

CMS LAW FIRM LLC

1325 Fourth Ave., Suite 550 | Seattle WA 98101
206.452.5241 | F206.299.3833 | fightyourseattledui.com

SEATTLE, WASHINGTON FELONY PROCEDURES

What to Expect if You are Charged with a Felony

So, you messed up. Whether a DUI, assault, drug possession, drug sales, hit and run, theft, malicious mischief, or any other felony criminal charge, the first thing you can expect is for the process to take longer than you think it should. Courts are clogged, prosecutors are overburdened, and it is sometimes difficult to get someone to speak about your case that can actually do something about it. And on top of that, if you have no experience dealing with criminal charges, the entire experience can be a little frightening and overwhelming, particularly since felony criminal charges are usually serious and carry significant penalties.

Please remember when reading this information that it is **not intended to be relied upon alone as legal advice**. If you find yourself facing a felon charge, **please contact a Seattle criminal defense attorney before making any decisions**.

And the criminal process can be a bit difficult to understand if you aren't familiar with it, which is why I've written this guide for you. By the time you are done reading this you should at least understand the way a typical Seattle area felony moves through the system from start to finish, and how long the process may take. And hopefully when or if you ever need an attorney you'll think of CMS Law Firm to help you resolve your problems and beat your criminal charges.

The felony process is made up of six primary components:

- Arraignment
- Expedited Felony
- Case Setting
- Omnibus Hearing
- Trial
- Sentencing

ARRAIGNMENT

The arraignment is the first step in the criminal process, and is usually the first time you will be before the court to address your criminal charges. Arraignment is a constitutional requirement and for the most part is a purely procedural matter. At arraignment, you will quickly see that the longest part of the process will be waiting to be called up to speak with the judge. Once that happens, you should be in and out fairly quickly.

Arraignment must occur within fifteen days of your arrest if you are kept in jail or within fifteen days of your first court appearance if you are not in jail. This means that if you are charged with a crime and remain out of jail, it could be some time until you are actually called into court (although the way it usually happens is there is a large gap between the time you commit the act that gets you in trouble and charges being filed – once charges are filed the arraignment tends to occur fairly quickly). Often, however, the arraignment is your first appearance before the court.

At arraignment, several things happen. First, you will have an opportunity to learn about your constitutional rights. Second, the court will confirm your name and address for the court's record. Third, the court or the prosecutor will formally let you know what you've been charged with. Fourth, the court will ask

you to enter a plea to the charges (not guilty 99% of the time). And fifth, the court will set your conditions of release.

The highlights of arraignment are the entrance of the plea and the imposition of conditions of release. And, rest assured, if you've hired a criminal attorney before your arraignment, they will do 90% of the talking for you. When you enter a plea to the charges, most of the time it will be a not guilty plea, as you probably have not had time to view police reports, interview witnesses, or negotiate with the prosecutor. It's as simple as saying "not guilty." Conditions of release, on the other hand, can be a little more complicated, particularly in the case of a DUI or domestic violence charge.

Conditions of release are to be imposed for two primary reasons: (1) to ensure your return to court at your next scheduled hearing; and (2) to ensure the public remains safe. From time to time prosecutors will ask for extremely harsh conditions of release, and it seems to happen most often with domestic violence and DUI cases that have a previous DUI or high blood alcohol test. If this happens to you, it is important to have a [criminal lawyer](#) or [DUI lawyer](#) who can speak on your behalf, remind the court of their obligations for conditions of release, and do their very best to keep you out of jail and on with your normal course of life.

The arraignment will be concluded by setting you up for your next court appearance, the pretrial hearing. Read below to learn about that.

EXPEDITED FELONY

The expedited felony process is somewhat separate from the usual felony process in that it happens in district court, where most misdemeanors are resolved. It always occurs after the arraignment and before the pretrial hearing, and as the name suggests, the goal is to expedite the case to get it resolved as quickly as possible.

If you are charged with a felony and offered an expedited felony, chances are your felony charges are not viewed as serious by the prosecuting attorney. For example, I've seen numerous times felony theft charges that are put on the expedited felony track to try to get them resolved as quickly as possible. This is because right now (it is changing soon) theft of anything more than \$250 is a felony in Washington State. And though theft is a serious crime, stealing something that is slightly more than \$250 is, in the grand scheme of things, not the type of case prosecutors want clogging up their felony docket. So, cases like this are placed on the expedited felony list to try to get them resolved quickly.

The expedited felony works like this: you go to court for your arraignment; while you are there, the prosecutor will give you an offer to a misdemeanor charge and give you a deadline to decide whether or not you want to take that offer; if you take the offer before or at the deadline, then the case is resolved and you get to take a misdemeanor rather than a felony; if you do not take the offer, the case is sent up to Superior Court with all of the other felonies and is resolved on that track. Usually the offer for expedited felony states explicitly that once the deadline passes no other offers will be made. This, like most prosecutor blanket statements, is subject to change depending on the facts.

