

NATIONAL LAWYERS GUILD KYR GUIDE

NATIONAL LAWYERS GUILD MASS DEFENSE PROGRAM

nlg.org/massdefenseprogram

Legal Steps & Choices

Navigating the criminal punishment system

This general educational material does not constitute
legal advice or encouragement to take action.
Local law, policy, and/or procedure can vary greatly.
Contact a local attorney for additional questions.



Adapted with permission from
Midnight Special Legal Collective's
Know Your Rights Materials
<http://midnightspecial.net/materials/kyr.html>

Legal Steps & Choices: Introduction

Prosecutions vary from state to state, and even city to city and county to county, but they follow a similar process across the U.S. Although designed to be oppressive and scary, **there are choices to be made at each step of the process.**

Familiarizing ourselves with the steps and choices can keep us safer, as well as preserve our autonomy and dignity! **This guide is not exhaustive** - there are numerous other parts and actions that can be taken. In addition, the State can (and will) ignore standard procedure in political prosecutions. But being aware of the process and possible points of intervention can be helpful for defendants, support crews of defendants, legal workers helping with the case, and lawyers.

This KYR Guide is adapted from the Midnight Special Legal Collective's Know Your Rights Materials:
<http://midnightspecial.net/materials/kyr.html>.

We are grateful to their work, supporting the movement for many years. NLG encourages groups and collectives to organize independently, outside of the State and the non-profit industrial complex!

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Legal Steps & Choices: Strategies to Increase Choices

• **Indictment & Warrant Steps**

- If something went down, you do not need to wait for the cops to begin arrests or come knocking to start organizing and gathering your people.
- Getting on the same page early on can help maintain collective positions when the State begins to divide and conquer or sow fear and paranoia. Warrants and indictments make people panic.

• **Arrest to 1st Court Appearance Steps**

- Going to jail is awful and isolating, by design. Forming networks for a robust jail support can make the difference between life or death, staying strong or losing people to State tactics.
- Being incarcerated makes people vulnerable and raw, and the State will take advantage of this in every way it can. Community can be the strongest defense against this.

• **Release to Pretrial Steps**

- A pending charge can make everything change: relationships, job, housing, health. Surrounding yourself with affirming and supportive people will allow you to continue making the best choices. The stigma of being a “defendant” is real!
- Lawyers are not always your friends, and their interests might not align. Get others’ opinions, check with your people.

• **Trial to Appeal Steps**

- By the time trial comes, your whole life might have changed since the original charge. Stay grounded on what happened in the first place, why it happened, and what you believe in.

Legal Steps & Choices: Case Dismissed Detour

Explanation

STEP

Choice

At any point before a judge enters a final judgment (guilty, not guilty, dismissal), the State can dismiss your case, formally stop prosecuting it, or grant a dismissal based on "good behavior," "compliance," or any justification they come up with. Most cases are dismissed at the Pretrial step, after the prosecutor reviews the evidence. But they could be dropped as early as after Arrest and as late as during Trial itself. Sometimes, however, a dismissal is not a guarantee that you won't face later charges, or that other consequences of the prosecution are about to hit you. Some forms of dismissal still allow the State to try again.

Celebrate publicly (press conference, big party, rally at the courthouse) or privately (outing with friends, wine and crying, cutting your hair and bleaching it blonde). Go on a media tour. Continue to support others facing political prosecutions. Take a pause to get your affairs back in order. Write a guide like this one for future defendants. Help build up local mass defense infrastructure for others.

CASE DISMISSED



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Legal Steps & Choices: How to Use Guide

This Guide lays out different Steps of the criminal punishment process, connected by arrows. An overview of the entire process is provided first. Note that the arrows at times flow back and forth between certain Steps. This is because, depending on the situation, certain Steps might actually happen in another order. The dotted arrows represent steps that might not happen at all, although some of the Steps might get skipped or happen so quickly that they aren't even noticed.

