



ARRAIGNMENTS 101

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Key Players

The courtroom is composed of many actors. There is a judge who presides over the courtroom. There are lawyers--prosecutors and defense attorneys--those who work for public defender organizations, or privately hired. There are court officers who are in charge of the running of the courtroom, such as the clerk and the bailiff. There are correction officers who have custody over someone when they are moved between holding and the court. And there is a court reporter who records and types everything that is said between parties on all cases.

**Disclaimer – this document draws heavily on the experience and material developed by CourtWatchNYC, and not all information may reflect the reality of WA state courts.



Accused Person

The accused person, or defendant, will be brought into the courtroom, often in handcuffs and kept behind a partition when they are brought before the judge. They are usually discouraged from talking to anyone except their attorney.

Corrections Officers

Corrections officers escort accused persons to and from the court room, behind the partition. Once someone has been remanded or held in on bail, corrections officers take “custody” of that person. This typically means they are taken to a different floor of the building to prepare to be taken to jail.

Judge

The person in the big chair at the center of the room who will decide whether to impose bail and how much it will be, as well as any other release requirements, such as no-contact orders, treatment or evaluations, and electronic monitoring.

Stenographer

The stenographer, or court reporter, transcribes all of the proceedings. They sit in front of or nearby the judge.

Clerk

The clerk maintains the court calendar, letting the judge know when they are avail to schedule hearings for following up. They also make sure the judge has the appropriate files in front of them for the appearances. They sit in front of or nearby the judge.

Court Officers or Bailiffs

Court officers are conducting the business of the courtroom: moving files and people and making sure the audience is being quiet and not using phones. At times they field questions of people in the audience. They will usually ask you, as a visitor, what your business with the court is. One reason they do this is to know if you want to say something for one of the hearings.

Prosecutor (ADA)

Prosecutors are either standing at the podium when their case is called or in their designated desk/area of the courtroom.

Defense Counsel

Defense attorneys stand next to the accused person at the partition, join them behind the partition, stand at the presenting podium nearest the defendant, or sit at the seats nearest the public seating areas at the desk of defense counsel. Public defenders are typically in the arraignment session the whole time representing many clients. They will announce which agency they work for (TDA/The Defenders Association, NDD/Northwest Defenders Division, ACA/Associated Counsel for the Accused) You can identify a private attorney if they walk in and out of the courtroom and if they announce their law offices.

Arrest to Arraignment: Seattle Police Department

Arrest: Once someone is arrested, they are held by the SPD and booked. The SPD has discretion and makes the decision as to who gets arrested and who is issued a citation.

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Booking: If someone will be held they are booked and held until arraignment. Within 48 hours the person will have to be brought to the judge to be formally charged..

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DA Interview: The DA reads the police report and/or interviews the cops who made the arrest, decides the charges, and writes up the official complaint. The DA has complete discretion to decide the charges (misdemeanor, felony or violation) and to characterize the complaint. The complaint is then officially filed with the court.

❖ Sometimes the DA and cops interview the accused person before they are assigned a lawyer!

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Interview with Defense Counsel: Police bring the accused person to the “tank” behind the arraignment room, and their attorney tells them their official charges. This is often the first time someone learns what they are charged with. Though this is supposed to happen in front of the judge, the attorney generally agrees to “waive the reading of the charges, but not the rights thereunder.”

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Arraignment: The first appearance in front of a judge where the accused person is formally charged with crime. This is the only chance for an attorney to argue that there is no probable cause, or that the DA doesn't have reasonable grounds to charge the accused person with a crime.

Importance of Arraignment

Arraignment is one of the most critical stages in a case. In some instances, it is the only appearance: 58.1% of cases in NYC are resolved at arraignments. If the case is not resolved at the arraignment, whether or not bail is set determines the path of the case. If bail is set, and the accused person is unable to pay, they may be forced to take a guilty plea simply to get out of jail. On the other hand, when bail is not set, there is a much greater likelihood of getting the case dismissed or resolved without a jail sentence.

There are a few differences between the role of arraignments in felony vs. misdemeanor cases:

Misdemeanor

In misdemeanor cases, it is possible to have a disposition (resolution of the case with a plea or dismissal) at the arraignment appearance. The accused person is able to plead to the top charge or accept the prosecutor's offer, if there is one.

Felony:

No offer for felonies at arraignments. Notices reserved Grand Jury

The following order of operations will describe a misdemeanor arraignment.

Order of Operations

Reading of the Charges

The DA or court officer reads the charges and asks the defense attorney: "Do you waive the reading of the rights and charges but not the rights thereunder?" The attorney almost always answers yes.

ADA

The ADA then requests an order of protection, if applicable, and makes an offer/recommendation or states that there is no offer/recommendation.

1. Offer:
 - a. A plea to lesser charge than top count.
 - b. B misdemeanor if top charge is A misdemeanor
 - c. Violation
 - d. Repleader
 - e. ACD/MACD
 - f. Outright dismissal (this never happens)
2. Recommendation: The sentence recommended if the accused person takes a plea to top count
 - a. If the accused person wants to resolve the case but doesn't like the DA's recommended sentence, the defense attorney can offer mitigating factors

and the judge can name an alternate sentence. This is only possible if the accused person takes a plea to the top charge.

Why this is important:

The prosecutor's ability to make a lower offer--something even the judge does not have-- is one of the reasons why they are the most powerful actor in the system. An offer means the prosecutor is undercutting itself; they choose to offer something more lenient than the top charge and a corresponding sentence. Many people will take the lower offer to get the case over with, or to avoid the risks of trial, where they could be convicted of the top charge and given an unknown sentence. But along with the lower charge, the prosecutor chooses the sentence. If the accused person accepts the offer, they accept the sentence; the judge doesn't get to modify it. They also accept whatever criminal conviction their plea requires.

Let's say the prosecutor has charged you with a misdemeanor of possession of marijuana. You didn't actually possess marijuana--it was your friend. But you had to miss a day of work because of your arrest, and you are afraid to go to trial because you don't want to expose yourself to a criminal record, more days off from work, and potential jail time. So you take the lower offer, the Marijuana ACD (MACD), and the case is dismissed in 1 year or less as long as you "stay out of trouble" during that time. If the prosecutor never makes the MACD, your only choice is to go to trial or plead guilty to a misdemeanor.