

Partners In Justice

A Guide to the Criminal Justice System



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The Alleged Crime Occurs

- **Someone, usually an alleged victim or a witness, reports an alleged criminal act to law enforcement.**
- **Occasionally an agency, such as the Department of Social Services, makes a report to law enforcement after it investigates an allegation.**
- **Sometimes in cases of violence, medical personnel report to law enforcement.**

The Investigation

- **The alleged victim is interviewed (except in homicide cases).**
- **Witnesses are located and interviewed.**
- **Physical evidence is collected (if any).**

The Arrest

- **The suspect is taken into custody (by force if necessary) after an arrest warrant or similar legal paper is issued.**
- **The arrestee is taken before a magistrate (a low-level judicial official) who officially charges the (now) defendant.**
- **The magistrate sets bail for the defendant and sets the date for first appearance (must be within 96 hours, although the first appearance usually occurs within 48 hours).**

The First Appearance

- **At the defendant's "first appearance" (meaning the first time in front of a judge as opposed to a magistrate or clerk), a district court judge:**
- **Sets a new court date;**
- **Advises the defendant of his right to remain silent, his right to counsel, and tells the defendant what the maximum sentence is for his/her charge;**

The First Appearance

- **May appoint an attorney to represent the defendant (if the defendant is found to be indigent); and,**
- **May modify the conditions of release set by the magistrate, e.g. bail or release into someone's custody.**

The Misdemeanor Trial

- **If the defendant is charged with a misdemeanor (less serious matters generally not resulting in active sentences), the case is heard in front of a District Court judge without a jury.**

The Misdemeanor Trial

- **The defendant either pleads guilty or not guilty.**
- **If the defendant is found guilty in District Court, he/she can ask for a jury trial in Superior Court.**

Felony Cases

- **In felony cases (ranging from forgery to murder) the District Court judge will occasionally conduct a probable cause hearing - a mini-trial with a low burden of proof.**
- **If the judge finds probable cause, the case goes to Superior Court for indictment which is the formal procedure used to charge someone with a felony.**

The Grand Jury

- **Grand jury proceedings are held at regular intervals.**
- **The grand jury decides whether to charge someone with a felony after hearing from law enforcement as to probable cause.**
- **Grand jurors do not serve as trial jurors.**

Arraignment

- **Arraignments are merely formal proceedings in which the defendant is advised of the charges against him and is asked how he pleads (guilty or not guilty).**
- **This rarely occurs except in capital - potential death penalty - cases.**

Discovery

- **The District Attorney and the defense attorney develop information about the case and are required to share much of what has been learned with each other.**
- **There is an important exception. Anything the defendant tells his attorney is completely confidential.**

Pre-trial Motions

- **Motions are made by either side about legal, not factual, questions that could arise during the trial.**
- **An example would be a motion to suppress the defendant's alleged confession based on his mental state at the time.**

Plea Bargains

- **A plea bargain is an agreement between the District Attorney and the defendant in which the defendant agrees to plead guilty for certain considerations, such as a lesser charge or a lesser sentence.**
- **Plea bargains are subject to approval by the judge.**

The Superior Court Trial

- **A Superior Court judge presides over a jury of 12 (plus an alternate) who hears the evidence and decides whether the defendant is guilty or not guilty.**
- **The jury's verdict must be unanimous in North Carolina.**
- **The defendant cannot be forced to testify if he does not want to.**

The Verdict

- **If the verdict is not guilty, the case is over and can never be retried.**
- **If the verdict is guilty, the judge holds a sentencing hearing to determine punishment (prison sentence, probation, or combination of both, etc.).**
- **In capital cases, the jury decides the punishment -life in prison without parole or the death penalty.**

The Appeals Process

- **If the defendant is found guilty, he may appeal the sentence in Appeals Court.**
- **Appeals must be related to matters of law, not matters of fact. The appellate court does not retry the facts found by the jury.**

Acknowledgments

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