

CRIMINAL PROCEDURE GLOSSARY¹

- **Accused.**
A person who is believed to have committed a crime but has not yet been put on trial.
- **Acquittal.**
A final decision by the judge or the jury that the defendant is not guilty beyond a reasonable doubt of the crime charged.
- **Adjudicate.**
To decide an issue in a case.
- **Affidavit.**
A statement of facts that is written down and the truth of which is sworn to before an officer who can administer oaths.
- **Affirm.**
A legal finding by a higher court on appeal that the ruling or decision of the lower court was legally correct.
- **Aggravating Factor/Circumstance.**
A fact or situation related to the defendant or the crime that may be used by the court to enhance the severity of defendant's sentence.
- **Allegation.**
Something declared to be true in legal papers; a formal statement of fact as true but yet to be proven.
- **Allocution.**
A statement of a convicted defendant or the victim before defendant is sentenced.
- **Appeal.**
A request to a higher court to review a ruling or decision made by a lower court.

¹ Definitions adapted, in part, from following sources: BLACK'S LAW DICTIONARY (7th ed. 1999); American Bar Association, Glossary of Legal Terms (<http://www.abanet.org/publiced/glossary.html>); Office for Victims of Crime: Roles, Rights and Responsibilities: Glossary of Legal Terms (<http://www.ojp.usdoj.gov/ovc/publications/infores/fraud/rrr/gloss.htm>); State Bar of New Mexico, Common Legal Terms: Criminal Law Glossary (http://www.nmbar.org/Content/NavigationMenu/Public_Services_Resources/Common_Legal_Terms/Common_Legal_Terms.htm); The Victims of Crime Resource Center, located at the McGeorge School of Law (http://www.1800victims.org/glossary_legal_terms.htm).

- **Arraignment.**
The appearance of defendant before the court during which defendant is formally told of the charges and of his or her rights and enters a plea. If not previously done, conditions of release may be set or reviewed at this proceeding.
- **Attorney General.**
 1. (State) A person elected to statewide office to be the chief law officer of that state and who, with assistants, advises and represents that state in legal matters.
 2. (Federal) The chief law officer of the United States, who, with assistants, advises and represents the United States in legal matters.
- **Bail.**
A deposit of money, property, or bond with the court that allows the release of a suspect or defendant from jail before or after a criminal proceeding or trial has begun. The general purpose of bail is to ensure that the suspect or defendant shows up at the next proceeding.
- **Bail Bond.**
A promise by a surety to deposit money or property with the court that allows the release of a suspect or defendant from jail before or after a criminal proceeding or trial has begun. The purpose of a bail bond is to ensure that the suspect or defendant shows up at the next proceeding.
- **Bailiff.**
A court official who maintains order in the courtroom during proceedings.
- **Bench Trial.**
A trial held only before a judge, without a jury, and the judge alone decides the verdict and sentence.
- **Bench Warrant.**
A warrant issued directly by a judge for the arrest of someone who has been held in contempt of court, has been indicted, has disobeyed a subpoena, or has failed to appear for a hearing or trial.
- **Capital Felony.**
A felony for which capital punishment is a possible penalty.
- **Capital Punishment.**
A sentence of death.
- **Charge.**
To formally accuse a person of committing a crime.

- **Competency.**
 1. A court proceeding to evaluate a child's ability to remember the incident and know the difference between the truth and a lie.
 2. A court proceeding for an adult defendant determining defendant's mental capacity to understand nature of prosecution and assist in his or her own defense.
 3. A court proceeding to determine the qualification of an individual to testify as a witness.

- **Complaint (Criminal).**
A formal, written charge made to the court which initiates a case by accusing an individual of committing a crime.

- **Contempt.**
Disobedience to a court order or misbehavior that interferes with the administration of justice or the integrity of the court. If a person is found in contempt, he or she may be imprisoned, fined, or both.

- **Continuance.**
The postponement of a court proceeding to a later date.

- **Conditions of Release.**
The conditions a judge imposes on a defendant who is released from custody before a conviction or acquittal.

- **Conviction.**
A decision that defendant is guilty of committing a criminal offense beyond a reasonable doubt.

- **Count.**
A portion of a complaint that identifies one particular crime the defendant is accused of.

- **Cross Examination.**
The questioning, either during a hearing or trial, of a witness by a party opposed to the party that called the witness to testify.

- **Default.**
The omission or failure to perform a legal duty. In criminal law, often the situation where the defendant fails to appear in court at the proper time.

