



D.C. Criminal Code Reform Commission

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ADVISORY GROUP MEMORANDUM #31

To: Code Revision Advisory Group
From: Criminal Code Reform Commission (CCRC)
Date: February 25, 2020
Re: Supplemental Materials to the First Draft of Report #51

This Advisory Group Memorandum supplements the First Draft of Report #51, *Jury Demandable Offenses* with a red-inked collection of RCC statutes that shows how the Commission's recommendations would change current law. The Appendix to this Memo includes an array of background materials, including: A) a table with additional information on other jurisdictions' jury demandability provisions; and B) a sampling of DC Courts Statistics on jury and bench trials in 2019 and 2007.

D.C. Code § 16-705. Jury trial; trial by court.

- (a) In a criminal case tried in the Superior Court in which, according to the Constitution of the United States, the defendant is entitled to a jury trial, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.
- (b) In any case where the defendant is not under the Constitution of the United States entitled to a trial by jury, the trial shall be by a single judge without a jury, except that if:
- (1) (A) The defendant is charged with an offense that is punishable by a fine or penalty of more than \$1,000 or by imprisonment for more **than 90 days 180 days** (or for more than six months in the case of the offense of contempt of court); ~~or~~
 - (B) **The defendant is charged with an attempt, conspiracy, or solicitation to commit an offense specified in subparagraph (b)(1)(A) of this section;**
 - (C) **The defendant is charged with an offense under Chapter 12 [Chapter 12. Robbery, Assault, and Threats] of Title 22E in which the person who is alleged to have been subjected to the criminal**

offense is a “law enforcement officer” as defined in D.C. Code § 22E-701;

(D) The defendant is charged with a “registration offense” as defined in D.C. Code § 22-4001(8);

(E) The defendant is charged with an offense that, if the defendant were a non-citizen and were convicted of the offense, could result in the defendant’s deportation from the United States under federal immigration law; or

(F) The defendant is charged with 2 or more offenses which are punishable by a cumulative fine or penalty of more than \$4,000 or a cumulative term of imprisonment of more than ~~1 year~~ **2-years; and**

(2) The defendant demands a trial by jury, the trial shall be by jury, unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial by the court, the judge’s verdict shall have the same force and effect as that of a jury.

(b-1) If a defendant in a criminal case is charged with 2 or more offenses and the offenses include at least one jury demandable offense and one non-jury demandable offense, the trial for all offenses charged against that defendant shall be by jury unless the defendant in open court expressly waives trial by jury and requests trial by the court, and the court and the prosecuting officer consent thereto. In the case of a trial without a jury, the trial shall be by a single judge, whose verdict shall have the same force and effect as that of a jury.

(c) The jury shall consist of 12 persons, unless the parties, with the approval of the court and in the manner provided by rules of the court, agree to a number less than 12. Even absent such agreement, if, due to extraordinary circumstances, the court finds it necessary to excuse a juror for just cause after the jury has retired to consider its verdict, in the discretion of the court, a valid verdict may be returned by the remaining 11 jurors.

