



The Criminal Court Process Explained



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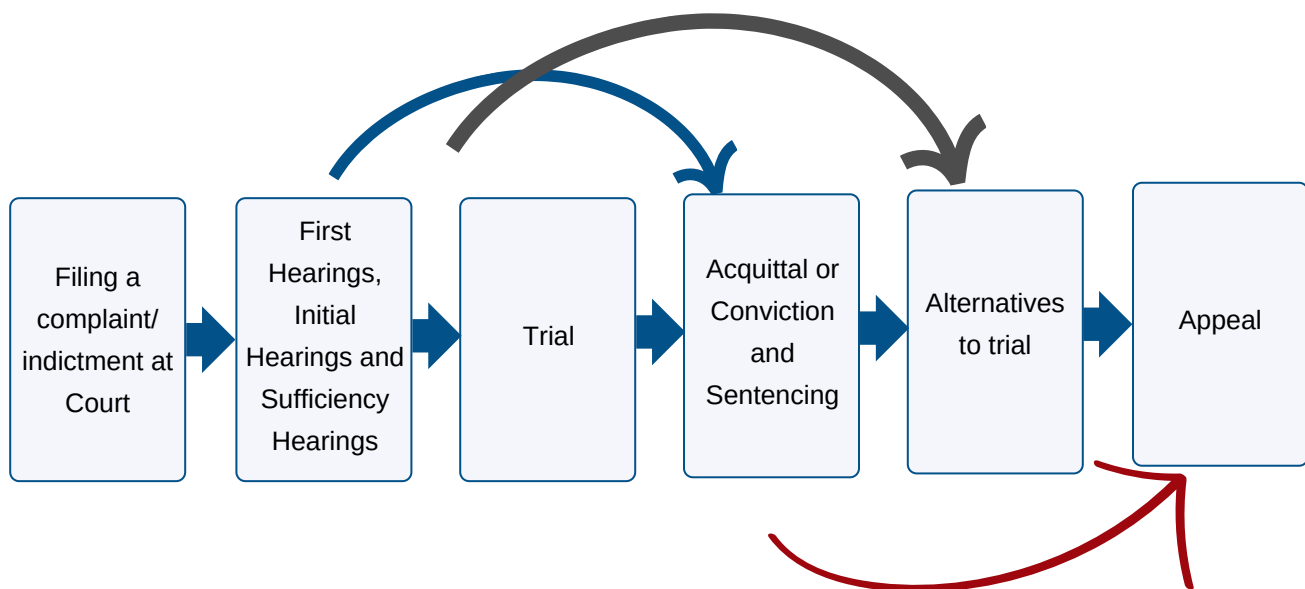


The Trinidad and Tobago Criminal Court Process Explained

A criminal matter begins when someone accused of breaking the law is brought before the Courts. The accused person can be an adult or a child (a person under the age of 18 years).

Criminal cases before the courts follow a unique system to present the facts about whether or not a person has committed a crime. This includes different types of court proceedings involving the agencies of the criminal justice system, such as the police, prosecutors, and private attorneys, to name a few. The criminal court process may have different outcomes and may move through different stages depending on the case presented at Court.

Here are the main points to help you to understand the criminal court process.



Before the case begins before the Courts – Criminal Charges

A criminal court case does not exist unless a person is accused of an offence. Offences are the different types of illegal activity as listed in the laws of Trinidad and Tobago.

When there is an allegation that a crime has been committed, the Trinidad and Tobago Police Service (TTPS) will investigate and collect evidence or information to confirm whether the offence took place, and who is involved.

When someone is arrested, it means that they are taken into police custody. Adults who are arrested will be generally taken to a Police Station. Children who are arrested will be taken to a Booking Centre which is a designated space identified for the children who are accused of engaging in criminal behaviour.

Subsequent to arrest and investigation the police may decide to charge the accused person.

QUICK FACTS

There are three main types of offences:

- **summary offences** (such as theft, some forms of manslaughter, unlawful breaking and entering);
- **indictable offences** (more serious offences such as murder, rape, human trafficking and some forms of money laundering); and
- **triable either way offences.**



How does a case begin before the Courts?

When someone is accused of committing a crime, **a complaint is filed** before the Courts. The complaint lists the different charges and offences. Criminal cases can be filed:

1. At the **District Court** for **summary offences**,
2. At the **Criminal High Court** for more serious, **indictable offences** or **either way offences**,
3. At the **Children Court** which is the Court that treats with children who are accused of committing an offence.

