



Criminal Court Workshop

PMC Shares™

Hosted by: Carnegie Library of Pittsburgh

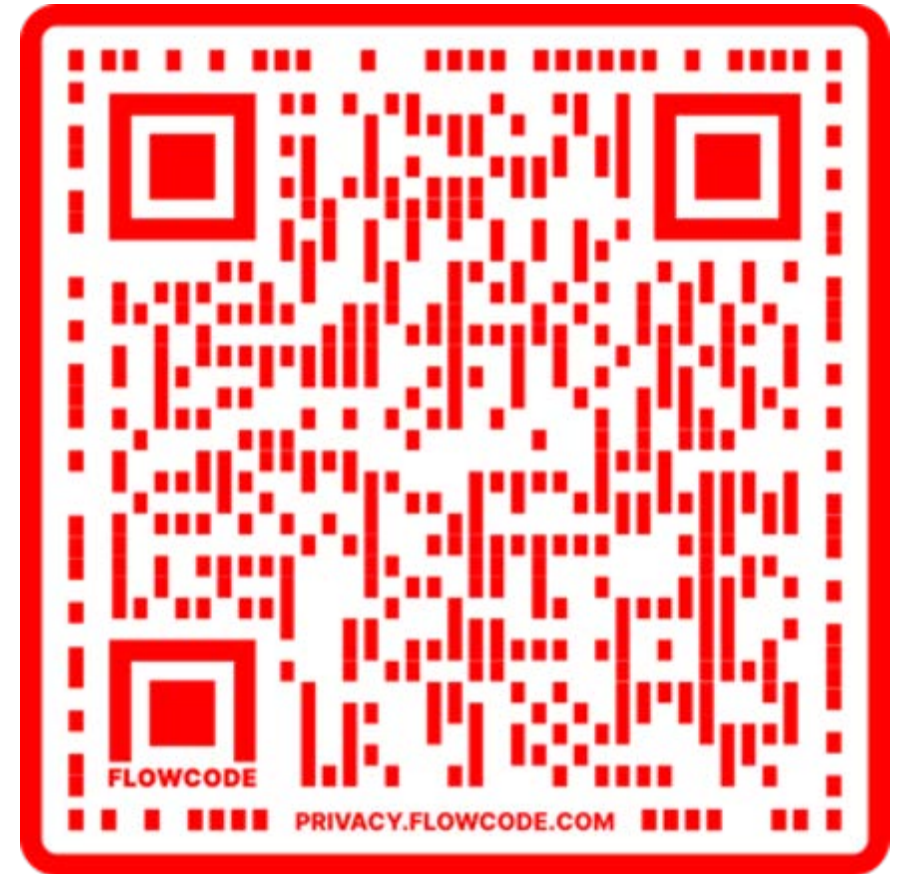
Presented by: David Sonenshein, Esq.



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Please place your cell phone on the QR Code and help answer survey questions to support PMC's funding.





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As we begin....

- Should you have technical issues please email us at staff@pmconline.org.
- If you lose your computer connection, you may call one of the numbers on the Zoom link you received.
- Tonight's presenters are discussing general legal topics. They are not giving legal advice. Should you wish specific legal advice, please consult an attorney of your choice.
- This program is being recorded. The recording will be available at www.pmconline.org, click on "Resources".



30 Years of Fighting for Fair Courts in Pennsylvania

Pennsylvanians for Modern Courts is the **only statewide nonprofit, nonpartisan organization** dedicated to ensuring that all Pennsylvanians can come to our courts with confidence that they will be heard by qualified, fair, and impartial judges.

We advocate for judicial reforms, educate Pennsylvanian about our courts and how to navigate them, about our judiciary and hold Appellate Court Candidate Forums



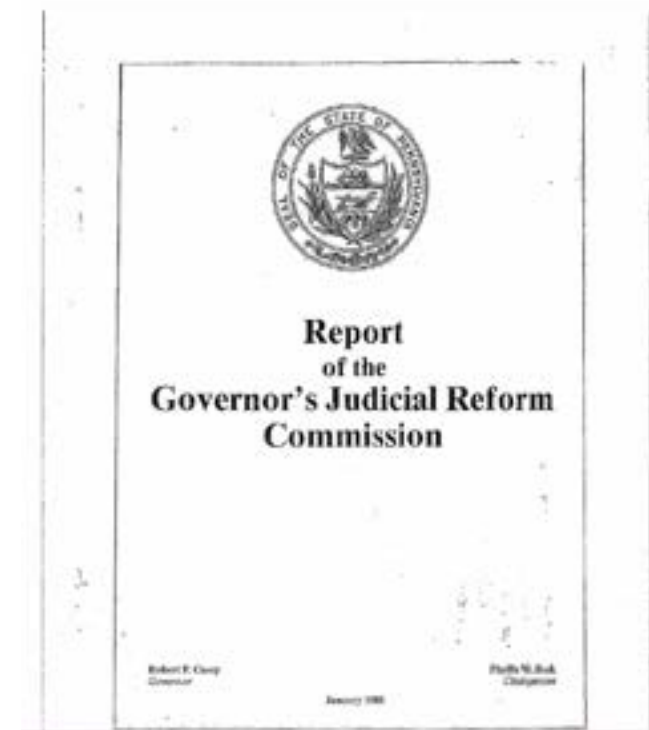


PMC's History

Governor Robert Casey commissioned a blue-ribbon panel of civic leaders, public officials, legal professionals, and members of the judiciary to examine judicial reforms. Superior Court Judge Phyllis W. Beck chaired the committee.

