



The Court Process

- ✓ **Step 1 - [Preliminary Arraignment](#)**
- ✓ **Step 2 - [Preliminary Hearing](#)**
- ✓ **Step 3 - [Information Filed](#)**
- ✓ **Step 4 - [Formal Arraignment](#)**
- ✓ **Step 5 - [Pretrial Conference](#)**
- ✓ **Step 6 - [The Not Guilty Plea](#)**
- ✓ **Step 7 - [The Jury](#)**
- ✓ **Step 8 - [The Guilty Plea](#)**
- ✓ **Step 9 - [Pre-Sentence Investigation and Report](#)**
- ✓ **Step 10 - [Sentencing](#)**
- ✓ **Step 11 - [Appeal](#)**

Step 1 - Preliminary Arraignment

A preliminary arraignment, which generally occurs within six hours after the arrest, is when the defendant is read the charges against them.

The defendant must appear before the Magisterial District Judge (MDJ) with the police for a preliminary arraignment.

The defendant is given a copy of the criminal complaint and advised of his/her rights, including to be represented by an attorney. A date for the preliminary hearing will be set and the defendant will be notified.

Step 2 - Preliminary Hearing

The preliminary hearing, which occurs three to ten days after the arrest, unless continued or postponed, is normally held before the MDJ who works in the area where the crime took place. There are over 550 MDJ's located throughout Pennsylvania, except in Philadelphia and Pittsburgh, where they have a Municipal Court System.

The MDJ's listen to all of the evidence presented by the prosecution and by the defense. At the preliminary hearing, the Commonwealth must present a prima facie case, or in other words, they must show enough evidence that a crime has been committed and that the defendant is most likely the one who committed the crime.

If you are the victim of a crime in which a suspect has been arrested, you will most likely be asked to be a witness at the preliminary hearing. A subpoena will be sent to you by the MDJ or delivered to you by

the police department investigating the crime. You will have the opportunity to speak with the police officer and/or representative from the DA's office before the start of the preliminary hearing.

The MDJ reviews whether there is probable cause to believe a crime was committed and that the person standing in front of the court is the one who committed the crime. The MDJ then decides if there is enough evidence to send the case to Common Pleas Court. If the MDJ does not agree with the evidence presented by the Commonwealth, the charges are dismissed.

A defendant does not need to have a preliminary hearing. The case can go directly to Common Pleas Court, if the defendant waives the preliminary hearing.

Although the police officer may be the one who prosecutes the preliminary hearing before the MDJ, in most Pennsylvania counties, the DA will usually appear and present the case on behalf of the Commonwealth, especially when the charges are of a more serious nature.

Step 3 - Information Filed

After the preliminary hearing, the district attorney's office will fill out a formal document called an "information."

The information will list the offenses charged against the defendant. At this stage, the DA may add or delete charges or if the DA feels that there is not enough evidence to get a conviction, the DA may end the prosecution by not filing an information.

Step 4 - Formal Arraignment

The next step is called the formal arraignment, which is done at the courthouse usually a month or two after the preliminary hearing.

The defendant is given a copy of the information sheet and advised of his/her rights. Although called a "formal" arraignment, the procedure is informal. This is also the time that the defendant enters their guilty or not guilty plea.

If you are the victim of a crime in which an offender was arrested, you are not required to attend the formal arraignment.

Step 5 - Pretrial Conference

Next is the pretrial conference. Generally, the defendant and his/her lawyer and the DA will appear before the judge assigned to the case.

At this time, the defendant may plead guilty, or plead not guilty and if so, ask for a jury or non-jury trial.

Sometimes a defendant and the prosecution can work out an agreement that resolves the criminal matter, called a plea bargain. Usually, the DA agrees to reduce a charge, drop some of multiple charges or recommend a lighter sentence in exchange for the defendant's guilty plea, often to a less serious offense.

If you are the victim of a crime in which an offender was arrested, you are not required to attend the pretrial conference.

