

Basic Anatomy of a Tulsa County District Court Felony Case

**I have used Tulsa County for the purposes of this Report. Including the differences of each county would make this report too confusing. Although each Judicial District in Oklahoma does the felony process in a slightly different way, generally this Report will give you the framework necessary to understand the overall process.*

Investigation Phase

During the investigation phase the initial allegations have been made and law enforcement has been contacted. Law enforcement starts its investigation by interviewing witnesses, identifying and securing physical evidence, execution search warrants, obtaining forensic (DNA, etc.) evidence, having forensic interviews conducted, interrogating suspect(s), consulting with the DA's office, submitting lab requests, and reviewing lab results. Depending on the allegation and availability of corroborating evidence and the type of evidence, the investigation can take from a few days to months.

Law Enforcement Present Prosecution Packet Submitted to DA's Office

Once law enforcement has completed their investigation, they compile a "prosecution packet" and submit it to the DA's office with recommended charges. The prosecution packet typically contains the police reports and supplemental reports and witness statements that law enforcement believe support the charge(s).

DA's Office Approves or Declines Charges

Once the DA's office receives the packet from law enforcement, the Criminal Information Center (CIC) in the DA's office logs the packet in and places critical information into a database called JustWare. CIC will also create an intake sheet for the specific case. The intake sheet, database submissions, and police reports are now called "intake" or "intake packet." Depending upon the allegation the intake packet is either routed to a stack of intakes collected in a conference room where they are routinely reviewed and a decision approving or declining the charges is made by prosecutors. If the case is a major crime, sex crime, or crime against children, the intake packet is routed to the supervisor of that particular team for assignment to a specific prosecutor on their team.

If Charges are Declined.

If the ADA declines to file charges, the decision to decline is usually for one of two reasons. Primarily the decline is due to the ADA requesting law enforcement to conduct further investigation and the ADA will outline either the manner of additional investigation, or identify the elements of the crime that are missing and instruct the Detective to focus their investigation on that particular element. Once completed, law enforcement will re-submit the packet to the ADA who declined the charges. Usually, the law enforcement officer will call the ADA and complain about having to do more work and then call their supervisor to force the filing through. Due to this, most ADA's will just "rubber stamp" whatever law enforcement wants and figure it out later.

The other reason for a decline is that the facts submitted by the police do not arise to the level of a crime, or the ADA in their discretion do not believe they can make the case at trial with the available evidence. The latter rarely ever happens because ADAs don't want police complaining to their supervisors or have "victims" complaining to the media. So again, they just "rubber stamp" the case and file the charges.

If Charges are Approved.

Charges are filed in the court clerks office and an arrest warrant is prepared and submitted to a judge with a probable cause affidavit to support the warrant. The judge then signs the warrant and a bond is ordered or assigned to the warrant.

Client is Either Arrested or Surrenders to Jail with Bondsman

Once the case is filed and warrant is issued the client either will be made aware through a system put in place by their lawyer and they will contact their bondsman and surrender themselves at the jail where the bondsman will post the bond at the same time.

If the client is unaware of the warrant, the client will eventually be picked up and arrested on the warrant. They will then be transported to David L. Moss where they will be booked in and can contact their bondsman to post the bond.

Client Posts Bond, or Doesn't

While at the jail the client can have a bondsman post the bond necessary to secure their release. Typically the bondsman will require 10% of the bond amount for the client to be bailed out. The bondsman may also require co-signers on the bond as well as additional collateral to secure the bond depending upon how large the bond is.

If you cannot afford to bond out or no bondsman is willing to post the bond due to either your history, insufficient collateral, lack of a co-signer, etc., you will not be released and will be held in the jail until either you post bond or the case is closed.

First Court Date-The Arraignment

After your bondsman secures your release, you will be ordered to appear in Tulsa County District Court for your first arraignment. It is best for you to have already secured your attorney before the first arraignment. At a minimum, you should have already interviewed your attorney and know who you want to retain. On the date of your arraignment, you will appear in Courtroom 173 of the Tulsa County Courthouse, at 500 S. Denver, Tulsa, OK 74103. You need to be seated in the courtroom no later than 9:00 a.m. on the date you were ordered to be present. If you miss court, your bond will be tripled and a bench warrant will issue for your arrest.

The purpose of this court date is to make sure you are present, to start the felony process, and to make certain you have a lawyer or are in the process of hiring a lawyer. If you bond out, you MUST hire a lawyer, you will not get a public defender. If you

already have a lawyer on this date, your attorney will do all of the speaking. You simply show on time and dressed appropriately and stand up when your attorney calls your name. If you haven't hired a lawyer, simply remain seated until the judge calls your name and answer their questions about when you will have a lawyer.

Your attorney may continue the arraignment one or two times. There are valid reasons for this and your attorney will explain why they are employing its use in your particular case. Regardless, you must be present at every court date.

