

Justice System Process Appendix



1. Typical Cases in PA judiciary System

Criminal Case: a violation of the criminal law and considered an offense against the community. In a criminal case, an individual can be charged with a felony, misdemeanor or summary offense. Felony charges, such as murder and arson, carry the most severe penalties, while misdemeanors and summary offenses carry lesser penalties. Individuals may be perpetrators, victims or witnesses

Civil Case and Family Case: includes every type of legal action except adult criminal actions, including personal injuries, contract disputes, juvenile proceedings, adoptions, divorces and faulty consumer goods.



2. Course of Cases

Criminal Case: 1. Alleged crime occurs. 2. Arrest takes place or summons is issued. 3. Preliminary Hearing is held promptly in one of the Magisterial District Courts or urban Municipal Courts to determine whether there is probable cause for the case to be brought to trial. 4. The defendant pleads guilty or the defendant proceeds to trial. 5. If there is a conviction, a sentencing hearing is held. 6. The defendant can appeal conviction (following a verdict of guilty) to Superior Court. If the appeal is unsuccessful, the defendant can appeal to Supreme Court.

Civil Case: : 1. Dispute develops. 2. The Plaintiff's complaint is filed and served. 3. Defendant is required to file an Answer. 4. Both sides gather evidence through discovery. 5. Pretrial Conference takes place between judge and attorneys for all sides to discuss outstanding issues, including possible settlement. 6. If there is no settlement, trial takes place and a verdict is rendered. 7. A party can appeal the decision to the appellate court.



3. Competency Evaluation

A person who is not competent to stand trial should not be convicted of a crime. In order to ensure that the criminal proceeding is fair, a court may order a mental health assessment or a competency evaluation to be conducted prior to a defendant entering a plea and/or standing trial. The purpose of this assessment is to measure the defendant's abilities to comprehend and participate in the judicial process, which include but are not limited to the defendant's ability to understand and process information, communicate sufficiently with counsel to assist in the defense, make informed decisions, and to understand the meaning of the charges and the potential consequences and repercussions of the outcomes.

*Stop and consider whether the individual comprehends what it means to be in jail or plead guilty to a crime. If this comprehension is in question, the defense should consider a petition for competency assessment before the plea and sentencing take place. All previous competency assessments are relevant and persuasive but may not be controlling for the current offense. This request for an evaluation is arranged through the defense counsel.



4. Issues of Competency

In general - issues of competency and individuals with I/DD, what are the potential pathways that could be taken?

① Not competent:

- Dismiss/withdraw charges
- Supervised release
- Civil commitment – Mental Health Procedures Act
- Could be a state hospital commitment (Following request by defense counsel)

② Competent:

- Charges continue
- Negotiate a deal
- If convicted, advocacy through counsel
- Advocate for what state programs and waivers can do for him
- Could result in a lesser sentence
- Mental health treatment could be used in lieu of punishment

③ Restored Competency:

