

THE CRIMINAL JUSTICE SYSTEM AND GOING TO COURT

For most people, learning to navigate the criminal justice system is new. The following terms, definitions, and processes provides a basic understanding of what you may hear and encounter as you journey with a person who is accused of committing a crime and brought into court.

TYPES OF CRIMES

misdemeanor - usually a petty offense, a less serious crime than a felony, punishable by less than a year of confinement

felony - a crime carrying a penalty of more than a year in prison

COURT PEOPLE

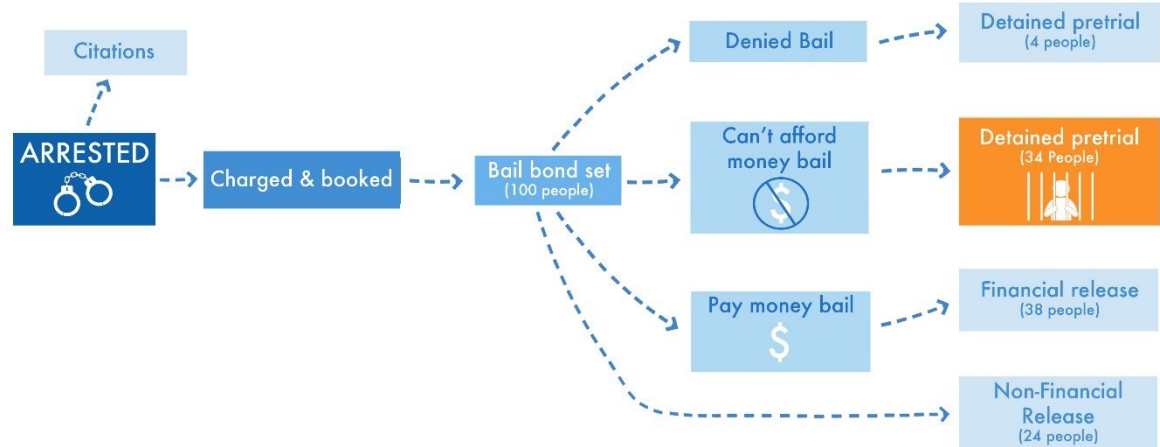
defendant - the person accused of the crime

defense attorney - defends the accused against the government's case; they are either hired by the defendant or assigned by the court (public defender); represents the defendant

public defender - lawyer who represents a defendant who can't afford an attorney in criminal matters (assigned by the court)

prosecutor - lawyer who represents the state or federal government (not the victim) throughout the court process, from the first appearance of the accused in court until the accused is acquitted or sentenced

The Path from Arrest to Pretrial Detention



Charged & Booked

The prosecutor considers the evidence assembled by the police and decides whether to file written charges (or a complaint) or release the accused without prosecution. If charged, the accused is booked, where personal information is gathered (name, address, etc.), and fingerprints and picture are taken.

First Court Appearance

The accused appears in court to be informed of the charges and of his or her rights. The judge decides whether there is enough evidence to hold the accused or release him or her. If the defendant does not have an attorney, the court may appoint one or begin the process of assigning a public defender to represent the defendant.

Bail or Bond Set

The judge may decide to hold the accused in jail (detain) or release him or her on bail, bond, or his/her "own recognizance," which means the defendant promises to return to court for any required proceedings and the judge does not impose bail because the defendant appears not to be a flight risk. To be released on bail, defendants have to hand over cash or other valuables (such as property deeds) to the court as security to guarantee that the defendant will appear at the trial. Defendants may pay bail with cash or bond (an amount put up by a bail bondsman who collects a non-refundable fee from the defendant to pay the bail). The judge will also consider such factors as drug use, residence, employment, and family ties in deciding whether to hold or release the defendant.

Grand Jury or
Preliminary Hearing



Arraignment
Plea

Grand Jury or Preliminary Hearing

In about one-half of the states, defendants have the right to have their cases heard by a grand jury, which means that a jury of citizens must hear the evidence presented by the prosecutor and decide whether there is enough evidence to indict the accused of the crime. If the grand jury decides there is enough evidence, the grand jury submits to the court an indictment, or written statement of the facts of the offense charged against the accused. In other cases, the accused may have to appear at a preliminary hearing in court, where the judge may hear evidence and the defendant is formally indicted or released.

Arraignment

The accused is brought into court, told the charges, and asked how do they plea?

Plea

Guilty – defendant admits to committing the crime(s) charged to him/her

Not Guilty – plea of a person who claims not to have committed the crime of which he/she is accused. A *not guilty* plea may also be used to continue with the legal due process, not necessarily that he or she is innocent of the crime.

No Contest - has the same effect as a plea of *guilty* as far as the criminal sentence is concerned, but the plea may not be considered an admission of guilt for any other purpose. Sometimes, a *guilty* plea could later be used to show fault in a lawsuit, but the plea of “*no contest*” forces the plaintiff in the lawsuit to prove that the defendant committed the crime.