Explanation

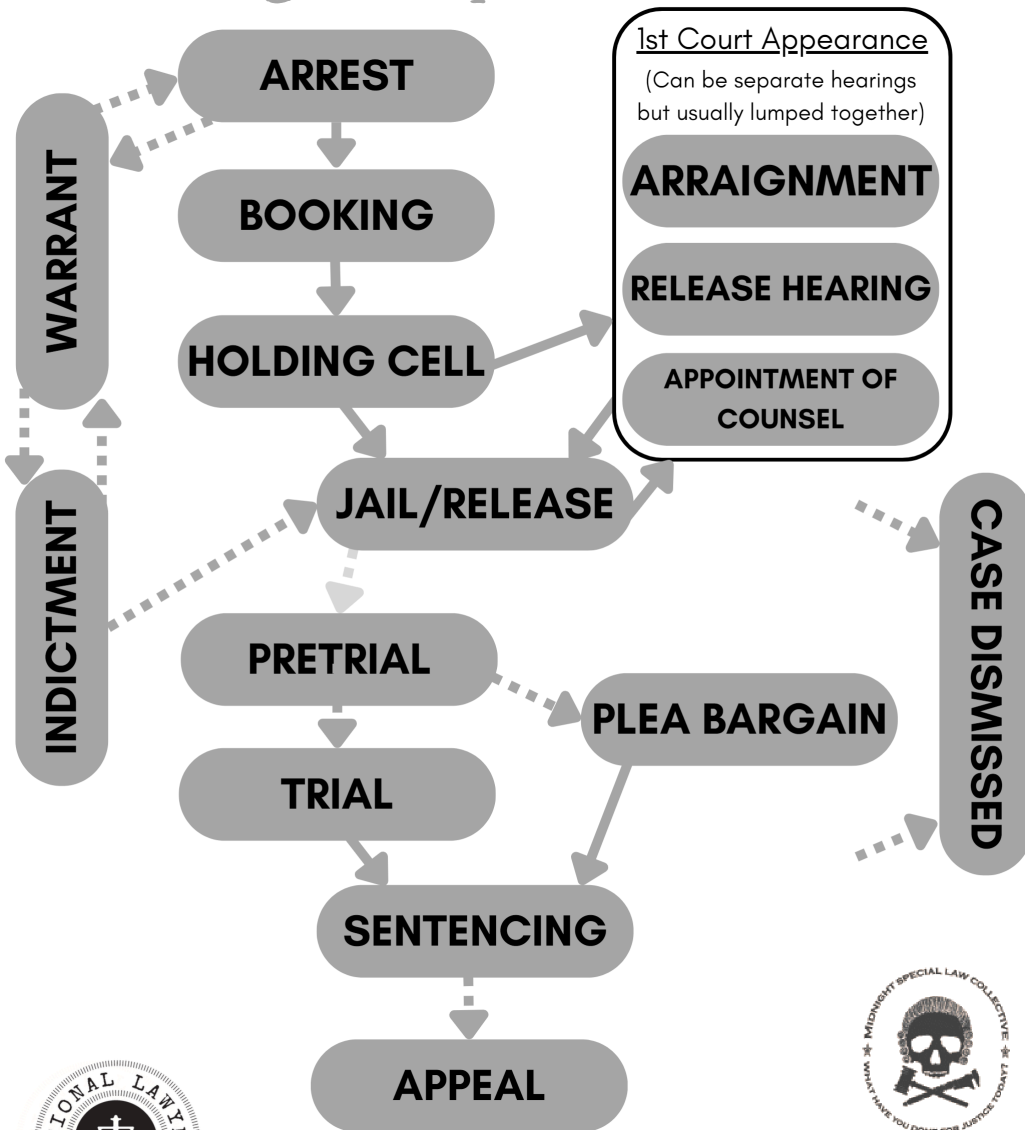
STEP

Choice

In the following pages, the Steps are broken into parts, providing an Explanation and Choice next to them. The Explanation of the Step in the legal process is above, followed below by the Choice (or Choices) the defendant has. Note that how the Steps are broken up in the Guide does not mean anything - this is purely for formatting and readability.

Again, these Steps, Explanations, and Choices are not exhaustive. They might also be totally wrong given particular charges, jurisdiction differences, or specific circumstances. But they capture the general flow of the U.S. criminal punishment system and should hopefully give inspiration for even more Choices !

