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QUESTION 1.

Criminal Procedure, is the sum-total process of commencing, conducting and concluding a criminal case or trial. It refers to the process of the administration of criminal justice in Nigeria whereby the body of laws and rules relating to criminal matters are used. In any case, each party is represented by an attorney. But this often is not the case, especially in limited jurisdiction courts. People may represent themselves in court without an attorney if they follow court rules. They often are called pro per, pro se, or self-represented litigants.

Criminal cases are mainly decided based on “proof beyond reasonable doubt” which can be seen in **Section 137, Evidence Act 2011**. And the burden of proof in criminal cases lie on the prosecutor as stated in **Section 139, Evidence Act 2011**.

The stages before arraignment include: Arrest, initial appearance and preliminary hearing.

* ARRAIGNMENT

This is a legal process in a law court where someone is accused of a crime and asked to say if they are guilty or not. It must also be done within a reasonable time after arrest or else delay in this process infringes on the defendant’s right to personal liberty. Some states combine this step with the “bail hearing” but it's typically conducted after bail is determined. Also, the defendant can have an attorney present. As a matter of fact, it is advised to have an attorney present to understand more about the arraignment.

During a typical arraignment, a person charged with a crime is called before a criminal court judge, who:

* require defendants to be informed of certain constitutional rights; and/or decide on bail amounts (or whether the defendant must be remanded until trial).
* Reads the criminal charge(s) against the person (now called the "defendant")
* Asks the defendant if they have an attorney or need the assistance of a court-appointed attorney.
* Asks the defendant how he or she answers or "pleads to" the criminal charges -- "guilty," "not guilty," or "no contest"
* Decides whether to alter the bail amount or to release the defendant on their own recognizance (Note: These matters are usually revisited even if addressed in prior proceedings); and
* Announces dates of future proceedings in the case, such as the preliminary hearing, pre-trial motions, and trial.

Also, at the preliminary hearing, the prosecutor will give the defendant and their attorney copies of police reports and any other documents relevant to the case. For example, in a “Driving under the influence” or drug possession case, the prosecutor may provide the defense with lab reports of any blood or chemical tests that were performed and may be used in the case.

When entering a plea, defendants can choose to plead not guilty, guilty or no contest.

* A **not guilty plea** means simply that the defendant is going to make the state prove the case against him. Defense attorneys usually recommend that criminal defendants plead not guilty at arraignment, and defendants often do plead not guilty
* If a defendant **pleads guilty** to a very minor crime at arraignment, the judge may sentence the defendant at arraignment. The prosecutor and the defense attorney may negotiate the guilty plea and agree on a sentence during the arraignment. If the case is more serious, the judge probably will set a sentencing hearing and request a pre-sentence report.
* If a defendant **pleads no contest**, he acknowledges that the prosecutor has enough evidence to prove he committed a crime but does not admit that he did it. When a defendant enters this plea at arraignment, the court rules the same way as a defendant who pleaded guilty.
* TRIAL

In a criminal trial, a jury examines the evidence to decide whether, "beyond a reasonable doubt," the defendant committed the crime in question. A trial represents the defense's chance to refute the government's evidence, and to offer its own in some cases. After both sides have presented their arguments, the jury considers as a group whether to find the defendant guilty or not guilty of the crime charged. Even though a trial is the most high-profile phase of the criminal justice process, most criminal cases are resolved well before trial -- through guilty or no-contest pleas, plea bargains, or dismissal of charges.

A complete criminal trial typically consists of six main phases:

* [Choosing a Jury](https://criminal.findlaw.com/criminal-procedure/how-are-potential-jurors-selected.html)
* [Opening Statements](https://dictionary.findlaw.com/definition/opening-statement.html)
* Witness Testimony and [Cross-Examination](https://dictionary.findlaw.com/definition/cross-examination.html)
* [Closing Arguments](https://dictionary.findlaw.com/definition/closing-argument.html)
* [Jury Instruction](https://dictionary.findlaw.com/definition/instruction.html)
* Jury Deliberation and [Verdict](https://dictionary.findlaw.com/definition/verdict.html)

**1. Choosing a Jury**

During jury selection, the judge will question a pool of potential jurors generally and as to matters pertaining to the case. The judge can excuse potential jurors at this stage, based on their responses to questioning. Also at this stage, both the defense and the prosecution may exclude a certain number of jurors, through use of ["peremptory challenges" and challenges "for cause."](https://dictionary.findlaw.com/definition/challenge.html) A peremptory challenge can be used to exclude a juror for any non-discriminatory reason, and a challenge for cause can be used to rule out a juror who has shown that he or she cannot be truly objective in deciding the case.

