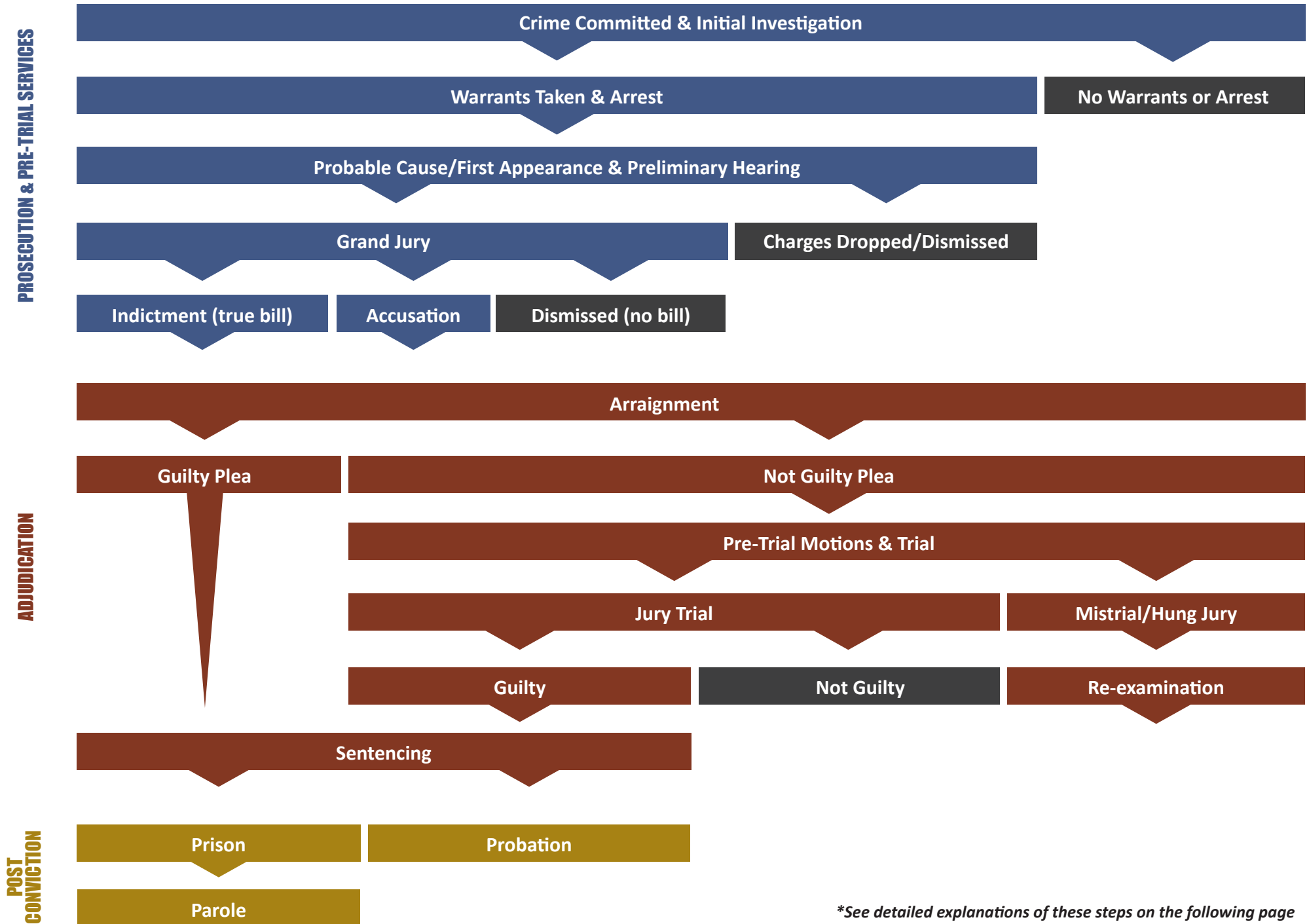


The Criminal Justice Process



Crime Committed & Investigation

Law enforcement respond to incident with criminal warrants taken for arrest or not.

Arrest

Warrants are served and defendant is arrested.

