



ADMINISTRATIVE OFFICE
of PENNSYLVANIA COURTS

The Pennsylvania judicial system is comprised of several levels. Imagine a pyramid with the top being the Supreme Court and just underneath it, two appellate jurisdictions, the Superior and Commonwealth Courts. The base of this pyramid consists of Common Pleas and Magisterial District Courts. The Court of Common Pleas is the trial court, or the court of general jurisdiction, in Pennsylvania. The Magisterial District Court is the Court where every criminal case and many civil disputes begin.

At the initial level of court, a Magisterial District Judge (MDJ) is elected by registered voters in the communities that comprise the district (usually one or more municipalities, i.e. township, borough, city), and presides over all alleged criminal charges that have transpired in the specific magisterial district. Although not necessarily a lawyer, the MDJ is trained in resolving minor disputes and is the arbiter for such actions as a landlord/tenant dispute, traffic violations, and minor civil disputes. The MDJ is the first judicial officer to hear evidence in all criminal proceedings, including capital murder cases.

All courts fall under the umbrella of the Unified Judicial System headed by the Supreme Court. The Administrative Office of Pennsylvania Courts is the administrative arm of the Supreme Court and provides guidance and support to the Courts of Common Pleas and Magisterial District Courts. Statewide rules governing procedures and presentation of evidence, as one example, apply to all courts, to ensure uniformity and most of all, a fair process for each and every case. In addition, each county court may apply local rules to assist in specific administrative procedures.

We have listed below several sample questions and facts regarding Magisterial District Courts and defined investigating grand jury.

FREQUENTLY ASKED QUESTIONS (FAQ) LIMITED JURISDICTION COURTS IN PENNSYLVANIA

PRELIMINARY ARRAIGNMENT:

What is a preliminary arraignment?

This proceeding before a MDJ is where the defendant is provided a copy of the charges and advised of his/her legal rights. Preliminary Arraignments may be conducted by Two-Way Simultaneous Audio-Visual Communication. Bail is set by the MDJ. The criteria used for bail determination is discussed in the following two questions. The defendant is notified of a date and time for a preliminary hearing as well. This is the initial step in the criminal justice system.

What is bail?

Bail is a monetary or non-monetary promise that the defendant will be physically present for the court proceeding. This collateral is generally filed in the Clerk of Courts office and is usually posted by a bondsman. If the defendant fails to appear at a court proceeding or violates any conditions of bail, bail may be forfeited and a bench warrant for his or her arrest may be issued by a judge.

Bail may be modified at any step of the criminal justice process. Defense may ask for bail to be lowered. The prosecution may ask for higher bail if they think the defendant may be a threat to the community, oneself, or at high risk for not appearing for a scheduled hearing.

How is bail set?

In general, bail is set by the MDJ at the preliminary arraignment. The criteria applied to determine the amount and type of bail: flight risk of defendant, ties to the community and threat to the community, type of charge and prior criminal record, if any.

PRELIMINARY HEARING:

What is a preliminary hearing?

This is the first opportunity for both sides to present evidence and call witnesses before a judicial officer. The hearing takes place in the Magisterial District Court, although in cases where safety and security (along with seating capacity) may be an issue, the county courthouse may serve as the venue for such a proceeding. The MDJ would still preside at a preliminary hearing in the county courthouse. The arresting officer must be present and is sometimes accompanied by a prosecuting attorney. Magisterial District Courts are not a court of record; and therefore, there is no record of the proceedings that occur before the Magisterial District Courts unless the parties request a Court Reporter to transcribe the hearing.

What does the prosecution do at a preliminary hearing?

The prosecution presents evidence and may or may not call witnesses. The prosecution must present evidence (for the first time) that would warrant formal prosecution. The prosecution will attempt to establish what is called *prima facie* (on its face – English translation from Latin). This position means “on its face” there exists enough evidence to proceed with formal prosecution of the charges discussed.

What does the defense do at a preliminary hearing?

The defense is not required to do anything, but may cross examine witnesses and present evidence. A defense attorney may be present.

Who is not present at a preliminary hearing?

A jury – only a MDJ presides.

What happens if the Judge finds the prosecution has established a prima facie case?

The case is “bound over” (Held for Court) to the Court of Common Pleas – the trial level of court. The case is now an official court case with formal arraignment to follow and is under the jurisdiction of the trial court (generally one per county in Pennsylvania, although some rural counties may share a trial court with a neighboring county).

What happens if the judge finds the prosecution has not established a prima facie case?

The charges are dismissed by the MDJ if he or she determines that there is insufficient evidence for continued prosecution of charges.

Can the defendant be found guilty at the preliminary hearing?

No. This court is not an official court of record and has no authority for final determination of guilt or innocence.

Does the prosecution have a right to appeal the Judge’s decision if the case is dismissed?

No; however, the prosecution may “refile” the charges at the trial court level.

What happens after the preliminary hearing?

If the MDJ finds there is sufficient evidence (*prima facie*) to proceed with the charges, the case is “bound over for court” (Held for Court) for further proceedings at the Court of Common Pleas (the trial court level). The next step in the criminal justice process is formal arraignment.

What is formal arraignment?

This is a process where charges are read to the defendant, and a plea of guilty or not guilty is entered at this proceeding.

What is an Investigating Grand Jury Report?

An investigating grand jury is composed of 23 jurors. Its work is conducted in secret. A majority of the grand jurors, however, may issue a report to the Supervising Judge regarding any conclusions they have reached during their investigation that they believe are supported by a preponderance of the evidence. Unlike a jury seated at a criminal trial, the conclusions of the investigating grand jury do not have to be unanimous and do not need to have been proven beyond a reasonable doubt.