The panel discovered that confidence in the judiciary was appallingly low, in large part due to the system of electing judges and the fundraising that goes along with it.

This, combined with several scandals in the late 1980s involving Pennsylvania judges, led our founders to determine that a non-profit, non-partisan organization was needed to fill the vacuum of judicial oversight and be a herald for judicial ethics.





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The Work We Do

- Advocacy:
 - Judicial Selection Reform
 - Judicial Discipline Reform
 - Bail Hearing Reform
- Civic Education about the Judiciary
 - Judicial Election Forums and programs
 - Continuing Legal and Judicial Education: ethics courses for judges and lawyers
 - The Media, The Courts & Counsel™
 - **PMC in the Community™**: public education about the courts



PMC in the Community™

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PMC partners with many community partners and legal professionals to cohost and present PMC Shares™ Workshops. Check out our website to register or to find recordings of other workshops – www.pmconline.org

APRIL

- 4 - Criminal Court – hosted by: Carnegie Library of Pittsburgh - 6:00pm - Virtual
- 13 - Judicial Selection - hosted by: League of Women Voters - Pittsburgh 7:00pm - Virtual
- 19 - Administering an Estate - hosted by: Philadelphia Free Library - 6:00pm -Virtual
- 19 - Expungement of Records - hosted by: Chester County Library - 6:00pm Hybrid
- 25 - Navigating & Understanding PA Courts –Sponsored by: COMCAST - hosted by: Dauphin County Library - 6:00pm Hybrid

MAY

- 3 – Protection From Abuse – hosted by: West End Library - 6:00pm - In person
- 9 - Judicial Candidates Forum - 6:00pm - Virtual
- 17 - Your Rights Matter - hosted by: Philadelphia Free Library - 6:00pm - Virtual
- 31 - Landlord Tenant – hosted by: West End Library - 6:30pm - In person

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SPRING into ACTION BENEFIT

a hybrid event

Each year, the Spring into Action Benefit raises funds for and awareness of **Pennsylvania for Modern Court's** mission to educate all Pennsylvanians about our courts and advocate for judicial reforms that promote inclusion and access to justice.

2023 JUDGE JUSTIN JOHNSON AWARD RECIPIENT: JUDGE DORIS SMITH-RIBNER



Judge Smith-Ribner served on the Pennsylvania Commonwealth Court for almost 22 years and was the first African American woman to serve on the Court. PMC is honored to recognize Judge Smith-Ribner for her devotion to improving the quality of justice and judicial independence.

In addition, we will be recognizing the winner of Pennsylvania For Modern Court's Law Student Competition

In Person Venue:
University of Pittsburgh,
University Club

123 University Pl, Pittsburgh, PA 15213 BALLROOM

Virtual Platform:
Zoom

SCAN THE QR CODE FOR
MORE INFORMATION



MAY 2ND 2023



Agenda:

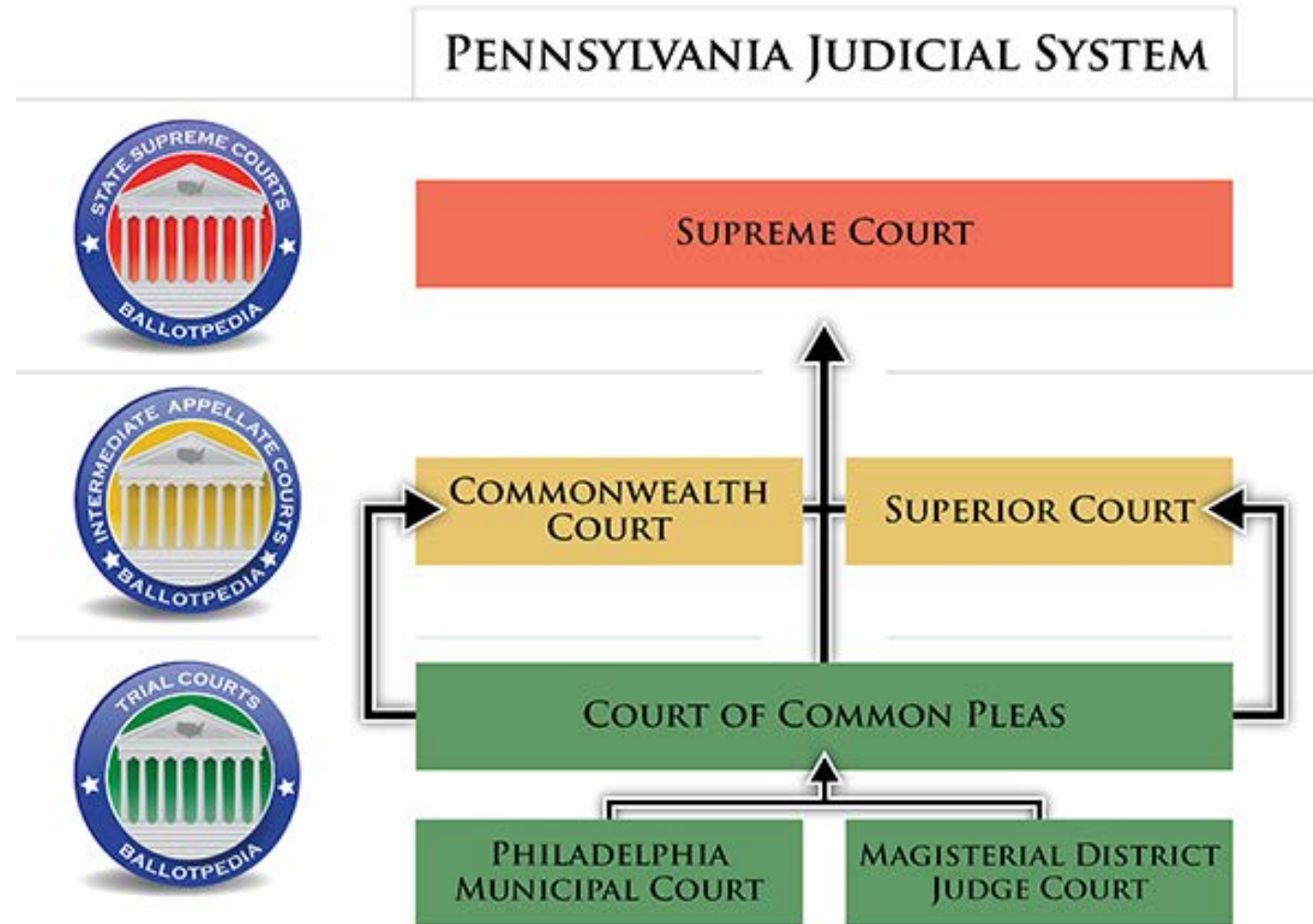
- 1. PA Court System**
- 2. Criminal Process**
- 3. What to expect in Court – procedures and rights**



