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## SEATTLE, WASHINGTON MISDEMEANOR PROCEDURES

### What to Expect if You are Charged with a Misdemeanor

So, you messed up. Whether a DUI, assault, drug possession, drug sales, hit and run, theft, malicious mischief, domestic violence, driving while license suspended, or any other misdemeanor 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 if you face a maximum punishment of 90 days in jail and a \$1,000 fine for a misdemeanor and a year in jail and a \$5,000 fine for a gross misdemeanor (gross misdemeanor). If you have no experience dealing with criminal charges, the entire experience can be a little frightening and overwhelming.

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 DUI charge or other misdemeanor, **please contact a Seattle DUI attorney before making any decisions**.

Well, that is the reason I've written this guide for you. By the time you are done reading this you should understand the way a typical Seattle area misdemeanor 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 misdemeanor process is made up of five primary components:

- Arraignment
- Pre-Trial Hearing
- Motions Hearing
- Trial
- Sentencing

#### ARRAIGNMENT

The arraignment is the first stop 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.

### **PRE-TRIAL HEARING**

The pre-trial hearing usually takes place about three to five weeks after the arraignment, and again is for the most part a purely procedural matter. At the pre-trial hearing 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 pre-trial 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 pre-trial 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 a trial setting hearing or motions hearing to finalize the case before trial. The court will also set a trial date at this time.

At the conclusion of the pre-trial 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 pre-trial hearing.

### **MOTIONS HEARING**

The motions hearing, as the name implies, is the stage at which any motions submitted to the court will be heard. In criminal matters, this usually includes 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 any discovery matters that need to be taken care of. Often the result of the motion hearing 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) then the judge will set a sentencing hearing, usually for a couple of weeks down the road so that paperwork can be put together, and the jury trial part of the procedure will be complete.

## **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. As I mentioned above, in the State of Washington, if you are convicted of a misdemeanor (theft, malicious mischief, assault, driving while license suspended third degree, etc.) your maximum punishment is 90 days in jail and a \$1,000 fine. If you are convicted of a gross misdemeanor (domestic violence, DUI, driving while license suspended second degree) the maximum punishment is one year in jail and a \$5,000 fine. Often you can expect to see sentences much lower than that, particularly if you have little or no criminal history.

But, just to let you know, what the court will often do is impose a sentence and then suspend all of the sentence so long as you stay out of trouble in the future. For example, on a gross misdemeanor Seattle DUI, the judge may sentence you to a year in jail but suspend all but one day of the sentence (you are required to do one day in jail for DUI) and give you a \$5,000 fine and suspend all but \$1,000 of it. This means so long as you stay out of trouble you only have to do one day of jail and pay a \$1,000 fine. But if you get in trouble the judge has the ability to impose the full sentence and fine on you. As you might expect this is a lot of motivation for people to stay on the straight and narrow.

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 [Seattle DUI attorney](#) or [Seattle criminal attorney](#) and you can usually come out with minimum damage.