

Oklahoma County District Attorney's Office

Domestic Violence Court School

In collaboration with the YWCA, the Oklahoma County District Attorney's Office Domestic Violence Prosecution Team, offers Court School to discuss the **court process** and procedures with victims, families and friends of domestic violence. For session dates, please contact the YWCA at 405-948-1770. This is also an opportunity to meet a member of the prosecution team and discuss any questions or concerns you have regarding the court process and how the court system works.

Why is court school important?

- Increases knowledge
- Decreases fear of the unknown

What are some of the legal terms of the court process?

- Prosecutor/ ADA - The attorney that represents the State of Oklahoma
- Defense Attorney - The lawyer that represents the defendant
- "Bound Over" - the term used by Court at the end of the preliminary hearing, that means the State presented enough evidence for the defendant to stand trial
- Demur - A request by the defense at the end of the preliminary hearing to have the charges dismissed
- Objection - An attorney's protest to a question asked of a witness
- Sustaining an Objection - The Judge approves of the objection
- Overrule an Objection - The Judge denies the objection

Types of Sentences

- Suspended - Probation with a conviction;
- Deferred - Probation, however if defendant successfully completes, no conviction;
- Concurrent - 2 or more sentences running together;
- Consecutive - 2 or more sentences running one after the other;

How charges are filed

Incident occurs -

- Police respond to call;
- Report is made by officer;
- Follow-up investigation by a Domestic Violence detective;
- Charges presented to Assistant District Attorney
- Charges accepted or declined

Misdemeanor Charges

- **CM-11-0000**
Range of punishment up to 1 year in county jail and/or fine (\$0-\$5,000.00)
- Bond on all Domestic Violence arrests is set at zero until arraignment
- Generally case will take approximately six (6) to nine (9) months to complete

Arraignment

- Arrested appears before the Judge;
- Plea of guilty or not guilty entered;
- Bond set;
- If in custody, must occur within ten (10) days of arrest

Disposition

- 1st setting after arraignment
- Three (3) things can happen
 1. Plea agreement or continuance
 2. Blind plea
 3. Set for trial

Trial

- 1st time witnesses will be called to testify
- Six (6) jurors
- Usually takes 1-2 days

Felony Charges

CM-11-0000

- Range of punishment varies with crime committed and if prior convictions
- Zero bond amount on Domestic Violence cases until arraignment
- If set for trial, case will generally take 1 - 1 ½ years to complete

What Constitutes a Felony?

- Prior misdemeanor Domestic Violence conviction – Title 21 § 644 C
- Domestic Assault/ Assault & Battery with Dangerous Weapon (Effective 11/1/11) – Title 21 § 633 D.1.
- Domestic Assault & Battery with Deadly Weapon (Effective 11/1/11) – Title 21 § D.2.
- Great bodily injury – Title 21 § 644 F
Title 21 § 644 O. “‘great bodily injury’ means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.”
- Strangulation or attempted strangulation – Title 21 § 644 J

Arraignment

- The defendant is formally told of charges and bond is set
- In-Custody – within ten (10) days
- Out-of Custody – within thirty (30) days
- District Attorney’s Office is not present at the arraignment

Preliminary Hearing Conference

- 1st setting after arraignment
- Determine if defendant has an attorney
- Plea recommendation is given
- Defendant’s options:
 1. Continue Preliminary Hearing Conference
 2. Waive Preliminary Hearing Conference
 3. Enter Plea of Guilty
 4. Set for Preliminary Hearing

Preliminary Hearing

- This is NOT a trial – Defendant is NOT found guilty or NOT guilty!
- Three (3) things the State must prove
 1. A crime was committed
 2. Probable Cause defendant committed the crime charged
 3. Crime committed in Oklahoma County
- VICTIMS/WITNESSES SUBPOENAED FOR HEARING

Required Court Appearances

- Only appearances REQUIRED for victims & witnesses are at Preliminary Hearing and Jury Trial
- You may appear at any/all court dates

Pre-Trial Conference

- An opportunity to finalize plea agreements, argue motions and/or set a trial date
- You do not need to attend but have the right to attend

Jury Trial

- State presents evidence
- Jury determines if defendant is Guilty or Not Guilty
- All victims and witnesses generally testify
- Trial can last several days

Jury Selection

- Process of choosing twelve (12) citizens of Oklahoma County to hear evidence;
- Usually begins on Monday and can take a few hours or a few days;
- Prosecution, Defense and Defendant present their case;
- Witnesses are usually “on call” for jury trials, unless the witness is a problem, then they may be required to be present until after they testify.

Rule of Sequestration

- When the rule of sequestration is invoked a witness is not allowed to hear testimony of other witnesses or discuss testimony with other witnesses.
- After testifying, if a witness wants to listen to other witness testimony, they MUST get ADA's permission.

Trial

- Jury Selection
- Opening Statements:
Prosecution presents first
Defense can present opening or reserve opening

Witness Testimony

- Direct by Prosecution
- Cross Examination by Defense
- Exhibits Introduced
- State rests

Defense:

- May call witnesses but not required
- Defense rests

Closing Arguments:

- Prosecution
- Defense
- Prosecution 2nd close

Jury Deliberates

Verdict

- No time limit on deliberation, can be very short time or very long time
- When the verdict is read, regardless of the outcome, there can be no reaction from the audience

Sentencing

- The jury recommends the sentence
- Formal sentencing occurs sometime after the verdict

When to come to court?

- You will receive a subpoena in the mail;
- You will be called to verify you received subpoena and given further information;
- You can check court information at OSCN.net -> court dockets -> Enter case number and county
- ALWAYS UPDATE YOUR ADDRESS AND PHONE NUMBER WITH WITNESS CENTER

Dealing with Defendant

- Avoid defendant, if possible
- If threatened, CALL 911
- File police report, advise officer you are a witness
- Notify the Witness Center
- In necessary, Use emergency plan

Emergency Plan

- Develop an emergency plan with assistance of advocate
- Try to have some cash with you
- Keep cell phone where you can easily get to it
- Keep a copy of important documents in the car, at work or with a friend
- Keep a bag packed and hidden or with a friend in case you have to leave quickly

Dealing with the Defense

- The defense attorney may try to speak to you before you testify - It is your choice
- It is the defense attorney's job to represent the defendant through cross-examination
- ANSWER TRUTHFULLY and stay calm
- If defense attorney is improper, the ADA will object

What to wear to court

- Dress like you are going to church
- DO NOT wear low-cut or “tummy” revealing shirts;
- DO NOT wear shorts;
- DO NOT wear skirts shorter than mid-thigh;
- Hats are not allowed in the courtroom

Courtroom Etiquette

- Turn cell phones OFF
- No foul language
- Keep talking to a minimum
- Do not talk to in-custody defendants
- Stand when the Judge or Jury is entering or leaving the courtroom