Appendix A

	Status of Jury Demandability	Citation	Language	When Jury Demandable?	Source
Alabama	Statute provides for bench trial in all misdemeanors by default, but provides right to demand jury trial.	Ala. Const. art. I, § 11; Ala. Code § 15-14-30 (1975); Ala. R. Crim. Proc. 18.1.	In all misdemeanor cases in the circuit court, the issues and questions of fact shall be tried by the judge of the court without the intervention of a jury except in cases where a trial by jury is demanded in writing by the defendant. Such written demand shall be filed in the case with the clerk of the court on or before the first sounding of the case if the case is sounded within 30 days after the defendant has been arrested or taken into custody after the finding of the indictment or, within 30 days after the defendant has appealed if the case is brought to the circuit court by appeal; and, if such case is not sounded within 30 days after the defendant has appealed, been arrested or been taken into custody after the finding of the indictment, then such written demand must be filed with the clerk within 30 days after the defendant has appealed, or been arrested or taken into custody after the finding of the indictment. A failure to demand in writing a trial by jury as provided in this section shall be held and deemed to be a waiver by the defendant of a trial by jury. Ala. Code § 15-14-30 (1975)	All misdemeanors	Statute
Alaska	Constitution guarantees right to jury trial when faced with imprisonment, loss of a valuable license, other indication of criminal designation, or a heavy enough fine that indicates the ethical judgment of the community.	Alaska Const. Art. I, § 11; Baker v. Fairbanks, 471 P.2d 386, 401 (Alaska 1970).	In extending the right to jury trial, we define the category of 'criminal' prosecutions as including any offense a direct penalty for which may be incarceration in a jail or penal institution. It also includes offenses which may result in the loss of a valuable license, such as a driver's license or a license to pursue a common calling, occupation, or business. It must also include offenses which, even if incarceration is not a possible punishment, still connote criminal conduct in the traditional sense of the term. Baker v. Fairbanks, 471 P.2d 386, 401 (Alaska 1970)	Any imprisonment, loss of license, heavy fines, or other indicia of criminality	Constitution (judicial construction)
Arizona	Courts presume that misdemeanor offenses punishable by a maximum of six months' imprisonment are petty and not entitled to a jury trial, but defendants can rebut that presumption by showing the offense was jury demandable at common law or with evidence of serious penalties.	Ariz. Const. art. II, § 24; Ariz. Rev. Stat. § 21-102 (2018); <i>Derenxdal v. Griffith</i> , 209 Ariz. 416, 425 (2005).	The modified version of the Blanton test that we adopt today preserves the right to jury trial for serious offenses, while recognizing the legislature's primary responsibility for classifying crimes as to severity. We also retain a defendant's right to a jury trial for a misdemeanor offense if the defendant can establish that conviction results in additional severe, direct, uniformly applied, statutory consequences. <i>Derenxdal v. Griffith</i>, 209 Ariz. 416, 425 (2005).	Federal standard or jury demandable antecedent	Constitution (judicial construction)
Arkansas	Right to jury trial applies in all cases. No right to jury trial in municipal (now called district) court but right to trial de novo in circuit court on appeal.	Ark. Const. art. II, §§ 7,10; Ark. Code Ann. § 16-17-703; Ark. Code Ann. § 16-89-109; Ark. R. Crim. Proc. 31.3; <i>State v. Roberts</i> , 321 Ark. 31 (1995).	There is thus no entitlement to a jury trial in a municipal court, but the right remains inviolate when an appeal is pursued to a circuit court where the case is tried de novo. See <i>Edwards v. City of Conway</i> , 300 Ark. 135, 777 S.W.2d 583 (1989). When a conviction is appealed from a municipal court to a circuit court, the case is tried de novo, and the appellant is entitled to a trial by jury. See *35 <i>Weaver v. State</i> , 296 Ark. 152, 752 S.W.2d 750 (1988); <i>Johnston v. City of Pine Bluff</i> , 258 Ark. 346, 525 S.W.2d 76 (1975). The purpose of the trial de novo is to conduct a trial as though there had been no trial in the lower court. <i>Bussey v. State</i> , 315 Ark. 292, 867 S.W.2d 433 (1993). <i>State v. Roberts</i>, 321 Ark. 31 (1995).	All criminal cases on appeal	Constitution (judicial construction) (right to trial) / Statute (only on appeal)
California	Constitution guarantees jury trial for all misdemeanors and for all infractions punishable by imprisonment.	Constitution guarantees right to jury trial in all cases. No right to jury trial in municipal (now called district) court (which has jurisdiction over misdemeanors) but right to trial de novo in circuit court on appeal.	In contrast to the federal jury trial guaranty which draws a distinction between "serious" and "petty" criminal offenses and requires a jury trial only for those offenses which fall into the "serious" category, the right to trial by jury embodied in the California Constitution extends to so-called "petty" as well as to "serious" criminal offenses, i.e., to all misdemeanors as well as to all felonies. Under the California Constitution, only infractions not punishable by imprisonment (§ 19c) are not within the jury trial guaranty. <i>Mitchell v. Superior Court</i>, 738 P.2d 731, 737 (1989).	Any imprisonment	Constitution (judicial construction)
Colorado	Statute affords defendant the right to request a jury trial when charged with any offense other than a noncriminal traffic infraction or offense.	Colo. Const. art. II, § 23; Colo. Rev. Stat. § 16-10-101; Colo. Rev. Stat. § 16-10-109.	The right of a person who is accused of an offense other than a noncriminal traffic infraction or offense, or other than a municipal charter, municipal ordinance, or county ordinance violation as provided in section 16-10-109(1), to have a trial by jury is inviolate and a matter of substantive due process of law as distinguished from one of "practice and procedure". The people shall also have the right to refuse to consent to a waiver of a trial or sentencing determination by jury in all cases in which the accused has the right to request a trial or sentencing determination by jury. Colo. Rev. Stat. § 16-10-101.	All criminal offenses	Statute
Connecticut	Constitutional right to jury trial where jury trial right to similar offense existed in 1818 when constitution was adopted. Defendants threatened with a criminal penalty smaller than \$199 or an infraction penalty smaller than \$500 are not entitled to a jury trial.	Conn. Const. art. I, §§ 8, 19; Conn. Gen. Stat. § 54-82b; <i>State v. Wheeler</i> , 37 Conn. Sup. 693 (1981).	(a) The party accused in a criminal action in the Superior Court may demand a trial by jury of issues which are triable of right by a jury. There is no right to trial by jury in criminal actions where the maximum penalty is a fine of one hundred ninety-nine dollars or in any matter involving violations payable through the Centralized Infractions Bureau where the maximum penalty is a fine of five hundred dollars or less. (b) In criminal proceedings the judge shall advise the accused of his right to trial by jury at the time he is put to plea and, if the accused does not then claim a jury, his right thereto shall be deemed waived, but if a judge acting on motion made by the accused within ten days after judgment finds that such waiver was made when the accused was not fully cognizant of his rights or when, in the opinion of the judge, the proper administration of justice requires it, the judge shall vacate the judgment and cause the proceeding to be set for jury trial. (c) In any criminal trial by a jury, except as otherwise provided by law, such trial shall be by a jury of six. Conn. Gen. Stat. § 54-82b. "Under this section [art. I § 21 of Conn. Constitution] the right of jury trial in a case depends upon "whether the issue raised in the action is substantially of the same nature or is such an issue as prior to 1818 would have been triable to a jury." <i>State v. Wheeler</i>, 37 Conn. Sup. 693 (1981).	Federal standard or jury demandable at time of adoption of state constitution	Constitution (judicial construction) (right to trial) / Statute (no right to trial)

