

MAP OF THE FEDERAL CRIMINAL PROCESS

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1. BEGINNING A CRIMINAL CASE

- 1.1 THE CHARGES** *(What is the crime? What are the elements?)*
Criminal charges can be brought by the government against a defendant that follows a complaint, an indictment, or an information.
- 1.2 THE ARREST**
A defendant can be arrested before arraignment, before an arrest warrant is issued, or after, and held or released on some manner being required.
- 1.3 THE GRAND JURY** *(What is a grand jury?)*
A grand jury includes 16-23 people who decide whether to return a subpoena, an indictment, or an arrest warrant to prosecute a defendant.
- 1.4 PROPER VENUE**
State or federal court or county or district court.
Where will the case be held? (North M.D. District Court) or a magistrate.

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** *(What is a first appearance?)*
The first appearance is the first time a defendant appears before the government, the defendant is advised of the charges, and the government files a complaint, an indictment, or an information.
- 2.3 THE ARRAIGNMENT** *(What is an arraignment?)*
At the arraignment, a defendant enters a plea (guilty, guilty, not guilty, or not guilty by reason of insanity).
- 2.4 THE PRELIMINARY HEARING** *(What is a preliminary hearing?)*
The preliminary hearing occurs within 14 days of the defendant's arrest, or 30 days if the defendant is released on bail, or 45 days if the defendant is released on a recognizance or a bond. The hearing is to determine if there is probable cause to believe the defendant committed the crime.
- 2.5 THE DETENTION HEARING** *(What is a detention hearing?)*
If detention is an option based on the charges alleged, a detention hearing will be held. At a detention hearing, a magistrate judge will decide if holding a person is necessary (such as whether the defendant is a flight risk, a danger to the community, or a threat to the safety of others).

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 certain evidence to the defendant.
- 3.2 EVIDENCE PROVIDED TO THE GOVERNMENT** *(What is a discovery motion?)*
The defendant might have to provide certain evidence to the government.
- 3.3 SUBPOENAS**
A subpoena is used to obtain evidence or to require a witness to testify in front of the court at a certain time.
- 3.4 MOTIONS** *(What is a motion?)*
A party files a motion with the Court to take certain actions, such as request a continuance, request a continuance, request a continuance, or request a continuance from the Court.
- 3.5 NOTICES OF EVIDENCE** *(What is a notice of evidence?)*
Notice must be given to a party if a party files a motion to request a continuance to go, subpoena, or to bring a motion to the court.
- 3.6 MONITORING THE SPEEDY TRIAL CLAUSE** *(What is a speedy trial clause?)*
Charged by indictment, a defendant is entitled to a speedy trial within 90 days of the charges being made public, but this period can be delayed for many reasons.

4. RESOLVING THE CASE WITHOUT A TRIAL

- 4.1 DISMISSAL OR DIVERSION** *(What is a dismissal or diversion?)*
The court might dismiss the charges or divert the defendant to a program, such as a diversion program, if the government agrees to do so before the trial.
- 4.2 PLEADING GUILTY BY PLEA AGREEMENT** *(What is a plea agreement?)*
A defendant can plead guilty to the charges on a plea agreement with the government.
- 4.3 PLEADING GUILTY WITHOUT A PLEA AGREEMENT** *(What is a guilty plea without a plea agreement?)*
Alternatively, a defendant can plead guilty to the charges without a plea agreement with the government.

