



Presents the 2006 Spring Training



Criminal Justice 101

Headline News

"Bus driver cited for improper turn in fatal crash"



Headline News

"Police arrest & charge three in church thefts"



Headline News

"Judge throws case out of court, ruling: 'charges were inappropriate'"

"Teen faces 48 years for car vandalism"

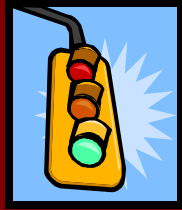


The basic "criminal justice" cases

- Civil Infraction
- Misdemeanor
- Felony

Civil Infraction

- Certain traffic misdemeanors decriminalized in 1978
- No jail penalty
- No right to jury



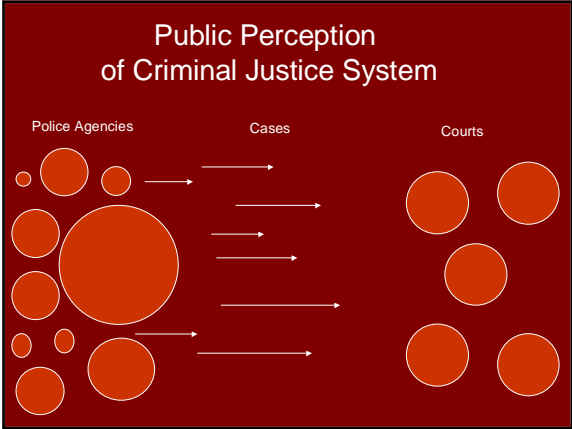
Misdemeanor

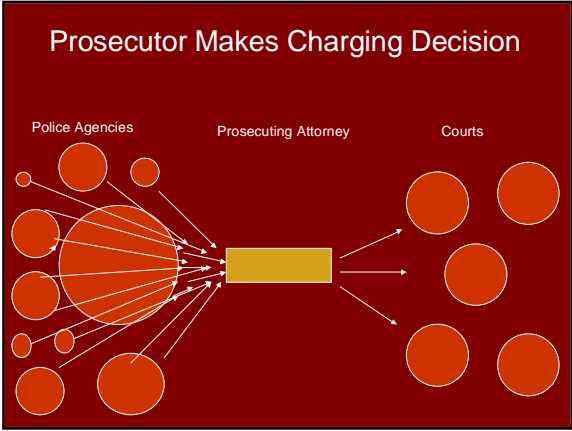
- Penalty = less than 1 year jail
 - Most 90 or 93 day max
 - 93 day is reportable to criminal history
- 6 person jury
 - Unanimous verdict
- Proof required = beyond a reasonable doubt

Felony

- Penalty 1 year or more
- Increased “process” or rights
 - Preliminary examination
 - 12 person jury








"Police arrest & charge three in church thefts"

What is an arrest?



Is an arrest a "charge"?

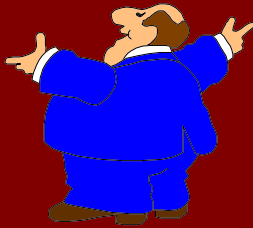
What is an arrest?

- An arrest is a seizure of a person
- But it does not constitute a "charge"



Who determines the charge?

- The Prosecuting Attorney has broad discretion to determine what, if any, charge will be authorized



What is a Complaint & Warrant?

- The Complaint contains the charge & maximum punishment
- It must be co-signed by
 - complainant
 - prosecuting attorney
 - judge or magistrate
- A Warrant is an Order to arrest
 - Signed by a judge/magistrate



So, police may "seek" or "request" charges, but they do not charge or control the charge



"Judge throws case out of court, ruling: 'charges were inappropriate'"



Actually, a judge has very limited authority over charging decisions.

Absent improper conduct, if charge is supported by evidence judge may not alter



The prosecuting attorney represents 'separate, but equal' branch of government



Court Stages in a Felony Case

- District Court Arraignment
- Preliminary Examination
- Circuit Court Arraignment
- Circuit Court Trial



What is an "arraignment"?