	Status of Jury Demandability	Citation	Language	When Jury Demandable?	Source
Delaware	Court adopted Supreme Court interpretation of state constitution.	Del. Const. art. I, § 7; <i>Thomas v. State</i> , 331 A.2d 147, 150 (1975).	"The majority of states follow the guidelines of the United States Supreme Court in interpreting their respective state constitutional provisions regarding right to trial by jury in contempt proceedings. We agree with the majority, and in so doing, we disavow that part of Colatratano supra which adopted a ninety-day sentence test instead of the federal six-month rule as a fixed dividing line between petty and serious crimes." Thomas v. State, 331 A.2d 147, 150 (1975).	Federal standard	Constitution (judicial construction)
Florida	Statute affords right to jury trial in any case where imprisonment is threatened, except for offenses that would warrant a maximum imprisonment of six months when the court announces in advance of trial that no sentence of imprisonment will be imposed if the defendant is convicted.	Fla. Const. art. I, § 22; Fla. Stat. § 918.0157.	In each prosecution for a violation of a state law or a municipal or county ordinance punishable by imprisonment, the defendant shall have, upon demand, the right to a trial by an impartial jury in the county where the offense was committed, except as to any such prosecution for a violation punishable for a term of imprisonment of 6 months or less, if at the time the case is set for trial the court announces that in the event of conviction of the crime as charged or of any lesser included offense a sentence of imprisonment will not be imposed and the defendant will not be adjudicated guilty, unless a right to trial by jury for such offense is guaranteed under the State or Federal Constitution. Fla. Stat. § 918.0157	Any imprisonment unless provided by court that imprisonment will not be imposed upon conviction	Statute
Georgia	State constitution provides right to jury trial for all crimes (does not include violations of local ordinances unless they are also misdemeanors under state law or otherwise designated as criminal).	Ga. Const. art. I, § 1, ¶ 11; <i>Geng v. State</i> , 276 Ga. 428 (2003).	Nonetheless, we hold that OCGA § 40–13–60 manifestly infringes on Art. I, Sec. I, Par. XI of the Georgia Constitution, insofar as it denies a criminal defendant who is subject to potential punishment as a misdemeanor the right to trial by jury. Our ruling today extends only to those offenses which are charged as misdemeanors under our State Code; it does not encompass crimes which are solely violations of local or municipal ordinances. Geng v. State, 276 Ga. 428 (2003).	All criminal offenses	Constitution (judicial construction)
Hawaii	State constitutional right to jury trial attaches if an offense is serious based on consideration of three factors: (1) treatment of the offense at common law; (2) gravity of the offense; and (3) the authorized penalty. An offense is presumed petty if maximum penalty is 30 days or less.	Haw. Const. Art. I, § 14; <i>State v. Nakata</i> , 76 Haw. 360, 374 (1994); <i>State v. Lindsey</i> , 77 Hawai'i 162 (1994).	In certain cases, this court has recognized the right to a jury trial under the Hawai'i Constitution for particular offenses even though the maximum authorized terms of imprisonment do not exceed six months. See, e.g., <i>State v. Nakata</i> , 76 Hawai'i 360, 374, 878 P.2d 699, 713 (1994). In this regard, if the maximum term of imprisonment for a particular offense does not exceed thirty days, it is presumptively a petty offense to which the right to a jury trial does not attach. <i>State v. Lindsey</i> , 77 Hawai'i 162, 165, 883 P.2d 83, 86 (1994). This presumption can only be overcome in extraordinary cases, when consideration of the treatment of the offense at common law, the gravity of the offense, and the authorized penalty for the offense, "unequivocally demonstrates that society demands that persons charged with the offense at issue be afforded the right to a jury trial." <i>Id.</i> If the maximum authorized term of imprisonment for an offense is more than thirty days but not more than 180 days, no presumption applies, and the three factors set forth above must be considered to determine whether the right to a jury trial attaches. <i>Id.</i> at 165 n. 5, 883 P.2d at 86 n. 5. State v. Baker, 132 Hawai'i 1 (2014).	Serious offenses based on treatment of offense at common law, gravity of offense, and authorized penalty. Presumed petty below 30 days.	Constitution (judicial construction)
Idaho	State constitution provides for trial by jury for all public offenses which are potentially punishable by imprisonment or where potential fines or other sanctions are punitive in nature.	Idaho Const. art. I, § 7; <i>State v. Wheeler</i> , 114 Idaho 97 (1988); Idaho Code § 19-1902.	Our state Constitution provides a trial by jury for all public offenses which are potentially punishable by imprisonment or where potential fines or other sanctions are punitive in nature. State v. Wheeler, 114 Idaho 97 (1988)	Any imprisonment or where fines or other sanctions are punitive in nature	Constitution (judicial construction)
Illinois	Statute provides right to jury trial for all criminal cases, but defendant waives his right to jury when charged with an ordinance violation (offense punishable only by a fine) if he fails to request a jury at the time he makes his plea.	725 Ill. Comp. Stat. 5/103-6.	Every person accused of an offense shall have the right to a trial by jury unless (i) understandingly waived by defendant in open court or (ii) the offense is an ordinance violation punishable by fine only and the defendant either fails to file a demand for a trial by jury at the time of entering his or her plea of not guilty or fails to pay to the clerk of the circuit court at the time of entering his or her plea of not guilty any jury fee required to be paid to the clerk. 725 Ill. Comp. Stat. 5/103-6.	All criminal offenses	Statute
Indiana	State constitution provides jury trial right to all criminal defendants.	Ind. Const. art. I, § 13; <i>State ex rel. Rose v. Hoffman</i> , 227 Ind. 256 (1949); <i>Gillespie v. Gilmore</i> , 159 Ind.App. 449 (1974); Ind. Code § 35-37-1-2; Ind. R. Crim. Proc. 22	Since the right to a jury trial is a fundamental right of every defendant in a criminal action, it is not waived by a defendant unless such waiver is made agreeable with the statute providing therefor. § 9-1803, Burns' 1942 Replacement. The prompt disposal of a criminal case may not be accomplished by taking fundamental rights from a defendant. State ex rel. Rose v. Hoffman, 227 Ind. 256 (1949)	All criminal offenses	Constitution (judicial construction)
Iowa	State constitution affords right to jury trial in all cases that can be punished by fines exceeding \$100 or imprisonment exceeding 30 days. Statute also provides for jury trial in simple misdemeanors upon timely request.	Iowa Const. Art. I, §§ 9-11; Iowa R. Crim. Proc. 2.64.	The Iowa Constitution does not afford the right to trial by jury in all criminal cases. <i>Marzen v. Klousia</i> , 316 N.W.2d 688, 690 (Iowa 1982). "[T]here is no constitutional right to a jury trial for criminal charges that can be punished by fines not exceeding one hundred dollars or imprisonment for not longer than thirty days." <i>Id.</i> (citing Iowa Const. Art. I, § 11). Here, <i>Bowman</i> faced a fine of eighty dollars. See Iowa Code § 805.8A. He did not face the potential of imprisonment for any length of time. See <i>id.</i> <i>Bowman</i> had neither a state nor federal constitutional right to a jury trial. See <i>Baldwin v. New York</i> , 399 U.S. 66, 68 (1970); <i>Marzen</i> , 316 N.W.2d at 690. *2 Although defendants charged with simple misdemeanors do not have a constitutional right to a trial by jury, Iowa Rule of Criminal Procedure 2.64 "entitles a defendant to a jury trial upon timely request in the trial of a simple misdemeanor." <i>Marzen</i> , 316 N.W.2d at 691. Simple misdemeanors are tried without a jury unless the defendant demands a jury trial no later than ten days after the not-guilty plea. Iowa R. Crim. P. 2.64. Failure to make a timely demand constitutes a waiver of a trial by jury. <i>Id.</i> State v. Bowman, 908 N.W.2d 541 (2017).	All simple misdemeanors	Constitution (judicial construction) / Statute (further expanded)