PENNSYLVANIA COURT SYSTEM



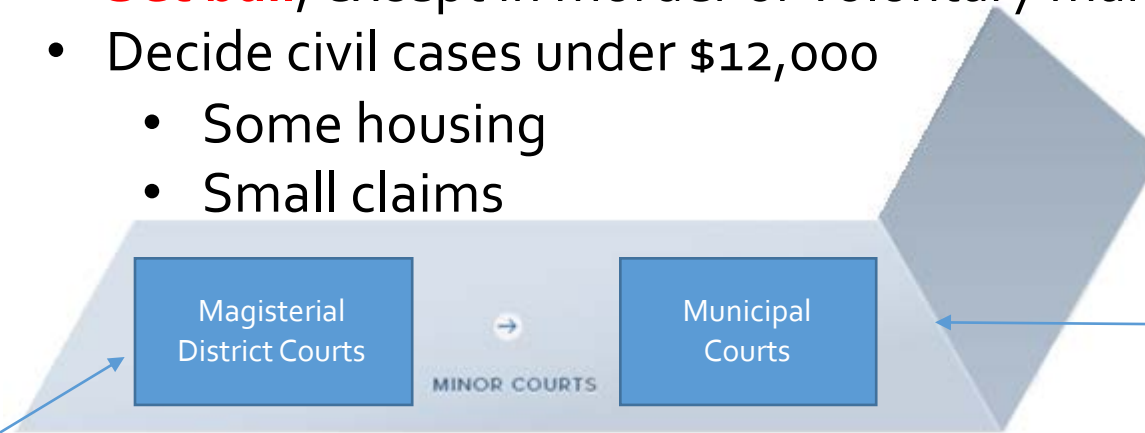
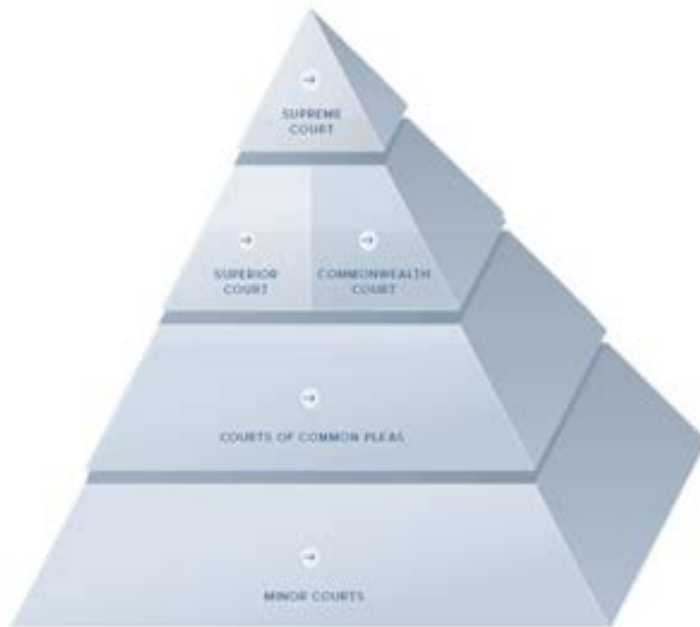
Pennsylvania Court System





Where does Criminal Court fit in to the broader PA court system?

- Magisterial District Courts (not in Philadelphia)
- Municipal Courts
 - Civil, **Criminal**, and Traffic Divisions
 - Determine whether **serious criminal cases** go to the Court of Common Pleas
 - **Hold preliminary hearings**
 - **Set bail**, except in murder or voluntary manslaughter cases
 - Decide civil cases under \$12,000
 - Some housing
 - Small claims



Not in Philadelphia

In Philadelphia

Jurisdiction of certain courts in criminal matters



- The Commonwealth of Pennsylvania always serves as the plaintiff in criminal cases and the person charged with a crime is the defendant.
- Pennsylvania has three levels of crime while most states and commonwealths only have two.
 - The Commonwealth divides crime into **summary offenses, misdemeanors, and felonies**. The level of crime determines how the court will proceed.
 - **Summary offenses** are minor breaks in the law punishable by a fine of up to \$200 and/or 90 days in jail.
 - Examples include disorderly conduct, underage drinking, shoplifting (first offense), and criminal mischief. It is possible to receive a simple citation with a statement of the facts that make a violation, the amount of the fine, and instructions for how to pay the fine or request a hearing. In some cases, especially if someone poses danger to others or themselves, they may be arrested
 - **Misdemeanor** cases are somewhat less serious criminal cases where someone is likely to have been or will be arrested, and could be fined up to \$15,000 and/or imprisoned for up to five years.
 - **Felony** cases are the most serious cases. Individuals can be fined and/or sentenced to a prison sentence lasting longer than five years.



