

## How a Crime is Prosecuted

This is the first in a series of articles I intend to write to better inform the community of various topics regarding the responsibilities and procedures of my elected office. I am frequently asked questions by citizens while out and about in our community and have compiled a number of topics that are commonly asked about. I hope to discuss in more particular detail many of the topics included in this initial piece in the future. However, as a starting off point I thought it would be most helpful to explain how a criminal act goes from occurring to being prosecuted before a court.

The laws of Ohio very specifically govern which acts are criminal and therefore may be prosecuted. When a crime is reported to a law enforcement agency, the agency investigates the crime and may refer a criminal matter to the prosecutor's office. The Prosecutor is an attorney who represents the State of Ohio and Hardin County. The prosecutor, after reviewing the law enforcement agencies' reports, decides what criminal charges are appropriate against whom and files criminal charges against the offender, who must then answer to those charges in court. The prosecutor must decide whether there is sufficient evidence against the suspect to prove the alleged crime.

Criminal cases fall into two general categories: misdemeanor or felony. Each crime is classified by law as either a misdemeanor or felony. Misdemeanor cases are typically heard before the Municipal Court Judge while all Felony cases must be heard before the Common Pleas Court Judge. Generally, the severity of the crime, as determined by the State Legislature, or the amount of damages involved will determine if a crime is a felony. Within the misdemeanor category of offenses there are multiple classifications—misdemeanor 1, misdemeanor 2, misdemeanor 3, misdemeanor 4 and minor misdemeanor. A misdemeanor 1 has the most severe penalties and is reserved for those crimes that are severe but not severe enough to be a felony. Examples of a misdemeanor 1 would include petty theft, disorderly conduct, and assault. As a general matter, misdemeanor offenses have penalties ranging anywhere from no fine and no jail time to a maximum penalty of 6 months in jail and a \$1000 fine. Felony offenses are also classified with a range of Felony 5 to Felony 1, with Felony 1 offenses being the most severe crimes, including Murder, Rape, and Aggravated Robbery. Felony offenses are crimes for which an offender can be sentenced to prison with the State Corrections Department.

A person charged with a crime is called a defendant. A criminal prosecution is started by the arrest of a defendant or by summoning him/her into court. Most felony defendants are brought to court by an Indictment. An Indictment is a formal, written accusation issued by a grand jury charging someone with a crime. Following an arrest on Indictment or summons on Indictment, a defendant will appear in court for an arraignment. At that time, the defendant can request court appointed counsel if they are indigent. Also at this time, the defendant can enter a plea of either not guilty, not guilty by reason of insanity, no contest, or guilty. A plea of no contest means that the defendant does not admit their guilt, but admits to the State's version of the facts and from those facts, the Judge will determine their guilt or innocence. In addition, at the arraignment the court will set bail. Bail can require the defendant to post money (i.e. through a bondsman) or to sign bond paperwork (a recognizance bond) in order to be released from

jail. The main purposes of bail are to ensure the defendant appears for all hearings and to protect the community.

Subsequent to the defendant obtaining an attorney, the State is required by law to disclose the evidence against the defendant; this is referred to as the Discovery process. The State and the defendant's attorney will then attempt to resolve the case prior to trial, through a process known as plea negotiations. Most cases in the legal system throughout the United States are disposed of through a negotiated plea and sentence recommendation. Some cases do proceed to trial because the parties are not able to agree on a resolution. In all cases, the Judge of the trial court has the final say on the sentence to be served by the defendant. The Judge must stay within the boundaries of the law when determining the sentence to be imposed.

I encourage you to visit the Prosecutor's webpage at [www.hardincountyprosecutor.com](http://www.hardincountyprosecutor.com) where you will find more information and helpful links. In addition, I welcome any feedback and suggested topics that you would like to know more about. Please send all correspondence through our office email at [hardinpa@hotmail.com](mailto:hardinpa@hotmail.com).