

I'm Charged With a Misdemeanor. What Happens Next?

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You're charged with a misdemeanor and have a court date coming up in a few weeks, or, worse yet, you are in custody and have to be brought to court within two business days. You are nervous, concerned, even afraid. What happens next? Here is a run down of the upcoming court proceedings.

First Court Appearance - Arraignment

The arraignment is your very first appearance in court. This is where you will be notified of the charges filed against you, and finally obtain a copy of that coveted police report. You will be advised of your rights by video, paperwork or the judge will advise you yourself. The judge will then start to call the calendar. You will be asked if you have a lawyer, and may have one appointed if you cannot afford to hire one. The judge will sometimes give an indicated sentence of what would happen if you pled guilty, and then ask how you plead; guilty, not guilty or no contest. Sometimes an indicated sentence will not be given. This is usually a sign that the judge is not comfortable making an offer on your case based on the limited facts they have. If you are out of custody, you have a right to a trial within 45 days of your arraignment, and within 30 days if you are arraigned in-custody. You will then be asked how you plead.

Guilty, Not Guilty or No Contest?

Your options are now to either ask for a continuance to hire an attorney, or to enter a plea. If you plead guilty at arraignment, you have to plead to all the charges in the complaint. The judge cannot change the charges, only the prosecutor has that ability. If you pled guilty, you will immediately be sentenced. If you plead not guilty, your case will continue to another day. Your next court date is called a pre-trial. It is during this time that all discovery is exchanged, and negotiations are made to try to resolve the matter. If you are not represented by a lawyer, you are at a huge disadvantage, as you will be dealing with an experienced prosecutor for the government. Without a lawyer you will not know what information you are entitled to or how to go about obtaining it. Most importantly, without a lawyer, you won't know whether you should try to resolve your matter or go to trial. You will also not know whether the offer to resolve the case is a good one or not.

I'm Going to Trial. What now?

You have decided to go to trial. In California state courts, you still have a right to a jury trial on all misdemeanor matters. You also have the option to waive jury, and have a judge decide your guilt or innocence. Hopefully, you have a lawyer by now, as you will be treated as if you are one and expected to know the laws and rules of evidence as if you were a lawyer. The burden is on the government to prove your guilt beyond all reasonable doubt. If you have a jury trial, generally the best choice, all 12 jurors must be in agreement for you to be found guilty or not guilty. If the jurors cannot make a unanimous decision, then a mistrial is declared by the judge. Unfortunately, the case is not over after a mistrial. The government can take the case to trial yet again! If you are acquitted after trial, the case is closed and you are free to go. If bail or a cash bond was posted, it will be exonerated and sent to you in about 8 weeks.

I Was Convicted at Trial. What now?

If you were found guilty after trial, you have the right to be sentenced not earlier than 8 hours or later than 5 days. You do have the option to file a Motion for New Trial prior to sentencing. However, these motions are very fact specific and are not necessarily appropriate in every case. It is sometimes wise to ask to continue the sentencing hearing so that the probation department can prepare a report. The probation report will cover not only the instant offense, but your background. The judge will determine what the appropriate sentence will be after hearing arguments from your lawyer and the prosecutor. Once you have been sentenced, you have the right to appeal. An appeal must be filed within 30 days. Not all cases have issues to appeal. Appeals are typically appropriate if you feel the judge made an inappropriate legal ruling, the prosecutor committed misconduct, or your lawyer was incompetent. You can ask to have an attorney appointed to represent you on your appeal.

Additional Resources

Here are some great resources to help you find a qualified criminal defense attorney:

Lawyers.com

Martindale-Hubbell

National Association of Criminal Defense Lawyers

California DUI Lawyers Association