



Criminal Court Workshop: Allegheny County

PMC Shares™

Presented by: Pennsylvanians for Modern Courts
Hosted by: Carnegie Library of Pittsburgh and the
Allegheny County Law Library.



Carnegie Library of Pittsburgh

Jessica Bayless, Library Services Supervisor, Civic & Social Information Services

Resources: <https://www.carnegielibrary.org/staff-picks/criminal-court-reads/>

When taken to court, criminal matters involve very high stakes for anyone involved. Therefore, developing knowledge of the criminal process beyond TV dramas and movies is vital for an individual's ability to advocate for themselves and for others in their community.



Allegheny County Law Library

Lori Hagen, Reference Librarian

Resources: <https://law-duq.libguides.com/c.php?g=1210346>

Library Guide of Primary, Secondary & Websites of PA Criminal Law



PMC in the Community Workshop - First Wednesday Series: Hosted by: Carnegie Library & Allegheny County Law Library

- **February 2nd:** Criminal Court
- **March 2nd:** Family Court discusses divorce, dependency, child custody & child support.
- **April 6th:** How to Administer an Estate discusses guardianship, wills, estates, trusts and charities.
- **May 4th:** Court Basics in Allegheny County discusses structure of PA court system, election of judges, jury service, pro se representation and evaluating judicial candidates.



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.





PRESENTERS

Presenter #1:

Hon. Alexander Bicket

Judge of the Court of Common Pleas of Allegheny County,
Criminal Division

Presenter #2:

Joseph A. Paletta, Esq.

Criminal Defense Attorney



AGENDA

Step 1. Investigation & Arrest

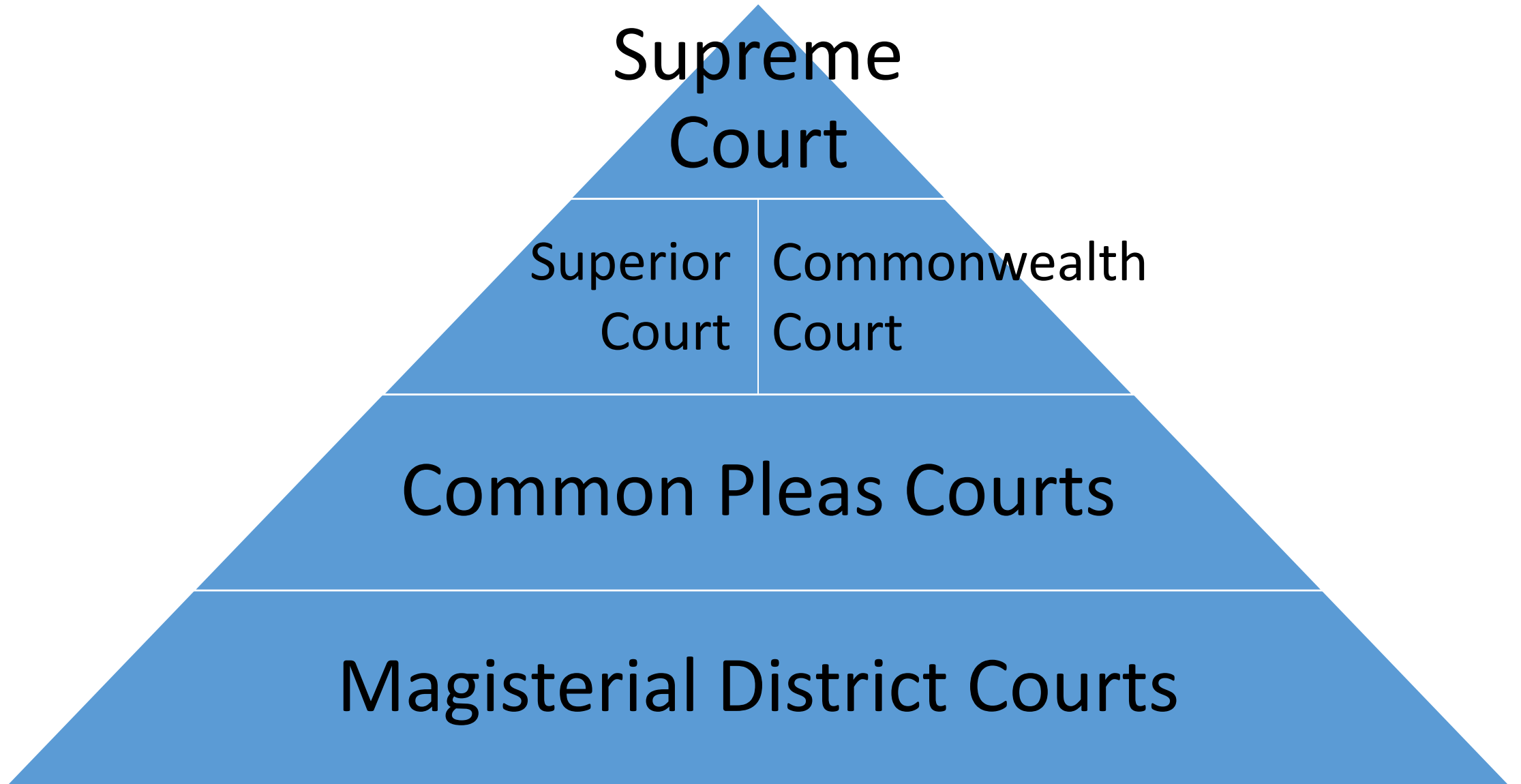
Step 2. Magisterial District Court: Preliminary Arraignment & Preliminary Hearing