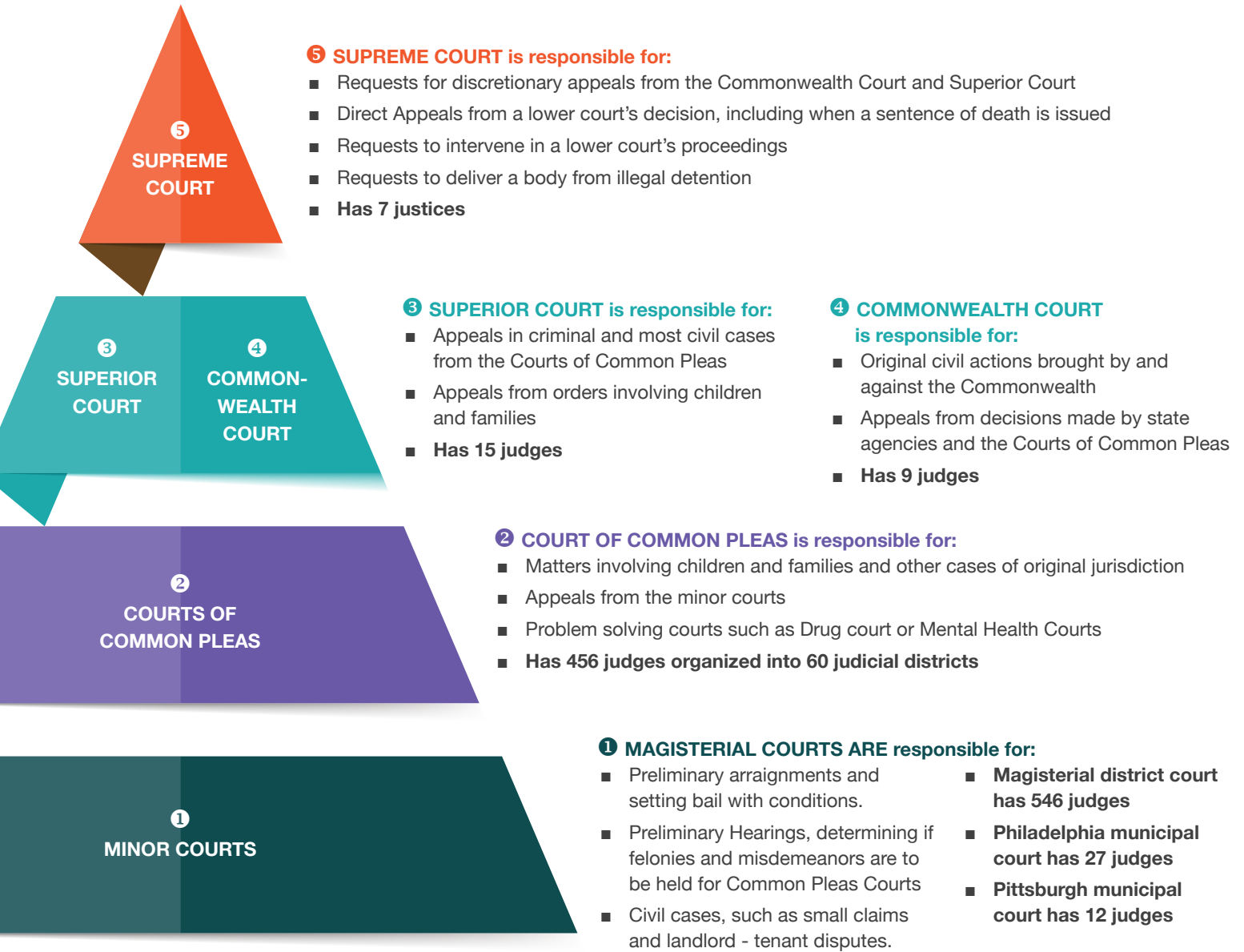
- Advocate for counsel so they can try to get a deal
- Use MH treatment as part of that deal

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5. Judicial Structure

The Pennsylvania Unified Judicial System is structured like a pyramid:



6. Pleas

IF A GUILTY PLEA IS OFFERED and the Judge accepts the plea: the sentencing follows.

IF THERE IS NO GUILTY PLEA: the case proceeds to trial and verdict (Guilty or Not Guilty).

*Note that a *Plea of Guilty* and a *Verdict of Guilty* have the same effect.



7. Acronyms and Definitions

COMMUNITY SERVICES/ PRE-JUSTICE

- **ARREST/ CUSTODY:** Miranda rights are read to the individual if he is in custody. At this time, the individual should ask to have an attorney appointed to represent him. The accused individual may be detained in a holding cell at the local Police Department while criminal charges and the Affidavit of Probable Cause are being prepared.
- **DIVERSION:** Steps within the criminal justice system that provides the defendant a way to leave the criminal system.

ENTRY INTO THE SYSTEM

- **PROCESSING PHASE:** If possible, teams should be preparing individuals ahead of time before entering this phase because it can be overwhelming for people who have sensory needs. This can include a lot of people surrounding the individual (both law enforcement staff as well as other individuals who are being processed), loud talking, noises, etc.
 - **SALLY PORT:** This is where law enforcement takes an accused individual for processing at the Allegheny County Jail. It's compared to taking someone to a back door of a building, similar to a large garage door. This location inside the walls of the Jail tends to be loud and overwhelming.
 - **PROCESS:** Once the individual is taken through the Sally Port, the Jail's processing phase begins. This phase can take up to 10 hours to complete and will include fingerprints, photos, and medical screening. The individual is usually placed in a holding cell in the County Jail until the next phase in the process.

PRE-TRIAL SERVICES & PROSECUTION

- **CHARGES FILED:** The charges in the Police Criminal Complaint are supported by the Officer's Affidavit of Probable Cause. The Affidavit of Probable Cause is considered the "road map" of evidence for the prosecution.
- **PRE-TRIAL INTERVIEW:** An interview that occurs with a goal of determining if the defendant is a flight risk and is a potential danger to the community.
- **PRELIMINARY ARRAIGNMENT:** The proceeding in which the defendant appears with the arresting police before the Magisterial District Judge. At this time, a copy of the complaint shall be given to the defendant. The judge summarizes the charges that have been made against the defendant and sets bond (usually with conditions for release).
- **BAIL OR DETENTION HEARING:** A hearing in which the court determines whether to detain the defendant without bail.
- **PRELIMINARY HEARING:** Following a hearing (where the accused has counsel), the judge determines from the evidence whether there is a *prima facie* case that: (a) an offense has been committed; and (b) the defendant has committed it. If so, the judge will order that the case be "Held for Court" for the defendant to stand trial. This stage of the proceedings before the Magisterial District Court provides significant flexibility. You want to do all you can before the case is "Held for Court" and sent to the Court of Common Pleas. In addition to seeking a postponement of the Preliminary Hearing, the defendant can waive the Preliminary Hearing, perhaps in exchange for reduced charges or to obtain/continue mental health or drug treatment. Following a Preliminary Hearing or waiver, the Magisterial District Court will issue a subpoena to the defendant to appear for Formal Arraignment before the Court of Common Pleas.