Pre-Trial Hearings



Adjudication



Verdict

Pre-Trial Hearings

Pre-trial hearings are usually the first opportunity for the defendant or his or her attorney to meet with the prosecutor to discuss the case. Some common pre-trial motions are a motion to dismiss (such as in a misdemeanor case where the defendant believes there is not sufficient evidence to charge him or her with the crime), or a motion to suppress certain evidence (which would be appropriate in a case where the defendant believes that the evidence was collected in violation of some of his or her constitutional rights) or a motion to postpone the trial (a continuance) in order for the attorney to have more time to obtain evaluations or other documents needed for the case.

Adjudication (Trial Process)

Plea Agreements (plea deal) - The majority of cases are resolved by plea agreements rather than trials. A plea agreement means that the defendant has agreed to plead guilty to one or more of the charges in exchange for one of the following: dismissal of one or more charges, a lesser degree of the charged offense, a recommendation for a lenient sentence, not recommending the maximum sentence, or making no recommendation. The law does not require prosecutors to inform victims about plea agreements or seek their approval.

Trial - Trials are held before a judge (bench trial) or judge and jury (jury trial), depending on the seriousness of the crime and other factors. The prosecutor and defense attorney present evidence and question witnesses. The judge or jury finds the defendant guilty or not guilty on the original charges or lesser charges. Defendants found not guilty are usually released. If the verdict is guilty, the judge will set a date for sentencing.

Verdict

Acquittal - Judgment that a criminal defendant has not been proven guilty beyond a reasonable doubt and is free.

Conviction - A judgment of guilt against a criminal defendant who is then sent to jail until his or her sentencing trial.



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graph LR; A[Sentencing Hearing] --> B[Sentence]
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Sentencing Hearing



Sentence

GUILTY VERDICT

Sentencing Hearing

The prosecutor and defense attorney provide arguments for the sentence. The judge determines the sentence within the sentencing guidelines required by the state or federal government.

Sentence

Diversion Program – a voluntary program for defendants charged with a crime to complete a program (for example, drug treatment, boot camp, etc.)

Fine – monetary charges imposed on an individual convicted of a crime; if the fine is not paid, the individual is imprisoned.

Probation – a sentencing alternative to imprisonment in which the court releases convicted defendants under supervision as long as certain conditions are observed; conditions may include community service, drug testing, substance abuse treatment, fees, etc.

Imprisonment – sentenced to a length of time; if more than a year (in most states) sent to a **prison**, if less than a year, sent to a **jail**; most often time served is counted toward the sentence.

Death Penalty (capital punishment) – used by the federal government and 33 states

OTHER TERMS AND DEFINITIONS

Community Corrections – refers to the supervision of criminal offenders in the resident population, as opposed to confining them in secure correctional facilities; the two main types of community corrections supervision are **probation** and **parole**; community corrections is also referred to as community supervision

Parole – the status of prisoner conditionally released from a prison by a paroling authority before the expiration of his or her sentence, under the supervision of a parole agency, and required to observe the conditions of parole

<https://www.justice.gov/usao/justice-101/glossary>

GOING TO COURT

Find the Court Case

Court cases can often be found by visiting the county court's website. You may find the charges and time and location for the next court appearance. Just because the time states 8:30 am doesn't mean your case will be called at that time. Cases are called once the judge arrives and you must wait until your case is called. Be prepared to wait. You may want to bring a book to read.

What to Expect at Court

Be sure you arrive early enough to get through the security line prior to your case. The length of time will vary by size of county.

All persons are subject to search. Everyone and their possessions go through a metal detector. For example, at DuPage County Court, the following items are not allowed in the Courthouse:

- Cameras or video equipment of any kind, including camera phones (leave cell phones in your vehicle)
- Knives or sharp objects of any kind
- Non-functioning electronics or detachable stereo faceplates
- Aerosol, flammable, or caustic substances
- Silverware, razors, or biohazard materials
- Tools of any kind
- Firearms or explosive devices
- Any item that may pose a potential security risk to the Courthouse or its occupants, as determined by Court Security personnel

Attorneys may bring cellphones and laptops equipped with cameras into the Judicial Office Facility upon presentation of a photo ID and a valid ARDC card.

Note: Court Security does not issue receipts for prohibited items. These items must be removed from the facility.

GOING TO COURT

In the Courtroom

When the court is in session, those waiting in the room are to remain quiet. When the case is called, only the defendant, defense attorney, and prosecutor approach the bench. Family and friends must remain seated.

If the defendant is in jail, he/she will be placed in a room with other inmates who have court that day (out of sight of the public) and brought into the courtroom right before his/her case (or skyped into the courtroom). Friends and family are not allowed contact with the defendant if they are in jail. Once the case is heard, friends, family, and the defendant (out on bail) can leave.

Children are not allowed in courtrooms and childcare may be provided. Find out what is required for childcare services by looking online or calling the courthouse.

Most courts will have services for special needs and interpreter services which will need to be requested prior to the court date.

Court cases often take several court dates unless the defendant accepts a plea deal or pleads guilty early on. Be prepared for the case to take weeks/months to become resolved.