

Stages of a West Virginia Criminal Case

Purple = Law Enforcement

Light Orange = Magistrate Court

Red = Circuit Court

Light Blue = Supreme Court

Dark Blue = Corrections

Reported/Observed
Crime

Law Enforcement
Investigation

Arrest

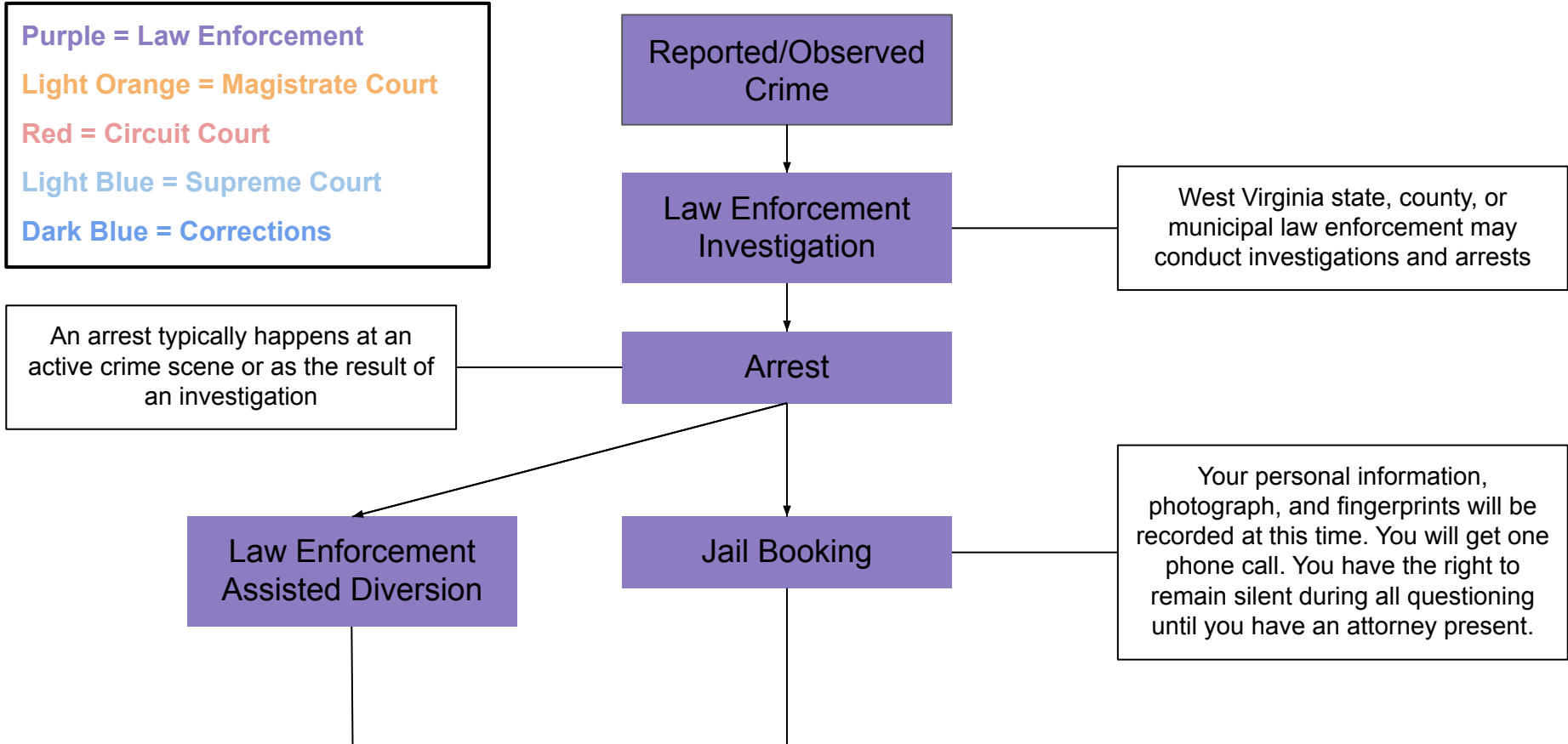
Jail Booking

Law Enforcement
Assisted Diversion

West Virginia state, county, or
municipal law enforcement may
conduct investigations and arrests

An arrest typically happens at an
active crime scene or as the result of
an investigation

Your personal information,
photograph, and fingerprints will be
recorded at this time. You will get one
phone call. You have the right to
remain silent during all questioning
until you have an attorney present.



Law Enforcement Assisted Diversion (LEAD) is a pre-booking program that allows law enforcement officers to give low-level offenders the opportunity for rehabilitation instead of incarceration.

Charges Filed

Prosecutors decide whether to file formal charges against you. They are able to charge you with more or less severe charges than the police arrested you for, and to decline to file charges that police arrested you for.

The magistrate will set bail and allow you reasonable time and opportunity to consult with someone for the purpose of obtaining counsel or arranging bail.