Step 6 - The Not Guilty Plea

A defendant entering a plea of not guilty may choose to be tried by a jury of twelve citizens or by the judge alone.

At either type of trial, the case for the Commonwealth is presented by the DA who must establish the defendant's guilt beyond a reasonable doubt. The defendant is under no obligation to present evidence or testimony but may do so if he/she wishes.

If tried by a jury, the jury must return a unanimous verdict; if tried by the judge, the judge alone returns the verdict.

Step 7- The Jury

County residents are randomly selected from state drivers' license records and/or voter registration rolls and are summoned to the Courthouse as potential jurors.

The judge, prosecutor and defense attorney question the jurors about their backgrounds and beliefs. After twelve jurors are selected, the judge gives an oath to the jury and provides basic instructions about the trial process.

The trial will proceed in the following manner:

1. Opening Statements – each side will present to the jury what it expects the facts of the case will show. Each party will tell its side of the story.
2. Prosecution's Case – the Commonwealth will call witnesses and present evidence to the jury. The defense may cross-examine the prosecution's witnesses and raise questions or concerns about the evidence.
3. Defense's Case – the defense may call witnesses and present evidence on its behalf. The Commonwealth may cross-examine the defense's witnesses and question the evidence.
4. Closing Arguments – each side will argue the case to the jury and try to plead with the jury. In closing arguments, the parties will argue the law and the facts to the jury. The defense goes first, followed by the prosecution.
5. Jury Instructions – the judge will read the law to the jury. The jury takes an oath to follow this law.
6. Jury Deliberations – the jury will go back to a room and decide what the verdict will be for each count. The verdict can be guilty or not guilty for each count.
7. Verdict – The verdict will be read aloud in the courtroom.

Step 8 - The Guilty Plea

A defendant may choose not to have a trial and enter a plea of guilty, which admits guilt of the crimes charged. A defendant may also plead no contest, which has exactly the same effect and consequences of a guilty plea, except that the defendant does not admit guilt.

If a defendant pleads guilty or no contest, a plea date will be scheduled, at which time it will be determined that the defendant knows what they are doing and voluntarily enters a plea of guilty to the charges against him.

The DA will appear at the guilty plea hearing and represent the Commonwealth. Once the judge accepts the plea, the defendant may be sentenced immediately, or sentencing may be held pending a pre-sentence investigation into the defendant's background. If sentencing is delayed, the defendant is later returned to court and sentenced. At any sentencing hearing, the DA will appear and present the Commonwealth's position.

Step 9 - Pre-Sentence Investigation and Report

The court's probation department prepares a report for the judge summarizing the crime, and the defendant's personal and criminal backgrounds. Generally, the victim is contacted about providing a victim impact statement.

Step 10 - Sentencing

Sentencing in Pennsylvania varies with the crime and can be the most confusing part of the criminal process. Most often, sentences are at the judge's discretion; however, in Pennsylvania there are a number of mandatory minimum sentences that must be imposed if a defendant is convicted of a crime.

At the time of sentencing, the judge will consider the information in the pre-sentence report before deciding the sentence. The pre-sentence report contains background information on the defendant such as, criminal record, medical or psychiatric reports, and any time the defendant spent in custody awaiting trial. The judge will also consult the "sentencing guidelines" to determine the minimum jail/prison sentence.

The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail or prison, or a combination. The judge must also order the defendant to make restitution to any victims who have suffered financial harm.

Step 11 - Appeal

Once sentenced, the defendant has the right to an appeal. If the appeal is first done in the Common Pleas Court and denied, the defendant may then appeal to the Superior Court of Pennsylvania. If the defendant's appeal to the Superior Court is unsuccessful, the defendant can appeal to the Supreme Court of Pennsylvania. The district attorney's office will respond to the defendant's appeal by filing the appropriate paperwork.

There are various other post-conviction, post state court appeal remedies, such as the Post-Conviction Relief Act or Federal Habeas Corpus, from which appeals may also be taken.