



THE STAGES OF SENTENCING PROCEDURE: HOW IT WORKS

We have all heard of trials going on in the news, and see people being arrested on our favorite TV shows, but **do any of us really know how the sentencing procedure works?** From the second an accused's hands are cuffed right to the moment the judge decides their fate, there is a structure to be followed, **so let's take a look at all the steps in between!**

Firstly...

When a crime has been committed, **the guards have majority of the power and responsibility when it comes to arresting whom they have a reasonable grounds to believe was involved in the crime.** When this has been established, the accused can be arrested and questioned. There are strict rules when it comes to questioning an accused person, as the right to a fair trial is a very important part of sentencing in Ireland as a whole, and **everyone is innocent until proven guilty.** Let's talk about what happens once a person is arrested and brought in for questioning.

Once a person has been brought in for questioning, **they have the right to legal representation,** BUT, this only stands when the person has requested a solicitor and has reasonable access to obtain one. The guards can continue to question a person without a legal representative present, as long as it has been made known to the accused that they have the right to hire a solicitor if they wish.

Bail..

Once a person has been in police custody for 24 hours, it is time to move onto the next stage of the sentencing procedure, bail. **What is bail you may ask?** This is a **charge that must be put in place to ensure the arrested person will appear before a court for their trial.** Sometimes, you may hear on the news or the radio that an accused person is 'being released without charge and a file is being prepared by the DPP' – this is known as police bail, where the arrested person will be called once it has been decided if they will be forwarded a charge.

But of course, **there are conditions to bail** – there are no get out of jail free cards in the real world! These conditions are put in place so that accused cannot be a threat to society once released from custody. **Your passport can be taken** on bail, you can be **warned not to approach a specific person** while on bail and you can also be **forced to visit the garda station** to check in every week if needs be. If you fail to comply with these conditions or don't appear in court for your trial, **you have committed a summary offence.**





THE STAGES OF SENTENCING PROCEDURE: HOW IT WORKS

Summary offence? Indictable offence? What does these words mean? **Let's break them down:**

Summary offence: this is an offence that is dealt with in the presence of a judge without a jury. It is a less serious offence than indictable, but still results in a criminal record.

Indictable offence: this offence involves very serious crimes that are heard by a judge AND a jury.

Bail can also be refused to people, and when this happens the person must remain remanded in custody. **Remanded in custody basically means the person is refused the right to leave the presence of the guards.** This can only happen for 2 reasons and should always be looked upon as a last resort.

The 2 reasons:

1. There is a possibility the accused **might flee**
2. There is a possibility bail **could interfere with the evidence or witnesses**

The trial....

Once bail has been carried out, there is now a date in place for the trial, this is the following stage. At the beginning of the trial is the **arraignment**, this is when the **accused states whether they wish to plea guilty or not guilty** to the offence. From here on, witnesses are brought in to be **cross examined** (this is when witnesses take to the stand and are questioned by both the prosecutors and the defence lawyers), the book of evidence is relied on and the judge comes to a verdict.

The **book of evidence is a very important part of the trial**, this book includes statements from witnesses, forensic reports, CCTV footage, mobile phone records, custody reports etc. Everything that builds the case is composed in this book, so it's a vital part of the trial!

When it comes to deciding a sentence for the accused, **nearly all of the power lies with the judge.** Apart from the minimum and maximum sentences in place, it is up to the judge to decide what mitigating and aggravating factors to take into account, and then decide what sentence is best suited for the accused.

This brings us to the end of the sentencing procedure in the Irish legal system, we hope this built a better understanding of the stages of sentencing for you. **We never want anyone to find themselves in a situation like this, but it is also very important that people know how the system works if they do!**