How to File a Private Criminal Complaint?

- When a person would like to file a private complaint, they must have the following:
 - form of identification
 - the full name and address (either work or home address) of the person they want to file charges against
 - the police report number of the incident they wish to file charges about (this number is known as the DC or District Control Number).
- The person filing the charges is known as the "**Affiant.**"
- The Affiant is asked to fill out paperwork describing the facts and circumstances of the offense.
 - The Affiant should also bring with them any photos, videos, medical records, or other documents supporting their claim that a crime was committed.
 - If another person was present at the time of the offense, the Affiant should bring their witness with them to fill out paperwork describing what he or she saw or heard.
- After filling out the paperwork, an Assistant District Attorney will review the complaint and any documentation provided by the Affiant
- They will then decide whether the complaint is approved and if charges will be filed.



How to File a Private Criminal Complaint (continued)?

- If the proposed complaint is approved, then the Affiant will complete the interview process at the Private Criminal Complaint Unit and take the completed paperwork to the Philadelphia Municipal Court Administration Offices at 1339 Chestnut Street, 10th floor to formally file the complaint.
 - The Affiant will be required to pay a **\$39.10** filing fee at the time they present their paperwork for formal filing.
 - Once the approved complaint is filed with the Philadelphia Municipal Court, the Affiant will receive a court date which is approximately four to six weeks from the date the complaint is filed with the Municipal Court.
 - The defendant named in the complaint will not be arrested. Instead, they will receive notice of the criminal charges filed against them.
 - The first court date will be held in the Juanita Kidd Stout Center for Criminal Justice (CJC), 1301 Filbert Street, where a Trial Commissioner will preside over the proceedings.

*****The Affiant will be eligible for a stay away order against the defendant and the Commissioner will present the option of court-supervised arbitration to resolve the matter between both parties. If a resolution cannot be reached by the parties, the case will be given a future court date before a Municipal Court Judge for trial.*****

- If the proposed complaint is not approved by an Assistant District Attorney, the Affiant may choose to **appeal** that decision. The proposed complaint will be submitted to the President Judge of the Municipal Court of Philadelphia for her review and decision.

What to Expect in Court

(As well as your rights & duties in a case)



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Understanding How Courts Work

- Judges have a responsibility to remain impartial
 - That means we can't favor one side or another
 - This applies to court staff, but especially **judges** and **jurors**
 - Sometimes, people may interpret our impartiality as cold, uncaring, unhelpful, or rude.
- It helps when everybody respects this boundary
 - You can't talk to a judge except in the courtroom when the case is going on and everybody is there. If you have an attorney, your attorney should be the individual speaking to the judge.
 - You can't write to a judge except by filing paperwork with the Clerk's office (you have to be a party in the case to do that)
 - You can **NEVER** talk to a juror



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Courtroom Rules

No cell phone usage in the Courtroom

No recordings of the courtroom proceedings – This means no video or audio

No pictures/photographs in the Courtroom

No talking when the Judge is speaking



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Jury Duty – What to Expect

- Waiting – lots and lots of waiting
 - Bring a book/magazine/etc. to occupy yourself in down time
 - You may not always be able to leave the room. Bring a drink and/or light snack to help tide you over.
- They take your phone (and computer and smart watch) away
- They escort you around the building
 - This is to keep you from accidentally running into people you aren't allowed to talk to
- You won't be told everything that's going on
 - The law prohibits the jury from knowing certain things
- They give you lunch while you deliberate (but not during the trial)
- You will be required to wear a mask when in the courtroom and jury spaces



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Juror's rights

- Right to not be discriminated against on basis of a protected class
- Right to receive reasonable accommodations of disabilities to enable you to serve
- Right that your name, image, or other identifying information not be made public
 - The lawyers, defendant, judge, and court staff do see your name during the voir dire process
- Your notes and discussions during deliberations are confidential and will never be revealed outside of the jury room



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Juror duties

- Show up! (and be on time)
- Tell the truth
- Be fair & impartial = keep an open mind
- Don't talk about the case until it's over
- Don't get any outside information about the case, participants, or topics until the case is over
- Don't make up your mind until you deliberate
- Listen to your fellow jurors, consider their perspectives, but make your own decision



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Defendants – What to Expect

- You are required to appear at every listing of the case.
- You have to wait until your case is called. You cannot leave until the judge dismisses you. Typically, you will need to sign a subpoena for the next day before you are allowed to leave.
- Sometimes, the case will get continued without much happening in the courtroom.
- The judge will mostly talk to your attorney, not you directly.
 - This is to preserve your right to remain silent
 - If there's something you want the judge to know, it's best to pass a note or whisper to your attorney
 - If you want to be heard, should ask politely to address the court
- You may be sworn in – promise to tell the truth.