5. TRIAL

- 5.1 JURY SELECTION** *(What is a jury?)*
The selection of a jury is a process that involves the Court and the government, and the defendant.
- 5.2 OPENING STATEMENTS BY LAWYERS**
The opening statements by the lawyers are the first evidence and testimony in the trial.
- 5.3 THE GOVERNMENT'S WITNESSES & EVIDENCE**
After the opening statements, the government calls its witnesses and presents its evidence. The defendant can cross-examine the witnesses and present its own evidence.
- 5.4 MOTION FOR JUDGMENT OF ACQUITTAL** *(What is a motion for judgment of acquittal?)*
Once the government calls its witnesses, the defendant can move for a judgment of acquittal if the defendant believes the government failed to prove its case beyond a reasonable doubt.
- 5.5 THE DEFENDANT'S WITNESSES & EVIDENCE** *(What is a defendant's witness?)*
After the government presents its case, the defendant can call its witnesses and present its evidence. The government can cross-examine the witnesses. The defendant can also call its own witnesses and present its own evidence.
- 5.6 THE GOVERNMENT'S REBUTTAL WITNESSES & EVIDENCE**
After the defendant presents its case, the government may call its own witnesses and present its own evidence to rebut the defendant's case.
- 5.7 RENEWED MOTION FOR JUDGMENT OF ACQUITTAL** *(What is a renewed motion for judgment of acquittal?)*
A defendant can move for a renewed motion for judgment of acquittal if the defendant believes the government failed to prove its case beyond a reasonable doubt.
- 5.8 CLOSING ARGUMENTS** *(What are closing arguments?)*
After the case is over, the government and the defendant can make closing arguments, and the government and the defendant can make closing arguments, and the government and the defendant can make closing arguments.
- 5.9 JURY INSTRUCTIONS** *(What are jury instructions?)*
Jury instructions are written instructions provided by the Court to the jury, and the jury must follow the instructions.
- 5.10 THE VERDICT** *(What is a verdict?)*
The verdict is the jury's decision on whether the defendant is guilty or not guilty, and the jury must follow the instructions.

6. SENTENCING

- 6.1 THE PRESENTENCE INVESTIGATION REPORT (PSIR)** *(What is a PSIR?)*
The PSIR is a report by a probation officer and may include an interview with the defendant. The PSIR includes a description of the defendant, the defendant's criminal history, and personal information, and the PSIR is used by the Court to determine the defendant's sentence.
- 6.2 OBJECTING TO THE PSIR**
Both the defendant and the government have a chance to object to the PSIR by filing written objections. The Court will hold a hearing to discuss the objections.
- 6.3 THE SENTENCING HEARING** *(What is a sentencing hearing?)*
After the sentencing hearing, the Court enters a sentence and may order a continuance to allow the defendant to file a motion for a new sentence.

7. ACTIVITY AFTER SENTENCING

- 7.1 APPEAL** *(What is an appeal?)*
A party can appeal a conviction or a sentence to a higher court, and the government can appeal a conviction or a sentence to a higher court.
- 7.2 CORRECTING OR REDUCING A SENTENCE**
A sentence can be corrected if there was a clear error based on a mistake of law, or if the sentence is manifestly unjust.
- 7.3 CHALLENGING A CONVICTION OR SENTENCE** *(What is a challenge to a conviction or sentence?)*
Once a conviction and sentence are final, they can be challenged in a post-conviction hearing, including the writs of habeas corpus and certiorari.
- 7.4 CHALLENGING AN ASPECT OF HOW A SENTENCE IS CARRIED OUT** *(What is a challenge to a sentence?)*
A defendant can challenge the conditions of a sentence or make the government correct the sentence.
- 7.5 SUPERVISED RELEASE**
After a person is released from federal prison, some federal sentences require a period of supervised release, or probation, and the government can file a motion to revoke the supervised release.

Criminal Process

William Mack, William Benjamin Hale

Criminal Process:

The Trial on Trial: Volume 1 R A Duff, 2004-12-31 The trial is central to the institutional framework of criminal justice It provides the procedural link between crime and punishment and is the forum in which both guilt and innocence and sentence are determined Its continuing significance is evidenced by the heated responses drawn by recent government proposals to reform rules of criminal procedure and evidence so as to alter the status of the trial within the criminal justice process and to limit the role of the jury Yet for all of the attachment to trial by jury and to principles safeguarding the right to a fair trial there has been remarkably little theoretical reflection on the meaning of fairness in the trial and criminal procedure the relationship between rules of evidence procedure and substantive law or the functions and normative foundations of the trial process There is a need in other words to develop a normative understanding of the criminal trial The book is based on the proceedings of two workshops which took place in 2003 addressing the theme of Truth and Due Process in the Criminal Trial The essays in the book are concerned with the question of whether and in what sense we can take the discovery of truth to be the central aim of the procedural and evidential rules and practices of criminal investigation and trial They are divided into four parts addressing distinct but inter related issues models of the trial Duff Matravers McEwan the meaning of due process Gunther Dubber the meaning of truth and the nature of evidence Jung Pritchard and legitimacy and rhetoric in the trial Burns Christodoulidis

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