

INTRODUCTION TO CRIMINAL MATTERS



NOTE: WE WILL HANDLE VEHICLE AND TRAFFIC CASES AND DWI CASES SEPARATELY – STAY TUNED!

THIS PRESENTATION IS DESIGNED TO ...

- ... introduce you to some terms and legal concepts that are important in understanding the court's handling of a criminal case.
- ... give you a brief overview of the procedural steps in a typical criminal case.
- ... introduce you to your responsibilities in assisting the court in criminal cases.

CRIMINAL VS. CIVIL LAW

Criminal:

- Offense in the Penal Law or other law where the harm alleged is against the public.
- The State of New York is a party “People of the State Of NY v. _____”

Civil:

- Private persons suing over something that involves a private right.
- Examples: small claims, landlord/tenant

SUBSTANTIVE VS. PROCEDURAL LAW

Substantive Law

- Law that creates, defines and regulates the rights, duties and powers of citizens
- Example: the Penal Law

Procedural Law

- Law that prescribes the steps for having a right or duty enforced by the courts
- Example: the Criminal Procedure Law

WE START WITH

Something Happens that Involves Criminal Law

(Not everything that happens in society has criminal implications)

CRIMINAL OFFENSES IN NYS:

An **Offense** is an act for which a person may be held criminally responsible. Offenses are broken down into three categories:

1. A **Violation** is an offense carrying the lowest sanction.
 - Although they are penal in nature, violations are not defined as crimes.
2. A **Misdemeanor** is a crime.
 - Misdemeanors are divided into 3 classes: A, B and Unclassified.
3. A **Felony** is a crime and the most serious category of offense.
 - Felonies are divided into 6 classes: A through E and Unclassified.

TOWN AND VILLAGE COURT JURISDICTION OVER CRIMINAL CASES

- **JURISDICTION** is the court's authority to handle a case.
- Local Courts have **TRIAL** jurisdiction over misdemeanors, violations and infractions.
- Local Courts have **PRELIMINARY** jurisdiction over felonies.

A CRIMINAL CASE BEGINS WHEN ...

- A person is **arrested** by the police and they are brought before the court and an *accusatory instrument* is filed with the court.
- A person is **issued an appearance ticket** by law enforcement and an *accusatory instrument* is filed with the court.
- Law enforcement files with the court an *accusatory instrument* and the court issues an **Arrest Warrant** or **Criminal Summons**.

PRE-TRIAL STEPS IN A CRIMINAL CASE



PRE-TRIAL STEPS IN A CRIMINAL CASE

1. Arraignment
2. Preliminary Hearing (felony only)
3. Discovery (if any)
4. Pre-trial Motions (if any)
5. Pre-trial Hearings (if any)

I. ARRAIGNMENT

WHAT THE JUDGE DOES:

- Inform the defendant of the charges and provide a copy.
- Inform the defendant of their right to counsel.
- Assign counsel when appropriate.
- Determine bail or non-monetary conditions, when appropriate.
(securing order needed)
- Issue Order of Protection (where appropriate).
- Sets date for next court appearance

I. ARRAIGNMENT (CONT)

THE CLERK'S RESPONSIBILITIES:

- Make copies of the accusatory instrument.
- Obtain criminal history report
- Issue bail receipt, if cash bail posted.
- Create Securing Order.
- Open and enter data in case management system.
- Deposit cash bail, if any, in court bail account.
- Fill out and transmit TV-1 or TV-2 forms when necessary.
- Transmit Order of Protection (if any) to registry.
- Record next appearance date.

2. PRELIMINARY HEARING

This **ONLY** applies to **FELONY** cases.

A **Preliminary Hearing** is a hearing conducted by the Judge on the request of the defendant to determine whether there is sufficient evidence of a felony to hold the defendant for the action of a Grand Jury.

2. PRELIMINARY HEARING (CONT)

WHAT THE JUDGE DOES:

1. Schedule the hearing.
2. Conduct the hearing.
3. Makes findings based on evidence.

CLERK'S RESPONSIBILITIES:

1. Enter information in case management system (CMS).
2. Transmit original case file to County Clerk when judge sends defendant for Grand Jury action.
3. Keep a photocopy of case file for court records.