- The first hearing where the Defendant is notified of the charge or charges
- District Court: No plea taken for felony
– Pre-trial release (bail) set.
- Circuit Court: Plea taken

Pre-Trial Release

- Conditions on the Bail/Bond.
 - No Contact.
 - No alcohol or drug use.
 - No purchase possession of firearms.
- Non-arrest cases.
 - Bail/Bond set by magistrate on Warrant.
 - OFTEN no conditions except \$\$...

Conflicting Orders

Bond v PPO v Custody Orders

- Most Restrictive Provision Takes Precedence
MCR 6.106 (m)

Violations of Bond

- Police may make Warrantless Arrest.
- If NO arrest, then Prosecutor has to make a motion and set it for a hearing for violation.

What is a Preliminary Exam?

- Felony hearing to test evidence
- Prosecutor must introduce "probable" evidence that
 - Crime charged was committed
 - Defendant did it

Fact: Two thirds of PE's are "waived" & never held

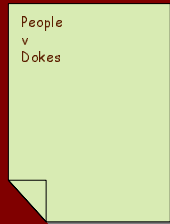
What is a "bind-over"?

- The process of moving a felony from district court to circuit court
- After sufficient evidence at the preliminary exam
 - or by a waiver



What is the "Information"

- The document alleging a felony charge in circuit court, is called an "Information"



Stages of a Trial

- Jury Selection
- Opening Statement
- Prosecutor's case in chief
- Defense case (optional)
 - Prosecutor's rebuttal
- Closing Argument
- Jury Instructions
- Verdict



The Law of Sentencing

- The Statutory Maximum
- Determinate or Indeterminate term
- The 2/3rds rule
- Sentencing Guidelines
- Concurrent or Consecutive?
- Is it Probation or Parole?

The Maximum Sentence

- Established by Legislature
- This is the punishment noted on the Complaint

Determinate or Indeterminate?

- Jail sentences are determinate or fixed
 - e.g. 90 days
- Prison sentences are indeterminate
 - Minimum & maximum
 - Maximum is fixed as statutory maximum

The "two-thirds rule"

- The minimum sentence cannot be more than 2/3rds of the maximum
 - E.g. "10-15" years is ok ... but "13-15" is not
- So, the maximum minimum on a 15 year maximum is ...?

"Wow that'll teach him to damage multiple cars"

"Teen faces 48 years for car vandalism"



Concurrent or Consecutive?

- Sentences are generally concurrent to each other
- It is not correct to add the maximum sentences together



Concurrent sentences mean...



- Maximum sentence for vandalizing 12 cars...
- Is the same for vandalizing 1
 - 4 years

When is a sentence consecutive?

- Must be specifically authorized by statute
- Mandatory examples:
 - Felony firearm charge
 - New crime committed on **parole**
 - but not probation
- Permissive example:
 - New crime committed on **bond**



Probation or Parole?

- Probation is a period of supervision
 - either a misdemeanor or felony
 - after or instead of a jail sentence
- Parole is a period of supervision after release from prison
 - before completion of maximum sentence

What is 'Truth in Sentencing'?



- A felon sent to prison must serve the minimum sentence in a secure facility
 - Does not impact a jail sentence
 - even for a felony

What are Sentencing Guidelines?

- Guidelines determine the minimum sentence range
 - effective January 1, 1999
- Must be calculated for all felonies



