

GLOSSARY OF LEGAL TERMS FOR JUDICIARY INTERPRETERS

**Compiled and Edited by James E. Gates, Esq.
Maupin Taylor & Ellis, P.A.
Raleigh, North Carolina**

ABSCOND - To hide or secretly flee for the purpose of avoiding legal proceedings.

ABUSE OF ELDERLY - The infliction of mental or physical injury upon an elderly person.

ACCESSORY - One who assists another person in such person's commission or attempted commission of a crime, or in his avoiding apprehension for the crime.

ACCESSORY BEFORE THE FACT - One who, before the commission of a crime, commands or helps another person to the crime, but who is not present at the time the crime is committed.

ACCESSORY AFTER THE FACT - One who, after a crime is committed, knowingly gives to the person who committed the crime assistance in escaping or attempting to escape arrest or punishment.

ACCOMPLICE - General term for one who knowingly aids another person in the commission of a crime.

ACCUSED - A person against whom a criminal proceeding is initiated, charging him with the commission of a crime. Synonymous with "defendant" in criminal cases.

ACQUITTAL - The determination at the end of a criminal trial that the defendant is not guilty.

ADJUDICATE - To decide a case or issue therein by judgment or order.

ADMINISTRATIVE LAW - Body of law relating to administrative agencies, including rules, regulations, orders, and decisions issued by agencies to carry out their regulatory powers and duties.

ADMISSIBLE EVIDENCE - Evidence which may properly be considered by the judge or jury which is deciding a case.

ADMISSION - A voluntary oral or written statement made by a person or his lawyer that certain facts exist or legal conclusions apply. When used in this sense, an admission may only tend to prove guilt or liability and is not necessarily a confession of guilt or liability. Also, in the law of evidence, any statement by an opposing party.

AFFIANT - The person who makes and subscribes an affidavit.

AFFIDAVIT - A written statement made under oath or affirmation before an officer having authority to administer such oath or affirmation, usually a notary public.

AFFIRM - To formally declare that oral or written statements, which may include those in an affidavit, are true, without taking an oath. The law generally permits those who object to taking an oath on religious grounds (i.e., to swearing) to affirm instead.

AFORETHOUGHT - Premeditated or conceived of before actually being done or carried out.

AGENCY - A governmental body with responsibility for enforcing particular laws (also termed an “administrative agency”). Alternatively, the relationship between a person (i.e., the principal) and someone acting on his behalf (i.e., the agent).

AGGRAVATED ASSAULT - To assault where serious bodily injury is inflicted on the person assaulted. It may also include an assault with the intent to commit an additional crime, such as rape, murder or robbery, and assault committed with a deadly weapon.

AGGRAVATING CIRCUMSTANCES - Factors which tend to increase the guilt or liability of a person for a crime or other wrongful conduct, or the punishment or other consequences therefor.

AID AND ABET - To actively, knowingly, intentionally, or purposefully facilitate or assist another individual in the commission or attempted commission of a crime.

ALIAS - A name for a person, other than the person’s true name, by which he is known. An indication that a person is known by more than one name is often shown with the abbreviation AKA (i.e., also known as).

ALIBI - A defense alleging that the accused, at the time of the commission of the crime charged, was at a different place than the scene of the crime, so that he could not have committed it.

ALIEN - A person who is not a citizen of the country in which he is located.

ALIMONY - The allowance which a person pays by order of the court for the support of his or her estranged spouse.

ALLEGATION - The formal statement of a claim or defense by a party, made in a pleading setting out what he intends to prove. More generally, a statement, oral or written, contending that a particular set of facts or other circumstances exists.

ALLEGE - To make an allegation.

ALLOW - To approve or permit.

ALLOW THE CLAIM - To decide a claim in favor of the party asserting it. Also to deny a pre-trial motion to dismiss a claim and thereby to allow the proponent to continue litigating it.

ALTERNATE JUROR - A juror who replaces a regular juror in the event one is dismissed. If the judge decides to have alternate jurors, they are selected at the same time as regular jurors.

AMOUNT OF MAINTENANCE - The cost of maintaining property, including the cost of ordinary repairs. Also the amount of sustenance or assistance furnished by one person to another for his or her support.

ANNUL - To nullify or cancel. Also to formally declare a legal relationship (e.g., a marriage) void from its commencement.

APPEAL - A proceeding in a higher court to review action taken by a lower court.

APPEAR - To come to court for a proceeding. Also to enter into a case.

APPEARANCE - A formal proceeding by which a person summoned submits or presents himself to the court. Also the entrance by an attorney or party into a case.

