

## Criminal Court Proceedings



If recent incarceration rates remain unchanged, an estimated 1 of every 20 persons (5.1%) will serve time in a prison during their lifetime.

# Arrest

- Rights read (5<sup>th</sup> Amendment protection against self- incrimination; *Miranda v. AZ*)
  - Charged with crime and processed at police department
  - Attorney requested at any point upon charges laid
  - If a suspect cannot afford a lawyer or cannot find a lawyer to work pro bono the state must provide a lawyer
- “Pro bono legal activity” – lawyers volunteer to represent cases free of charge

## Overview of the criminal process



# Preliminary Hearing

-Charges are read by judge to accused

-Bail can be issued or denied based on crime & determined by net assets



**BAIL  
BONDSMAN**  
Obtains Basic  
Information:



**ATTORNEY**  
Refers defendant  
to a Bondsman

**FRIEND/  
FAMILY MEMBER**  
Calls Attorney  
or Bondsman

**BAIL VIA 10% TO  
USE A BONDSMAN**  
Pay by Credit Card or  
Pay via Payment Plan

**BAIL VIA FULL  
AMOUNT**  
Bail paid to jail



**WAIT IN JAIL!**  
Until arraignment  
w/in 3 business  
days

# Indictment

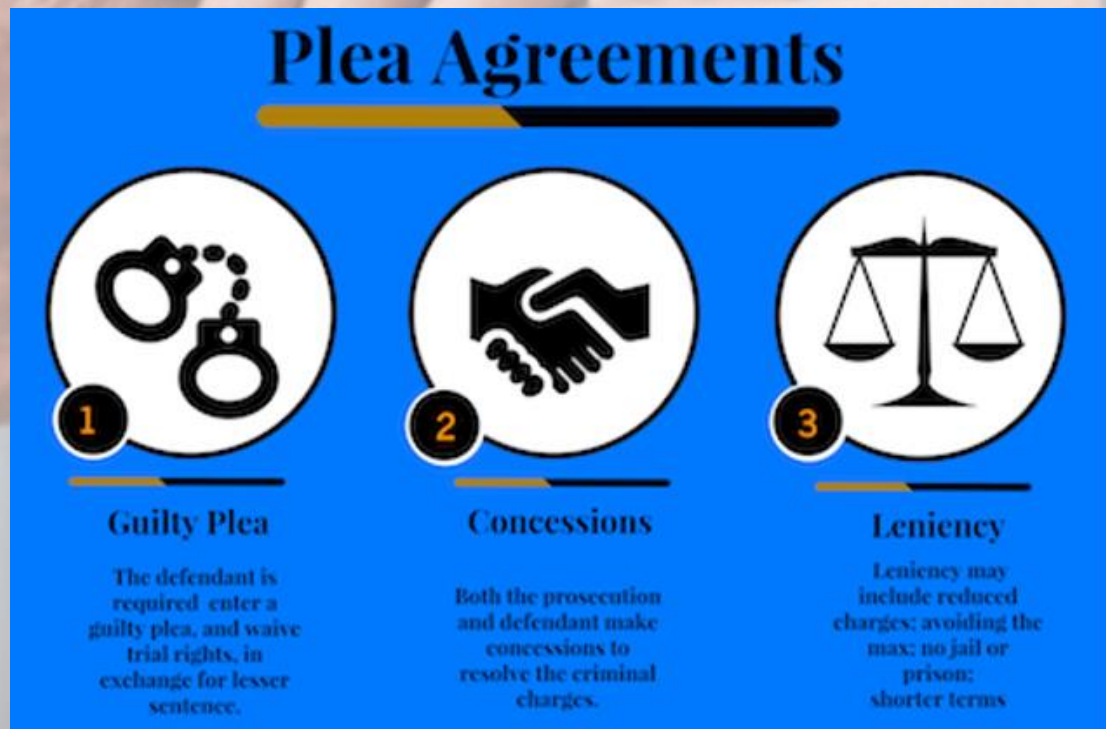
Suspect will plead innocent or guilty

\*If he/she pleads guilty they could accept a plea bargain and accept sentence →  
“plea down” to a lesser charge and given a lighter punishment