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Defendants – What to Expect

- Your lawyer may have lots of cases the same day in court. They may not have a lot of time to talk at court.
 - If they can't speak with you then, ask them when you will be able to meet or talk on the phone.
- Your lawyer may have an offer for you to consider.
 - They are required to tell you every offer, even if it's a bad one.
- Your lawyer probably will be friendly with the lawyer on the other side, and polite to the witnesses.
 - Most lawyers develop professional relationships and that can benefit your lawyer's ability to represent your best interests in your case



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Defendant's rights

- The right to remain silent.
 - With the police
 - With the judge
 - At trial
- The right to a competent attorney.
 - For free – if you can't afford one
 - The right to represent yourself, if you want to
- Presumed innocent
 - Until proven guilty beyond a reasonable doubt.
 - You do not have to prove you are innocent.
 - The right to put the Commonwealth to its proof (you don't have to admit or agree to anything).



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Defendant's rights

- The right to challenge evidence obtained in violation of your rights
- The right to a speedy trial
 - 1 year
 - 6 months if you are in jail awaiting trial
 - But LOTS of things are not counted in that clock
- The right to a trial by jury (12 people)
- The right to present evidence in your own defense
- The right to testify, if you want to
- The right to cross-examine the Commonwealth's witnesses
- The right to appeal a conviction



Defendants' Family & Friends

What to Expect

- You are not participants in the case
 - The court will not notify you of any court dates
 - For most of the case, you will not be allowed to speak in the courtroom
 - If you want to address the court, talk with the defense attorney first
 - Usually, at sentencing you may be allowed to address the court
 - Sometimes during a bail hearing in front of a judge, you may be permitted to address the court
 - If you are a witness, you may be told to stay out of the courtroom
- The defense attorney is representing the defendant, not you – even if you're the one paying the bill
 - Lawyers have a duty to keep information confidential, even from family
 - The lawyer cannot tell you anything unless his client allows him to
 - If you have information you want the lawyer you know, you can still talk or write to the lawyer
- If the defendant is in custody, court trips are not family visiting time
 - The defendant will only be brought to the courtroom when his case is happening
 - The Sheriff won't let you touch the defendant or pass anything to him
 - Sometimes, exceptions can be made, but don't plan on it



Defendants' Family & Friends

What CAN you do?

- The docket is a public record.
 - You can access it online for free.
 - You can see next court date, courtroom, and location.
- The documents filed in the case are public records.
 - You can view them at the Clerk's office.
 - You can get a copy for a fee.
- If you're the one paying the bill, establish upfront how the attorney is going to manage billing
 - Are they billing the defendant, and you're just giving the defendant money?
 - If they are billing you, you should be getting an accounting (typically monthly) of charges
 - Understand at the beginning what the money is actually paying for – what services does it cover? At what point will the lawyer ask you for more money? How much more are those extra services likely to cost?



Victims – What to Expect

- You should be given contact information for the victim's advocate in the DA's office
- The ADAs often get reassigned. Don't be surprised if you work with different ADAs during the course of your case.
- Expect that you will be asked to go to court several times
 - Preliminary hearing
 - Motion hearing
 - Trial
- Sometimes, things get cancelled or rescheduled at the last minute
 - Your best option to avoid unnecessary travel back and forth to court is to stay in touch with the attorney, paralegal, victim's advocate, or whomever your contact is
 - Make sure you have their number, and they have your current number



Victim's Rights

- To get info about available victim's services, and to get help filling out certain forms
- To be notified when an arrest is made
- To get notice of court dates (automated calls 3 days in advance)
- To attend the court dates
 - Be in the courtroom (exception for sequestration)
 - Accompanied by a support person of your choice
- To talk to the judge before a change is made on bail
- In cases involving DV or a juvenile, to be notified when a defendant is released pre-trial
- To be notified if a defendant or juvenile escapes & when they apprehend him



Victim's Rights

- To talk to the ADA before they drop charges
- To talk to the judge before the sentence is made
 - You can submit written comments if you don't want to appear in court, or if it's too difficult for you to speak in court
 - To be told what the final result was*
 - To be told if the defendant is released at sentencing*
- To receive restitution (money compensation) for economic losses
- To have your property returned when it is no longer needed as evidence
- To be notified if an appeal is filed*
- When given a local sentence or in a juvenile case:
 - To get notice of the release date
- When given a state sentence:
 - To be notified when parole, work release, furlough is being considered
 - To be notified when pardon is being considered



Victim's Responsibilities

- All of these rights require you to be reachable
- Give the police your contact information when you first talk with them
- Make sure the DA's office has your current contact information
- Be sure you say that you want to receive notice (some rights don't attach unless you ask)
- Things happen quickly – don't ignore calls
- Continue updating your contact information when the case is over



Jurisdiction of certain courts in criminal matters (continued)