	Status of Jury Demandability	Citation	Language	When Jury Demandable?	Source
Kansas	Statute provides that misdemeanor cases are tried to the court by default, but that a misdemeanor defendant can request a jury trial in writing. Tobacco or traffic infractions, as well as trials in municipal court, are tried to the court.	Kan. Stat. Ann. § 22-3404(1)-(5).	(1) The trial of misdemeanor cases shall be to the court unless a jury trial is requested in writing by the defendant not later than seven days after first notice of trial assignment is given to the defendant or such defendant's counsel. The time requirement provided in this subsection regarding when a jury trial shall be requested may be waived in the discretion of the court upon a finding that imposing such time requirement would cause undue hardship or prejudice to the defendant. (2) A jury in a misdemeanor case shall consist of six members. (3) Trials in the municipal court of a city shall be to the court. (4) Except as otherwise provided by law, the rules and procedures applicable to jury trials in felony cases shall apply to jury trials in misdemeanor cases. (5) The trial of cigarette or tobacco infraction or traffic infraction cases shall be to the court. Kan. Stat. Ann. § 22-3404(1)-(5).	All misdemeanors	Statute
Kentucky	Statute provides right to jury trial for all state criminal prosecutions, including for traffic offenses.	Ken. Rev. Stat. § 29A.270.	Defendants shall have the right to a jury trial in all criminal prosecutions, including prosecutions for violations of traffic laws, in the Circuit and District Courts. The defendant may request a jury trial at any time prior to the time his case is called for trial. Ken. Rev. Stat. § 29A.270.	All criminal offenses, including traffic violations	Statute
Louisiana	Statute denies right to jury trial where punishment falls below fine of \$1,000 or imprisonment for 6 months.	La. Code Crim. Proc. Ann. art. 779	A. A defendant charged with a misdemeanor in which the punishment, as set forth in the statute defining the offense, may be a fine in excess of one thousand dollars or imprisonment for more than six months shall be tried by a jury of six jurors, all of whom must concur to render a verdict. B. The defendant charged with any other misdemeanor shall be tried by the court without a jury. La. Code Crim. Proc. Ann. art. 779	Federal standard (but fine in excess of \$1,000)	Statute
Maine	Constitution guarantees right to jury trial to all criminal defendants, including those charged with petty offenses.	Me. Const. art. I, § 6; <i>State v. Lenfestey</i> , 557 A.2d 1327 (1989).	The Maine Declaration of Rights guarantees all criminal defendants, even those charged with petty crimes, the right to trial by jury. State v. Lenfestey, 557 A.2d 1327 (1989).	All criminal offenses	Constitution (judicial construction)
Maryland	Statute provides right to jury trial in any criminal case in which imprisonment is threatened or there is a constitutional right.	Md. Code Ann. Crim. Proc. § 6-101.	In a criminal case tried in a court of general jurisdiction, there is no right to a jury trial unless: (1) the crime charged is subject to a penalty of imprisonment; or (2) there is a constitutional right to a jury trial for the crime. Md. Code Ann. Crim. Proc. § 6-101.	Any imprisonment	Statute
Massachusetts	Constitution affords right to jury trial when defendant faces any "capital or infamous punishment," which courts have interpreted as applying only to serious crimes where the fine exceeds \$1,000 (unclear where the line falls for imprisonment).	Mass. Const. Part I, Art. XII; Mass. Gen. Laws Ann. 263 § 6. (See also state website: https://www.mass.gov/info-details/the-pre-trial-trial-and-verdict-process#about-the-trial-).	A person indicted for a crime shall not be convicted thereof except by confessing his guilt in open court, by admitting the truth of the charge against him by his plea or demurrer or by the verdict of a jury accepted and recorded by the court or, in any criminal case other than a capital case, by the judgment of the court. Any defendant in a criminal case other than a capital case, whether begun by indictment or upon complaint, may, if he shall so elect, when called upon to plead, or later and before a jury has been impanelled to try him upon such indictment or complaint, waive his right to trial by jury by signing a written waiver thereof and filing the same with the clerk of the court. If the court consents to the waiver, he shall be tried by the court instead of by a jury, but not, however, unless all the defendants, if there are two or more charged with related offenses, whether prosecuted under the same or different indictments or complaints shall have exercised such election before a jury has been impanelled to try any of the defendants; and in every such case the court shall have jurisdiction to hear and try such cause and render judgment and sentence thereon. Except where there is more than one defendant involved as aforesaid, consent to said waiver shall not be denied in the district court or the Boston municipal court if the waiver is filed before the case is transferred for jury trial to the appropriate jury session, as provided in section twenty-seven A of chapter two hundred and eighteen. Mass. Gen. Laws Ann. 263 § 6.	All criminal offenses	Statute
Michigan	State extends right to jury trial to all criminal defendants, including for misdemeanors punishable by a maximum of one year imprisonment.	Mich. Const. Art I, § 20; <i>People v. Goodwin</i> , 69 Mich.App. 471 (1976).	It is the frank feeling of this author that the cause of justice might be better served were the right to jury trial precluded in such petty offenses. Nonetheless, the mandate of our state constitution, and the interpretations of the Michigan judiciary convince us that the right to a jury trial extends to all criminal prosecutions. People v. Goodwin, 69 Mich.App. 471 (1976)	All criminal offenses	Constitution (judicial construction)
Minnesota	Statute provides for a jury trial wherever an offense is punishable by incarceration.	Minn. R. Crim. Proc. 26.01(1).	(1) Right to Jury Trial. (a) Offenses Punishable by Incarceration. A defendant has a right to a jury trial for any offense punishable by incarceration. All trials must be in the district court. (b) Misdemeanors Not Punishable by Incarceration. In any prosecution for the violation of a misdemeanor not punishable by incarceration, trial must be to the court. Minn. R. Crim. Proc. 26.01(1)	Any imprisonment	Statute
Mississippi	Statute extends right to jury trial to criminal defendants facing a sentence longer than six months, but not to those facing shorter sentences.	Miss. Code Ann. § 99-33-9.	A defendant in a criminal case before a justice court judge where the potential period of incarceration is more than six (6) months in jail, in like manner as in civil cases, may demand a jury, and thereupon the justice shall proceed as in other cases. If the potential of incarceration is less than six (6) months in jail, there shall be no jury trial. Miss. Code Ann. § 99-33-9.	Federal standard (arguably more stringent/borderline unconstitutional in that there is a bright line at six months)	Statute
Missouri	Statute provides right to jury trial in all misdemeanors.	Mo. Code. Ann. § 543.200.	In misdemeanor cases, after the plea of the defendant has been entered, if he pleads not guilty, the defendant or prosecuting attorney may demand a jury; but if no jury is demanded, the case may be tried by the associate circuit judge. Mo. Code. Ann. § 543.200.	All misdemeanors	Statute
Montana	Statute provides right to jury trial in misdemeanor cases.	Mont. Const. art. II, § 26; Mont. Code Ann. § 46-17-201.	(1) The parties in a misdemeanor case are entitled to a jury of six qualified persons but may agree to a number less than six at any time before the verdict. (2) Upon consent of the parties, a trial by jury may be waived. Mont. Code Ann. § 46-17-201	All misdemeanors	Statute