In many instances, a police officer representing **the Trinidad and Tobago Police Service (TTPS)** will file a complaint after the accused person is charged.

The Office of the Director of Public Prosecutions (DPP) may begin a criminal case by **filing an indictment (without a complaint being filed)** for those more serious offences for a child or an adult.

The law also allows other persons/entities who are not police officers to file a complaint. These include estate constables and security officers at schools as well Immigration Division, Board of Inland Revenue and Customs and Excise.



QUICK FACTS

Crimes committed are generally considered crimes against the State and so the DPP is responsible for prosecuting all matters involving criminal offences unless other laws make provision for other persons to prosecute.

Coming to Court – Representation and Bail

After filing a complaint, a court hearing is set for the accused person to appear before a Judge, Master or Magistrate as soon as possible. Adults who have been accused of breaking the law are called '**Defendants**'. Children accused of breaking the law are called '**Child Accused**' or '**Child**'.

Who represents the State in Court?

A **Prosecutor** represents the State of Trinidad and Tobago against the Defendant/Child Accused. Police Prosecutors appear in District Court, but in Criminal High Court either a State Counsel from the Office of the DPP or an Attorney-at-Law from the TTPS will appear.

Who represents the Accused/Child in Court?

The Defendant/Child can either:

1. Hire a private attorney;
2. Apply for a legal aid attorney; or
3. Represent themselves (in the case of adults and in certain types of cases).

Legal aid is provided by the Legal Aid and Advisory Authority and the Public Defender's Department. The defendant can apply for legal aid on their own or they can request that the Court appoint an Attorney-at-Law who works with the Legal Aid Advisory Authority to act on their behalf.

The parent of the Child Accused makes the application to Legal Aid on behalf of the Child. The Court can also appoint a separate Child Advocate, who is an Attorney at Law, who will represent the voice of the Child in the Court matter.



Bail

Bail is the temporary release from police custody of an accused person charged with a criminal offence under the condition that they will appear in Court for all hearings. It is an agreement between the accused person and the Court.

A Court may choose to impose additional conditions when granting bail to a Defendant/ Child Accused, some of these are:

- Staying away from criminal activity,
- Being placed in the care of an adult or parent,
- Imposing a curfew,
- Reporting to a police station periodically

Bail and the conditions of bail depend on the type of offence. A High Court Judge, Master or District Court Judge (also known as a Magistrate) can grant bail for more serious offences.

A senior police officer or a Justice of the Peace (a JP) can grant “station bail” if the crime is a minor offence (summary offence).

The accused person can also apply for bail at their court hearing.



COURT HEARINGS – What to expect

The type of offence that an Accused is charged with, would determine which Court their matter is heard before.

	District Court (summary cases)
<i>Who is the judicial officer?</i>	District Court Judge conducts the first hearing
<i>What happens at the first hearing?</i>	The defendant will be formally identified and asked to plead .
<i>The outcome of the first hearing</i>	If the defendant pleads guilty , there will be no need for a trial and the matter will proceed to sentencing. If the Accused pleads not guilty , the matter will proceed to trial.
<i>Next court hearing before trial</i>	Guilty – proceed to a sentencing hearing . Not guilty – additional hearings may be scheduled before the case goes to trial .

Criminal High Court (indictable cases and either way cases)	Children Court (indictable cases and either way cases)
<p>Master conducts an Initial Hearing</p>	<p>Children Court Judge conducts an Initial Hearing</p>
<ol style="list-style-type: none"> 1. Verify the identity, address and other information of the Accused/Child including contact details and date of birth. (In the case of a Child Accused, the Court will confirm contact details of the parent/guardian/person with responsibility (PWR) for the child.) 2. Inform the Accused/Child of his right to legal representation and inquire whether the Accused/Child is represented by an Attorney-at-law. (In the case of a Child, provide time for legal counsel to be retained.) 3. Inform the Accused/Child of the charge. 4. Explain to the Accused/Child that he is not called upon to enter a plea. 5. Inform the Accused/Child of his right to have an interpreter, where applicable. 6. Hear and determine an application for bail. 7. Give the accused an alibi notice. 8. Make a Scheduling Order. 	
<p>The Scheduling Order with specific dates for filing and serving documents for the case</p> <p>For either way offences, the Master may decide to transfer the case to the District Court for a summary court trial.</p>	
<p>A Sufficiency Hearing (no later than twenty-eight days or such longer period as the Master thinks fit from the date on which the defence files and serves the required documents)</p>	