- **Defendant.**
A person accused and charged with a crime.

- **Delinquent.**
In criminal law, generally refers to a child who has committed an offense that would be a crime if committed by an adult.
- **Deposition.**
Oral testimony, given under oath and recorded in writing or by video during the discovery process.
- **Direct Testimony.**
The first examination of a witness by the attorney for the party who called the witness to testify.
- **Discovery.**
A process that occurs after a crime but before trial during which the prosecutor and defense exchange the evidence and information they each have about the case pursuant to express rules of criminal procedure, which govern the type of information to be exchanged and how the exchange should take place.
- **Dismiss/Dismissal.**
An order by a judge ending the prosecution of a case without deciding whether the defendant is guilty or innocent. A dismissal can be “with prejudice,” which means that the charges cannot be refiled against that same defendant, or a dismissal can be “without prejudice,” which means the charges can be refiled against the same defendant.
- **District Attorney.**
A public official appointed or elected to represent the state in a particular district and to prosecute crimes in that district.
- **Evidence.**
Testimony, documents, records, or objects presented by the prosecutor or defense during a hearing or trial to prove a particular fact or legal issue.
- **Exclusionary Rule (Criminal).**
A rule that excludes from trial evidence that was obtained in violation of a person’s constitutional rights.
- **Exhibit.**
A document, record, or object offered to the judge or jury during a hearing or trial as evidence.
- **Extradition.**
The official surrender of a person by one state or nation to another to face criminal charges in that state or nation.

- **Felony.**
A serious crime that is generally punishable by imprisonment of more than one year.
- **Grand Jury.**
A panel of citizens who hear evidence generally presented by the prosecutor and decide whether there is enough evidence to issue an indictment to formally charge the accused with a crime.
- **Guilty.**
A finding by judge or jury that the defendant committed the crime charged beyond a reasonable doubt.
- **Guilty Plea.**
A plea in open court by a defendant admitting that he or she is guilty of the crime charged.
- **Hearing.**
A formal legal proceeding before a judge addressing one or more legal issues.
- **Hung Jury.**
A jury that cannot agree on a verdict by the necessary number of votes.
- **Immunity.**
A promise by the prosecutor not to prosecute a person for a particular crime or a promise to that person that his or her testimony or the evidence he or she reveals will not be used in a prosecution against him or her.
- **Impact Statement.**
A statement made by a victim, either in writing or orally, describing the victim's feelings about a crime, how the crime affected the victim or the victim's family, and sometimes, also recommending a sentence to impose on defendant.
- **Indictment.**
A formal, written accusation that charges defendant with a particular crime and is brought by the grand jury, rather than by the prosecutor.
- **Information.**
A formal, written accusation that charges defendant with a particular crime and is brought by the prosecutor, rather than by the grand jury.
- **Initial Appearance.**
A defendant's first appearance in court to hear the charges, to be advised of his or her rights, and to have bail determined.

- **Investigation.**
The gathering of evidence about a crime by law enforcement and/or the prosecutor.
- **Join/Joinder.**
1. Of offenses: The combining of two or more charges against a single defendant into one trial. 2. Of defendants: The combining of charges against two or more defendants into one trial.
- **Judgment of Conviction.**
The written record of a criminal judgment, consisting of the plea, the verdict, the adjudication, and the sentence.
- **Jurisdiction.**
1. A geographic area within which political or judicial power can be exercised.
2. A court's power to decide a case.
- **Jury.**
A panel of citizens who hear evidence, testimony, and arguments of counsel at trial and decide whether defendant is guilty of the crime(s) charged.
- **Jury Trial.**
A trial in which a jury hears the evidence and decides whether defendant is guilty.
- **Misdemeanor.**
A crime that is usually punishable by imprisonment for not more than one year, a fine, or both.
- **Mistrial.**
A trial that ends before a verdict is given because of a hung jury, violation of a legal procedure, or due to serious misconduct occurring during the proceedings.
- **Motion.**
A formal written or oral request made to a judge for a specific order or ruling.
- **Motion to Dismiss.**
A motion asking a judge to end the prosecution without further hearings or trial.
- **Motion to Suppress.**
A motion asking a judge not to allow certain testimony, documents, or objects into evidence.
- **No Contact Order.**

An order by the court requiring that there be no contact, or only the limited contact expressly set forth by the court, between defendant and a victim or witness.

- **No Contest Plea.**

The formal plea of defendant that he or she will not dispute the charge, but which does not admit guilt. See also *Nolo Contendere*.