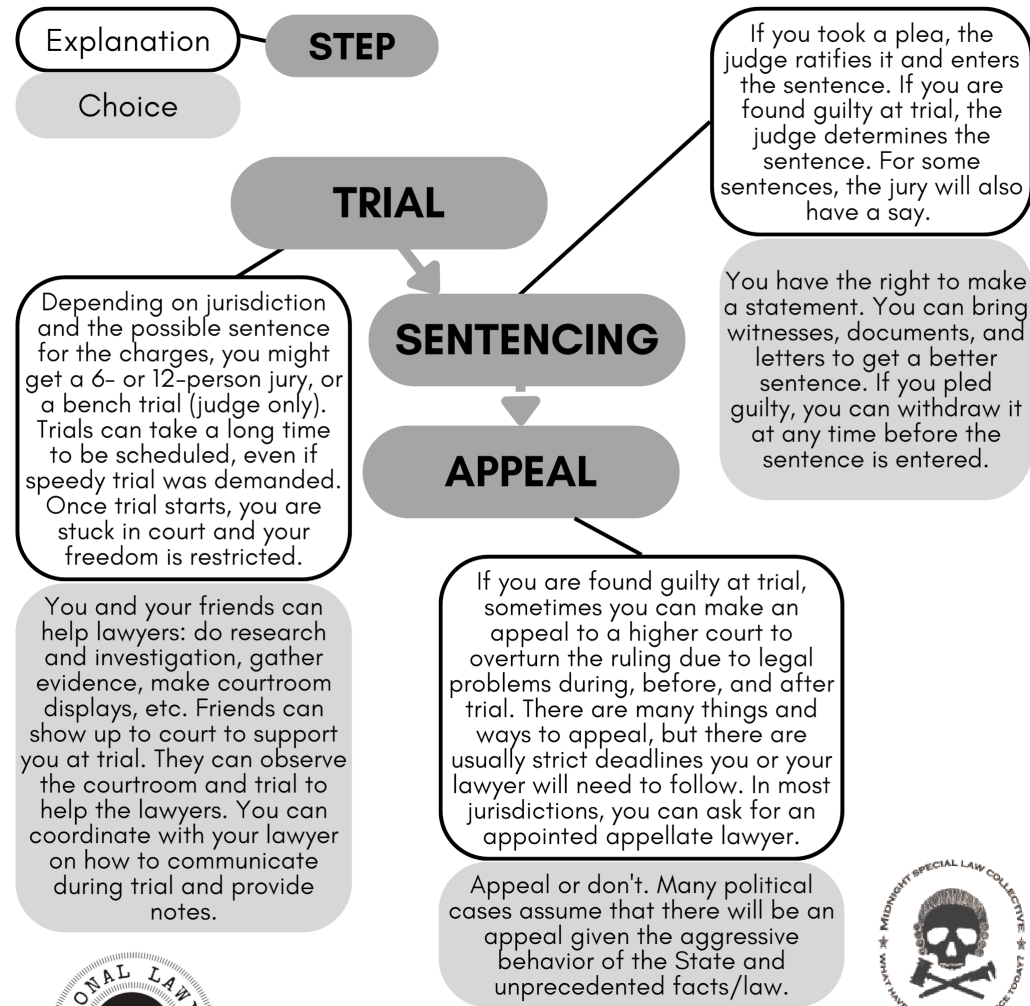
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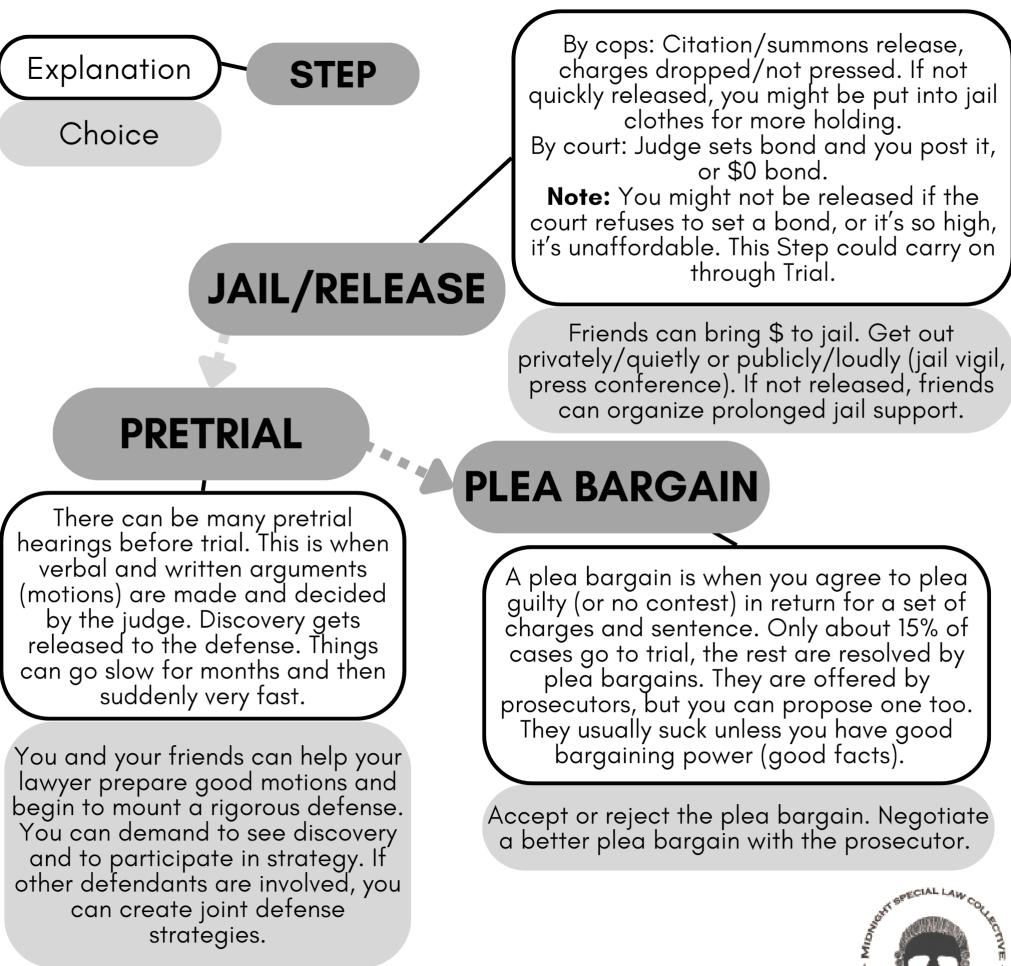
Legal Steps & Choices: Trial to Appeal



