

The criminal process report

[Law](#), [Evidence](#)



The decision to charge a suspected criminal lies squarely with the prosecutor. It is his obligations to draft a charge sheet from the evidence presented to him by the detectives in the case. Therefore, in the current case, despite the fact that the decision not to charge the suspect with murder is not popular; it still lies with the prosecutor. The law enforcement fraternity is only angered with the decision because they believe the suspect need to be punished severely for ending the life of one of their own. Before making the decision on which offense to charge a suspect, it is extremely vital to interrogate the evidence. This should be done in correlation with the likely offenses that can result out of the available evidence. This is critical because different offenses have different standards and burdens of proof. It is also critical to analyze all the elements of a crime that should be proved in a court of all in order to get a conviction. For example, in the case study, to get a conviction of murder the prosecutor must prove his case beyond reasonable doubt. This is the highest standard of proof in a court of law. It is extremely hard to get such a conviction. It can only be done if the prosecutor has hard evidence on the suspect. Moreover, the onus of proof will be squarely on the prosecutor. As the accuser, he will have to prove his a case in court. The suspect and his defense attorney will only have the onus of disproving alleged evidence that has been adduced in court against the defendant. This paper seeks to examine the criminal process from the investigative stages to finality of ligation. The paper will discuss the various stages that this case may undergo in a criminal justice system.

One of the most significant aspects of the criminal process is the question of jurisdiction. It is vital for a prosecutor to be clearly knowledgeable about the

jurisdiction of the court, which he seeks to file a case. In a serious criminal case such as one involving murder, it will be filed and heard at a superior court. The charge sheet must contain a probable cause of action against the defendant. The prosecutor will have to define the category of the crime charged. One may be charged with a First, Second, Third or Fourth degree crime. The police can either issue a summons or arrest a person.

In this case, a murder suspect will be arrested and arraigned in a superior court during the first appearance. At this stage the court will hear and make a determination with regard to the bail of the suspect. In such a serious charge, the prosecutor will ask the court to deny the suspect bail because he is a danger to the public. He may also ask the court to deny him bail in order to guarantee his attendance of the court. The suspect will have to prove on the balance of probabilities that he will not escape court proceedings. The court retains the discretion to grant the suspect bail as a surety of discharge. The court can then issue a bail investigation.

Under the Sixth Amendment, the suspect has a constitutional right of fair public trial that has a jury of his peers. Moreover, during this first session with the court the presiding judge is supposed to inform the suspect of his right to counsel. This right is a fundamental right which cannot be ignored by the court because of the severe consequences the lack of it thereof would result lead to. The defendant will elect to either have a private attorney or be allocated a public defendant who is paid by the state.

It is unlikely that this case will end at the plea bargaining, dismissed, diverted or downgraded. Therefore, the next likely stage will be where the prosecutor presents the case to the grand jury. During the presentation, the

prosecutor will seek to have the jury indict the suspect. The criminal proceedings will only go ahead if the majority of the twenty-three jurors vote in favor of the prosecution's case. This is referred to as a true bill. However, the jury still retains the discretion to charge the offender with a lesser charge by downgrading or deciding the suspect be remanded to the municipal court. There will also be several conferences before and after the pre arraignment stage.

The trial of the accused must take place a court of competent jurisdiction and must have a jury. However, despite this constitutional right, the accused may elect to forgo his right to have a trial jury. As a result, he will be tried in by a trial judge who sits in the superior court, Law Division. There are only two verdicts that can be given by a judge or the jury. This is a verdict of not guilty or guilty. If a not guilty verdict is given then the judge has to order the immediate release of the suspect. On the other hand, if a guilty verdict arrived at by the jury the judge will have to sentence the accused according to the applicable laws of the state. The suspect retains the right to appeal the decision of the trial court in the court of appeal. The court of appeal will mainly be concerned with a question of law rather than facts. The main arguments will center on the legality of the applicable principles of law that informed the judgment and sentencing of the accused.

During the whole criminal process, the accused has numerous rights that are enshrined in the constitution. All these rights must be respected and upheld by the criminal justice system in order to a trial to be regarded as fair. Under the sixth amendment and also as advanced by the *Giles v. California* (07-6053) case, the accused has a right to confront his accusers and their

witnesses. It is also critical that the court protects the accused from being coerced to give self-incriminating evidence. This right is guaranteed under the Fifth Amendment. During the sentencing stage, it is extremely critical that a presiding judge takes into account mitigating factors and aggravating factors as argued by the parties to the case. It is vital to realize that the Supreme Court has interpreted the constitution in favor of protecting the fundamental right for the jury to sentence an accused person. The court should also be awake to the fact that the accused has the right to allocution, if he thinks that his counsel has not elucidated all factors coherently.

References

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