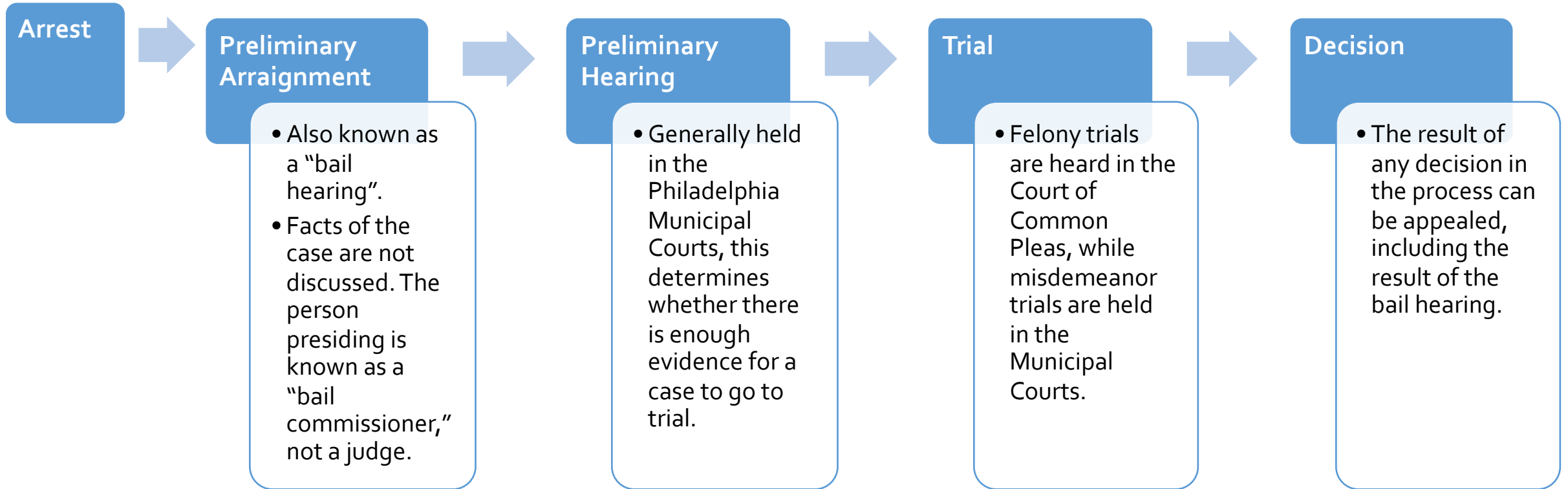
- Nearly all criminal cases in Philly begin in **Municipal Court**. The only exception is for summary offenses where there is no arrest and court appearance, and the accused simply pays a fine. If there are enough facts to make the case a **felony**, the case will proceed in **the Court of Common Pleas**. Otherwise, the case will stay in Municipal Court.
- For Felonies and Misdemeanors:
 - Felony cases – Go to Municipal Court for a Preliminary Hearing
Felonies – Aggravated Assault, Robbery, Burglary, Criminal Trespass
 - Misdemeanor cases – Go to Municipal Court for a Trial
Misdemeanors – Simple Assault, Terroristic Threats, Harassment, Criminal Mischief



CRIMINAL PROCESS



Criminal Process





Arrests



****Note:** The police cannot expand the search to your home or workplace without a **warrant**.** However, this does not cover anything an officer may see in plain view while in your home or workplace. For example, if a police officer is at your home investigating a theft and notices illegal drugs, no warrant will be needed to arrest you.

- Police officers are required to read you “Miranda Rights”, also known as Miranda Warning, when making an arrest and you are in “custodial detention”.
- The Miranda Rights ensure that you have the right to:
 - Refuse to answer any questions or to stop answering questions at any point (remain silent)
 - Consult an attorney or have an attorney appointed to you if you cannot afford one
- If you have been arrested, the police may have the limited right to search you and your belongings. This can include searching:
 - Pockets
 - Purse/bag
 - Car (if you were arrested in your car).
- Purpose of proper search is officer safety and arrested person’s safety – “wingspan”



Preliminary Arraignments/Bail Hearings

- Philadelphia calls **bail hearings** “preliminary arraignments.” These hearings are presided over by one of six bail commissioners, who are appointed by the president judge of Municipal Court.
- A defendant in Philly Municipal Court receives a bail hearing within 20 hours of their arrest.
- While the defendant waits, they’re interviewed via videoconference by the Pretrial Services Division (PSD).
 - The interview covers the defendant’s demographics, residence status, employment, physical and mental health and history of drug or alcohol use.
 - PSD feeds this information into a program that produces a report and recommends non-binding guidelines for setting bail. PSD then forwards this report and the guidelines to the bail commissioner.
- That report and guidelines, along with the police report, the District Attorney’s Office’s (DAO) charges and the defendant’s criminal history, will usually be the only information available to the bail commissioner/magistrate during the defendant’s preliminary arraignment.



- The preliminary arraignment court is in the basement of the Stout Criminal Court and runs on a 24/7/365 basis. They are accompanied by a public defender (PD) and a representative from the District Attorney's Office (DA). The PD and DA's representatives argue their own bail recommendations for each defendant.
- But the defendant is not present in person in the courtroom —
 - ❑ Conducted via CCTV
- At the Preliminary Arraignment, the Court must notify the defendant of the actual charges and his/her right to an attorney of choice or to an assigned attorney.
- Defendant has spoken with Pretrial Services via CCTV in advance, so the Judge has access to some information regarding the defendant and the allegations



What is Bail?

- The intended purpose of bail is to keep people who are awaiting trial out of jail, not in it.
- The idea comes from a powerful idea in our system of law: **everyone is presumed innocent until proven guilty**. The government cannot punish you until they have proven that you committed a crime. Bail is not supposed to be used as punishment.
- Pennsylvania law provides courts the power to release defendants from jail on conditions of “bail” — conditions that ensure that you will show up for your court dates without unnecessarily limiting your freedom.
- Bail can be set up in a variety of ways, only one of which requires a defendant to put up money.
- Three considerations – am I a risk to myself? Am I a danger to others? Am I a flight risk?
- For example, a defendant can be released so long as the defendant promises to return for their court dates. Or there can be conditions of bail that simply require a defendant to report to rehab while awaiting trial.
- Court findings:
 - ROR (release on own recognizance); Unsecured Bail; Cash Bail; Nonmonetary conditions





Early Bail Review Hearings

- Occurs 3-5 days after preliminary arraignment for bail less than \$250,000
- Judge addresses bail requested and why
- District Attorney has had time to meet with witnesses
- Defense Counsel has had time to meet with defendant and witnesses
- Opportunity for bail to be changed/reduced
- Unique to Philadelphia
- If don't qualify for EBR, next step is Preliminary Hearing



