# TIME LINE IN CRIMINAL CASES

**Commission of the crime**
**Detection (notification of law enforcement)**
**Investigation/Arrest**
**Initial Appearance**
**Preliminary Hearing**
**Trial Information**
**Formal Arraignment**
**Discovery**
**Motions**
**Hearing(s)**
**Pleas**
**Trials**
**Sentencing**
**Judgment/Judgment Entry**
**Appeal/Post Trial Motions/Post Conviction Relief**

**Commission of the crime**

Person or persons commit a criminal act as defined by Iowa Code or local ordinance

**Detection (notification of law enforcement)**

Officers observe the commission of a crime or a crime is reported

**Investigation/Arrest**

Officers at the scene develop what is termed <u>reasonable suspicion</u> from what they see and hear (concerning crimes committed in their presence) into sufficient <u>probable cause</u> (enough evidence) to arrest a person(s) or after investigation (concerning crimes reported) through the use of observation, interviews,

subpoenas, search warrants, and or technical or scientific testing develop probable cause to arrest (take the suspect person(s) into custody). When a person is arrested the law enforcement officer files either a Citation (commonly used for traffic offenses) or a document called a Complaint and Affidavit (for simple misdemeanors, indictable misdemeanors and felonies) in which the officer states the crime charged, the applicable code section(s) and provides a description in support of the charge of what the officer knows the charged person to have done. The Complaint and Affidavit must be sworn to and notarized for the judge's approval. If the complaint and affidavit applied for by the officer is for a crime committed outside of the officer's presence the officer (usually) requests the judge or magistrate to issue a warrant for the person's arrest. Sometimes, the court will issue a summons to appear if the court is satisfied the person will appear as ordered.

**Initial Appearance**

The first appearance of an arrested person before a judge or magistrate that occurs within 24 hours of arrest and where the judge or magistrate informs the arrested person of the charges against them, the possible penalties they face, the amount of bail required or any other terms of release from custody and if the person is facing a possible jail sentence asks the person(s) if they want an attorney appointed if they can't afford to hire an attorney themselves. A person who chooses to represent themselves is said to be "Pro se". If the charge is an indictable criminal

charge (one that the penalty requires filing a formal charging document called the trial information by the county attorney) the court informs the person of the next court event called the preliminary hearing date.

**Preliminary Hearing**

The preliminary hearing date is the date set by the court which directs the county attorney to have the County Attorney's True Information (the Trial Information) filed with the court. The court is bound to order this date within 10 days of arrest if the defendant remains in custody or within 20 days if the defendant has been released from custody on bail or with other conditions. The trial information **must** be filed no later than 45 days after arrest (speedy indictment rule of criminal procedure). When the county attorney files the trial information the court sets the next hearing date called the formal arraignment. If the county attorney files the trial information the preliminary hearing is "mooted" and does not take place. If the county attorney misses the preliminary hearing and the defendant objects the case is dismissed. The case may be refiled as long as it is filed before the 45 day speedy indictment period expires unless the 45 days are waived by the defendant.

**Trial Information**

The formal charging document less commonly referred to as A True Bill, A True Information or The County Attorney's True Information. A Grand Jury is used in some states and can be used in Iowa by county attorneys to formally charge a person with an

indictable offense. A Trial Information has the same legal effect as a Grand Jury Indictment.

**Formal Arraignment**

The arraignment is the hearing set by the court for the defendant to enter a formal plea of guilty or not guilty. The defendant can appear in person to enter his/her plea or usually (if the defendant is represented by an attorney) the arraignment is filed in writing. The arraignment is important because it states whether the defendant **demands or waives** his or her right to a speedy trial. Upon receipt of the defendant's formal plea the court enters orders setting a trial and setting discovery deadlines depending on whether a demand for speedy trial is made. **If speedy trial is demanded trial must take place within 90 days of arraignment** according to the rule of criminal procedure for speedy trial.

**Discovery**

This is commonly referred to as the period of time between formal arraignment and trial. This period of time can vary from a couple of months to a year or more depending on the complexity of the discovery proceedings. This is the period of time where the attorney for the state and the attorney for the defendant figure out the strength of their cases and usually work out a plea agreement. During this period of time motions of various types may be filed by both the defendant's attorney and the county attorney depending on the evidence. The rules of criminal procedure allow both the defendant and the state to questions each other's witnesses ahead of trial by

way of a deposition. Depositions are reported (a court reporter swears in the deponent and records the proceeding). Usually, a transcript of the deposition testimony is prepared for use at trial.