A word about clothing and appearance. Please wear clean clothes, with no facial jewelry or tattoos showing, shirt tucked in, pants pulled up, belt on, and properly groomed. Do not wear any clothing you wouldn't wear to church, i.e. shirts with drug/alcohol logos, statements about police, anything political, or anything that references sex or illegal conduct. If you do not wear a suit to work every day, do not wear a suit to court. I recommend the men wear khaki pants with a button down sport shirt. I recommend the women wear a pair of slacks and dress shirt/blouse/sweater.

Second Court Date-The Preliminary Hearing

**If you are in a county that does a pre-preliminary hearing docket or conference docket, you will have one or more of those court appearances prior to the actual preliminary hearing date. Tulsa County does not have a Pre-preliminary hearing docket.*

In Phase 1, the Preliminary Hearing is the main event. A preliminary hearing is like a mini-trial. Do not worry, you will not have to say a word. You will just sit there and take notes, your attorney will do all of the work.

The preliminary hearing is the first test of the evidence. The prosecutor will be required to put on witnesses and evidence to prove that a crime was committed and more likely than not the defendant (client) committed the crime. This is not the beyond a reasonable doubt standard that is used at an actual trial. The standard is very low. The scales of justice must tip just ever so slightly in the favor of the prosecutor. Also, all reasonable inferences are in the favor of the prosecutor, not the defendant. The prosecution wins all of the ties at this level.

A preliminary hearing can be "won" outright and the case dismissed, but that is a rare situation. The outright win is usually from the ADA screwing something up and forgetting an element of the crime, or a witness failing to appear or "backing up" on the prosecutor.

There are some real advantages for having a preliminary hearing even if you are going to "lose," also known as the case "getting bound over." I use the preliminary hearing to gather important intelligence on the case, to uncover issues we were previously unaware of, to lock the witnesses and the prosecution into their case and case theory, and to showcase some weaknesses in their case they were previously blind to.

Third & Fourth Court Dates-The District Court Arraignment (DCA)

So your case got bound over after the preliminary hearing. Happens all the time and is to be expected. Don't get upset. There is still plenty of work and opportunity ahead for you. One of those opportunities is the District Court Arraignment (DCA). Two things can happen at your first DCA. First, your attorney could decide to set the case for jury trial or plea. Second, and what I do in the vast majority of cases, I order the preliminary hearing transcript, pay for it, and bring the receipt to the DCA. Then at DCA I inform the judge I ordered and paid for the transcript and that I intend to file a Motion to Quash. Once I inform the judge of this, they will typically set off the DCA for at least 30 days.

A Motion to Quash is basically a second bite at the apple, another chance to get the case dismissed or reduced. The Motion to Quash asks the District Court Judge to review the preliminary hearing judge's decision as applied to the evidence heard by the judge at the hearing and to decide the previous judge ruled incorrectly.

At the second DCA, the judge may hear oral arguments on the motion or the parties can rely upon their motions. The judge will rule on the Motion to Quash. If I win, the case or charge (if I am targeting a specific charge in a multi-count case) will be dismissed. If I lose, the judge will ask for my announcement. It is at this point we again enter a plea of not guilty and will set the case for trial. This assumes you have already retained your attorney for Phase 2, the jury trial.

Fifth Court Date-The Allen Discovery Hearing

At this point, we are well into Phase 2, probably at least 3 months or more depending upon the judge's trial docket. The Allen hearing is simply a "hearing" where both parties come to court and tell the judge whether or not all of the evidence (discovery) has been exchanged, witnesses identified and endorsed as witnesses, and if there are any issues between the parties as it relates to evidence. It is not uncommon for issues and delays to be present and this Allen hearing to be held multiple times prior to trial.

Sixth Court Date-Pre-trial Conference (Some Judges)

Some Judges (Judge Bill LaFortune) like to hold a pre-trial conference the week before the scheduled trial date. This happens mainly because the court will have multiple cases set for trial the same week. The court wants to know for certain what case will be tried in their courtroom, what cases, if any the judge can farm out to other courts without trials scheduled and what cases will be passed to following trial weeks.

Seventh Court Date-The Jury Trial

Now it is time for trial. You will be ordered back typically to Monday morning. Your attorney will be present in court and the Judge will advise your attorney when the trial will start and when to be back. Sometimes, depending upon jurors, and how busy their dockets are, the judge will order you back to the same afternoon to start the trial. If your case is farmed out to another judge, you might start that morning. This is

especially true if you are being farmed to a judge that carries a civil docket for your trial. Other times you will be ordered back to Tuesday morning to start trial.

Do not speak with anyone other than your attorney at the courthouse during the jury trial week. Anyone you see or come in contact with may possibly be a juror. Your appearance, anything you say, anything you do, is being judged and evaluated as soon as you show up at the courthouse. Be on your best behavior. As I tell all my clients from day 1: Look Innocent, Act Innocent, Talk Innocent, & Be Innocent.