Preliminary Hearings

- A preliminary hearing is the first formal stage of a felony criminal matter in Pennsylvania. After the bail hearing, the court will schedule a preliminary hearing.
- The hearing is a chance for a judge to hear the facts of the case in order **to confirm that there is sufficient evidence to proceed to trial**. Was law enforcement allowed to arrest you?
- The idea behind the preliminary hearing is that a defendant should not be forced to endure the time and expense of a lengthy criminal procedure if the evidence against them is not strong.
- All Preliminary Hearings will be heard by the Municipal Court or Magisterial District Judge. If there is only enough evidence to move forward on misdemeanor charges, but not on felony charges, then the case will be handled in the Municipal Court.
- The preliminary hearing resembles a trial, but it is not the actual trial. There is no jury.
- A judge, prosecutor, defense attorney, and court clerk are all likely to be there. There may not be a court reporter and some defense counsel ask for permission to bring a court reporter or record. Under PA laws, it is illegal to record without court's permission.

Preliminary Hearings

- The burden of proof at a preliminary hearing is on the Commonwealth (District Attorney's Office). The prosecutor must prove the elements of the offenses to a **prima facie level**. Prima facie is a legal term, meaning "based on the first impression". This standard requires the District Attorney to prove that it is more likely than not that a crime was committed and that the defendant did it.
- The prosecutor will try to do this by calling witnesses and presenting evidence in much the same manner as the prosecutor would at trial. The defense lawyer then has the opportunity to cross examine the witnesses. If the prosecution does not introduce enough evidence to prove a prima facie case for any given charge, then the defense may move for dismissal of that charge and that charge should be dismissed.
- ****It is important to remember that the prima facie case standard does not require the Commonwealth to prove the case beyond a reasonable doubt. Therefore, it cannot be assumed that just because a case was held at this hearing that there will be a conviction at a trial.****
- Example- Retail Theft
- Prosecutor must prove that 1. property was for sale, 2. you took property, 3. you did not pay for property.



Preliminary Hearings- Felony Basics

- When a felony is charged (even if misdemeanors are also charged), the next step after preliminary arraignment is a preliminary hearing in Municipal Court
 - These are usually two weeks from the arraignment.
- The Commonwealth will present victims and witnesses to prove that the felonies should be “Held for Court”
 - Meaning that they should proceed to the Court of Common Pleas for trial
- Judge makes determination whether it is more likely than not that a crime occurred and more likely than not that defendant committed the crime
- Judge is not permitted to make **credibility determinations**
 - Meaning that they cannot dismiss case because they do not believe victim
- If victim testifies that it happened, Judge simply applies the law to those facts to determine which felonies apply
- Conducted so defendant has a hearing to ensure there is at least basic evidence of the crime and their involvement
- A large part of the preliminary hearing is often deciding which felonies actually apply



Preliminary Hearings (What are the benefits?)

- There are numerous benefits to a preliminary hearing:
 - It is one of the few opportunities that a criminal defendant has in Pennsylvania to assess the witnesses that the prosecution has in their case,
 - to assess some of the evidence
 - to get a preview of what that evidence might look like when presented in a courtroom setting.
 - a chance for the criminal lawyer and government to speak
 - a resolution can be negotiated at a preliminary hearing to avoid the time and expense of a lengthy trial.
- There are circumstances where a defendant chooses not to have their preliminary hearing and instead waives it - such as :
 - the Commonwealth is agreeing to withdraw a charge or charges
 - the Commonwealth might agree to a reduction of bail in exchange
 - They will admit themselves into Accelerated Rehabilitative Disposition (“ARD”) or a similar program.



Bail Motions at the Preliminary Hearings

- If the defendant has not been able to make bail, then defense attorneys may make **a motion for a bail reduction at the preliminary hearing**. This may be the first chance to argue bail before a judge rather than a commissioner. The judge has just heard the facts of the case. Accordingly, the judge may be receptive to an effectively argued bail motion and / or and argument to have the defendant placed on house arrest.
- Even if the bail is extremely high, a judge may consider ordering a sign on bond (“SOB”) bail, with the condition of house arrest. Also, if the defendant’s bail is excessive, they may get it lowered at a preliminary hearing to an amount that can be paid, or get house arrest if they cannot afford to pay it at all.
- Both sides can ask for bail to be adjusted



Right to Counsel

- As a defendant in a criminal case in Pennsylvania, the accused **has a right to an attorney**.
- If the accused cannot afford an attorney, one can be appointed to them free of charge (Public Defender). Interviewed to make determination of indigency
 - Right to competent and effective counsel
- The defendant also has the right to hire counsel of their own choosing.
 - Their attorney can make objections, can cross-examine witnesses and can put on evidence.
- The defendant also has the right to testify on their own behalf at the preliminary hearing. This is called **pro se** representation.

**You have
the
right
to an
attorney**



Preliminary Hearing - Possible Results

- **“Held for Court”** – Some or all felony charges are found to exist – **case moves to the Court of Common Pleas court for trial**
- **Dismissed Lack of Prosecution (DLOP)** – Commonwealth was unable to present a case, usually because victim fails to appear
- **Dismissed Lack of Evidence (DLOE)** – Judge dismisses entire case after hearing evidence ruling no crimes whatsoever are made out
- **Remand** – Judge dismisses all the felony charges but finds misdemeanors exist and gives the case a new date for a trial on those misdemeanors
- Typically, formal arraignment hearing in the next two months where timelines and trial dates are set



Pre-trial Motions

- Prior to trial, defendants and the Commonwealth may each make motions concerning the trial. Usually, the motions are heard immediately prior to trial unless one of the motions is for a continuance (a delay in the trial).

