

The Legal Process

In New York, you can be charged with a violation, misdemeanor, or felony. You may receive a summons to appear in court, a Desk Appearance Ticket, or be held overnight and arraigned the following day. In each instance, you have the right to remain silent unless you waive it. It must be a knowing, voluntary, and intelligent waiver of your right to remain silent. JustUs Legal Collective recommends that you invoke your right to remain silent and your right to an attorney by stating, “I wish to remain silent and I want to speak to my attorney.”

On Immigration Status: Please note that if you are not a United States citizen, your rights may be substantially different. A single arrest or a plea to a misdemeanor may affect your ability to leave and reenter the United States or bar you from becoming a citizen. Please consult an immigration attorney with your specific situation and do not rely on your criminal defense attorney’s knowledge of immigration law when discussing possible deals.

CHARGES

Violation

Not a criminal offense; carries either a fine or no more than fifteen days imprisonment.

Usually what you are charged with when you receive a summons.

Misdemeanor

A criminal offense; carries a maximum sentence of one year in jail.

Usually what you are charged with when you receive a Desk Appearance Ticket (DAT). You may also be “put through the system,” held overnight, and arraigned the following day.

Felony

A criminal offense; carries a minimum sentence of one year in jail.

You will be “put through the system,” held overnight, and arraigned the following day.

Felony sentences vary; please consult a local attorney for more information. Please also note that there are special categories of felonies with enhanced sentencing.

ARREST / CITATION

Summons

Similar to a traffic ticket. Issued within the discretion of the police officer for a minor offense, usually at or near the scene. Directs you to appear in court at a certain date and time.

If you wish to plead not guilty, check the “Not Guilty” box and mail the summons to the address on the back or just appear at the date on the summons.

If you wish to plead guilty, appear at the date on the summons.

In general, it is best to wait to plead guilty until your attorney is able to find out more about the case against you.

Desk Appearance Tickets (DATs)

Involve only minimal processing in which your information is recorded and you are given a date and time to appear in court. DATs can be issued for a violation and for some misdemeanors (and very rarely for low level felonies).

An arrestee is ineligible for a DAT if he or she:

- o Has an outstanding warrant or warrant history
- o Is on parole or probation
- o Has a record of multiple arrests
- o Cannot offer verifiable name and address
- o Lives out of state (this may be at the discretion of the Desk Officer)

- o Is arrested for either a graffiti offense or threatening/menacing a police officer or public official

Your first court appearance is your arraignment and you will enter your plea at this time. You will be appointed an attorney, but this attorney may not be your attorney for trial.

ARRAIGNMENT

Go to the courtroom noted on your DAT or summons at the set time. Get there early as everyone entering the courthouse must go through security. You will be searched so do not bring any knives, sharp objects, or glass bottles.

Court starts at either 9:30 AM or 2:00 PM. Get to the courthouse at least 45 minutes before this time so that you can get through security and talk to your attorney. Be prepared to spend a lot of time at the courthouse as there will be a lot of cases to call.

This is not your trial; this is when charges are formally presented against you and you will enter your plea.

You can bring your own attorney with you or one will be assigned to you.

If you miss your arraignment, the judge may issue a bench warrant for your arrest.

POSSIBLE OFFERS AND PLEADINGS AT ARRAIGNMENT

If you are charged with a violation and have no record, it is likely that you will be offered an Adjournment in Contemplation of Dismissal (ACD)

- o This is a plea offer that requires for you to not be arrested or ticketed for a certain time period, often six months or twelve months
- o You won’t have to return to court again (unless you are subsequently arrested or ticketed), but you will need to stay out of “the legal system” until the time period expires
- o You do not have to take an ACD. The prosecutor may offer it again but is not required to

- o Violating an ACD will reinstate the original charge
- o An ACD may prevent you from participating in a lawsuit related to your arrest

Pleading “No Contest” or Nolo Contendere

Pleading no contest is an agreement to accept the punishment without admitting or denying responsibility for the crime alleged

Pleading no contest does not require you to make any statements on the court’s record

Pleading no contest may have the same sentencing as a guilty plea and your record will reflect the charge and plea.

Pleading Guilty

If you are charged with a misdemeanor and a violation and have no record, you may be offered to plead guilty to the violation with time served, or possibly some community service hours

If charged with a violation and you plead guilty, you will have a violation record but not a criminal record and will have to pay a surcharge of approximately \$60.

In other situations, you may not be offered a deal at arraignment or may be offered other sorts of deals. You may still be offered a deal at another court date.

CIVIL SUITS

If you believe you have a claim against New York City and the NYPD, you must file a notice of claim within 90 days of the incident. This preserves your ability to sue by putting the city on notice of your claim.

While statutes of limitation vary, you usually must file your lawsuit against a city or state government in New York within one year and 90 days from the incident.

You may have additional time to file a lawsuit if you are bringing a United States Constitutional civil

rights claim, but you must still file a notice of claims for both federal and state civil suits.

A sample notice of claim will be available on JustUs Legal Collective’s website.

MORE INFORMATION

JustUs Legal Collective: justusnyc.org

National Lawyers Guild: nlg.org

National Lawyers Guild NYC: nlgnyc.org

New York Civil Liberties Union: nyclu.org

The Legal Aid Society: legal-aid.org

Bronx Defenders: bronxdefenders.org

Brooklyn Defenders Service: bds.org

Queens Law Associates: queenslegalservices.org

New York Lawyers for Public Interest: nylpi.org

National Immigration Project:
nationalimmigrationproject.org

New York Immigration Coalition: thenyic.org

Sylvia Rivera Law Project: srlp.org

Re-Entry Services NY: reentry.net/ny

Jailhouse Lawyers Handbook: jailouselaw.org

JustUs Legal Collective provides legal information and support for at-risk communities to address inequalities in the legal system and promote self-sustainable community development in the greater New York area.

navigating ← → the system ←

The legal process can be slow and time-consuming. You aren’t the first or the last to go through this process and there are resources to help you. This pamphlet will explain to you some of the legal processes you can expect to go through, as well as some tips in building your case. This pamphlet is not a substitute for a licensed attorney and does not constitute legal advice. JustUs Legal Collective does not provide legal representation and cannot provide legal advice. For more information on our work, please visit us online at www.justusnyc.org.

JustUs
Legal
Collective