**Motions**

Motions are filed by the attorneys and request the court to order one side of the case or the other to do or not do various things related to the case. The most common motions are usually motions to suppress evidence (filed by the defendant) to keep out evidence; motions to produce evidence of all types (filed by both the defendant and the state); motions in limine (filed by both the defendant and the state and similar to a motion to suppress) to limit what either side may introduce in the way of evidence; and other less commonly used motions to request just about anything to ensure a fair trial. In other words, there are really no set limit to the type and number of motions that can be filed. The court sets these matters to decide the motions by orders called hearings.

**Hearing(s)**

A word used by the court for a particular order setting a time which the parties (the state and the defendant) are to appear and present evidence and argument in support of whatever motions or issues that come along. If a defendant has not waived speedy trial these matters are set very quickly by the court in order to insure a trial may be scheduled within the 90 day speedy trial rule of criminal procedure. All hearings have the ultimate goal of streamlining the

issues so that if the case goes to trial there will be less of a chance for a problem that delays or causes a mistrial.

**Pleas**

Most cases are resolved by way of plea negotiations. If a plea agreement is reached the state and the defendant inform the court and the trial is taken off the schedule and the case is set for a plea. Most pleas in criminal cases may be submitted in writing but felony pleas must be taken by the judge in open court by colloquy (the defendant speaks with the judge). Whether answering in writing or by oral question and answer the defendant satisfies the court's requirements of voluntariness, with a stated understanding by the defendant of their rights and consequences of their plea and that there is a factual basis for acceptance of the plea by the court.

**Trials**

Cases that are not resolved are tried either to a jury or to the court. Trials to the court (to the judge sitting as the Trier of Fact) are referred to as "bench trials". Most traffic cases are bench trials but Iowa is one of a few states which permit a jury trial on a traffic case if timely requested by the defendant.

**Sentencing**

Sentencing is the word for the hearing in which the court imposes judgment. Sentencing can be carried out by the court in writing for all criminal case except felonies. Usually, the court sentences indictable

cases, serious misdemeanors, aggravated misdemeanors and felonies in open court (with the defendant present). Evidence is received usually in the form of reports, criminal histories, examinations of all types for substance abuse evaluation, letters of support from friends and employers, Department of Correction Pre-Sentence Reports, testimony from victims, etc. Testimony and exhibits are received into evidence and considered by the court. The court is always free to exercise judgment independently and seldom allows the parties to know in advance whether the court will abide by plea agreement in imposing judgment.

**Judgment/Judgment Entry**

Judgment is the word that describes the court's decision at sentencing. The sentence the defendant receives is prepared in writing by the judge and is referred to as the Judgment Entry. This document sets forth the terms of the defendant's sentence. Sentences are put into three types: Deferred Judgments, Suspended Sentences and Imposed Sentences. Deferred Judgments and Suspended Sentences carry periods of probation for the defendant. A Deferred Judgment (the best possible sentence a criminal defendant can receive) is just what it sounds like and if the defendant successfully completes the probationary period no "judgment" enters and the defendant has no conviction on his/her record. A suspended sentence and an imposed sentence both carry convictions on the person's record. The differences are, again, just like they

sound. The suspended sentence is not imposed if the defendant successfully completes probation where the imposed sentence is carried out as the court orders. Certain crimes have mandatory aspects such as fine amounts and jail time while others do not. All sentences for crimes have maximum penalties and certain crimes have sentences with minimum penalties. A person convicted and who maintains error was committed in the process has certain statutory (by state code) methods to correct error and grant a new trial.

**Appeal/Post Trial Motions/Post Conviction Relief**

All criminal trials resulting in a plea of guilty or a finding of guilt by a court or a jury afford the defendant certain rights to challenge every stage in the proceeding. When a case is concluded and judgment entered, a defendant may challenge the judgment by way of Appeal and certain Post Trial Motions and other proceedings. These matters are technical in nature and have strict time lines and rules which must be followed or the defendant may lose their rights to challenge the judgment or sentence. Once the time for an appeal has expired (30 days from sentencing) there are few procedures left for a defendant. The most common procedure provides for a civil remedy called a Post Conviction Relief (PCR) proceeding. A PCR may be filed within 3 years of conviction.

This is intended to give the reader a general overview of the stages in a criminal case and is not meant to be inclusive of every detail or offered as an in depth explanation of a criminal case. Certain words have been highlighted to provide emphasis as you may hear these words used in discussions around the office.