decision on whether a plea agreement is appropriate in a specific case. We will consider the severity of the crime, the wishes of the victim, the likelihood of success at trial, and the probable punishment which would be assessed without a plea agreement.

Q6. What happens in a trial?

Answer: In a trial, the attorney from the St. Louis County Attorney's Office presents the case for the state and has the burden of proving beyond a reasonable doubt that the defendant did commit the alleged crime. The defendant may present evidence, although he has no obligation to do so. Furthermore, the defendant may not be compelled to testify. He will, however, be present throughout the proceeding. The trial may be either before a judge, or before a jury.

Q7. How and when is sentencing determined?

Answer: The judge presiding over the case sentences a defendant who has been found guilty or has pleaded guilty. Using state guidelines, (sentences are expressed in terms of minimums,

maximums, and other options), the judge sentences the defendant in a manner appropriate to the crime and other circumstances related to the case. The defendant may be sentenced to jail or placed on probation or ordered to make restitution or ordered to pay court costs and/or a fine. Before making a decision, however, the judge will usually have the opportunity to review a pre-sentence report which is an evaluation of the defendant prepared for the sentencing judge by the probation department. It contains a recommendation as to probation or incarceration and is an important factor in the judge's decision. You may be contacted by a pre-sentence investigator for information in preparing the report. You also have a chance to present either written or oral victim impact statement at sentencing. The statements can relate only to the facts of the case, personal injuries, or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by a person of their choosing to make a statement if the victim is otherwise unable, for any reasons, to appear as a result of the offense committed by the defendant.

Q8. What if I change my mind about prosecuting or testifying?

Answer: A crime committed against any person is a crime committed against the state. Our community and each of us as individuals deserve protection against criminal wrongdoers. For this reason, the court can compel testimony of a victim or witness to a crime. A great deal of costly work will proceed and be wasted if a victim or witness does not testify. The loss of a case simply because a victim or witness drops out is a tragedy. Should you have any reluctance about testifying in a case, please discuss your concern with the victim/witness director or the prosecutor handling the case. They will try to help with any problems, doubts or questions you may have.

Q9. What if the defense attorney contacts me about the case?

Answer: The defense attorney or a private investigator can contact anyone about the facts of the case. You should feel free to speak with persons connected with the defendant, but you have the right to refuse to do so if you desire. If you do decide to speak to the defense attorney or a representative, you may request that an attorney from the county attorney's office be present while you are being questioned and postpone any further communication with the defense until such arrangements can be made. In any event, we would appreciate your notifying us of any conversations you have with the defendant or his attorneys or representatives.

Q10. What if someone threatens me to drop the charges?

Answer: Since a threat to a witness or a victim may be itself a crime, it is unlikely anyone would make such a contact. If anyone has threatened you in connection with the case in which you are involved either in or out of court, however, you should contact your local police department or

sheriff's department and report the threat and then tell the St. Louis County Attorney's Office.

Q11. Should I be concerned if months pass without hearing from the court or the County Attorney's Office?

Answer: Unfortunately, crowded court dockets and other delays may cause cases to drag on for what may seem an unreasonable length of time. Please realize that we are continuing to work on your case even when you aren't hearing from us and that we will do whatever we can to move your case efficiently through the system. Your patience, therefore, is greatly appreciated.

Q12. Coming to Court – When and where do I go?

Answer: If you are subpoenaed or called by the St. Louis County Attorney's Office, please arrive 15 minutes before the time scheduled for the case. Please report to the St. Louis County Attorney's Office as soon as you arrive. If you have trouble finding the courthouse or are unavoidably delayed, please call us at 218-726-2323.

Q13. Can I be compensated for losses I have suffered as a victim?

Answer: Your insurance company may provide coverage for your personal injury or property loss due to a crime. If your report of a crime results in the offender being placed on probation or parole, the court may order the offender to make restitution to pay for the cost of your injuries, damages, or loss. However, restitution cannot be guaranteed and may not be possible under some circumstances. The Crime Victims Reparations Board may cover certain out-of-pocket losses as a result of personal injury or death. You may also consider pursuing a civil suit to recover damages.