



CRIMINAL PROCEDURE IN NEVADA

Arrest

- Most criminal cases (felony and misdemeanor) begin when an individual is arrested and booked into a detention facility
- Within 48 hours of arrest:
 - *Probable cause review by a magistrate judge*
 - *Initial bail setting*
- Within 72 hours of arrest:
 - *Criminal complaint filed*
 - *Arraignment*
 - *Appointment of counsel*
 - *Decisions regarding custody*
 - *Preliminary hearing scheduled*

Preliminary Hearings and Misdemeanor Trials

■ Preliminary Hearings

- *All felony and gross misdemeanor cases*
- *Within 15 days of arraignment*
- *Probable cause determination after presentation of evidence*

■ Misdemeanor Trials

- *Bench trials*
- *Heard by magistrate as trier of fact*
- *Sentencing usually occurs immediately after finding of guilt*

Negotiation

- Vast majority of criminal cases resolved through negotiation process
 - *Usually occurs prior to preliminary hearing or bench trial*
 - *Obviates the need to hold preliminary hearings or trials in most cases*
 - *Parties agree to terms of negotiation*
 - *For felony & gross misdemeanor pleas, cases go up to District Court*
 - *For misdemeanor pleas, cases remain in lower courts*

Misdemeanor cases

- Misdemeanor cases stay in lower court throughout the entire case
 - *Carry possible sentences of up to 6 months in county jail*
 - *Common sentences include suspended jail time and requirements*
 - Fines
 - Community service
 - Classes
 - Diversionary programs (drug treatment, etc.)
 - Restitution

Felony & Gross Misdemeanor Cases

- Felony & Gross Misdemeanor cases go up to District Court for all future proceedings
 - *Hearing Master takes all pleas at Initial Appearance in District Court*
- District Court Judge presides over all future hearings:
 - *Pre-trial Motions*
 - *Evidentiary hearings*
 - *Jury trials*
 - *Sentencings*
 - *Probation Revocation hearings*

Jury Trials

- All felony and gross misdemeanor cases are entitled to trial by jury
- Prior to trial, all evidentiary issues are litigated in front of the District Court judge in the department where the case is assigned
- Ideally, State has turned over all discovery and exculpatory material to the defense in advance of trial
- Trials commence in the department the case was originally assigned to, unless there is judicial scheduling conflict
 - Some cases are eligible to be heard in an “overflow” setting, and are reassigned to any available department
- The department and the District Court judge that presides over the jury trial keep the case for sentencing

Conviction and Sentencing

- Sentencing usually occurs no sooner than 60 days after guilty plea or guilty verdict
- Pre-Sentence Investigation Report (PSI) prepared by Dept. of Parole & Probation
- District Court judges have wide discretion in sentencing decisions
 - *Can impose prison sentences that fall within statutory framework for crimes that defendant has either pled guilty or been convicted of*
 - *Can decide to run separate counts and/or cases concurrently or consecutively*
 - *Can decide to suspend prison sentences and grant a term of probation*
 - Can order conditions of probation
 - *Diversionary courts*
 - *Drug/alcohol/gambling treatment*
 - *Fines, community service, restitution*

Probation Revocation Hearings

- Dept. of Parole & Probation arrests a probationer and files a Violation Report
- Defendant entitled to a hearing on alleged violations
- District Court makes findings on whether violations have occurred
- If found in violation, District Court may:
 - *Reinstate a defendant on probation*
 - *Modify a defendant's underlying sentence*
 - *Revoke a term of probation and impose the underlying sentence*
 - *Modify the terms of probation*

Appeals

- Court of Appeals
 - *Most cases presumptively assigned to Court of Appeals*
 - *Exception: Category A & B felonies*
- Nevada Supreme Court
 - *Death penalty cases*
 - *Constitutional issues*
 - *Public policy issues*