APPELLANT - The party who initiates an appeal.

APPRAISAL - Estimation of the value of property.

ARGUMENT - A set of reasons advanced by an attorney to the judge or jury, as the case may be, for or against something.

ARRAIGNMENT - The appearance of the accused before the court at which he is formally informed of the charges against him and is asked to plead “guilty” or “not guilty” (in some cases, he can also plead “nolo contendere” or “no contest”).

ARREARS - That which is unpaid although due to be paid. A person “in arrears” is behind in payment.

ARREST, TO - To deprive a person of his liberty by legal authority, including taking a person who is suspected of a crime into official custody.

ARSON - The willful burning of the house or other dwelling of another without legal justification.

“ASKED AND ANSWERED” - An objection that a question to a witness is cumulative, that is, it has already been asked by counsel and answered by the witness.

ASSAULT - To attempt without success to commit a battery or to threaten another person, with the intent to injure or frighten him, causing the person reasonable apprehension of immediate bodily harm.

ASSAULT AND BATTERY - Term used in some jurisdictions for battery.

ASSESS - To determine or fix the value of.

ASSETS - Property of all kinds, real and personal, tangible and intangible.

ATTORNEY AT LAW - A person who is qualified and authorized to assist and to represent people in legal matters, including trials. Synonymous with “lawyer,” “counsel,” or “counselor.”

ATTORNEY GENERAL - The chief law enforcement officer of the federal government and generally of a state government. His office represents the government and its agencies in court, including assisting or serving as prosecutors in the prosecution of criminal cases.

AUTHORITIES - Law enforcement officials. Also court decisions, constitutions, statutes, regulations, and other sources of law supporting a particular legal point.

BACK PAY - Accrued but uncollected salary or wages to which an employee is entitled.

BAIL - A monetary or other security given to ensure the appearance of a criminal defendant at every subsequent stage of the proceedings.

BAIL BOND - A document executed to obtain the release of a person in custody stating that the surety, often a bail bond company, forfeits its security in the event the defendant fails to appear as required.

BAIL FORFEITURE - Loss of bail status by order of a judge, usually upon a defendant’s failure to appear.

BAILIFF - A court employee who keeps order in the courtroom, including guarding prisoners, and attends to the jury.

BAIL JUMPING - To flee or hide in violation of the obligation of a bail bond.

BATTERY - The unlawful application of force to the person of another.

BENCH TRIAL - Trial held before a judge sitting without a jury. It usually requires waiver by the defendant of a jury trial.

BENCH WARRANT - An arrest warrant issued by a judge.

BEYOND A REASONABLE DOUBT - Burden of proof which prosecution must meet to convict a criminal defendant. See “reasonable doubt,” below.

BILL OF PARTICULARS - A written statement of the particulars of the charges or claims against the defendant or another party.

BLOW THE WHISTLE - To reveal or disclose the criminal or other wrongful acts of another. It usually refers to someone inside an organization informing against the organization or its management.

BONDING OVER - Act by which a judge or magistrate requires a person to furnish bail or to enter into a recognizance as a condition to his release from custody to ensure that he will appear for trial, attend as a witness, or perform some other act.

BOOKING - The initial processing of a suspect after arrest, which may include fingerprinting and photographing of the suspect. Also the taking and recording of bets or wagers on any trial or contest of speed, skill, or the like.

BREACH OF CONDITIONS - Violation by a parolee of the conditions of his parole, which may result in revocation of parole and incarceration. Also failure of an event to occur which is a condition to a party's performance under a contract.

BREAKING AND ENTERING - Refers to the necessary elements of common law burglary, which consisted of breaking and entering the dwelling of another in nighttime with the intent to commit a felony therein.

BRIBE - Any money, goods, or other things of value given or accepted with a corrupt intent to influence action, vote, or opinion of a person in any public or official capacity.

BRIEF - A document prepared by counsel setting out argument on a particular matter in dispute.

BURDEN OF PROOF - The duty of the proponent of a charge or claim to present evidence establishing to a specified level of convincing force (*e.g.*, beyond a reasonable doubt) that the facts necessary for the charge or claim to prevail exist.

BURGLARY - The entering into a house, building, or other structure with the intent to commit a felony or a theft therein.

CAPITAL PUNISHMENT - A sentence of death for a convicted criminal.

CASE - An action, cause, suit, or controversy between parties, presented for determination to a court.

CASE LAW - The aggregate of reported court decisions which forms a body of jurisprudence, as distinguished from statutes and other sources of law.

