

# CALIFORNIA CRIMINAL CASE TIMELINE

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## INVESTIGATION

Law enforcement initiates a case by opening a criminal investigation which includes evaluating the allegations, looking for possible suspects and interviewing witnesses. This is a critical stage of the case where an experienced attorney can advocate and communicate on behalf of a client to influence the outcome of an investigation and the nature of the charges that may be filed.

## BAIL & PRETRIAL RELEASE

Following an arrest, police set a bail amount which varies depending on the nature and severity of the allegations. This bail amount may change once a client is brought to court and the prosecutor files a criminal complaint. Arrestees have the right to a reasonable bail and each county has a bail schedule of specific bail amounts for various charges. At this stage a client can be released on bond if they utilize a bail bondsman to secure their release. In less serious cases a judge may release a defendant on their own recognizance (O.R.) without bail. At this stage a skilled attorney can advocate for O.R. release or a lower bail amount to save clients money.

## ARRAIGNMENT & DISCOVERY

The first court appearance is called the arraignment. This is where a defendant is brought to court and presented with the criminal charges filed against them by the prosecutor. At this point the Judge asks the defendant to plead guilty or not guilty to the alleged charges. A defendant who is in custody has a right to be arraigned within two court days of their arrest. Out of custody defendants may be arraigned later within a reasonable time. Arraignment is also the stage when the government provides defense counsel with discovery which includes police reports and copies of any relevant documents or evidence in the government's possession.

## PRELIMINARY HEARING

In a felony case the defendant has a right to a preliminary hearing (prelim) within 10 court days of their arraignment. At the prelim the judge hears evidence from the prosecution and defense to determine if there is sufficient evidence to proceed with a criminal case against the accused. At the prelim the government must prove by a preponderance of evidence that a crime was committed and that the defendant is responsible for the crime. The prelim applies only to felony cases; a misdemeanor case will not include a prelim. At the prelim a client has the right to an attorney who will present evidence, examine witnesses and present factual and legal arguments to the judge.

## TRIAL

Every person has the right to be brought to trial within 60 days of the information arraignment for felony cases. For misdemeanor cases a client has the right to be brought to trial within 30 days of their initial arraignment if they are in custody or 45 days if they are out of custody. It is common for trials to be postponed beyond the 30, 45 and 60 day timelines to allow the attorney to thoroughly investigate or negotiate before proceeding to trial. Only the defendant can waive or give up their right to a speedy trial beyond the statutory guidelines. At trial a defendant has the right to an attorney who will advocate and communicate on their behalf. The attorney will conduct jury selection, opening and closing arguments, and direct and cross examination of all witnesses. It is imperative to retain an experienced legal advocate at this critical stage of the proceedings.

## SENTENCING

If a jury returns a guilty verdict the judge is responsible for imposing an appropriate sentence based on the law, the facts and the evidence presented at trial. An attorney may present legal briefs and arguments including factors in mitigation to influence the court's determination as to the appropriate sentence following trial. Sentencing is a critical stage of the proceeding where an attorney can influence the judge's decision to impose custody or alternative sentencing options.

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## ARREST

Based on the evidence and the nature of the allegations, police may identify and arrest a suspect. At this stage of the proceedings it is important that a person understands their rights to remain silent. The outcome of a criminal case is often determined at this critical stage. Many suspects often make admissions or confessions that are later used against them in court. It is imperative that clients exercise their constitutional right to remain silent and their right to an attorney at this stage. It is beneficial to retain legal representation at or before the time of arrest to prevent a bad situation from becoming worse.

## CRIMINAL COMPLAINT FILING

Police submit their reports to the prosecutor who determines what charges if any they will file in court. The prosecutor has discretion to file misdemeanor charges, felony charges or reject the case entirely. An attorney can be useful to advocate on behalf of a client at the prefiling stage in order to provide context and additional evidence that can influence the filing decision and overall outcome of a case. The law requires that a misdemeanor complaint be filed within one year of the alleged incident and a felony must be filed within three years from the alleged incident with certain limited exceptions including murder or sexual assault which may be filed much later.

## NEGOTIATIONS

Following the arraignment, the prosecutor generally makes an offer to settle the case. This offer is generally open to negotiation and the parties may engage in lengthy discussions until a reasonable settlement is reached that is acceptable to all parties. An experienced advocate can negotiate creative alternatives to avoid incarceration including probation, community service and drug treatment or rehabilitation when appropriate.

## INFORMATION ARRAIGNMENT

If the Judge presiding over the prelim determines there is sufficient evidence against a client then a criminal information is filed within two weeks of prelim. The information is similar to a criminal complaint and it may contain fewer or more charges than the original complaint based on the specific evidence that was presented at the prelim. This "information" outlines the specific charges that the government will attempt to prove at trial. The information only applies to felony cases.

## JURY VERDICTS

Following the trial a jury will deliberate privately and find the client either guilty, not guilty or the jury may be unable to reach a verdict. A verdict must be unanimous and if even just 1 of the 12 jurors disagrees then the jury is "hung" and the court must declare a mistrial at which time the judge must decide whether to dismiss the case or restart the criminal process depending on the nature of the case and the split in jury verdicts. There is no statutory limit as to the amount of time that a jury may deliberate.

## APPEAL

Every defendant convicted at trial has a statutory right to appeal his or her conviction. A successful appeal may result in a conviction and sentence being reversed based on a number of factors including legal errors, abuse of discretion by the judge, misconduct by the prosecutor or jury misconduct. If a case is overturned on appeal the process starts over at the arraignment stage.

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A CRIMINAL DEFENSE LAW FIRM

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