	Status of Jury Demandability	Citation	Language	When Jury Demandable?	Source
Nebraska	Statute affords right to jury trial in all criminal prosecutions except those arising from violations of municipal ordinances, traffic infractions, or other infractions.	Neb. Rev. Stat. § 25-2705.	Either party to any case in county court, except criminal cases arising under city or village ordinances, traffic infractions, other infractions, and any matter arising under the Nebraska Probate Code or the Nebraska Uniform Trust Code, may demand a trial by jury. In civil cases, the demand shall be in writing and shall be filed with the court. Neb. Rev. Stat. § 25-2705.	All misdemeanors	Statute
Nevada	Constitution interpreted consistent with federal standard BUT recent state supreme court case held offenses become serious where gun rights can be taken away.	<i>Blanton v. N. Las Vegas</i> , 489 U.S. 538, 543 (1989); <i>Andersen v. Eighth Judicial District Court in and for County of Clark</i> , 448 P.3d 1120 (2019).	[T]he right to a trial by jury under the Nevada Constitution is coextensive with that guaranteed by the federal constitution. Blanton	Federal standard (and wherever gun rights can be taken away)	Constitution (judicial construction)
New Hampshire	Constitution extends right to jury trial to all defendants facing the possibility of imprisonment. Statute only extends right to jury trial to violations (non-criminal offenses punishable by fine) when the aggregated penalties exceed \$1,500	N.H. Const. part I, art. 15; <i>State v. Bilc</i> , 158 N.H. 651 (2009); N.H. Rev. Stat. Ann. § 592-A:2-b.	Under the New Hampshire Constitution, the right to a jury trial is guaranteed to "all criminal defendants facing the possibility of incarceration." Opinion of the Justices (DWI Jury Trials), 135 N.H. 538, 542, 608 A.2d 202 (1992). State v. Bilc, 158 N.H. 651 (2009).	Any imprisonment (and civil fines over \$1,500)	Constitution (judicial construction)
New Jersey	Statute defines "crimes" under state constitution to include only offenses that can be punished by over six months imprisonment.	N.J. Const. art. I, §§ 9-10; N.J. Stat. § 2C:1-4.	An offense defined by this code or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime within the meaning of the Constitution of this State. Crimes are designated in this code as being of the first, second, third or fourth degree. N.J. Stat. § 2C:1-4.	Federal standard	Statute
New Mexico	State does not extend right to jury trial to "petty" misdemeanors, but does to other criminal cases. "Petty" misdemeanors are classified by statute as crimes facing a maximum penalty of six months' imprisonment.	N.M. Stat. Ann. § 34-8A-5.	B. With respect to criminal actions: (1) if the penalty does not exceed ninety days' imprisonment or if the penalty is a fine or forfeiture of a license, the action shall be tried by the judge without a jury; (2) if the penalty exceeds ninety days' but does not exceed six months' imprisonment, either party to the action may demand a trial by jury. The demand shall be made orally or in writing to the court at or before the time of entering a plea or in writing to the court within ten days after the time of entering a plea. If demand is not made pursuant to this subsection, trial by jury is deemed waived; or (3) if the penalty exceeds six months' imprisonment, the case shall be tried by jury unless the defendant waives a jury trial with the approval of the court and the consent of the state. N.M. Stat. Ann. § 34-8A-5.	Over 90 days imprisonment	Statute
New York	Statute guarantees a right to jury trial for misdemeanor prosecutions in local criminal courts, except that the right does not extend to offenses tried in the city courts of New York City for which the maximum imprisonment is six months.	N.Y. Crim. Proc. Law § 340.00(2).	In any local criminal court a defendant who has entered a plea of not guilty to an information which charges a misdemeanor must be accorded a jury trial, conducted pursuant to article three hundred sixty, except that in the New York city criminal court the trial of an information which charges a misdemeanor for which the authorized term of imprisonment is not more than six months must be a single judge trial. The defendant may at any time before trial waive a jury trial in the manner prescribed in subdivision two of section 320.10, and consent to a single judge trial. N.Y. Crim. Proc. Law § 340.00(2).	All misdemeanors (except in NYC where only over six months)	Statute
North Carolina	Statute provides for jury trial de novo on appeal from district court.	N.C. Const. art. I, § 24; N.C. Gen. Stat. § 7A-196; <i>State v. Hudson</i> , 185 S.E.2d 189, 192 (1971).	(b) In criminal cases there shall be no jury trials in the district court. Upon appeal to superior court trial shall be de novo, with jury trial as provided by law. N.C. Gen. Stat. § 7A-196.	All criminal cases on appeal	Statute
North Dakota	Statute provides right to jury trial in all misdemeanors and felonies.	N.D. Cent. Code § 29-01-06; N.D. Cent. Code § 29-16-02.	In all criminal prosecutions the party accused has the right: . . . 5. To a speedy and public trial, and by an impartial jury in the county in which the offense is alleged to have been committed or is triable, but subject to the right of the state to have a change of the place of trial for any of the causes for which the party accused may obtain the same. N.D. Cent. Code § 29-01-06 In any case, whether a misdemeanor or felony, a trial jury may be waived by the consent of the defendant and the state's attorney expressed in open court and entered on the minutes of the court. Otherwise, the issues of fact must be tried by the jury. N.D. Cent. Code § 29-16-02.	All misdemeanors	Statute
Ohio	Statute provides right to jury trial in any case where penalty exceeds a \$1,000 fine or includes the possibility of imprisonment.	Ohio Rev. Code Ann. § 2945.17.	(A) At any trial, in any court, for the violation of any statute of this state, or of any ordinance of any municipal corporation, except as provided in divisions (B) and (C) of this section, the accused has the right to be tried by a jury. (B) The right to be tried by a jury that is granted under division (A) of this section does not apply to a violation of a statute or ordinance that is any of the following: (1) A violation that is a minor misdemeanor; (2) A violation for which the potential penalty does not include the possibility of a prison term or jail term and for which the possible fine does not exceed one thousand dollars. (C) Division (A) of this section does not apply to, and there is no right to a jury trial for, a person who is the subject of a complaint filed under section 2151.27 of the Revised Code against both a child and the parent, guardian, or other person having care of the child. Ohio Rev. Code Ann. § 2945.17.	Any imprisonment (or fine exceeding \$1,000)	Statute
Oklahoma	Constitution provides right to jury trial in all criminal cases threatening imprisonment or a fine greater than \$1,500.	Okla. Const. art. II, § 19.	The right of trial by jury shall be and remain inviolate, except in civil cases wherein the amount in controversy does not exceed One Thousand Five Hundred Dollars (\$1,500.00), or in criminal cases wherein punishment for the offense charged is by fine only, not exceeding One Thousand Five Hundred Dollars (\$1,500.00). Provided, however, that the Legislature may provide for jury trial in cases involving lesser amounts. . . . Okla. Const. art. II, § 19.	Any imprisonment (or fine exceeding \$1,500)	Constitution