EXAMPLE OF A GRID
New: Minimum sentence for each offense under a statute

SENTENCE

	A	B	C	D	E	F
	0-10 years	11-15 years	16-20 years	21-25 years	26-30 years	31-35 years
10	0-10*	0-10*	0-10*	1-25	1-25	0-25
10A	0-10*	0-10*	0-10*	1-25	10-24	10-24
10B	0-10*	0-10*	0-10*	1-25	11-24	11-24
10C	0-10*	0-10*	0-10*	1-25	12-24	12-24
10D	0-10*	0-10*	0-10*	1-25	13-24	13-24
10E	0-10*	0-10*	0-10*	1-25	14-24	14-24
10F	0-10*	0-10*	0-10*	1-25	15-24	15-24
10G	0-10*	0-10*	0-10*	1-25	16-24	16-24
10H	0-10*	0-10*	0-10*	1-25	17-24	17-24
10I	0-10*	0-10*	0-10*	1-25	18-24	18-24
10J	0-10*	0-10*	0-10*	1-25	19-24	19-24
10K	0-10*	0-10*	0-10*	1-25	20-24	20-24
10L	0-10*	0-10*	0-10*	1-25	21-24	21-24
10M	0-10*	0-10*	0-10*	1-25	22-24	22-24
10N	0-10*	0-10*	0-10*	1-25	23-24	23-24
10O	0-10*	0-10*	0-10*	1-25	24-24	24-24

Example of a Grid
There are grids for murder, & Grids A -- H

Prior record score

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10C	0-10*	0-10*	0-10*	1-25	12-24	12-24
10D	0-10*	0-10*	0-10*	1-25	13-24	13-24
10E	0-10*	0-10*	0-10*	1-25	14-24	14-24
10F	0-10*	0-10*	0-10*	1-25	15-24	15-24
10G	0-10*	0-10*	0-10*	1-25	16-24	16-24
10H	0-10*	0-10*	0-10*	1-25	17-24	17-24
10I	0-10*	0-10*	0-10*	1-25	18-24	18-24
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10O	0-10*	0-10*	0-10*	1-25	24-24	24-24

Offense score

	A	B	C	D	E	F
	14 points	11-13 points	10-9 points	100% points	90% points	80% points
A	0-3*	0-4*	0-4*	1-2	1-2	0-2
B	0-4*	0-5*	0-5*	1-3	1-3	1-3
B1	0-5*	0-5*	0-5*	1-3	1-3	1-3
B2	0-5*	0-5*	0-5*	1-3	1-3	1-3
C	0-5*	1-2	1-2	1-3	1-3	1-3
D	0-5*	1-2	1-2	1-3	1-3	1-3
E	0-5*	1-2	1-2	1-3	1-3	1-3
F	0-5*	1-2	1-2	1-3	1-3	1-3

Source: 2016 Licensed offense base offense number table, Revised offense number table, Proposed code, or Proposed.

	A	B	C	D	E	F
	14 points	11-13 points	10-9 points	100% points	90% points	80% points
A	0-3*	0-4*	0-4*	1-2	1-2	0-2
B	0-4*	0-5*	0-5*	1-3	1-3	1-3
B1	0-5*	0-5*	0-5*	1-3	1-3	1-3
B2	0-5*	0-5*	0-5*	1-3	1-3	1-3
C	0-5*	1-2	1-2	1-3	1-3	1-3
D	0-5*	1-2	1-2	1-3	1-3	1-3
E	0-5*	1-2	1-2	1-3	1-3	1-3
F	0-5*	1-2	1-2	1-3	1-3	1-3

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B2	0-5*	0-5*	0-5*	1-3	1-3	1-3
C	0-5*	1-2	1-2	1-3	1-3	1-3
D	0-5*	1-2	1-2	1-3	1-3	1-3
E	0-5*	1-2	1-2	1-3	1-3	1-3
F	0-5*	1-2	1-2	1-3	1-3	1-3

Source: 2016 Licensed offense base offense number table, Revised offense number table, Proposed code, or Proposed.

Prison lockout cells

Straddle cells

Prison cells

Minimum range = 19-38 months

The minimum, absent a departure must be in that range

Maximum sentence = 5 years or 60 months set by statute

So, a valid sentence could be as low as:

19-60 months or

as long as 38-60 months

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So, a valid sentence could be as low as:

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Departure?

- A judge may depart above or below the minimum range
- only if he or she finds **substantial and compelling** reasons

"Are you really, really sorry?"