

## Summary of Criminal Court Process

Rule 5 Hearing or First Appearance or Initial Appearance or Bail Hearing

Rule 8 Hearing or Arraignment

Omnibus Hearing

Pretrial Hearing

Plea Bargains

Trial

Sentencing

## Rules Regarding Juveniles

Generally, the Courts will NOT allow juveniles in the courtroom for hearings unless:

- It is a Juvenile Court proceeding and the juvenile is the accused
- The juvenile is testifying as a witness
- Permission is granted by the Court

When a juvenile is a victim of a criminal offense, such as criminal sexual contact, the Court will allow the juvenile to make a statement at the time of sentencing.

The names of juveniles, especially victims of crimes, are kept confidential. Generally, they are referred to by initials or sometimes by "X", "Jane Doe", or "John Doe".

*Explaining the criminal court process and types of hearings*

# *Criminal Court Hearings*

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## TYPES OF HEARINGS & THEIR PURPOSE

**Rule 5 Hearing.** The Court determines if the defendant needs a translator or other assistance due to a hearing or speech disability. The defendant receives a copy of the Complaint, is advised of the charge, rights are explained, and the Court sets conditions for the defendant's release, whether bail or personal recognizance. The Court SHALL release on personal recognizance unless inimical to public safety or reason to believe the defendant will not appear at future hearings.

**Rule 8 Hearing.** Also called Arraignment and may be combined with Rule 5 Hearing. The defendant is brought before the Court to enter a plea. The charge is read and the defendant is asked to plead guilty or not guilty. If the defendant does not plead guilty, the matter is set for an Omnibus Hearing.

**Omnibus Hearing.** The defendant has an opportunity to challenge continued prosecution of the case for lack of probable cause; or to challenge the use of evidence obtained by the prosecution. If challenges are made, a Contested Omnibus Hearing may be scheduled.

**Pretrial Hearing.** Also called a settlement conference. The attorneys attempt to negotiate a settlement of the case.

**Plea Agreement.** Most criminal cases do not go to trial. A plea agreement is where

the defendant agrees to plead guilty in exchange for a lesser charge or certain terms of the sentence to be imposed.

**Trial.** If the case is not resolved, there will be a trial. Evidence is presented to a jury or judge. The defendant chooses whether a jury or the judge will decide the case. The process includes:

- **Voir Dire.** Also called jury selection. Preliminary examination of prospective jurors.
- **Opening Statements.** Prosecution goes first, then defense.
- **Witness Testimony.** Prosecution goes first, then defense. Each witness is questioned by both sides.
- **Closing Statements.** Prosecution first, then defense.
- **Jury Instructions.** The judge instructs the jury on their responsibilities and explains the law.
- **Deliberations.** The jury retires to a private area to determine if the defendant is guilty or not guilty.
- **Verdict.** Once a verdict is reached, the jury returns to the courtroom to announce the decision. If convicted, the Court orders a Pre-Sentence Investigation and schedules a Sentencing Hearing.

**Sentencing.** The prosecutor makes recommendations. The victim(s) or advocate may make a statement. The defense counsel makes a recommendation. The defendant may make a statement. The Court issues a sentence.

## TERMS USED IN COURT

**Commitment to the Commissioner of Corrections.** When the defendant is sentenced to serve a prison sentence, the Court orders him to be turned over to correctional authorities.

**Concurrent Sentence.** When separate sentences are imposed for two or more crimes and they are served at the same time. Example: Two one-year sentences served concurrently would mean the defendant serves a total of one year.

**Consecutive Sentence.** When separate sentences are imposed for two or more crimes and once sentence is served after the other. Example: Two one-year sentences served consecutively would mean the defendant serves a total of two years.

**Pre-Sentence Investigation.** A report done by the Department of Corrections or Court Services following a conviction. It includes the defendant's individual characteristics, circumstances, needs, criminal record, potential, social history, the circumstances of the offense, and the harm caused by it to others and to the community, and a recommendation regarding sentencing.

**Stay of Adjudication.** The Court withholds acceptance of a guilty plea for a period of time under certain terms and conditions set by the Court. The charge will ultimately be dismissed if those terms and conditions are met. Note, this is similar to a continuance for dismissal and the terms are sometimes interchanged.

**Stay of Imposition.** The Court does not specifically pronounce a sentence, but rather places the defendant on probation under certain terms and conditions. If the defendant successfully completes probation without any violations, the felony charge could be reduced to a misdemeanor.

**Stay of Execution.** The Court pronounces a sentence, but stays that sentence and places the defendant on probation under certain terms and conditions.