Step 3. Allegheny County Common Pleas Court: Discovery/Pre-trial Motions, Trial/Guilty Plea & Appeal.



STEP 1. INVESTIGATION & ARREST

Pennsylvania State Court System





Criminal Prosecutions Are Initiated by:

1. Traditional Arrest:

As you see on TV with a person handcuffed and taken to jail

2. Service of Summons by Mail

Common in prosecutions when police have “probable cause” to charge the crime of D.U.I.



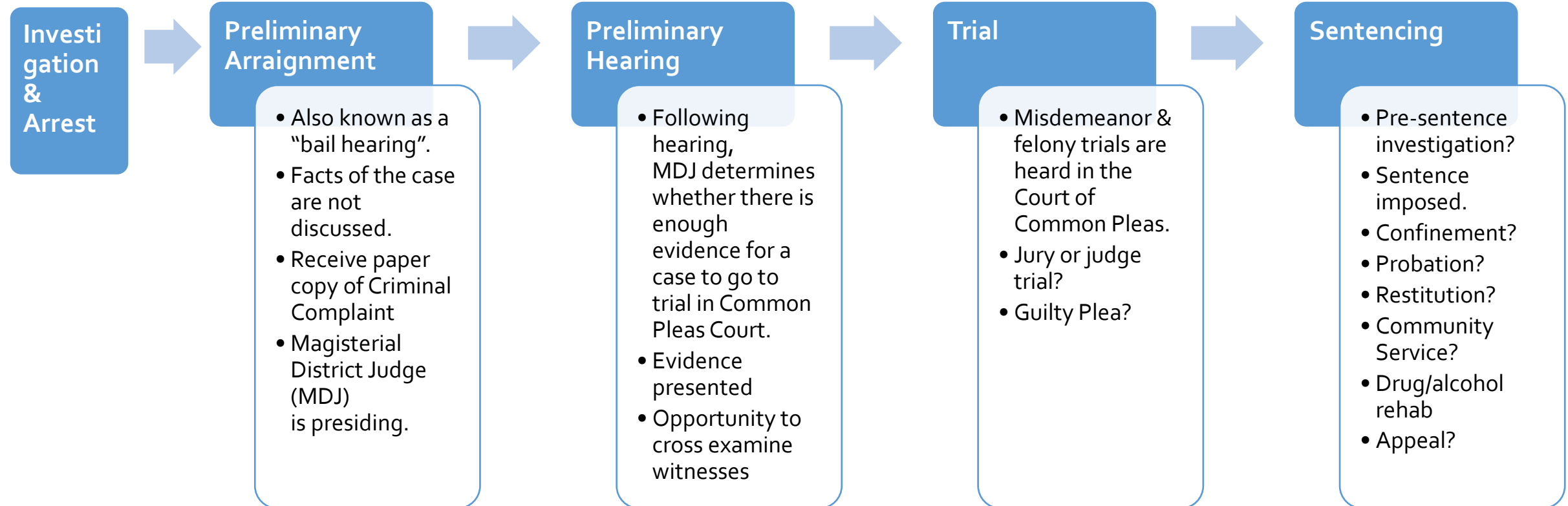
PARTIES & GRADING OF CRIMINAL CHARGES IN PENNSYLVANIA

- ❖ The Commonwealth of Pennsylvania serves as the “Prosecution” in criminal cases, either through the District Attorney’s Office or the Attorney General’s Office. The person charged with a crime, or the Accused, is the “Defendant.”

- ❖ Pennsylvania has four (4) classifications of criminal offenses:
 - HOMICIDE
 - Loss of life
 - Maximum penalties can include life imprisonment or death penalty
 - FELONY
 - Firearms, Aggravated Assault, Vehicle Theft
 - Defendants can be fined over \$15,000 and/or sentenced to a prison sentence lasting longer than five years.
 - MISDEMEANOR
 - Fines up to \$15,000 and/or imprisoned for up to five years.
 - SUMMARY OFFENSE:
 - punishable by up to 90 days in jail and/or \$300 fine;
 - equivalent to a speeding ticket or running a stop sign under Vehicle Code



Criminal Procedure for Misdemeanor & Felony Offenses





Custodial detention & Arrest