Probable Cause/First Appearance & Preliminary Hearings

Defendant is brought before the magistrate court and informed of charges pending within a certain amount of time after arrest. If applicable, bail is set (in some cases, a statutory bond hearing is set and later held with notification to the victim). The magistrate court determines whether or not probable cause exists for the charges, and if found, binds them over to superior court for further prosecution for felony charges or to state court for misdemeanor charges. The court could also set and hold a preliminary hearing at which time initial evidence against the defendant is presented by the prosecution and the defense is allowed to respond before a ruling is made.

Grand Jury

According to laws of the State of Georgia, grand juries are empowered to hear evidence presented by prosecutors and to file formal charges or to dismiss charges in superior court. Grand juries can conduct independent investigations and vote using the preponderance of the evidence standard (not beyond a reasonable doubt, like during a trial). The grand jury is made of up between 16 and 23 citizens called to serve.

Arraignment

If the charges are indicted by a grand jury, the defendant will have to appear before a superior court judge for arraignment to enter a plea of guilty or not guilty. If the defendant enters a guilty plea, the court will sentence the defendant. The victim has a right to be notified prior to sentencing for certain serious felony charges.

Pre-Trial Motions & Trial

If the defendant enters a not guilty plea at arraignment, the case will be put on trial calendars until it is disposed of by trial or if the defendant changes his/her plea to guilty. Prior to trial, there may be motions that have to be heard before the case can be tried regarding evidence or other matters.

A criminal trial in superior court has several steps (see right) and is the formal examination and consideration of evidence

before a court of law (bench trial) or a jury to determine whether a defendant is guilty or not guilty of the charges brought before the court. The standard of evidence to reach a verdict is beyond a reasonable doubt, a higher standard than required by the grand jury presentation.

Sentencing

If the defendant is found guilty or enters a guilty plea, the court will issue a sentence for the charge(s). A pre-sentence investigation can be conducted with a later sentencing date set, or the court can issue a sentence right away. The victim has the right to be notified, present and heard at sentencing as provided for in O.C.G.A. §17-17-1 et al. (See victims' rights brochure). The defendant can receive a sentence with time to serve in prison, a probated sentence with special conditions ordered, or a combination of both. If the defendant is sentenced to prison, he or she can become eligible for parole. (See the post-adjudication brochure for information concerning victim services at this stage.)

Post-Adjudication

It is not unusual for convictions to be appealed through either the Court of Appeals of Georgia or the Georgia Supreme Court. Appeals are docketed in these higher courts after a motion for new trial is heard and denied by the same court where the case was tried. Usually, appeals are presented in writing by both sides expounding on the issues to be considered on appeal. Occasionally, they may be argued in front of the applicable court. If either a motion for new trial is granted or a conviction is reversed on appeal, the case may be sent back to the original court for a re-trial. The appellate court could also reverse a conviction or affirm the conviction. A victim has the right to be notified throughout this process.

Notice of Conflict

Occasionally, and for varying reasons, certain cases may be conflicted out to another agency to handle the prosecution. If a local office has a conflict, it is their duty to notify the Attorney General's Office who will assign another agency to be responsible for the prosecution of the case. This assignment can occur at different stages throughout the criminal justice process. The office assigned will take on all duties normally handled by the local office with regard to handling the conflict case.

QUESTIONS ?

If you have any questions about your rights and responsibilities as a crime victim in Georgia, PAC can help. Contact our office at: (770) 282-6364 or info@pacga.org

Steps in a CRIMINAL TRIAL

› **Jury Selection** using Voir Dire, which means “to speak the truth, to say what is true”

Jury is composed to 12 people who can listen to the evidence and be fair and impartial, without bias or prejudice

› **Opening Statements** by the prosecution and defense

› **Presentation of the State's** (*prosecution's*) case through testimony & physical evidence

› **Presentation of the Defense's** (*defendant's*) case through testimony & physical evidence

› **Rebuttal** by the state (*if applicable*)

› **Rebuttal** by the defense (*if applicable*)

› **Close of the Evidence**

› **Closing Statements** by the defense & prosecution

› **Charge of the Jury** by the court

› **Jury Deliberations**

› **Jury Verdict** must be unanimous (*guilty or not guilty*) or mistrial (*hung jury*)

Guilty verdict Defendant is sentenced

Not guilty verdict Case is dismissed

Mistrial Jury unable to reach unanimous verdict- case is re-evaluated and either re-tried or disposed of by another manner