	Status of Jury Demandability	Citation	Language	When Jury Demandable?	Source
Oregon	Statute guarantees right to jury trial for all criminal prosecutions.	Or. Const. Art. I, § 11; Or. Rev. Stat. §136.001.	(1) The defendant and the state in all criminal prosecutions have the right to public trial by an impartial jury. (2) Both the defendant and the state may elect to waive trial by jury and consent to a trial by the judge of the court alone, provided that the election of the defendant is in writing and with the consent of the trial judge. Or. Rev. Stat. §136.001. **Portion providing prosecution with veto of trial waiver declared unconstitutional in <i>State v. Baker</i>, 328 Or. 355 (2000)	All criminal offenses	Statute
Pennsylvania	State constitution interpreted consistent with federal standard.	<i>Com. v. Mayberry</i> , 459 Pa. 91 (1974).	The question becomes whether the crime charged, criminal contempt or otherwise, is 'serious.' ¹¹ The test is clear. The decisions of the Supreme Court of the United States 'have established a fixed dividing line between petty and serious offense: those crimes carrying more than six months sentence are serious and those carrying less are petty crimes.' Com. v. Mayberry , 459 Pa. 91 (1974).	Federal standard	Constitution (judicial construction)
Rhode Island	State constitution provides for jury trial where same or similar offense was triable at adoption of constitution.	<i>State v. Vinagro</i> , 433 A.2d 945 (1981); <i>State ex rel. City of Providence v. Auger</i> , 44 A.3d 1218 (2012).	The inviolability provision of art. I, sec. 15 has been held to be a guarantee that justiciable controversies which were triable by a petit jury when the Rhode Island Constitution was adopted in 1842 will continue to be so triable without any restrictions or conditions that could materially hamper or burden the right. In re McCloud, 110 R.I. 431, 435, 293 A.2d 512, 515 (1972); Opinion to the Senate, 108 R.I. 628, 633, 278 A.2d 852, 855 (1971); Mathews v. Tripp, 12 R.I. 256, 258 (1879). Section 15 conserves the right as it existed at the time the State Constitution was adopted. Mathews v. Tripp, 12 R.I. at 258. Thus, the decisive issue presently before us is whether a defendant was entitled to a jury trial in 1842 for the type of offense with which Vinagro is charged. If in 1842 a defendant was entitled to a jury trial for this type of offense, then Vinagro is entitled to one today. State v. Vinagro , 433 A.2d 945 (1981).	Federal standard or jury demandable antecedent	Constitution (judicial construction)
South Carolina	Statute provides for jury trial in all criminal prosecutions.	S.C. Code Ann. § 5-7-90; S.C. Code Ann. § 14-9-180.	The municipal judge or judges of a municipality shall speedily try all persons arrested and incarcerated with violations of the ordinances of the municipality or the laws of the State within their jurisdiction in a summary manner without a jury unless jury trial is demanded by the accused. . . . S.C. Code Ann. § 5-7-90.	All criminal offenses	Statute
South Dakota	Supreme court held jury trial right exists wherever there is possibility of incarceration unless magistrate indicates that incarceration will not be sought at outset.	S.D. Const. art. VI, §§ 6-7; <i>State v. Wickle</i> , 291 N.W.2d 792, 794 (1980); <i>State v. Auen</i> , 342 N.W.2d 236, 237-38 (1984).	We hold that a court may deny a jury trial request in a criminal prosecution when the court assures the defendant at the time of request that no jail sentence will be imposed. This is, of course, limited to prosecution of offenses with maximum authorized jail sentences of less than six months. We are in accord with the comment of the plurality in Baldwin that any disadvantages of limited access to jury trials for petty crimes, onerous as they may be, are outweighed by the benefits that result from speedy and inexpensive nonjury adjudications. Our decision in Wickle is modified to the extent it is inconsistent with this opinion. State v. Auen , 342 N.W.2d 236, 237-38 (1984).	Any imprisonment	Supreme court (unclear where basis lies)
Tennessee	Constitutional right to jury trial extends to all cases where a fine of more than \$50 or any confinement of the accused may be imposed.	<i>State v. Dusina</i> , 764 S.W.2d 766 (1989).	For violation of general criminal statutes, however, where a fine of more than \$50.00 or any confinement of the accused may be imposed, the right to jury trial under the Tennessee constitution is well-established. State v. Dusina , 764 S.W.2d 766 (1989).	Any imprisonment	Constitution (judicial construction)
Texas	Constitution provides jury trial right in all criminal prosecutions.	Tex. Const. art. I, § 15; <i>Franklin v. State</i> , 576 S.W.2d 621 (1978).	Article I, s 10 of the State Constitution, provides that in all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. Since this constitutional provision applies to all criminal prosecutions, the defendant in a misdemeanor case has the same right of trial by jury as in felony cases. 35 Tex.Jur.2d, Jury, s 12, p. 49. Franklin v. State , 576 S.W.2d 621 (1978).	All criminal offenses	Constitution (judicial construction)
Utah	Statute guarantees right to jury trial in all felony prosecutions, but misdemeanor defendants must make a request in writing 14 days before trial. State does not require jury for defendants charged with infractions (offenses not punishable by imprisonment).	Utah Const. art. I, § 10; Utah Code Ann. § 77-1-6.	In capital cases the right of trial by jury shall remain inviolate. In capital cases the jury shall consist of twelve persons, and in all other felony cases, the jury shall consist of no fewer than eight persons. In other cases, the Legislature shall establish the number of jurors by statute, but in no event shall a jury consist of fewer than four persons. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded. Utah Const. art. I, § 10. (1) In criminal prosecutions the defendant is entitled: . . . (f) To a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed; Utah Code Ann. § 77-1-6.	Any imprisonment	Constitution / Statute
Vermont	Constitution guarantees right to jury trial for all criminal prosecutions.	Vt. Const. ch. I, art. 10; <i>State v. Becker</i> , 130 Vt. 153 (1972).	The provisions of the Vermont Constitution of 1793, and the course of legislation in this state before and since that time, leave no doubt that the people have regarded all criminal causes as proper for cognizance of a jury. It is our belief that the framers of the Vermont Constitution intended to secure to an accused, in prosecutions for all 'criminal offenses' the right of trial by jury. State v. Becker , 130 Vt. 153 (1972).	All criminal offenses (even if no imprisonment)	Constitution (judicial construction)
Virginia	Misdemeanors are tried by bench in district court, but defendants have an appellate right to trial by jury de novo in circuit court.	Va. Code Ann. § 16.1-132; Va. Code Ann. § 16.1-136.	Any appeal taken under the provisions of this chapter shall be heard de novo in the appellate court and shall be tried without formal pleadings in writing; and, except in the case of an appeal from any order or judgment of a court not of record forfeiting any recognizance or revoking any suspension of sentence, the accused shall be entitled to trial by a jury in the same manner as if he had been indicted for the offense in the circuit court. Va. Code Ann. § 16.1-136.	All criminal cases on appeal	Statute
Washington	Constitution provides right to jury trial in all adult criminal prosecutions, including petty misdemeanors for which there is no threat of imprisonment.	<i>Pasco v. Mace</i> , 98 Wn.2d 87, 99 (1982).	It is our conclusion that, under the concept embodied in the constitution of Washington, enacted as it was in light of the laws of the territory existing at that time, no offense can be deemed so petty as to warrant denying a jury if it constitutes a crime. Pasco v. Mace , 98 Wn.2d 87, 99 (1982).	All criminal offenses	Constitution (judicial construction)