****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”:

- You have the right to remain silent;
- Anything you say can, and will be used, against you in court;
- You have the right to counsel; and
- If you cannot afford counsel, one may be appointed to you.

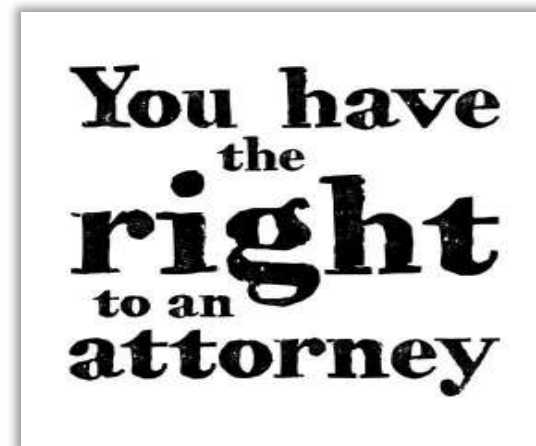
If you have been arrested, the police may have the limited right to search you and your belongings. This can include searching you pockets, purse or car.

“Consent to search....”



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 from the Allegheny County Office of Public Defender (P.D.). The defendant will be interviewed to make determination of his/her indigency.
- The defendant has the right to competent and effective counsel. He or she also has the right to hire counsel of their own choosing. .
- The defendant has the right to represent themselves, with no attorney.





QUESTIONS?



Step 2:
Magisterial District Court:
Preliminary Arraignment
Preliminary Hearing



Allegheny County Magisterial District Courts

- www.alleghenycourts.us
- www.pacourts.us/magisterialdistrictjudges.com
- 46 Magisterial District Courts with Magisterial District Judges (M.D.J.) in Allegheny County (a.k.a. 5th Judicial District of Pennsylvania)
- All prosecutions initiated with the arrest by City of Pittsburgh Police will have preliminary hearings at the Pittsburgh Municipal Court Building (right).