QUICK FACTS

The Scheduling Order is made by the Master or Judge and this specifies the dates on which:

1. The Accused/Child retains an Attorney-at-law; or the Order for Legal Aid, if applicable, is to be satisfied;
2. The Police will submit files to the Director of Public Prosecutions (DPP) including the Complaint; and Written statements.
3. The Prosecutor will file and serve on the Accused/Child, the Indictment, all Witness Statements and other documentary evidence that will be used at the Sufficiency Hearing (no later than three months from the making of the Scheduling Order or such longer period as the Master thinks fit);
4. The Accused/Child will file and serve on the Prosecutor any Witness Statements and other documentary evidence that will be used at the Sufficiency Hearing (no later than twenty-eight days from the date on which the prosecution files and serves the required documents or such longer period as the Master thinks fit).

After conducting the Initial Hearing, the Master will conduct a Sufficiency hearing to determine whether there is sufficient evidence for the matter to proceed to trial. If the Accused/Child pleads guilty then there is no need to go to trial. Instead, the Accused/Child will be sentenced.

QUICK FACTS

If a Child is jointly charged with an Adult, the matter should be heard at the District Court or the Criminal High Court depending on the type of offence. At the Initial Hearing, the Attorney at law for the Child may make a request to the Master or District Court Judge to apply for Child's matter to be heard at the Children Court. The Judge at the Children Court can decide whether the matter will continue at the Children Court or remain at the District Court or the Criminal High Court.

Trial

A **trial** is a type of court hearing where evidence is presented to the Court and reviewed by a Judge or Master, and before a jury, to decide if the defendant is guilty or not guilty.

For summary matters being heard at the District Court, the District Court Judge decides on the outcome of the case after hearing the evidence from the defence and the prosecution.

For triable either way or indictable matters at the Criminal High Court, this trial will be before a Judge and/or jury. For a child this matter is generally dealt with by a Children Court Judge.

For trials at the Criminal High Court, the accused will file what is called the **Mode of Trial** to say if they wish for a **Trial by Jury** or a **Judge Alone Trial**:

- A **Trial by Jury** means that a jury must be selected for this trial. Under instructions by the Judge, the jury must decide whether the accused is guilty or not guilty.
- A **Judge Alone Trial** means that the case will be decided upon by the Judge only, and a jury will not be selected.



Acquittal or Conviction and Sentencing

After reviewing the evidence and hearing the arguments of the prosecution and the defendant/Child Accused, the Court will have either **a verdict** from the Trial by Jury or a **judgment** from the Judge Alone Trial.

If the Court or jury as the case may be, decides that the defendant/Child Accused is **not guilty**, then the accused will be **acquitted or set free**.

If the defendant/Child Accused is **found guilty** they are **convicted of the offence(s) charged**.

After an accused/Child is found guilty, the Judge will give **a sentence which is a consequence for the crime, as outlined in law**. The sentence can include serving time in prison/rehabilitation centre, the payment of a fine or money to cover the damages suffered by the victim, as well as attending different programmes.

Resolving the case without a trial

Did you know that some cases do not go through the trial phase? There are some cases where the defendant/Child can access the following court processes before the start of a trial or during the early stages of a trial. These are:

1. **Maximum Sentence Indication (MSI)** – This is where the defendant/Child Accused asks the Court, “What is the likely maximum sentence or the most amount of prison time to be served if I plead guilty?” The accused person will have time to consider the Court’s response and then inform the Court whether they intend to accept the Maximum Sentence Indication or not.

If the defendant/Child Accused accepts the Maximum Sentencing Indication, the case then moves straight to the conviction and sentencing phase.



- Plea discussion and plea agreement** – This is an agreement between the prosecutor and the defendant/Child Accused (Attorney/Parent/Guardian/Person with Responsibility (PWR)) where the defendant/Child Accused agrees to plead guilty to an offence and any other obligations specified in the plea agreement. If both parties to the case settle on an agreement, the agreement is presented to the Court and the case moves to conviction and sentencing.

Appeal

Any decision of the Court can be appealed, by making an application to the higher Court (the Court of Appeal) to review the decision of the lower Court (the Criminal High Court, the Children Court or the District Court). After the review, the decision of the lower Court may be reversed, altered, quashed or upheld.

The decisions of the Court of Appeal may be further appealed to the Judicial Committee of the Privy Council, in England.



**For more information about the Criminal Court Process,
please visit the Judiciary's website: www.ttlawcourts.org**