If, in the end, you decide to decline the expedited felony offer then you move on to the next stage – case setting.

CASE SETTING

The case setting, like the pre-trial hearing for a misdemeanor case, usually takes place about three to five weeks after the arraignment (if it is an expedited felony, it usually takes place about that long after the expedited felony date has passed), and again is for the most part a purely procedural matter. At the case setting the prosecution and defense inform the court as to the status of the case, including the receipt of

discovery, the status of any plea negotiations, and where the case stands as a whole. Often the case setting hearing is continued once to allow the parties to continue to negotiate, to continue to investigate the case, or simply to give the parties a little more time to get their ducks in a row.

At the case setting hearing if a plea agreement is reached, it is usually entered into at this stage of the criminal proceedings. The terms of a plea agreement typically depend highly upon the facts of the specific case, including who the parties are, what evidence exists, and the criminal history of those involved. If a plea agreement cannot be reached, at this time the court will set an omnibus hearing to finalize the case before trial. The court will also set a trial date at this time.

At the conclusion of the case setting hearing the court will enter a pre-trial order setting out the schedule going forward, what motions are expected and when they will be heard, when any motions must be filed by, and other scheduling type of matters. The length the case is set out depends largely on the court's trial calendar, but is usually three to five weeks after the case setting.

OMNIBUS HEARING

The omnibus hearing, much like the motions hearing in a misdemeanor case, is the stage at which the parties will not what motions need to be filed, inform the court that a trial is expected, and that both sides are ready to move forward toward trial. In criminal matters, typical motions include: motions to suppress evidence or statements; motions in limine (to keep information that isn't relevant or admissible from being discussed in front of the jury); and motions related to discovery matters that need to be taken care of. Often the result of the motions filed can have a profound effect on the plea negotiations going forward. For example, if your blood alcohol test results are suppressed because the procedures weren't done properly the prosecutor might not have much other information to present to a jury. Or, for example, if a 911 call is suppressed because it is not admissible evidence, the prosecutor may be forced to dismiss the case.

Once the motions have been argued and decided upon by the judge, then the parties will gear up for the coup de gras – jury trial.

JURY TRIAL

The jury trial, though often romanticized on television and in the movies, is usually not terribly exciting. For the most part, everyone knows what the parties are going to say and what the evidence will be, it is just a matter of convincing the jury that you are right or that the prosecutor has failed to prove your guilt beyond all reasonable doubt.

The procedure of a jury trial is usually goes a little bit like this: first, the judge will call in a panel of prospective jurors and your criminal attorney and the prosecutor will ask them questions and pick who they want (also known as voir dire); second, the both parties will present opening statements; third, the prosecution will present its evidence; fourth, the defense will move to dismiss, and if that fails, will present its side of the case, or, if they have no evidence to present, will rest its case; fifth, the prosecutor and defense attorney will have the opportunity to present closing arguments; and finally, the jury will return with a verdict.

If the verdict is in your favor (not guilty) then you are free to go. If the verdict is not in your favor (guilty) the judge will set a sentencing hearing, usually for a couple of weeks down the road. This allows the sentencing paperwork to be put together and allows your criminal history to be tabulated. After the verdict is given, your attorney may offer several motions to the judge, particularly to make a judgment notwithstanding the verdict (the argument is basically that no reasonable jury could have found the way this particular jury did), but they are often made to preserve the record, and are not often won.

SENTENCING

As you might suspect, sentencing is the point at which the judge decides what punishment to give you for the crimes you've been found guilty of. Felony sentencing, though, is very different than misdemeanor sentencing, mostly because the crimes are usually more serious than misdemeanors and the punishment faced is much greater.

For felony sentencing, the actual term of sentence is based on a grid based on Washington State sentencing guidelines. On one side of the grid is your "offender score" which consists of your criminal history. Points are given to each of the crimes you have committed, which results in your "score." As you might expect, the lower your score, the lower your range of punishment. On the other side of the grid is the class of felony. In Washington State there are three classes of felonies, A, B, and C, with C being the lowest class of felonies. Within each class of felony and each offender score is a sentencing range, the minimum of which must be imposed by the court and the maximum of which may be imposed by the court. There are also sentencing enhancements, which increase your sentence based on the facts of your case. For example, if a deadly weapon was used in the commission of the crime, the sentence may be enhanced.

Sentencing for a felony case can sometimes be as critical as the rest of your case, particularly if the facts are not in your favor. It is important to have someone on your side that will fight for you to get the lowest sentence possible, present every relevant fact to the judge, and push for you to get the least punishment possible. It is also very important to make sure your criminal history is correct, as it has a direct effect on the range of your sentence.

In the end, the process, though daunting, scary, and probably a bit overwhelming for someone not accustomed to it, is set up in a way that maximizes your opportunities to have a good outcome. All you need is the right DUI attorney or criminal attorney and you can usually come out with minimum damage.