Jurisdiction of M.D.J.s in Allegheny County

- Civil actions less than \$12,000 such as landlord-tenant disputes and small claims
- Summary offense traffic violations
- Issue criminal citations, summons and search/arrest warrants
- Summary trials for non-traffic offenses
- fix and accept bail at preliminary arraignments
- hold preliminary hearings for misdemeanor/felony charges except murder and voluntary manslaughter



Preliminary Arraignments or "Bail Hearings"

- A defendant held in the Allegheny County Jail receives a preliminary arraignment within 48 hours of their arrest.
 - While the defendant waits, they're interviewed via videoconference by Allegheny County Pre-Trial Services (PTS).
 - The goal of the PTS interview is to assist the MDJ in making informed decisions regarding setting of the defendant's bond.
 - PTS feeds this information into a program that produces a report and makes recommendations for setting bail. PTS then forwards this report the MDJ presiding at the preliminary arraignment.



Bail release options

MDJs are to have the following Bail/Release options:

- Release defendant on ROR (promise to return to court)
- Release defendant with non-monetary conditions of bail (electronic monitoring, check-ins with PTS or no contact with victim)
- SOB Release on unsecured bond (\$5,000 example)
- Monetary Condition (Cash Bail); pursuant to Pa.R.Crim Proc 528 MDJ is to consider "the financial ability of the defendant" among other considerations.
- Detain defendant until trial (refuse bail)



Preliminary Hearings

- A preliminary hearing (PH) is a chance for a MDJ to hear the facts of the case in order **to confirm that there is sufficient evidence to proceed to trial**. Did the Commonwealth present a "prima facie" case?
- It is important to remember that the prima facie case standard does not require the Commonwealth to prove the case beyond a reasonable doubt.
- 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.
- The PH resembles a trial in that the prosecution and defense may call witnesses, subject to cross examination. Generally the defense does not call witnesses. A PH is not the actual trial. There is no jury.
- An ADA and defense attorney generally are present in prosecution of misdemeanor and felony charges. Some defense counsel ask for permission to bring a court reporter or record the audio of the PH. Under PA laws, it is illegal to record without the MDJ's permission.



Preliminary Hearings: (What are the benefits?)

- There are numerous benefits to a PH:
 - It is one of the few opportunities that a criminal defendant has in Pennsylvania to assess the witnesses and physical evidence that the prosecution has in their case;
 - to get a preview of what that evidence might look like when presented in a trial;
 - a chance for the police officer, prosecutor and defense counsel to speak;
 - a resolution can be negotiated at a PH to avoid the time and expense of a lengthy trial.
- There are circumstances where a defendant chooses not to have their PH, and instead waives it. Some of those circumstances that may warrant waiving a PH are:
 - the Prosecutor is agreeing to withdraw a charge or charges; and
 - the Prosecutor is agreeing to reduce bail.



Preliminary Hearing - Possible Results

- Evidence is presented to establish a “prima facie” case for some or all the charges. Criminal Complaint can be amended to add or withdraw charges.
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.
- **Conviction of Summaries Offenses** – Judge dismisses all the felony charges but finds misdemeanors and or summaries exist.



QUESTION?



Step 3.

Allegheny County Common Pleas
Court: Discovery/Pre-trial
Motions, Trial/Guilty Plea & Appeal.



Allegheny County Court of Common Pleas, Criminal Division



- The Allegheny County Court of Common Pleas hears criminal cases within the Courthouse at Grant Street and Forbes Avenue.
- Picture shows the Courthouse on right, the old jail on left, and the “Bridge of Sighs” connecting the two. Family Division now operates in the former jail building.



Allegheny County Court of Common Pleas Criminal Procedure

1. At the Formal Arraignment, District Attorney files a “Criminal Information” containing the final charges. Defendant is provided with a copy of that document, the Judge assignment is made and Defendant can request “Discovery.”
2. Defendant may file Pre-Trial Motions: Motion to Suppress, in Limine, Change of Venue, etc.
3. At the Pre-Trial Conference, Defendant and/or Counsel selects a trial or Guilty plea date with Assistant D.A. and the Court.
4. A Hearing on pre-trial motions.
5. Case placed on Trial Calendar.