	Status of Jury Demandability	Citation	Language	When Jury Demandable?	Source
West Virginia	Constitution provides right to jury trial whenever there is a possibility of incarceration.	W. Va. Const. Art. III, § 14; <i>Gapp v. Friddle</i> , 181 W. Va. 374 (1989).	An appropriate yardstick to measure the gravity of the offense is whether the Legislature has provided for possible incarceration. If it has, the right to a jury trial attaches as soon as the defendant is charged. This right is the defendant's, and can be waived by him alone. It cannot be disparaged by a judge's premature sentencing decisions. Gapp v. Friddle, 181 W. Va. 374 (1989).	Any imprisonment	Constitution (judicial construction)
Wisconsin	Constitution guarantees right to jury trial for all state criminal prosecutions, including misdemeanors, but not for violations of municipal ordinances.	Wisc. Const. art. I, § 7; Wisc. Stat. Ann. § 972.02; <i>State v. Denson</i> , 335 Wis.2d 681 (2011).	Except as otherwise provided in this chapter, criminal cases shall be tried by a jury selected as prescribed in s. 805.08, unless the defendant waives a jury in writing or by statement in open court or under s. 967.08(2)(b), on the record, with the approval of the court and the consent of the state. Wisc. Stat. Ann. § 972.02.	All criminal offenses	Statute
Wyoming	Statute guarantees right to jury trial in all criminal cases that carry the possibility of imprisonment, and courts have even extended the right to some municipal offenses punishable only by fine when repeat offenses would result in mandatory incarceration.	Wyo. R. Crim. Proc. § 23(a).	Cases required to be tried by jury shall be so tried unless the defendant waives a jury trial with the approval of the court and the consent of the state. A waiver of jury shall be made in writing or on the record. There shall be no right to a jury trial, except: (1) when a statute or ordinance so provides, or (2) when the offense charged is driving under the influence of alcoholic beverages or controlled substances, or (3) when the offense charged is one for which the statute or ordinance alleged to have been violated provides for incarceration as a possible punishment. Wyo. R. Crim. Proc. § 23(a).	Any imprisonment	Statute
		MORE GENEROUS THAN FEDERAL STANDARD (HI-severity of offense determined by common law, gravity, and penalty with courts in practice providing for jury trials far below 6 months / NM-90 days / NY-jury trial provided for all offenses statewide, but only over six months in NYC)		3 MOST GENEROUS--FIRST INSTANCE (jury demandable for all criminal offenses, all misdemeanors, or any offense with possibility of imprisonment)	35
		FEDERAL STANDARD (or functional equivalent--jury demandable antecedent)		9 MOST GENEROUS--APPEALS (jury trial provided in all cases de novo on appeal, but may be tried first by judge)	3

Appendix B

District of Columbia Courts

2007 Statistical Summary



2007

Open to All ♦ Trusted by All ♦ Justice for All

CRIMINAL DIVISION CASE ACTIVITY FOR 2007

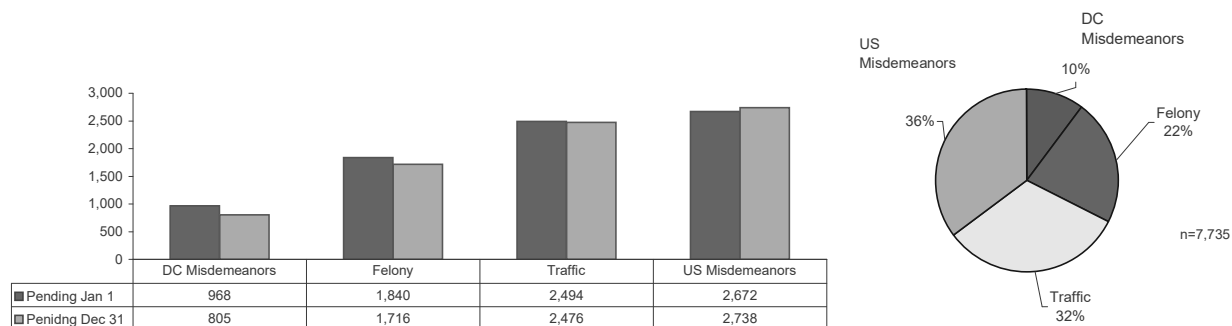
	D.C.			U.S.	
	Misdemeanors	Felony	Traffic	Misdemeanors	Total
Pending Jan. 1 ^a	968	1,840	2,494	2,672	7,974
Filings	3,115	5,256	8,845	10,687	27,903
Total Available for Resolution ^b	4,083	7,096	11,339	13,359	35,877
Method of Resolution					
Non-trial:					
Guilty Plea	646	3,285	3,770	4,288	11,989
Nolle Prosequi	880	56	1,333	1,449	3,718
Nolle Diversion	383	16	1,624	1,152	3,175
DWP	106	388	255	1,345	2,094
Dismissal	43	1,367	101	1,662	3,173
Other/Abatement	-	26	5	15	46
Security Forfeited	1,054	-	549	-	1,603
Total Non-Trial	3,112	5,138	7,637	9,911	25,798
Trial:					
Jury:					
Guilty Verdict	4	229	4	9	246
Not Guilty Verdict	3	101	2	19	125
Acquittal	-	2	1	2	5
Mistrial/Hung Jury	-	61	-	-	61
Total Jury Trials	7	393	7	30	437
Bench:					
Guilty Judgment	92	47	85	437	661
Not Guilty Judgment	14	12	27	120	173
Acquittal	6	5	5	25	41
Not Guilty by Reason of Insanity	-	-	-	-	-
Total Bench Trials	112	64	117	582	875
Total Resolutions	3,231	5,534	7,761	10,523	27,049
Pending Dec. 31 ^c	805	1,716	2,476	2,738	7,735
Percent Change in Pending	-16.8%	-6.7%	-0.7%	2.5%	-3.0%
Clearance Rate ^b	na	na	na	na	na

