

# OKLAHOMA COUNTY COURT PROCESS

**Arraignment:** The defendant is formally told by the Judge what he or she is being charged with. If the defendant is in custody, this will occur within ten (10) days and usually is done by video from the jail. If the defendant has bonded out, it will be set within thirty (30) days. **The District Attorney's Office is not informed of this date and does not appear for this.**

**Preliminary Hearing Conference:** This is the first court setting after arraignment. It is to make sure the defendant has obtained an attorney and for his/her attorney and the prosecutor to meet and discuss the case. If the defendant is going to request a preliminary hearing, they can set it at this time. **There is no testimony at this setting and no witnesses will be subpoenaed.**

**Preliminary Hearing: (IT IS NOT UNCOMMON TO GET CONTINUED A FEW TIMES).** This hearing is before a Special Judge. Special Judges only have authority over the case through the preliminary hearing. The District Attorney's Office must prove to the Judge three things in order for the defendant to be bound over for trial: (1) A crime was committed, (2) Probable cause that the defendant is the one that committed the crime, and (3) the crime was committed in Oklahoma County. This hearing does not determine if the defendant is guilty or innocent or if he/she will go to jail. This hearing will usually last one day. **Witnesses will be subpoenaed to testify at this hearing. If a family member is also a witness, the Judge will have to give permission for the family member to be in court after their testimony.**

**Pre-trial Hearing:** Once the Special Judge has determined there is enough evidence to bind the defendant over for trial, the case is sent to a "District Judge". (The District Judge is the elected official Judge who has control over the case until the case is resolved). This hearing is simply to provide the attorney's from both sides an opportunity to negotiate the case or argue motions and set a date for jury trial. **Family members can attend these proceedings but are not usually notified, there are numerous cases set at the same time on the Judge's docket and there will be no testimony taken.**

**Jury Trial:** The District Attorney's Office, along with the Defense Attorney's present witness testimony and evidence to a group of twelve (12) people called a jury. The jury will determine whether the defendant is guilty or not guilty and recommend a sentence if a verdict of guilty is reached. Jurors are not selected ahead of time. Jury selection begins on a Monday and the trial will begin after the selection is completed. Jury trials usually will last for several days (even a week or more) depending on the type of case and number of witnesses that will be called to testify. **You will be notified of jury trial dates. We encourage families to attend as much as they are comfortable attending.**

**Stage Two:** If a defendant has been found guilty by a jury and he or she has prior felony convictions or this is a death penalty case, the jury will be presented with additional evidence for the “stage two” or the “sentencing” part of the trial. This part is much shorter and is for the purpose of helping the jury determine what sentence they will impose on the defendant. This is done immediately following the first stage of the jury trial and after the return of a guilty verdict.

**Formal Sentencing:** Set a few weeks after the jury trial the Judge formally sentences the defendant.

Often families will question why the District Attorney’s Office is not filing a bill of particulars or seeking the death penalty. Whether your belief is in the death penalty or not, only certain Murder I, homicide cases legally qualify to even be considered. One or more aggravating circumstances must exist in order for a jury to be able to sentence a defendant to death, and they are:

- 1 The defendant was previously convicted of a felony involving the use of or threat of violence to the person;
- 2 The defendant knowingly created a great risk of death to more than one person;
- 3 The person committed the murder for remuneration (money) or the promise of remuneration or employed by another to commit the murder for remuneration or the promise of remuneration;
- 4 The murder was especially heinous, atrocious, or cruel;
- 5 The murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution;
- 6 The murder was committed by a person while serving a sentence of imprisonment on a conviction of a felony;
- 7 The existence of a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society;
- 8 The victim of the murder was a peace officer as defined by Section 99 of Title 21 of the Oklahoma Statutes, or guard of an institution under the control of the Department of Corrections, and such person was killed while in performance of official duty.