

# The criminal justice process

[Law](#), [Criminal Justice](#)



**Abstract** This paper describes all the steps taken during the criminal justice process. It explains how important it is to follow due process according to the bill of rights. During this process suspects are put through a series of steps, some within hours of an arrest and some may take days, weeks, and or months. The criminal justice process is numerous steps taken to process a criminal case beginning with an investigation and arrest. An investigation is done by the police and they must gather enough evidence to identify a suspect in order to make an arrest.

In most cases, criminals are not arrested on the scene of a crime, they are apprehended later (Schmallegger, 2011). In cases like this, an arrest warrant is issued by a judge if there is enough probable cause to make an arrest. Probable cause is the legal requirement for an arrest connecting a suspect to a particular crime. Arrest is always done with discretion and is a serious step in the criminal justice process. During an arrest defendants are warned of their Miranda Rights prior to questioning.

Police feel they are on safe ground by advising suspects of their rights immediately after arrest; however an arrest without questioning does not require a warning (Wiley Publishing, 2000-2010). Following an arrest, suspects are booked. The booking process is an administrative procedure. It includes pictures being taken, fingerprints, and personal information is recorded such as date of birth, address, weight and height. Details of charges are put on the arrest record. Suspects are advised to sign a form with each right stated.

The second step in the criminal justice process is pretrial activities, which can take place within hours of the arrest. In this step a suspect will make their appearance before a magistrate where the judicial officer will tell them of the charges against them and once again is advised of their rights and may be offered bail. If a suspect post a bond on first appearance they may not flee, otherwise the cash deposit or property bond will be ordered to forfeit the posted cash or property (Schmalleger, 2011).

Suspects who have serious crimes and are not afforded bail are taken to jail to wait for the next step which is a preliminary hearing. During the first appearance, defendants who can't afford a lawyer will be appointed one. During the third step, preliminary hearing is a process where enough sufficient evidence must be established and exist against the suspect to continue in the criminal justice process. The defense has a chance to analyze the strength of the prosecution case and may request a plea bargain.

This is also where the prosecution has a chance to build a case against the suspect and presents any evidence and may offer a plea bargain. The fourth step in the criminal justice process is indictment by grand jury. This is when the prosecutor has enough probable cause to prosecute a capital offense. During indictment, a defendant or a defendant lawyer does not have a right to be present at grand jury proceedings. Another option a prosecutor may take is filling a charge document called information.

This is to determine if there is enough evidence to warrant a trial. A defendant and attorney can be present at the information hearing to dispute the charges (Wiley Publishing, 2000-2010). Step five in the criminal justice

process is arraignment by a judge. This is when a defendant enters a plea of guilty, not guilty or no contest (*nolo contendere*). An arraignment is conducted in open court and the indictment or information on the charge is read to the defendant. Step six, adjudication. This step points out that every criminal has a right to trial by jury.

If there is doubt based on reason the accused is entitled to be acquitted. The standard of evidence for a criminal conviction is guilt beyond a reasonable doubt. In most jurisdictions, criminal cases never come to trial (Schmallegger, 2011). Some states allow trials for less serious offenses before a judge, called a bench trial. In other cases, a jury is said to be deadlocked, and a judge will declare a mistrial. Step seven is sentencing by a judge. If the accused is found guilty, a judge will impose a form of punishment.

Possible sentences include a fine, probations, a period of incarceration in jail or prison or some have a combination of supervision of the community and incarceration. Criminals found guilty, of one or more charges are ordered to serve one sentence after another is completed called a consecutive sentence. Or there sentence may run at the same time, called concurrent sentence (Schmallegger, 2011). In many cases convictions are appealed and filed by attorneys in appellate court and then ruled on appellate judges. If the appellate reverses a case, the case returns to trial court for retrial.

The appeal process can be very complex and can involve both federal and state judiciaries. Even if a prosecutor drops the charges, the defendant can still be prosecuted later as long as the statute of limitations for the crime the defendant is being accused of committing hasn't run out. Appeals are based

on the defendants claim that rules of procedure were not follow properly at some earlier stage in the criminal justice process. The last but not least process is corrections. Punishment and or rehabilitation processed by local, state or federal correctional authorities.

Once an offender has been sentenced, the corrections stage begins. Most inmates do not serve the complete term and are released before their maximum sentence expires (Wiley Publishing, 2000-2010). Inmates are assigned to confinement facilities and treatment programs. Not all offenders end up in prison. Some are ordered to prison and then have their sentences suspended and a probation term imposed. Offenders who have served a portion of their time may be freed on probation or parole. If conditions of probation or parole are not met, it will be revoked and result in more jail time.

In conclusion the criminal justice process is to be conducted with fairness and equality, the due process. This process must recognize the individual rights of criminal defendants facing prosecution by state or federal government. Due process is what guarantees the fifth, sixth and fourteenth amendment. No person shall be deprived of life, liberty, or property without the due process of law, and each state is bound and required to respect the due process rights of United States citizens who come under their jurisdictions. There are many more suspects and defendants than inmates. (Wiley Publishing, 2000-2010) The Criminal Justice Process Chart References Schmallegger, F. (2011) Criminal justice today: An Introductory text for the 21st century (11th ed. ) Upper Saddle River, NY: Pearson Prentice Hall Cliff

Notes (2000-2010) The Process of Criminal Justice. Retrieved on October 19, 2010 from [http://www.cliffsnotes.com/study\\_guide/The-Process-of-Criminal-Justice.topicArticleId-10065,articleId-9909.html](http://www.cliffsnotes.com/study_guide/The-Process-of-Criminal-Justice.topicArticleId-10065,articleId-9909.html) New Jersey Judiciary (2001) The Criminal Justice Process. Retrieved on October 19, 2010 From <http://www.judiciary.state.nj.us/criminal/crproc.htm>