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## **THE CRIMINAL TRIAL PROCESS**

The following is a brief overview of the procedures involved in the criminal justice system. Of course, every case is unique and may have special considerations.

### Warrant

Usually, or the accused to be arrested, the Magistrate Court must first issue a warrant. This can be done by an officer or by a civilian.

### Arrest

An arrest is made when the police officially take a person into custody. The police are required to advise the individual of certain rights entitled to him or her.

### Bail or Bond

After the arrest, the accused is offered an opportunity to make bail or bond. By paying the specified amount of money, the accused is allowed to be free from jail to await further legal proceedings. The justification for bail or bond is to assure the accused appears in court and it further serves to maintain the presumptions of innocence for the accused. If you are given bond before preliminary hearing, some counties waive the preliminary hearing.

There are certain crimes that require bail or bond to be set by the Superior Court Judge. Those crimes include: Murder, Rape, Armed Robbery, Hijacking, Certain Drug Offenses, Aggravated Child Molestation, Aggravated Sexual Battery, Treason, Aggravated Sodomy, Aggravated Stalking, Also, Kidnapping, Arson, Aggravated Assault and Burglary if previously convicted of or on bail for any of these crimes.

The Superior Court Judge hears the petition brought before him or her for setting a bond. He or she then rules on the motion and either sets or denies bond.

### Preliminary Hearing

A preliminary hearing is usually held within two weeks after the arrest of the accused. It is usually held in the Magistrate Court. At this hearing, evidence is presented to the presiding Judge, who decides if the evidence presented to him or her is sufficient to proceed to Superior Court. This is sometimes referred to as binding the case over for grand jury presentation.

### Grand Jury

The purpose of grand jury presentation is to hear testimony and facts from the officer and/or victim involved in the case. The grand jury is closed to the public. Only those subpoenaed to testify are allowed to participate. After hearing the presentation, the grand jury votes on the case. If they determine the defendant should be formally charged, they “indict” the case. If they determine the defendant should not be formally charged due to insufficient evidence, they “no bill” the case.

### Arraignment

After the grand jury has indicted a case, the accused will appear before a Superior Court Judge and either plead “guilty” or “not guilty”. If the defendant pleads guilty, the Judge will probably sentence him or her on that day. If he or she pleads not guilty, the case will be put on a trial calendar unless the defendant changes his or her plea.

### Plea Agreements

Sometimes, the prosecutor (for felonies) or solicitors (for misdemeanors) will offer an agreement whereby they will offer the defendant a less-harsh sentence if they will agree to plead guilty instead of going to trial. When a defendant agrees to a guilty plea for a less-harsh sentence, the defendant has waived their rights to a jury trial.

### Trial

The purpose of a jury trial is to lay before the selected jury the evidence in a case and the law that applies. A jury considers the evidence presented to them by the prosecuting attorney and the defense attorney who represents the defendant. Witnesses are subpoenaed to testify in Court, which is a legal notification issued by the Clerk of Superior Court. At the conclusion of opening statements, evidence, closing statements and the jury charge, the jury deliberates until they reach a verdict. If a verdict is reached, they return the verdict in open court which will be either “guilty” or “not guilty”. If the jury cannot reach a unanimous verdict, a mistrial is declared.

### Sentencing

The Judge imposes sentence usually immediately following the trial. Sometimes a pre-sentencing hearing is held for the Judge to consider. The defendant could receive prison time and/or probated sentence. If the defendant receives probation, he or she will be assigned a probation officer to whom he or she will be required to report to and keep informed of his or her current residence, place of employment and any trips out of town.