

THE CRIMINAL JUSTICE SYSTEM

Arrest through Trial

5 Stages of the Criminal Justice System

- 1.
- 2.
- 3.
- 4.
- 5.

THE ARREST

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Arraignment

Appearance of the accused before a judge, at which time the charge(s) are read

Arraignment must take place with reasonable speed (most states within 24-72 hours)

Writ of Habeas Corpus:

Plea is entered by the prisoner: _____

Bail:

Release on Own Recognizance (ROR):

*When a defendant is charged with offenses, which are not felonies, court must order recognizance or bail.
A court may not order recognizance or bail under these circumstances:*

- 1.
- 2.
- 3.

Remand:

PRELIMINARY HEARING

The purpose of a preliminary hearing is to determine if there is sufficient evidence to warrant submitting the case to Grand Jury.

Rights of the Accused at Preliminary Hearing:

THE GRAND JURY

A Grand Jury is comprised of _____ people. The purpose of Grand Jury is to decide if there is enough evidence to determine that a felony has been committed, that the accused committed this act and there are grounds for prosecution.

- If at least 12 jurors believe that there is sufficient evidence for a trial, then a **True Bill** is returned
- If it is determined that the charges are to be totally dropped a **No Bill** is returned
- If evidence needed for a felony charge is inadequate, but sufficient for a misdemeanor, charge will be reduced and sent to criminal court on information as a misdemeanor
- Grand Jury witnesses can only refuse to answer questions that violate the 5th amendment. An indictment (support of the prosecution's case) is not considered a conviction

After hearing and examining evidence a Grand Jury may:

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THE CONFERENCE STAGE

Plea Bargaining:

Rationale for Plea Bargaining

1. It Saves Time - no need for Grand Jury or Supreme Court actions
2. It Saves People Money – Courts and trials can be costly
3. It Saves the State Money - There is a high cost for incarceration
4. It Saves Space – There are a lack of facilities to detain and maintain both the accused and criminals
5. It Saves Weak Cases – The defense or prosecution can seek Plea Bargains if they feel their case is weak due to a lack of evidence or credible witnesses.

A good defense attorney will create a “mitigation package” that demonstrates the personal situation of the defendant and attempts to convince the parties that the defendant is a good person who made a mistake. However, ultimately the defendant will have the power to accept or reject the plea bargain negotiated by his or her lawyer

THE JURY TRIAL

6th Amendment: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

What are the eligibility requirements for Jury Duty:

- A)
- B)
- C)
- D)
- E)
- *

How are potential jurors selected?:

- A)
- B)
- C)
- D)
- E)

How often are your called for Jury Duty?

Impaneling:

Voire Dire:

Lawyers have the right not to impanel a specific juror, there are 2 kinds of challenges that may be used:

- 1) Challenge for Cause -
- 2) Peremptory Challenge -

Special Circumstances

- A) *Sequestered Jury-*
- B) *Change of Venue-*

THE COURTROOM

Courtroom Participants

Judge-

Prosecutor-

Defense Counsel-

Bailiff-

Stenographer-

Court Clerk-

Lay witness-

Expert witness-

Courtroom Procedures

Trial Opening Statements:

Objections: During trial, each party may call witnesses to testify on its behalf. Each party, through its attorney, poses questions to the witness, who then answers. During testimony, any attorney may object. An objection is a request that the judge disallows a question, limit the testimony, or instruct a witness to give a complete answer to a question.

An objection—if made correctly—is made immediately after the question is asked and before the witness answers. Occasionally, objections are made to a witness' testimony as well. Generally, in the course of trial, the judge rules on the objection by either sustaining or overrule/denying it.

Sustained: Judge agrees with the attorney's objection and disallows the question.

Overruled: Judge does not recognize the objection and valid and the examination can continue.

2 type of objections – Objections to the FORM or to the SUBSTANCE of the question.

Form: Leading, Asked and Answered, Speculation, Argumentative, Badgering, Confusing

Substance: Lacks foundation, Assumes Facts, Irrelevant, Hearsay

Direct Examination-

Cross-examination-

Subpoena-

Deliberations-

Verdict-

Mistrial or “Hung Jury”-