- ***Nolle Prosequi.***

A dismissal without prejudice filed by the prosecutor before trial.

- ***Nolo Contendere.***

The formal plea of defendant that he or she will not dispute the charge, but which does not admit guilt. See also No Contest Plea.

- **Not-Guilty Plea.**

The formal plea of defendant denying that he or she committed the crime charged.

- **Not-Guilty.**

A verdict by the court or a jury at the end of a trial that the evidence presented did not show beyond a reasonable doubt that the defendant committed the crime charged.

- **Oath.**

A solemn promise to tell the truth or be subject to penalties for perjury.

- **Objection.**

A formal statement to the judge by an attorney involved in a case that something that has occurred or is about to occur is legally improper and should not be permitted. A court may overrule an objection, which means the matter objected to will be allowed; the court may sustain the objection, which means that the matter objected to will not be allowed.

- **Offender.**

A person who has committed a crime.

- **Order.**

A written or oral command from the court.

- **Parole.**

The release of an offender from imprisonment before his or her full sentence has been served, usually granted due to good behavior by offender while in custody and conditioned on parolee reporting to supervising officer for specified period of time.

- **Perjury.**

The act of telling a deliberate lie while under oath.

- **Personal Recognizance.**

The release of a defendant without payment of bail or bond, relying on defendant's promise that he or she will appear at the next proceeding.

- **Plea.**

A defendant's formal answer to charges denying or admitting guilt. Common pleas include guilty plea, not-guilty plea, *nolo contendere*, no contest plea or not guilty by reason of insanity.

- **Plea Bargain.**

A compromise reached between defendant and the prosecutor that generally allows a defendant to plead guilty to a lesser offense or fewer of the counts in exchange for something offered by the prosecutor, such as a recommendation for a lesser sentence or dismissal of other counts.

- **Preliminary Hearing.**

A hearing to determine if there is enough evidence – probable cause – to proceed with a prosecution.

- **Probable Cause.**

A reasonable ground for belief that defendant committed a specific crime or that an identified location contains specific items connected with a crime.

- **Probation.**

A judicially imposed sentence that, subject to specific conditions, allows the defendant to be released into the community instead of serving time in prison.

- ***Pro Se.***

A person who acts for him or herself, without an attorney, during a hearing or trial.

- **Prosecution.**

The act of trying a defendant for a crime.

- **Prosecutor.**

A lawyer representing the municipal, state or federal government in criminal proceedings.

- **Reasonable Doubt.**

The belief that there is a real possibility that a defendant is not guilty.

- **Remand.**

A legal ruling of a higher appeals court to send a case back to the lower court for further action.

- **Reparations.**

Compensation for an injury or wrong to make amends.

- **Restitution (Criminal).**
Payment by defendant to the victim to compensate victim, in full or part, for financial losses caused by the defendant.
- **Sentence.**
The punishment imposed on an offender.
- **Severance.**
An order to separate charges or defendants previously joined.
- **Speedy Trial.**
The right of a defendant to have a case proceed to trial within specified time, unless the defendant agrees to a continuance and waives the right to speedy trial. Some states also grant the victim the right to speedy disposition.
- **Statute.**
A law enacted by a legislative body.
- **Statute of Limitations.**
A statute setting the time limit by which a crime must be prosecuted.
- ***Sua Sponte.***
Court acting on its own authority without a motion by a party.
- **Summons.**
A notice requiring a person's appearance in court on or by a specific day and time.
- **Subpoena.**
A written order requiring a person to appear at a certain place and time to bring documents and/or to give testimony.
- **Suspect.**
A person thought to have committed a crime.
- **Testify.**
To answer questions and give evidence under oath at a trial, deposition, or hearing.
- **Testimony.**
Evidence given by a witness under oath, at trial, deposition, or hearing.
- **Trial.**
A hearing at which the jury or judge hears evidence and decides whether a defendant is guilty of the crime(s) charged.

- **Verdict.**
The decision of a jury or a judge whether defendant is guilty.
- **Victim.**
Each jurisdiction has distinct definitions of “victim,” but generally a victim is a person harmed by a crime, or the family or close friend of that person when he or she is incapacitated or was killed.
- **Voir Dire.**
The pretrial questioning of individuals who are potential jurors to decide whether they can be on a jury.
- **Warrant.**
An order based upon probable cause authorizing either the arrest of a person or the search of a person or place.
- **Witness.**
A person who testifies at a hearing or trial.