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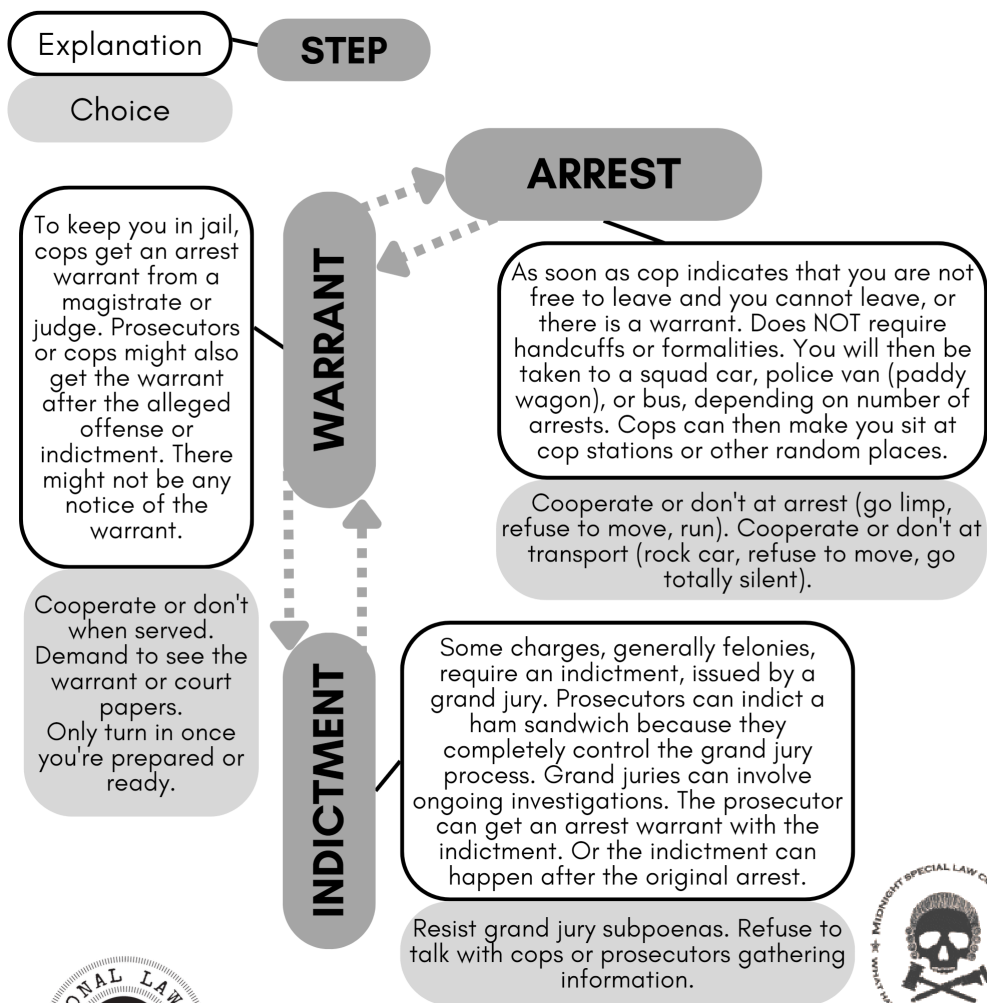