^aPending figures adjusted after an audit of the caseload.

^bCases available for resolution for the Criminal Division may be subject to adjustment in the future as a result of ongoing data verification activities due to the conversion to the Court's integrated justice information system. Accordingly, the calculation of clearance rates for these caseloads and the Division's overall caseload would not be appropriate.

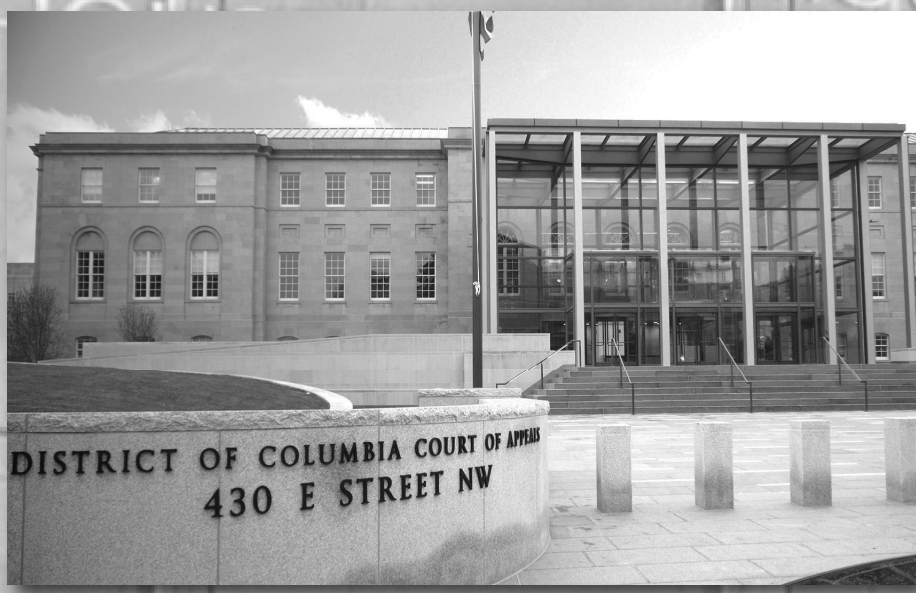
^cAs a result of the conversion to the Court's integrated justice information system, the number of reactivated/reopened cases cannot be reported separately but they are included in the number of cases available for resolution.

CRIMINAL DIVISION PENDING CASELOAD, 2007



District of Columbia Courts

Statistical Summary



2019

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CRIMINAL DIVISION CASE ACTIVITY FOR CY 2019

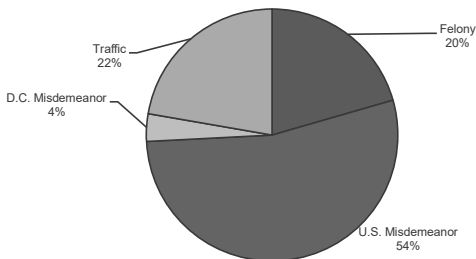
	Felony	U.S. Misdemeanor	D.C. Misdemeanor	Traffic	Total
Pending Jan 1 ^a	1,850	3,103	237	1,544	6,734
New Filings	2,934	7,665	507	3,180	14,286
Reopened	177	37	5	9	228
Reactivated ^b	666	4,189	230	884	5,969
Total Available for Disposition	5,627	14,994	979	5,617	27,217
Method of Disposition					
Non-Trial					
Guilty Plea	1,889	2,459	129	1,675	6,152
Nolle Prosequi	151	1,203	139	266	1,759
Nolle Diversion	40	1,248	200	782	2,270
Dismissed for Want of Prosecution	201	487	26	155	869
Dismissal	695	222	40	61	1,018
Dismissal Plea Agreement	185	1,718	48	194	2,145
Incompetent	0	0	0	0	0
Other/Abatement	22	49	2	5	78
Security Forfeited	0	0	13	8	21
Total Non-Trial	3,183	7,386	597	3,146	14,312
Jury Trials					
Guilty Verdict	82	6	1	6	95
Not Guilty Verdict	48	4	0	4	56
Acquittal	1	0	0	0	1
Not Guilty by Reason of Insanity	0	0	0	0	0
Mistrial/Hung Jury	37	1	0	1	39
Total Jury Trial	168	11	1	11	191
Bench Trials					
Guilty Judgment	32	340	11	42	425
Not Guilty Judgment	8	147	3	24	182
Acquittal	0	42	0	1	43
Not Guilty by Reason of Insanity	0	0	0	0	0
Mistrial	0	1	0	1	2
Total Bench Trial	40	530	14	68	652
Total Dispositions	3,354	7,925	612	3,223	15,114
Moved to Inactive Status ^b	664	4,456	193	877	6,190
Pending Dec 31	1,582	2,538	171	1,500	5,791
Percent Change in Pending	-14.5%	-18.2%	-27.8%	-2.8%	-14.0%
Clearance Rate ^c	106%	104%	108%	101%	104%

^aFigure adjusted after an audit of the caseload by the division.

^bCases with an active (unexecuted) bench warrant at the end of the calendar year are not available for disposition and therefore are removed from the court's count.

^cThe Clearance Rate, a measure of court efficiency, is the total number of cases disposed, including those moved to inactive status, divided by the total number of cases added (i.e., new filings/reactivated/reopened) during a given time period. Rates over 100% indicate that the court disposed of more cases than were added, thereby reducing the pending caseload.

2019 New Case Filings (N=14,286)



Criminal Case Activity, CY 2015-2019

