

JUDICIAL PROCEDURE

Criminal procedure: combination of laws and rules that govern the different stages in the administration of the criminal justice system.

1. CRIME IS COMMITTED.

reported or flagrante delicto

2. INVESTIGATION.

- ✓ Determine if an alleged crime has actually been committed. May take days, months or years.
- ✓ It may involve confidential informants, surveillance of suspects, controlled buys, sweeps, raids, execution of warrants, search and seizures, etc.

3. ARREST

- ✓ Taking a person into custody for the purpose of charging him/her with a criminal offense.
- ✓ Arrests are possible by police with and without a warrant.
- ✓ A sworn statement/Affidavit of Probable Cause/Police report is prepared and filed.

4. ARRAIGNMENT/INITIAL APPEARANCE

The purpose of the arraignment is:

- ✓ to identify defendant,
- ✓ to inform D of his/her constitutional rights,
- ✓ to advise D of the charges against him/her,
- ✓ to ask for a plea.

5. PLEA

Defendant's answer to the charges.

Guilty

Not Guilty

No Lo Contendere

Former conviction or acquittal on the offense charged

Once in jeopardy

Not Guilty by reason of insanity

6. BAIL

- ✓ There are bailable and non bailable offenses
- ✓ Allows for pretrial release of D
- ✓ Implies terms of release, some supervision

Types:

- ✓ Monetary: Unsecured, Secured and Cash
- ✓ Personal Recognizance
- ✓ Custody of Third Party

7. PRELIMINARY HEARING OR EXAMINATION

Probable Cause:

- ✓ If a crime has been committed.
- ✓ If there are reasonable factual grounds to believe D is involved.
- ✓ Only witness is investigating officer. No affirmative defense. Defense only allowed to Cross-examine.
- ✓ Charges dismissed or bound over.

8. DISPOSITIONS

Nolle Prosequi

Stay of Proceedings

Probation Before Judgment

Diversion

Plea Bargain

9. PLEA AGREEMENT.

- ✓ Can be made at any stage of the proceedings in felony as well as misdemeanor cases.
- ✓ Usually allows D to plea to some instead of all counts in the indictment/information or to a lesser included offense.
- ✓ Requires explicit waiver of constitutional right to trial.
- ✓ Court reserves right to follow or not follow terms of plea agreement.

10. PRETRIAL STAGE

Discovery

Motions

discovery

severance of parties

consolidate

change of venue

suppress evidence

dismiss charges

Granted or denied

Parties announce “ready”

11. TRIAL.

Jury trial- Juror is trier of facts. Judge rules on matters of law.

Bench trial-judge is trier of fact and rules on matters of law.

Impanelling of jury- voire dire.

Opening Statements.

Examination of Prosecution Witnesses- Expert witnesses.

Evidence: Direct, Circumstantial, Documentary.

Exhibits.

Prosecution rests.

Defense's Case (as Prosecution's)

Rebuttal by prosecution

Closing arguments

Final Jury instructions- General, Special

Jury Charge

Deliberation

Verdict

12. SENTENCING

Pre-sentence investigation.

Incarceration or Probationary period.

13. APPEALS

Request to higher court to review decision or examine procedures of lower court.