Legal Steps & Choices: Jail/Release to Plea Bargain



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Legal Steps & Choices: Charges to Arrest



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Legal Steps & Choices: Booking to Holding Cell

Explanation

STEP

Choice

BOOKING

Deputies take fingerprints/DNA and photos, ask questions about identity, medical issues, make you sign things. At this point, the arresting cops hand you over to jail employees, but you can still be taken for questioning by cops, detectives, prosecutors, or any other State agent.

HOLDING CELL

Cooperate or don't.
Generally only have to give your identifying information (name, birthday, address).
You do not have to sign anything.
You decide what religious beliefs, disabilities, gender to disclose.

Jail is all about waiting and it starts here. They might put you in a holding cell for hours before booking, after booking, in the middle of booking... You might be alone, you might be with strangers, but you are being watched.

Cooperate or don't when they try to move you.
Demand food, water, accommodations, calls/contact with the outside world.



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Legal Steps & Choices: 1st Court Appearance

Explanation

STEP

Choice

Prosecutor formally charges you, and you make a plea. In some places, done through video from jail. Generally needs to happen within 48-72 business hours after booking. Speedy trial clock starts ticking. Usually a bad plea deal is offered.

Plea not guilty, make a demurrer/motion to dismiss (something is wrong with the warrant/indictment so charge dismissed, but the prosecutor can correct the problems), or accept plea deal and plea guilty. Demand speedy trial (refuse to "waive time"). Most lawyers waive time because it gives them more time to prepare.

Judge decides bond, release issues, conditions. Release hearings can become mini-trials if the prosecutor doesn't want you to get out. Prosecutor can offer a "consent bond," with agreed conditions for release.

Agree or not to a consent bond with all its conditions. Have your lawyer get another hearing, make arguments to get you released, get witnesses, documents, and letters to prove that you are a nice, safe person with ties to the community.

1st Court Appearance
(Can be separate hearings but usually lumped together)

ARRAIGNMENT

RELEASE HEARING

**APPOINTMENT OF
COUNSEL**

If you qualify based on income, get assigned a lawyer, usually a public defender, sometimes a private attorney paid by the court/state. This may be the first time you talk with a lawyer.

Ask for an appointed lawyer or not. Establishing you are indigent (unable to afford competent counsel) might help with court costs and arguments later.



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