Trial

- Generally, defendants have at least 20 days between the preliminary arraignment and trial. Use this time to prepare for trial and/or negotiate a **plea**.
- **Pennsylvania Rule of Criminal Procedure 600** states that it is the Commonwealth's duty to bring a person, who is free on bail, to trial on criminal charges within 365 days of the filing of a criminal complaint.
- **Misdemeanor trials are held in Municipal Court. In Philadelphia, there are no jury trials in the municipal court: the judge decides the outcome.** If you've been convicted following a Municipal Court bench trial, you may appeal to the Court of Common Pleas for a new trial.
- **Felony trials are held in the Court of Common Pleas. These trials may be held in front of a jury.**



Types of Guilty Pleas

- **Negotiated guilty plea** – Commonwealth and defendant agree to what the sentence will be
 - Often, the Judge will impose sentence the same day as the plea
- **Open guilty plea** – Where defendant pleads guilty to some or all of the charges and the Judge determines the appropriate sentence
 - Often, the Judge will delay sentencing for 30 days to order a presentence report and/or mental health report on the defendant to inform his or her sentencing decision
 - These reports are completed by court services



Possible Jury trial outcomes

- Guilty all charges
- Guilty some charges; not guilty some charges
- Not guilty all charges
- Hung jury – Jury cannot reach a unanimous verdict – mistrial
- Mistrial – Declared by Judge when something goes wrong – Too many jurors become sick to hear the case, a witness blurts out something prejudicial
- **Hung juries and mistrials will result in cases being re-tried at a later date**
- **If guilty, Judge may revoke bail, give a 30 day sentencing date and order presentence and mental health reports on defendant**
- **If not guilty, defendant is released (unless they is being held on probation detainers or on bail for other open cases)**



Sentencing

- After guilty verdict, victim will receive a form asking them to submit a written victim impact statement
- Prosecutor may also ask victim to appear at sentencing to give their victim impact testimony in person
- Before sentencing, Judge and attorneys will read the presentence report and mental health report completed on the defendant to inform their sentencing arguments

Post-Trial/ Post-Sentence Motions

- After defendant is sentenced, Victim Witness Coordinators will send victim a letter explaining sentence, asking them to complete Parole Registration paperwork, and offering counseling options
- Defense can file motion after trial asking judge to grant a new trial
 - ❑ Alleging legal errors or abuses of discretion that require a new trial
- Defense can also file motion asking court to reconsider its sentence
 - ❑ Judge can dismiss or grant these motions. Or take no action and they are considered denied after 120 days
- Once these motions are denied, defendant has 30 days to file an appeal to the Pennsylvania Superior Court



Sentencing

- After guilty verdict, victim will receive a form asking them to submit a written victim impact statement
- Prosecutor may also ask victim to appear at sentencing to give their victim impact testimony in person
- Before sentencing, Judge and attorneys will read the presentence report and mental health report completed on the defendant to inform their sentencing arguments



Appeals of Convictions

- Defendant can appeal his/her conviction and sentence to the Pennsylvania Superior Court
 - ❑ Commonwealth cannot appeal a not guilty verdict
- **Must be filed within 30 days of sentencing**
- Defendant files a notice with trial judge alleging errors
- Trial court then writes an opinion addressing these issues
- Defense then writes appeal brief to Superior Court
- DA's Appeals Unit writes a responding brief
- May or may not be argued before 3 judges
- Superior Court issues opinion upholding conviction or granting some relief





Further Appeals

- Defendant can ask Pennsylvania Supreme Court to hear case (petition for allocatur)
- Supreme Court decides if it will hear the case – it rarely does
- Defendant can then file a petition under the Post Conviction Relief Act
 - ❑ Usually alleging new evidence or that trial attorney made mistakes
- DA's PCRA Unit responds and it is decided by the trial judge
 - ❑ Defendant can then appeal that decision
- Defendant can also file habeas corpus petition with federal district court and have the case reviewed there.





Witnesses - What to Expect

- Expect that you will be asked to go to court several times
 - Preliminary hearing
 - Motion hearing
 - Trial
- Sometimes, things get cancelled or rescheduled at the last minute
 - Your best option to avoid unnecessary travel back and forth to court is to stay in touch with the attorney, paralegal, victim's advocate, or whomever your contact is
 - Make sure you have their number, and they have your current number



Witnesses - What to Expect

- If you get a subpoena, you have to show up
 - You may be able to get compensation for your travel costs
- If someone asks you to testify as a character witness, it's your choice
- You will be asked to stay in the hall until your turn to testify
- You will be asked to promise to tell the truth (swear or affirm)
- The lawyers each get a chance to ask you questions
 - You have to answer honestly
 - If you don't understand a question, you can ask them to clarify.
 - If you don't remember or don't know an answer, it's OK to say that.
- You have a right to not answer questions if your answers could implicate you in a crime. If you have a concern about that, the judge will usually appoint a lawyer to advise you before testifying.
- It is a crime for anyone to threaten or harm you to keep you from testifying, or in retaliation for testifying. If you are experiencing witness intimidation, you should report that to the ADA, the defense attorney, or the judge.



Get involved!

Join PMC Watches™ as a courtroom watchdog, or call PMC Listens™ at (267) 834-5256 for further questions.*

*Note: volunteers cannot give legal advice.





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- Judicial decisions affect us all, inside and outside the courtroom.
- We need qualified people on the bench.
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- Your vote makes a difference!





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