**2. Opening Statements**

Once a jury is selected, the first "dialogue" at trial comes in the form of two opening statements -- one from the prosecutor on behalf of the government, and the other from the defense. No witnesses testify at this stage, and no physical evidence is ordinarily utilized.

Because the government has the "[burden of proof](https://criminal.findlaw.com/criminal-law-basics/the-differences-between-a-criminal-case-and-a-civil-case.html)" as to the defendant's guilt, the prosecutor's opening statement is given first and is often more detailed than that of the defense. Regardless of when opening statements are made, during those statements:

* The prosecutor presents the facts of the case, from the government's perspective, and walks the jury through what the government will try to prove.
* The defense gives the jury its own interpretation of the facts and sets the stage for rebutting key government evidence and presenting any legal defenses to the crime charged.

**3. Witness Testimony and Cross-Examination**

In most criminal trials, what is called the "case-in-chief," the stage at which each side presents its key evidence to the jury is often present.

In the case-in-chief, the government methodically sets forth evidence to convince the jury beyond a reasonable doubt that the defendant committed the crime. It is at this point that the prosecutor calls eyewitnesses and experts to testify. The prosecutor may also introduce physical evidence, such as photographs, documents, and medical reports. After the government concludes its case-in-chief, the defense can present its own evidence in the same proactive manner.

Once the prosecution and defense each have had an opportunity to present their case and to challenge the evidence presented by the other, both sides “rest”.

**4. Closing Arguments**

Like the opening statement, the closing argument offers the government and defense a chance to "round up" the case, recapping the evidence in a light favorable to their respective positions. This is the final chance for the parties to address the jury prior to deliberations.

**5. Jury Instruction**

After both sides of the case have had a chance to present their evidence and make a closing argument, the next step toward a verdict is [jury instruction](https://dictionary.findlaw.com/definition/jury-instructions.html), a process in which the judge gives the jury the set of legal standards it will need to decide whether the defendant is guilty or not guilty. The judge decides what legal standards should apply to the defendant's case, based on the criminal charges and the evidence presented during the trial. The judge then instructs the jury on those relevant legal principles decided upon, including findings the jury will need to make in order to arrive at certain conclusions.

**6. Jury Deliberation and Verdict**

After receiving instruction from the judge, the jurors as a group consider the case through a process called "deliberation. Once the jury reaches a verdict, the jury foreperson informs the judge, and the judge usually announces the verdict in open court.

* SENTENCING

A sentencing hearing is scheduled to determine the punishment a convicted defendant will receive. The judge hears testimony from the prosecution and the defense regarding the punishment that each side feels the convicted defendant should receive. A sentence may include fines, incarceration, probation, suspended sentence, restitution, community service, and participation in rehabilitation programs.

**REMEDIES**

Ifthe defendant is unsatisfied with the high court judgement, the parties can file for an appeal to the supreme court within 14 days after the judgement but the grounds for the appeal are limited. However, as the court of last resort, Supreme court is authorized, as its discretion, to reverse lower court decisions.

The supreme court only examines record of the case and never examines witnesses or defendants although the supreme court can hear the argument of the parties involved. If the court concludes that there is no ground for reversal, it dismisses the appeal.

QUESTION 2.

Subject to the provisions of any enactment, civil proceedings may be begun by writ of summons or originating summons.

* WRIT OF SUMMONS

The Writ of Summons (WOS) is one of the two modes used in commencing a civil action against a person. It is a formal document addressed to the defendant requiring him to appear before the court if he/she wishes to defend himself against the plaintiff's claim. A writ is usually accompanied by an Endorsement of the Claim or a Statement of Claim so that the defendant is made aware of the claim against him/her.

* ORIGINATING SUMMONS

Originating Summons (OS) is one of the two modes in commencing a civil action. An action is commenced by an OS when:

(1) it is required by a statute or

(2) a dispute, which is concerned with matters of law, is unlikely to be any substantial dispute of fact.

OS is heard based on affidavits filed in support. OS cases are heard by registrars or judges in chambers or in open Court. A judicial decision is made by hearing the lawyers and assessing the affidavits filed either in support of or in opposition to the OS. Witnesses may be called to give testimony and pre-trial conferences may or may not be conducted.

An application can be made to convert an OS into a Writ at any stage of proceedings. Alternatively, the Registrar or Judge can decide to convert an OS into a Writ without any application from the parties. Once the decision to convert has been made, the steps relating to a Writ applies. The Registry will assign a new Suit Number to the proceedings and a pre-trial conference will be called for the service of the Statement of Claim.