3. DISCOVERY

- Discovery is the process by which the parties exchange information concerning their case that is required by law to be disclosed
- Discovery is now **automatic**
 - Defendant does not need to make any Motion or Demand

3. DISCOVERY (CONT)

WHAT THE JUDGE DOES:

- The judge oversees the process and rules on any motions filed with the court.
- The judge issues an **Administrative Order** regarding the prosecutor's discovery obligations and defense counsel's effective assistance of counsel obligations. Recommended to issue these Orders at the first appearance of all criminal proceedings except traffic infractions, when the prosecutor and defense counsel are present.

CLERK'S RESPONSIBILITIES:

- Make sure any motions filed and orders issued are date stamped and filed.
- Enter the documents into the CMS.

4. PRE-TRIAL MOTIONS

A **motion** is a written* request by the defense or prosecution for the judge to *order* something.

Most common type of *pre-trial* motion is an **Omnibus Motion**. This written motion is filed **by the defense**.**

4. PRE-TRIAL MOTIONS (CONT)

WHAT THE JUDGE DOES:

1. The judge decides, based upon the papers submitted to the court, what requests the court will grant and/or deny.
2. The judge's decision can be made orally on the record or in a written decision.

4. PRE-TRIAL MOTIONS (CONT)

CLERK'S RESPONSIBILITIES:

1. Make sure documents filed with the court are date-stamped and filed.
2. Enter the receipt of documents in CMS.
3. Type court's decision.
4. Mail written decision to both defense and prosecution and enter in CMS.

5. PRE-TRIAL HEARINGS

Pre-trial hearings result from the court's granting of certain requests made in the **Omnibus Motion**.

A pre-trial hearing is a court proceeding usually involving testimony from witnesses.

5. PRE-TRIAL HEARINGS (CONT)

WHAT THE JUDGE DOES:

1. The judge decides, based upon the papers* and testimony, what the court will grant and/or deny.
2. The judge's decision can be made orally on the record or in a written decision.

5. PRE-TRIAL HEARINGS (CONT)

CLERK'S RESPONSIBILITIES:

1. Notify the D.A. and Defense of the hearing date set.
2. Secure a court reporter, if required.
3. Act as clerk for the hearing, if required.
4. Enter information into the CMS.

TRIALS

NON-JURY (BENCH) AND JURY TRIALS

TRIALS

- **Bench Trial** - Judge acts as both judge and jury.
- **Jury Trial** - Town and Village Court criminal jury trials consist of 6 jurors plus alternates (alternates are at the court's discretion).

TRIALS GENERALLY

CLERK'S RESPONSIBILITIES:

1. Notify the D.A. and Defense of the date set.
2. Secure a court reporter, if required.
3. Request jurors, if jury trial.
4. Act as clerk for the hearing, if required.
5. Enter information into the CMS.

JURY TRIALS

- All Justice Courts are required to use this form when requesting jurors.
- To access the Online Juror Request Form, go to www.nycourts.gov/justicecourts:
 - Go to the "For Judges and Clerks" section, and select "Topics A to Z"
 - Select "Jury Trial Matters"
 - Scroll down and you will see the Online Juror Request Form link (<https://nycourts.sharepoint.com/sites/JuryServ/TVJurorReq/SitePages/Home.aspx>)

ACCESSING THE ONLINE JUROR REQUEST FORM

To access to the form, you will need to enter your username@nycourts.gov and current password (Outlook password) when prompted.

JUROR REQUEST FORM

- Complete the Juror Request Form and fill out the Town and Village section.
- Information is populated by the court, allowing the Commissioner of Jurors to contact the court with questions if needed.

JUROR REQUEST FORM (CONT)

- After the form is submitted, the Commissioner of Jurors will review the request, and, once confirmed, court the will receive an e-mail indicating the forms that have been sent to the court.
- The e-mail will also remind the court to complete the Juror Utilization Form and return it to the Commissioner of Jurors.

DISPOSITION OF THE CASE

PLEA, DISMISSAL OR TRIAL VERDICT



IF DEFENDANT FOUND GUILTY

WHAT THE JUDGE DOES:

- When a Defendant either pleads guilty or is convicted after trial, the court has the duty to impose an appropriate sentence with regard to the charge.

CLERK'S RESPONSIBILITIES:

- The Court Clerk's responsibilities will vary depending on the charge and sentence imposed by the judge.*
- In all cases, the Court Clerk must report the disposition accordingly.
- Court Clerk may be responsible for sealing the case file.

IF DEFENDANT FOUND NOT GUILTY

If the defendant is found not guilty or the charges have been dismissed:

1. Bail exoneration
2. Sealing requirements
3. Report the disposition

END OF PRESENTATION

QUESTIONS?