Why are so many guilty pleas entered in criminal cases?

- According to the Unified System of Pennsylvania website (www.pacourts.us) 66.9% of Allegheny County defendants plead guilty in 2019. In 2020, that number was 63%.
- Certainty of plea vs. uncertainty of a trial verdict
- Strong evidence against Defendant
- Ability to use the weaknesses of evidence to negotiate favorable Plea Bargain



Stages of Criminal Jury Trial

1. Voir dire by Prosecutor and Defendant of jury pool. Selection of jurors.
2. Opening statements.
3. Prosecution Witnesses: Direct & Cross Examinations
4. Defendant makes Motion for Judgment of Acquittal
5. Defense Witnesses: Direct & Cross Examination
6. Closing statements.
7. Judge presents “Jury Instructions” to jury.
8. Jury deliberation.
9. Jury verdict.



Possible Jury trial outcomes

1. “Guilty” verdict to some or all of the charges.

If guilty, Judge may impose the punishment (“Sentence”) immediately or order a Pre-Sentence Report (PSR) and impose Sentence in 90 days, and/or revoke bail. Sentences range from Probation to incarceration.

2. “Not Guilty” verdict to some or all of the charges.

If Defendant is in jail, Defendant is released unless Defendant is serving a different Sentence or being held on probation/parole detainers or on bail for other open cases)

3. “Mistrial”

Declared by Judge when something goes wrong during the trial, for example, too many jurors become sick to hear the case, witness blurts out something prejudicial

4. “Hung jury”

Jury cannot reach a unanimous verdict

5. Hung juries and mistrials cause the trial to occur again at a later date.



Pre-sentence Report & Sentencing Hearing

PTS may contact victim who will receive a form asking them to submit a written victim impact statement.

ADA may also ask victim to appear at sentencing to give their victim impact testimony in person.

Defendant and/or Defense counsel may ask character witnesses to give testimony to Court in person.

Before sentencing, Court and attorneys will read the pre-sentence report and mental health report completed on the defendant to inform their sentencing arguments.

Post Trial/Post Sentence Motions

1. After trial verdict, Defendant can file motion asking trial judge to grant a new trial. The motion would allege legal errors or abuses of discretion that require a new trial.
2. After defendant is sentenced, Victim Witness Coordinators within the District Attorney's Office will send victim(s) a letter explaining sentence, asking them to complete Parole Registration paperwork, and offering counseling options.
3. Defense can also file a motion asking the court to reconsider its sentence. The sentencing judge can dismiss or grant these motions. He or she may take no action and they are considered denied after 120 days.
4. If these motions are denied, defendant has 30 days to file an appeal to the Pennsylvania Superior Court.



Appeals of Convictions

Commonwealth is unable to appeal a not guilty verdict.

Defendant or counsel may write an appeal brief to PA Superior Court.

District Attorney's Appeals Unit writes a responding brief.

Defendant's case may or may not be argued in person before 3 judges.

Superior Court issues an opinion upholding conviction or granting some relief.





Further Appeals

Defendant can ask PA Supreme Court to hear case (petition for allocatur). PA Supreme Court decides if it will hear the case – it rarely does. Picture below.

Defendant can then file a petition under the Post Conviction Relief Act. Usually these petitions alleged new evidence has been found or that defendant's trial attorney made mistakes.

DA's PCRA Unit responds and it is decided by the trial judge. Defendant is permitted to appeal this PCRA decision.

Defendant can also file a habeas corpus petition with US Federal District Court and have the case reviewed there.





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QUESTION?



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Thank you for attending our
workshop!

Thank you also to Judge Alexander Bicket and
Attorney Joseph A. Paletta.

Finally, thanks to Jessica Bayless of the Carnegie
Library of Pittsburgh and Lori Hagen of the Allegheny
County Law Library.



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