



Jacob (Jake) S. Taylor
JACOB S. TAYLOR, PLLC
2150 South 1300 East, Suite 500
Salt Lake City, Utah 84106

Tel/fax: 801-207-8226
Email: jacob@jacobstaylor.com

BASICS OF UTAH CRIMINAL LAW

PHONE CALL LATE AT NIGHT

- “The police want to speak with me.”

OR

- “I’ve been arrested, I’m at the jail.”

Do not allow client to interview at this time

- Even if cops say they will go easy
- Even if cops make threats, such as jail or prison
- Keep status quo – if client is going to jail there’s nothing you can do to stop it – no need whatsoever for client to give more information/evidence
- Politely call and say you have been retained/represent the client, and that you are advising your client not to speak – not ruling it out in the future, just not at this time
- Get information from police, don’t give information
- For felony cases, ask the police where they are in the screening process – when will they file?
- Ask not to put warrant out – you will surrender your client – call prosecutor and Pre-Trial Services
- Bail schedule (if at the jail)
- Call Pre-Trial Services (might take a few days) (if at the jail)
- Move court for bail reduction (if at the jail)

TRIAL COURTS

- **United States District Court (Federal Court)**
- **Utah District Court (State Court)**
- **Justice Courts** – NOT a court of record

PROSECUTION AGENCIES

- **United States Attorneys Office** – prosecutes federal crimes
- **Utah Attorney Generals' Office** – prosecutes certain Utah crimes such as internet sex crimes, child pornography, criminal non-payment of child support, etc. Also, handles all criminal appeals.
- **County Attorneys** – prosecute certain Utah crimes such as murder/manslaughter, felony drug possession, felony traffic crimes, burglary, etc.
- **City Attorneys** – prosecute misdemeanor crimes

CATEGTORIES OF OFFENSES

- **Felony**
 - Capital Felony: Death Penalty/Life without parole/20-life
 - 1st degree: Prison 5 years-life, \$10,000 fine
 - 2nd degree: Prison 1-15 years, \$10,000 fine
 - 3rd degree: Prison 0-5 years, \$5,000 fine
- **Misdemeanor**
 - Class A: 12 months jail, \$2,500 fine
 - Class B: 180 days jail, \$1,000 fine
 - Class C: 90 days jail, \$750 fine
- **Criminal infraction** (no right to jury trial)

FELONY PROCEDURE (DISTRICT COURT)

Arrest:

- 1) **Warrant**
- 2) **No warrant (48 hours for judge to determine if probable cause exists to hold – if probable cause exists, then set bail)**
- 3) **Summons**

After arrest, booked into jail

- 1) Bail schedule (might be able to get court to reduce bail later on)
- 2) Release through Pretrial Services (801-799-8420)

Initial appearance – charges read to defendant, conditions of release are set

Roll call – plea negotiations, discovery (much different than civil discovery), etc.

Preliminary Hearing – court determines if evidence is sufficient to proceed to trial

Arraignment – enter plea (“guilty or not guilty”)

Motions – ex. motion to suppress, motion in *limine*, etc.

Trial – Jury or Bench (non-jury)

Jury:

- Capital cases – 12 jurors
- Other felony – 8 jurors
- Class A – 6 jurors

Appeal to Utah Court of Appeals (1st degree felonies go to Utah Supreme Court)

MISDEMEANOR PROCEDURE (JUSTICE COURT)¹

Arrest: sometimes receive citation or summons (technically an arrest, when Statute of Limitations begins to run)

Pretrial conference – plea, set for motion hearing, set for trial

Trial – jury or bench

- 4 person jury (petit jury)

Sometimes prosecution might amend to infraction – no right to jury

Appeal - appeal *de novo* to District Court (and do it all over)

¹ Justice Court if Class B and Class C misdemeanor, District Court if Class A misdemeanor

JUVENILE PROCEDURE

Summons/minor and parents
Arrest and in Detention

Minor offenses: Assessment and Diversion
Non-judicial disposition

Detention
Detention hearing within 48 hours

Prior to hearing, may be meeting with juvenile probation (don't talk about the offense – social history only)

Hearings

- Arraignment
- Denial of petition
- Pretrial Conference
- Motions
- Trial (no right to jury trial – unless charged as an adult)

SPECIAL MATTERS

DUI

- Request driver's license hearing within 10 days (hearing held within 30 days of arrest – if not requested, will automatically lose license)
- Can make a *de novo* appeal of license suspension to District Court (litigate like a civil action)

Domestic violence

- Usually will ask for no-contact order at initial appearance – sometimes there will be a civil protective order hearing

Expungement

Post-conviction Relief – URCP 65B (Extraordinary Relief)

Enhancements – “group enhancement”, serious bodily injury, prior DUIs, etc.

“402” reduction