

YOUR RIGHTS AND COURT PROCEDURES FOR OFFENSES IN DENVER MUNICIPAL COURT

Today is called an ARRAIGNMENT. The purpose is:

1. To advise you of your rights;
2. To advise you of the charges against you; and
3. To allow you to enter a PLEA, which means to say whether you are guilty or not guilty, and if necessary set your case for trial.

YOUR RIGHTS

- You have the right to understand the meaning of each charge against you and the maximum penalty for the charge.
- You may remain silent. If you speak, what you say may be used against you in Court.
- You are considered innocent unless you say you are GUILTY or unless you are FOUND GUILTY after a trial. In order to be found guilty, the prosecutor must prove all the elements of the charge or charges against you beyond a reasonable doubt.
- You have the right to plead NOT GUILTY, which means you want a trial. The trial will occur on a later date. Depending on the charge, you may request a trial to a JURY (a group of up to six citizens) or to the COURT (which means a JUDGE or a MAGISTRATE).
- If you have a marijuana or traffic infraction charge, you have a right to a final hearing where the evidence presented must establish all the elements of the charge against you beyond a reasonable doubt.
- If you are eligible for a JURY TRIAL and you want a jury trial, you must make a written request for a jury trial within 21 days of pleading not guilty and pay a \$25 jury fee, which may be waived if you meet financial guidelines. A jury demand can be filed in Room 160 of the Lindsay-Flanigan Courthouse.
- You have a right to a speedy trial. In most cases there must be a trial within 91 days from the day of your not guilty plea. In some other cases the trial must occur within six months.
- At trial, you have the right to cross examine or question witnesses and call your own witnesses. You may ask the Court clerk for subpoenas which would legally require your witnesses to attend trial so long as they are properly served. If you do not testify at trial, your silence cannot be used against you as evidence of guilt.
- If you are found guilty at trial, you have the right to appeal the conviction within 35 days after the date of entry of the judgment or the denial of post-trial motions, whichever is later.
- You have the right to make a statement before any sentence is imposed against you.
- You have the right to be represented by an attorney, or you may represent yourself (have no attorney). If you cannot afford an attorney, you may apply for a free attorney. To be eligible for a free attorney, your income must be below Court-approved financial guidelines and your case must carry the potential of a jail sentence.
- If you are IN CUSTODY (in jail), you may be released and given a new date, by leaving money (BAIL) with the Court, or, if the Court agrees, by your promise to appear at your next Court date (PERSONAL RECOGNIZANCE BOND).

YOUR OPTIONS

When the Magistrate or Judge asks how you wish to proceed, your choices are:

- **REQUEST A CONTINUANCE:** If you want time to hire a lawyer, apply for the public defender, get a copy of the reports in your case, or for any other good cause, you may request a continuance without entering a plea on the case.
- **PLEAD NOT GUILTY:** If you wish to deny/contest the charge(s), you will plead NOT GUILTY, and the Court will set your case for a trial, pretrial conference, and dispositional conference within the speedy trial deadline. The judge/magistrate will do a trial advisement and issue a Pretrial Order.
- **PLEAD GUILTY:** If you wish to accept a plea offer and/or admit the charge(s), you will plead GUILTY. If you plead guilty, you give up your right to have a trial and the other rights explained above. The judge/magistrate will ask you questions to ensure you are pleading guilty voluntarily, without influence or coercion, and without being under the influence of any drug/alcohol/medication that would prevent you from understanding the proceedings. If you plead guilty, the judge/magistrate will impose the sentence/penalty, and you will have a chance to make a statement before the sentence/penalty is imposed.

JUDGE OR MAGISTRATE?

The judicial officer today may be either a JUDGE or a MAGISTRATE. In some cases you have the right to decide which one you prefer to hear your case. If that is the case, you will be asked for your preference. If you agree to a Magistrate hearing your case, you may not later change your mind.

PLEA BARGAINS

The prosecutor may offer you a plea bargain or make a sentencing recommendation to the court. You do not have to speak to the prosecutor today but the prosecutor, not the Court, is the only entity who can offer you a plea bargain. If you want to hire or consult with a lawyer before you meet with the prosecutor, you may ask the Court to continue your arraignment for you to consult with a lawyer. You DO NOT have to accept an offer made by the prosecutor.

MAXIMUM SENTENCE/PENALTY:

The MAXIMUM penalty allowed under the city ordinance (Denver Revised Municipal Code) is \$999 in fines and 300 days of jail, and in a few limited cases, a fine of up to \$999 and up to 364 days of jail. However, the maximum sentence/penalty that may be imposed in your case depends upon the charge(s). The judge/magistrate will explain the maximum sentence/penalty to you before you enter your plea on the case. **These are the maximum penalties on some of the more commonly filed charges:**

Fine of up to \$999 and up to 300 days of jail	Fine of up to \$750 and up to 120 days of jail	Fine of up to \$300 and up to 10 days of jail	Fine of up to \$100
Assault, Wrongs to Minors, Violation of DV Protection Order, Violation of a Court Order—2 nd offense, Petty Theft greater than \$1000, Threats, Weapons offenses, Violation of Airport Rules	Theft/Shoplift \$300-\$1000, Damaging Property \$400-\$1000, Interference with Police Authority; Violation of Court Order Non-DV, Animal Attack/Bite, Potentially Dangerous Animal	Trespassing, Theft/Shoplift under \$300, Damaging Property under \$300, Disturbing the Peace (except violent, tumultuous behavior), Public Fighting	Possession of Drug Paraphernalia, Public Consumption of Marijuana

IMMIGRATION CONSEQUENCES OF A GUILTY PLEA OR CONVICTION

A guilty plea or conviction can have negative consequences for you with respect to immigration if you are not a citizen of the United States. Negative immigration consequences include but are not limited to deportation or removal, exclusion from admission to the United States, or denial of naturalization. If you have any of these issues, you should consult with an immigration attorney prior to entering any plea. The Court will grant a continuance of your court date to consult with an attorney before entering a plea.

VETERANS

The court may not accept a guilty plea or plea of no contest without first determining the defendant's veteran or active duty military status. Please state your status below:

___ NO, I am not currently serving in the U.S Armed Forces and I am not a Veteran.

___ YES, I am currently serving in the U.S. Armed Forces or I am a Veteran of the Armed Services. If YES, I understand that I may be entitled to receive mental health treatment, substance abuse disorder treatment or other services as a Veteran.

For information on possible services go to: <https://www.benefits.va.gov/RODENVER/services-offered.asp>.

I, _____, the Defendant in this case, hereby acknowledge that I have read and understand the contents of this document, and I give up my right to any further explanation of my rights by the Court.

Date: _____