

THE CRIMINAL PROCESS

In New York, the criminal process often begins with an arrest or a desk appearance ticket (DAT).

ARRAIGNMENT

If you are arrested, you are usually brought to see a judge within 24 hours for an arraignment. At the arraignment, your rights will be explained to you, bail may be determined, and you can ask for a lawyer to be appointed if you cannot afford one. If you are arraigned on a misdemeanor, the prosecutor will file a document called an “information” to support the misdemeanor complaint against you. Your case will then move into the pre-trial phase. If you are arrested on a felony, you may have a preliminary hearing, or your case may be sent directly to a grand jury.

GRAND JURY

A grand jury is made up of between 16 and 23 jurors. The grand jury determines if there is sufficient evidence against you to bring a criminal charge. If the grand jury finds sufficient evidence, it will indict you. If you are indicted, you will again appear in court to be arraigned on the indictment. Unless the court dismisses the indictment, you will enter a plea of guilty or not guilty. If you plead not guilty, your case will be adjourned to the calendar part and move into the pre-trial phase.

PRE-TRIAL PHASE

The pre-trial phase is where discovery and legal motions are made. For example, your defense attorney may request certain evidence from the prosecution and may make motions to suppress evidence or statements. Plea bargaining also occurs in the pre-trial phase. Most criminal cases do not go to trial but are instead settled in a process called plea bargaining. In a plea bargain, the defendant agrees to a reduction of charges or to a guilty plea in exchange for the prosecutor’s recommendation of a certain sentence to the judge. Judges must approve all plea bargains.

TRIAL

If a plea bargain does not occur, your case will go to trial. Speedy trial requirements in the law set time limits by when the prosecution must be ready for trial. These time limits generally depend on whether you are charged with a misdemeanor or a felony. At trial, the prosecutor and your defense attorney will present evidence and may present witnesses. After the evidence is presented, a judge or a jury will decide if you are guilty or not guilty of the charges brought against you.