

The Position of Judge



Exhibit B.1			
ROLE OF JUDGES IN THE STEPS OF CRIMINAL PROCEDURE (TYPICAL FELONY CASE)			
	LOWER COURT	MAJOR TRIAL COURT	APPELLATE COURT
Crime			Appellate court opinions are the final word on interpreting criminal laws passed by the legislature.
Arrest	Occasionally signs arrest warrants.		Wrestles with legality of police arrest in context of question of illegal search and seizure.
Initial appearance	Informs defendant of pending charges; appoints counsel for indigents.		
Bail	Sets initial bail amount.	May alter bail amount.	Rarely decides that bail is excessive.
Charging		No authority to intervene.	
Preliminary hearing	Presides over preliminary hearing.		
Grand jury		Chief judge has nominal supervision over the grand jury.	
Arraignment		Informs defendant of pending charges and enters defendant's plea.	
Evidence	Sigs search warrants.	Rules on suppression motions involving illegal search and seizure and custodial interrogation.	Rulings establish boundaries for search and seizure and custodial interrogation.
Plea bargaining	Judges rely on pleas to dispose of large dockets.	Some judges actively participate, whereas others are passive.	Rarely rules that plea of guilty was not voluntary.
Trial	Rarely held.	Presides at trial. Rules on admissibility of evidence. Instructs jury as to law applicable to the case.	Decides whether evidence was properly admitted. Decides whether trial judge properly instructed jury as to the law.

Positional Judgement

Marco Cascella



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