

MAP OF THE FEDERAL CRIMINAL PROCESS

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1. BEGINNING A CRIMINAL CASE

1.1 THE CHARGES

What is a criminal charge? A criminal charge can be brought by the government against a defendant that alleges a completed or attempted crime.

1.2 THE ARREST

A defendant can be arrested before arraignment, but only on other criminal charges not filed, and only on whether an arrest warrant has been issued.

1.3 THE GRAND JURY

A grand jury includes 16-23 people who decide whether to return a indictment, the agreement of 12 grand jurors is required.

1.4 PROPER VENUE

State or federal court is determined by the location of the crime and the location of the defendant.

2. COURT APPEARANCES BEFORE TRIAL

2.1 OBTAINING A DEFENSE LAWYER

A defendant has the right to hire a lawyer, and the Court can appoint one, or can bring a lawyer and defendant together to discuss an agreement to hire one.

2.2 FIRST APPEARANCE

The first appearance is the first time a defendant appears in court. At this appearance, the defendant is advised of the charges and the right to hire a lawyer, the right to remain silent, and the right to a trial.

2.3 THE ARRAIGNMENT

At the arraignment, a defendant enters a plea to the charges, and the Court sets a date for the preliminary hearing.

2.4 THE PRELIMINARY HEARING

The preliminary hearing occurs within 14 days of the defendant's arrest. It is a hearing to determine if there is probable cause to believe the defendant committed the crime.

2.5 THE DETENTION HEARING

If a defendant is in custody based on the charges alleged, a detention hearing will be held. At a detention hearing, a magistrate judge will decide if there is probable cause to believe the defendant committed the crime, and if not, the defendant must be released.

3. ACTIVITY BEFORE TRIAL

3.1 EVIDENCE PROVIDED TO THE DEFENDANT

The defendant has the right to see the evidence against them, and the government must provide copies of the evidence to the defendant.

3.2 EVIDENCE PROVIDED TO THE GOVERNMENT

The defendant may have to provide certain evidence to the government.

3.3 SUBPOENAS

A subpoena is used to compel evidence or require a witness to testify in court.

3.4 MOTIONS

A party files a motion with the Court to take certain actions, such as to suppress evidence, request a continuance, or request a change in venue.

3.5 NOTICES OF EVIDENCE

A notice of evidence is a document that informs a party of the evidence against them, and the government must provide copies of the evidence to the party.

3.6 MONITORING THE SPEEDY TRIAL CLAUSE

Charged by indictment, a defendant is entitled to a speedy trial. The right to a speedy trial is guaranteed by the Constitution, and the government must move the trial forward as quickly as possible.

4. RESOLVING THE CASE WITHOUT A TRIAL

4.1 DISMISSAL OR DIVERSION

The court may dismiss or divert a case if the government agrees to do so, or if the court finds that the defendant is not guilty of the crime.

4.2 PLEADING GUILTY BY PLEA AGREEMENT

A defendant can plead guilty to a crime if the government agrees to do so, and the court approves.

4.3 PLEADING GUILTY WITHOUT A PLEA AGREEMENT

A defendant can plead guilty to a crime without a plea agreement, and the court will accept the plea.

5. TRIAL

5.1 JURY SELECTION

The selection of a jury is a process that involves the Court and the parties. The Court will select a jury from a pool of potential jurors.

5.2 OPENING STATEMENTS BY LAWYERS

The opening statements are the first statements made by the lawyers to the jury. They explain the evidence and the issues in the case.

5.3 THE GOVERNMENT'S WITNESSES & EVIDENCE

The government presents its case first. It calls witnesses and offers evidence to prove that the defendant is guilty of the crime.

5.4 MOTION FOR JUDGMENT OF ACQUITTAL

A defendant can move for a judgment of acquittal if the government's evidence is insufficient to prove that the defendant is guilty of the crime.

5.5 THE DEFENDANT'S WITNESSES & EVIDENCE

The defendant presents its case next. It calls witnesses and offers evidence to prove that the defendant is not guilty of the crime.

5.6 THE GOVERNMENT'S REBUTIAL WITNESSES & EVIDENCE

The government can present evidence to rebut the defendant's evidence. This is the government's chance to respond to the defendant's case.

5.7 RENEWED MOTION FOR JUDGMENT OF ACQUITTAL

A defendant can move for a judgment of acquittal again if the government's evidence is still insufficient to prove that the defendant is guilty of the crime.

5.8 CLOSING ARGUMENTS

The closing arguments are the last statements made by the lawyers to the jury. They summarize the evidence and the issues in the case.

5.9 JURY INSTRUCTIONS

The judge gives instructions to the jury about the law that applies to the case. The jury must follow these instructions when they reach their decision.

5.10 THE VERDICT

The verdict is the jury's decision on whether the defendant is guilty of the crime. The jury can find the defendant guilty, not guilty, or not guilty by reason of insanity.

6. SENTENCING

6.1 THE PRESENTENCE INVESTIGATION REPORT (PSIR)

The PSIR is a report prepared by a probation officer and sent to the Court. It includes a description of the defendant's criminal history, personal history, and other information that may be relevant to sentencing.

6.2 OBJECTING TO THE PSIR

A defendant can object to the PSIR if it contains information that is inaccurate or irrelevant to sentencing.

6.3 THE SENTENCING HEARING

The sentencing hearing is the Court's opportunity to hear from the parties and the probation officer about the appropriate sentence for the defendant.

7. ACTIVITY AFTER SENTENCING

7.1 APPEAL

An appeal is a request to a higher court to review the trial court's decision. It is a right that is not guaranteed to all defendants.

7.2 CORRECTING OR REDUCING A SENTENCE

A sentence can be corrected or reduced if there was a clear error based on a mistake of law or fact, or if the sentence is manifestly unjust.

7.3 CHALLENGING A CONVICTION OR SENTENCE

A conviction or sentence can be challenged if it is based on an error of law or fact, or if it is manifestly unjust.

7.4 CHALLENGING AN ASPECT OF HOW A SENTENCE IS CARRIED OUT

A defendant can challenge the conditions of a sentence or the way it is carried out.

7.5 SUPERVISED RELEASE

Supervised release is a period of supervision that a defendant must complete after serving a term of imprisonment. It is a condition of the sentence.

Criminal Process

Patrick Vollmar



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