-Also reduces costs and time of going to court

If not:

-Trial date is set & placed on court docket (court’s trial calendar)



# Arraignment

- A grand jury hears evidence and decides if formal charges will be filed (for serious offenses only)
- If the grand jury find sufficient evidence, it will indict the suspect; which is just the issuance of formal charges



## Trial

- The defendant can opt out of a jury trial and have their case tried before a judge in what is known as a bench trial
  - A petit jury is selected through interview process by both prosecution & defense lawyers
  - Both sides can reject a certain number of jury candidates without giving reasons and ask the judge to dismiss others for various reasons
  - Opening statements (AKA intro to the case) given orally by first the prosecution and then defense
- They speak to the judge and the jury to frame their side favorably
- “Innocent until proven guilty” means that the “burden of proof” is on the prosecution



# “The truth, the whole truth, and nothing but the truth”

- Witnesses give their testimonies → lawyers decide the risk of their cross-examination
- Cross-examination: right to question witnesses called by both lawyers (6<sup>th</sup> Amendment)
- Closing statements: conclusion and summary of trial by both lawyers given to judge and jury
- Jury instructions: judge explains the law that relates to the case and asks for a unanimous decision



Members of the jury, you have seen and heard all the evidence and the arguments of the lawyers. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence that you have heard and seen in court during this trial. That is your job and yours alone. I play no part in finding the facts. You should not take anything I may have said or done during the trial as indicating what I think of the evidence or what I think about what your verdict should be.

Your second duty is to apply the law that I give you to the facts. My role now is to explain to you the legal principles that must guide you in your decisions. You must apply my instructions carefully. Each of the instructions is important, and you must apply all of them. You must not substitute or follow your own notion or opinion about what the law is or ought to be.

You must apply the law that I give to you, whether you agree with it or not.

# Jury Deliberation

-Task is to determine guilt “beyond a reasonable doubt”

-Elect a “Foreperson” to lead deliberation and be the speaker that reads verdict to court

Must make unanimous decision

1. Acquittal – not guilty
2. Guilty
3. “Hung Jury” – jury cannot reach a unanimous decision even after many votes; ruled a mistrial and the prosecution would have to ask for a retrial





## Jury Sequestering

-When a jury is kept together in a private location separate from their homes or workplaces during part or all of a trial; most jury trials do not involve a sequestered jury

-Done for reasons of privacy or to prevent the jury's decision from being based on media coverage or the opinions of the public in a high-profile case

-Makes it harder for jurors to have their minds swayed by outside information

-Also reduces pressure on jurors to vote a certain way, helps prevent harassment, threats, or actual violence from non-jurors who want to influence the outcome of the case



When jurors report for duty each morning in Derek Chauvin's trial, they do so as a group, escorted into the courthouse building by members of the Hennepin County Sheriff's office using a private entrance

## Verdict

- Must be unanimous decision
- Judge reads charges and for each, jury announces verdict
- Guilty or not-guilty (acquittal)



# Sentencing

- Based on penal code & precedents
- Jury may be polled to recommend sentence; most often just the judge decides
- Case may be appealed to a higher court for review after the fact
- If the case is a capital case (involving the death penalty) and it is appealed, the appeal could go directly to the state supreme court



Judge Lawrence Moniz gave Michelle Carter a 2.5-year jail sentence for involuntary manslaughter for her role in the suicide of her friend Conrad Roy III. Carter will serve 15 months of that sentence; the rest will be suspended until 2022. Judge Moniz also gave her five years of probation. He granted a stay on the sentence during the appeals process.

A little helpful way to remember the process...

A – Arrest

H - Hearing

A - Arraignment

T - Trial

Very - Verdict

Small - Sentencing





# Criminal Trial



# The Appeals Process

-The losing party has a right to appeal the decision to the next highest court (appellate court)

-The party who files an appeal, known as the appellant, must show that the trial court made a legal error that affected the decision in the case

-In a civil case, either side may appeal the verdict

-In a criminal case, the government cannot appeal a “not guilty” verdict, though they can appeal the sentence imposed

-In a criminal case, the defendant may appeal their conviction, and the sentence imposed