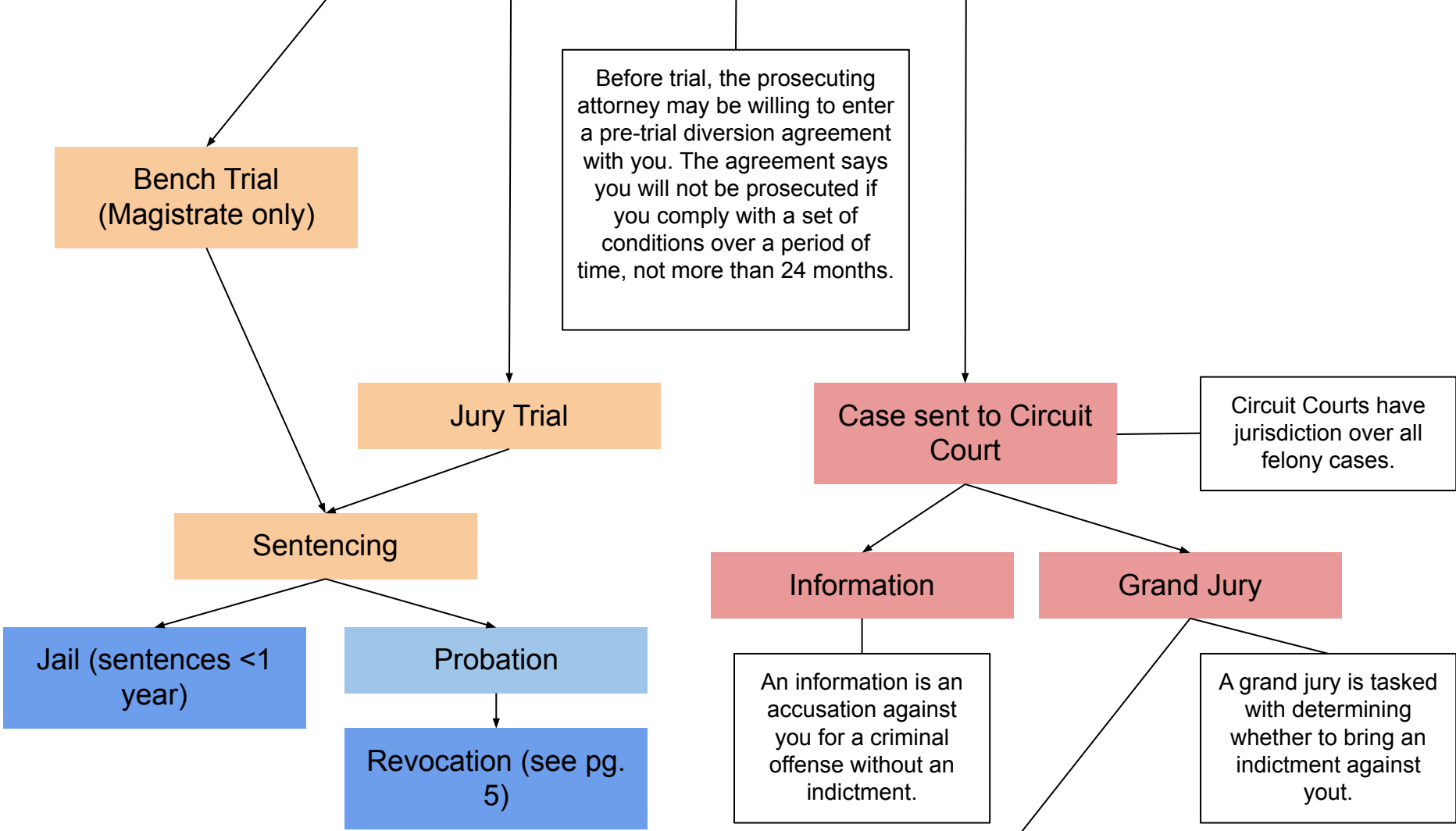
Initial Appearance
(Magistrate)

Initial Hearing
(Magistrate, for
misdemeanors)

Preliminary Hearing
(Magistrate, for
felonies)

Unless you waive your right to a preliminary hearing, it will be held no later than 10 days after your initial appearance if you are in jail or no later than 20 days if you are not in jail.

Pre-Trial Diversion



At arraignment, you will be read the charges being brought against you according to an indictment or information. You will then have the chance to plead guilty, not guilty, or no contest.

Arraignment

You can plead guilty instead of insisting that the prosecution prove you guilty at a trial. You may get a “plea bargain” where you are given a lighter sentence or allowed to plead to a lesser offense.

Guilty Plea

If you are convicted, either by pleading guilty or being found guilty at trial, you will have a sentencing hearing. Your attorney may submit sentencing memoranda arguing for a proposed sentence, and you will have a chance to speak before you are sentenced.

Sentencing

Trial

During your trial, both the prosecutor and your defense attorney will present evidence through witnesses who testify about what they saw or know. After all evidence is presented, the attorneys will give their closing arguments. The jury then decides if you are guilty beyond a reasonable doubt or not guilty.

Appeal

After sentencing, you can submit an appeal to the Supreme Court of Appeals of West Virginia if you believe you were wrongly convicted or that your sentence is too harsh. An appeal is not another trial but an opportunity for you to raise specific errors that might have occurred at trial.

Prison (sentences >1 year)

Jail (sentences <1 year)

**Probation and
Community
Corrections**

Revocation

If you violate any conditions of your probation, you may be arrested and brought to court for a hearing and face further consequences, including revocation of your probation.

You may be sentenced to a period of probation, during which you remain in the community under the supervision of a probation officer. Community corrections can involve home confinement or day report.

