MATRIC NUMBER: 18/LAW01/15

NAME: NNAMDI PRAISE

**1a)** Criminal procedure is the process of commencing, conducting and concluding by which a criminal case is prosecuted in the court. It is also the process of administration of criminal justice in Nigeria where the body of laws and rules are used. Most cases that comes before the high court have might have gone through serious investigation which is carried out by the police.

Firstly a complaint is placed by the victim at any police station, the officer taking it down will know the jurisdiction the crime falls under and places it there. He goes further to write down necessary information that will be beneficial for the investigation. The officer then enters the complaint in a record known as the" first information report".

Criminal prosecution typically begins with an arrest by a police officer. A police officer may arrest a person if (1) the officer observes the person committing a crime; (2) the officer has probable cause to believe that a crime has been committed by that person; or (3) the officer makes the arrest under the authority of a valid arrest warrant. After the arrest, the police books the suspect. When the police complete the booking process, they place the suspect in custody. If the suspect committed a minor offense, the policy may issue a citation to the suspect with instructions to appear in court at a later date.

If a suspect in police custody is granted bail, the suspect may pay the bail amount in exchange for a release. Release on bail is contingent on the suspect's promise to appear at all scheduled court proceedings. Bail may be granted to a suspect immediately after booking or at a later bail review hearing. Alternatively, a suspect may be released on his "own recognizance." A suspect released on his own recognizance need not post bail, but must promise in writing to appear at all scheduled court appearances. Own recognizance release is granted after the court considers the seriousness of the offense, and the suspect's criminal record, threat to the community and ties to family and employment.

The suspect makes his first court appearance at the arraignment. During arraignment, the judge reads the charges filed against the defendant in the complaint and the defendant chooses to plead "guilty," "not guilty" or "no contest" to those charges. The judge will also review the defendant's bail and set dates for future proceedings.

The government generally brings criminal charges in one of two ways: by a "bill of information" secured by a preliminary hearing or by grand jury indictment. In the federal system, cases must be brought by indictment. States, however, are free to use either process. Both preliminary hearings and grand juries are used to establish the existence of probable cause. If there is no finding of probable cause, a defendant will not be forced to stand trial.

A preliminary hearing, or preliminary examination, is an adversarial proceeding in which counsel questions witnesses and both parties makes arguments. The judge then makes the ultimate finding of probable cause. The grand jury, on the other hand, hears only from the prosecutor. The grand jury may call their own witnesses and request that further investigations be performed. The grand jury then decides whether sufficient evidence has been presented to indict the defendant.

At trial, the judge or the jury will either find the defendant guilty or not guilty. The prosecution bears the burden of proof in a criminal trial. Thus, the prosecutor must prove beyond a reasonable doubt that the defendant committed the crimes charged. The defendant has a constitutional right to a jury trial in most criminal matters. A jury or judge makes the final determination of guilt or innocence after listening to opening and closing statements, examination and cross-examination of witnesses and jury instructions. If the jury fails to reach a unanimous verdict, the judge may declare a mistrial, and the case will either be dismissed or a new jury will be chosen. If a judge or jury finds the defendant guilty, the court will sentence the defendant.

During the sentencing phase of a criminal case, the court determines the appropriate punishment for the convicted defendant. In determining a suitable sentence, the court will consider a number of factors, including the nature and severity of the crime, the defendant's criminal history, the defendant's personal circumstances and the degree of remorse felt by the defendant.

***1b)***

The right to an appeal is recognized as a human right and is almost universally imple­mented in a domestic context. The right to an appeal is recognized in Article 7(1)(a) of the African Charter on Human and peoples 'right.

After a court has convicted and sentenced a criminal defendant, the defendant may file an appeal to a higher court, asking it to review the lower court’s decision for legal errors that may have affected the outcome of the case. If the appellate court grants the appeal, it may reverse the lower court’s decision in whole or in part. If the appellate court denies the appeal, the lower court’s decision stands.

If a conviction results from a defendant’s guilty plea, the defendant does not have an automatic right to appeal their conviction. In most jurisdictions, an appeal will be heard only if the defendant is granted permission to proceed by the appellate court. Criminal defendants who were convicted by a judge or jury at trial, however, have an absolute right to appeal their convictions. Additionally, all states which enforce the death penalty allow an automatic appeal of cases involving a death sentence. If a court acquits the defendant, the prosecutor may not appeal the verdict.

1. Commencement of a civil action is the process taken to institute an action before a competent court to determine the issues between parties. There are three(3) methods of commencing any civil proceeding. Namely: writ of summons

Originating summons

Originating motion

Petition

* Writ of Summons: A Writ of Summons is a formal document addressed to the defendant requiring him to enter an appearance if he wishes to dispute the plaintiff’s claim. Civil actions involving substantial disputes of fact are commenced by way of a writ.
* Originating Summons: An action is commenced by way of an Originating Summons where:

It is required by statute; or

The dispute is concerned with matters of law in respect of which there is unlikely to be any substantial dispute of facts.

Compared to a Writ of Summons, the Originating Summons is a simpler and swifter procedure for the resolution of disputes as it is determined generally on affidavits filed and does not involve pleadings or many interlocutory proceedings.

* Originating Motion: A type of document that starts a civil proceeding. This is often required when:
  + there is no defendant
  + you are making an application to the court under a particular Act.
* petition: A written application from a person or persons to some governing body or public official asking that some authority be exercised to grant relief, favors, or privileges.

*>*