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## ***CRIMINAL CASE FROM START TO FINISH***

### **Initial Charge:**

A person who is charged criminally is the defendant. The defendant is brought before the court by a summons or arrest pursuant to a complaint or indictment outlining the criminal charge(s).

### **Courts:**

The district court has control over all misdemeanors and many felonies. The superior court has control over all criminal matters but usually handles the more serious felonies such as murder, rape, manslaughter, arson, drug trafficking, and robbery.

### **Arraignment:**

This is the first stage of the court process where the defendant enters a plea (usually “not guilty” in most cases) to the charge(s). If the defendant qualifies, the judge will appoint a public attorney to present him, or he may hire a private attorney at his own expense.

Although most defendants are not held on bail, the more serious charges may require the posting of a bail as a condition of release. With a very serious charge, the defendant may be held without the right to a bail.

### **Pre-trial Conference:**

After the arraignment, the case is scheduled for a pre-trial conference to discuss the issues and exchange discovery and other information. Any pre-trial motions which have been filed will be heard and ruled upon by the judge. At this stage the defendant may be offered a plea agreement which, if accepted, will conclude the case at this point. At this time the defendant may offer an unagreed plea and disposition, which the judge has the authority to accept. If the judge does not accept the proposal, the guilty plea may be withdrawn. If the matter has not been resolved, it is scheduled for trial.

### **Trial:**

At the trial the defendant has the right to have his case heard before a jury of six in the district court or a jury of twelve in the superior court. The defendant may also choose to waive a jury and have his or her case heard before a judge, usually when complicated legal issues are involved.

### **Trial Procedure:**

The trial begins with jury selection (unless waived). This is followed by opening statements of the prosecutor and defense attorney. Opening statements are simply an overview of what each side expects to prove.

The commonwealth or government has the burden of proof beyond a reasonable doubt and must present its evidence first. The defendant, through his or her attorney, may confront and cross-examine each witness.

After the commonwealth concludes its evidence the defendant may present evidence but is not compelled to do so. If the defendant decides not to testify, he or she has that absolute constitutional right and cannot be

compelled to testify. Further, no adverse inference may be drawn by the jury or fact finder. Once all the evidence has been presented, the matter will be presented to the jury.

**Jury Deliberations and Verdict:**

Once the attorneys have had an opportunity to address the jury in final arguments, the judge instructs the jury on the legal aspects including the elements of each crime, the burden of proof, and the requirement that their verdict be unanimous. Once that is done the jury is then able to consider all evidence and exhibits introduced during the trial and will discuss (deliberate) until they are able to arrive at a unanimous verdict of guilty or not guilty.