PRELIMINARY PROCEDURES IN THE COURT OF COMMON PLEAS

- **FORMAL ARRAIGNMENT:** A brief meeting between the defendant, counsel and a courthouse clerk to receive the Criminal Information for the case. This Criminal Information provides all of the charges that have been held for court against the individual. This is where the defendant's "Not Guilty" plea is entered.
- **ACCELERATED REHABILITATIVE DISPOSITION (ARD):** An intervention program designed for first-time, nonviolent offenders. It is not considered a conviction and does not require jail time. In exchange for the successful completion of the terms and conditions for the ARD, the Court of Common Pleas will dismiss the charges against the defendant.
- **PRE-TRIAL MOTIONS:** When the prosecutor and defense file motions with the Court, such as motions to suppress evidence, notice of alibi, or to limit what evidence may be presented to jurors. *This includes a petition for competency.
- **PRE-TRIAL CONFERENCE:** When the court, prosecutor and defense counsel meet to schedule a trial date, waive a jury trial, or determine if the case can be resolved with a plea agreement.

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- **TREATMENT FOR COMPETENCY:** Competency relates to the defendant's mental state after an offense, not before or during it. If a person is not competent to stand trial, they are not able to be convicted of a crime. If they are identified as incompetent, they will receive treatment to restore competency (e.g., forensic unit or psychiatric hospital). Once competency is restored, the criminal procedure will resume.

ADJUDICATION

- **CHANGE OF PLEA HEARING:** This is a conversation ("colloquy") between the judge and defendant that occurs during the change of plea hearing. The judge must determine whether the defendant's change of plea is made knowingly, intelligently and voluntarily. The judge can accept the changed plea or reject it. If rejected, the case will proceed to trial.
 - **PLEA BARGAIN:** Agreement between the government and the defendant where the defendant agrees to plead guilty to the charge(s) in exchange for the government's withdrawal of other charges and/or a more lenient sentence.
 - **OPEN PLEA:** Defendant pleading without any promise from the prosecution as to what sentence it will recommend.
 - **NO CONTEST:** Defendant admits that the prosecution has evidence to support a conviction but doesn't plead "Guilty." Nonetheless, the no contest plea, if accepted by the court, results in a conviction.
- **TRIAL:** If the case is not resolved with a guilty or no contest plea, the case will proceed to trial before a jury or judge. If the verdict following the trial is guilty, the case will proceed to sentencing.

SENTENCING/ SANCTIONS

- **PRE-SENTENCING INVESTIGATION:** Refers to the investigation by the Probation Office (into the history of the convicted person) before sentencing to determine if there are aggravating or mitigating circumstances for the judge to consider before a sentence is imposed.
- **IMPOSITION OF SENTENCE:** The judge imposes a sentence.
 - **INCARCERATION:** A sentence that results in the confinement of the defendant in prison or jail. If the maximum sentence is 24 months or more, this will result in incarceration at the state prison. If the maximum sentence is less than 24 months or less, this will result in incarceration at the county jail.
 - **PROBATION:** The court-ordered period of correctional supervision to be served in the community.
 - **RESTITUTION:** A court order that requires payment by the defendant to the victim(s) for the economic harm caused by the offender's wrongful act.
 - **FINES, FEES AND COSTS:** A court order that requires payment by the defendant to the state, county, and the court of conviction.

CORRECTIONS

- **PAROLE:** The release of a prisoner after service of the minimum sentence but before the completion of the maximum sentence. Release on parole is subject to general and specific conditions.
- **MAX OUTS:** The discharge of a prisoner, without conditions, following the completion of the maximum sentence.

RE-INTEGRATION/ RE-ENTRY

- **MEDICAL ASSISTANCE (MA):** Also known as Medicaid, pays for health care services for eligible individuals.
- **MEMORANDUM OF UNDERSTANDING (MOU):** For example, an agreement between the Office of Developmental Programs (ODP) and Department of Human Services (DHS) that assists individuals in the judicial system in approvals for services and supports when there was a break in Medical Assistance.