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# Grading of Charges

## Felonies

Felonies are the most serious charges in Pennsylvania and are generally graded as Felony 1 (F1), Felony 2 (F2) and Felony 3 (F3). Felony charges are never eligible for expungement and may carry a significant period of incarceration. The maximum penalty for felonies is as follows:

- F1 – Maximum of 20 years of supervision
- F2 – Maximum of 10 years of supervision
- F3 – Maximum of 20 years of supervision

## Misdemeanors

Misdemeanors are also considered serious charges in Pennsylvania and are generally graded as Misdemeanor 1 (M1), Misdemeanor 2 (M2) and Misdemeanor 3 (M3). However, many M2 and M3 charges are may be eligible for limited expungement. The maximum penalty for misdemeanors is as follows:

- M1 – Maximum of 5 years of supervision
- M2 – Maximum of 2 years of supervision
- M3 – Maximum of 1 year of supervision

## Summary Offenses

All summary offenses are eligible for full expungement and are generally not considered crimes in Pennsylvania. However, summary offenses are still punishable by up to 90 days of supervision and some summary offenses have mandatory periods of incarceration.

www.SVMBLAW.com

Spirale Vargo Madsen & Blair

680 Wolf Avenue  
Easton, Pennsylvania 18042  
(610) 258-3757

# Criminal Defense

## Grading of Charges, Types of Hearings & Consulting your Attorney

This brief guide will provide you with a precursory background of the criminal justice system in Pennsylvania.



# The First Three Court Dates in a Criminal Case

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## Magisterial District Court

A criminal case begins with the filing of the charging paperwork in the District Court. The District Court serves as the gatekeeper for the Court or Common Pleas and generally does not decide guilt or innocence nor does it impose sentences in Misdemeanor and Felony cases.

If the charges are felonies, M1 charges, domestic violence related misdemeanors or misdemeanors observed by a law enforcement officer, the Magisterial District Judge (MDJ) will issue an arrest warrant. For all other charges the MDJ will merely mail a summons to appear for a preliminary hearing or summary trial. The following hearings will occur at the Magisterial District Court.

1. **Preliminary Arraignment** is the first court date a defendant must attend. At the preliminary hearing the MDJ will set bail. If an arrest warrant has issued this will occur prior to the preliminary hearing. If a preliminary hearing was scheduled via summons, the Preliminary Arraignment will occur simultaneous to the Preliminary Hearing.
2. **Preliminary Hearings** are the first opportunity for the Defense to test the evidence the Commonwealth plans to bring against them. While the burden the Commonwealth must meet at this level is very low, it is a critical stage of the defense because it allows for the opportunity to lay the strategic groundwork that may make or break a defense in the upper courts. You should never waive a preliminary hearing without an attorney.

## Court of Common Pleas

While the Magisterial District Court is generally powerless to punish defendants and informal, the Court of Common Pleas is much more formal and holds the power to determine guilt and impose sentence.

3. **Formal Arraignment** is the first court appearance in the Court of Common Pleas. The purpose of the Formal Arraignment is to inform defendants of certain rights they have and deadlines in their case. If negotiations have led to a favorable plea agreement in your case, a plea may be entered at his court date

Based upon the facts of each individual case, numerous other types of court hearings may occur after the Formal Arraignment.

# Various types of Court Hearings in the Court of Common Pleas

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Depending on the individual case, any of the following types of court hearings may occur:

- **Diversionsary Program Hearing** – Diversionsary Programs allow defendants a path to through the criminal justice system that does not risk the chance of conviction. First time offenders may be eligible for the **ARD program**. Other defendant's may be eligible for **Mental Health Court** regardless of whether they have prior convictions.
- **Habeas Corpus Hearing** – A Habeas Corpus hearing, like a preliminary hearing, may be held to contest the sufficiency of the Commonwealth's evidence prior to a trial.
- **Suppression Hearing** – A suppression hearing may be held to have evidence illegally obtained by the police ruled inadmissible at trial.
- **Trial** – A suppression hearing may be held in order to have evidence illegally obtained by the police ruled inadmissible at trial.
- **Guilty Plea** – If the Commonwealth and the defendant agree upon the terms of a guilty plea, a plea may occur at any time throughout the criminal court process.
- **Sentencing Hearing** – If a defendant is convicted, by trial or guilty plea, the court must impose a sentence. A sentencing hearing may take place simultaneously to a conviction, if the defendant agrees, otherwise the court may schedule it for a later date after the preparation of a Pre-Sentence Investigation (PSI) by the probation department.

# How to Prepare to Defend Your Case

- **Retain an attorney ASAP** – Ideally you should consult an attorney before even speaking with police or being charged but this is not always possible. Nonetheless, you should seek counsel at the earliest possible time.
- **Don't talk about your case** – Don't discuss the details of your case with anyone other than your attorney unless directed to do so by your attorney. If you have a social media account, you should discuss the possible deactivation of it with your attorney.
- **Comply with all bail conditions** – If you fail to comply with any bail conditions the Commonwealth may move to have you incarcerated pending trial.
- **Plan to arrive to all hearings early** – If you are late to a hearing the Court may revoke bail and issue a bench warrant. Always prepare to arrive early and if you are running late make sure to let your attorney's office know.

# Meeting with Your Attorney

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Your conversation with your attorney confidential and cannot be disclosed to anyone else. When meeting with your attorney:

1. Tell him or her all the details regarding the alleged events that you can remember
2. Bring all papers provided by the police or the court to your attorney's office
3. Identify and provide contact information for any possible witnesses
4. Don't hesitate to ask all questions you may have.