CAVEAT - A warning to someone to be careful. Also a limitation or qualification on something stated or agreed to. Also a proceeding to challenge the validity of a will.

CHAIN OF CUSTODY - The sequence of persons who have possession of a thing to be offered as evidence. The party who offers certain things into evidence, such as the narcotics in a drug case, must often prove who had custody of the evidence from the time it came under the party's control until the time it is offered into evidence to ensure that the evidence is what the party contends it is.

CHALLENGE, TO - To object or except to. In jury selection, to object to the inclusion in the jury of a particular prospective juror.

CHALLENGE FOR CAUSE - Motion that a prospective juror be excused from service in a particular case because of bias, incompetence, or another reason recognized under law as disqualifying a juror.

CHANGE OF VENUE - The removal of a case begun in a court in one location to a court in another location.

CHARGE - An accusation or complaint against a person that he has committed a specific crime.

CHARGE, TO - To assert a charge against someone. Also to give the jury its instructions prior to its deliberations.

CHARGE TO THE JURY - The final address from the judge to the jury before jury deliberations, in which he sums up the case and instructs the jury as to the rules of law which the jury must apply to the various issues in the case.

CHILD ABUSE - Intentional harm to a child's mental, physical, or moral well-being.

CHILD MOLESTING - A form of sexual attack upon a child which may or may not amount to rape.

CIRCUMSTANTIAL EVIDENCE - Evidence of facts or circumstances from which the existence or non-existence of other facts or circumstances may be inferred. In other words, the showing of secondary facts by which a principal fact may be rationally inferred. Also referred to as indirect evidence. Compare with "direct evidence," below.

CITATION - A written order requiring the appearance of a person at the time and place indicated therein. It may be issued in lieu of arresting the person. If the person fails to appear, then an arrest warrant may be issued. Also a reference to the law (*e.g.*, court decisions, constitution, statutes, regulations) supporting a particular legal point.

CIVIL CASE - A noncriminal case, often involving only nongovernmental parties seeking money damages.

CIVIL LAW - The type of legal system used in continental Europe, Latin America, and elsewhere based upon a central code of laws, as opposed to the common law system, which is based on court decisions. Also the body of law dealing with noncriminal matters.

CLAIM - A right to or demand for money or other thing of value. More loosely, any allegation.

CLAIMANT - One who asserts a claim.

CLAIM OF ALIMONY - A claim by a divorced wife for sustenance or support from her divorced husband. It stems from the common law right of the wife to support by her husband.

CLEAR AND CONVINCING EVIDENCE - A burden of proof applicable in certain proceedings (*e.g.*, indefinite commitment of the mentally ill) which requires a more convincing level of proof than the greater weight of the evidence standard used in most civil cases, but a less convincing level of proof than the beyond a reasonable doubt standard used in criminal cases.

CLERK OF COURT - Court official who supervises the administrative operations of the court, including maintenance of case files.

CLOSING ARGUMENT - The final statements by the attorneys seeking to persuade the judge or jury, as the case may be, to agree with their respective positions on the issues on the case, drawing on the evidence admitted and applicable law.

CO-CONSPIRATOR - One who engages in an illegal confederacy with one or more other persons.

COERCED CONFESSION - An involuntary confession, which is usually inadmissible because it was obtained by threats or force.

COMMON LAW - Body of law developed and derived through court decisions. A common law crime is one which was or is still defined in court decisions, rather than a statute. Also the type of legal system used in the United States, Great Britain, and elsewhere based on common law, as opposed to the civil law system, which is based on a central code of laws.

COMMUTATION - Reduction of a criminal sentence.

COMPENSATION - Damages designed to restore an injured party to his former position. Also money or other thing of value earned for work performed.

COMPETENT - Having the required characteristics. Competency to stand trial refers to whether a criminal defendant is sufficiently able to aid in his own defense to stand trial. Evidence which is competent is admissible evidence. A competent witness is one with sufficient age, mental capacity, and knowledge about the matter in question to testify.

COMPLAINANT - One who applies to the court for legal redress by filing a complaint, civil or criminal.

COMPLAINT - The initial pleading by which a civil action is commenced, setting out the plaintiff's allegations against the defendant and the relief demanded. In criminal law, a formal statement alleging criminal conduct by a person.

COMPROMISE - Settlement of a disputed claim by mutual concession usually to avoid or end a lawsuit.

COMPULSORY PROCESS - Court order compelling a person to attend court or other proceeding to testify as a witness or otherwise, including subpoenas and certain warrants.

CONCURRENT SENTENCE - A term of imprisonment all or part of which is served simultaneously with another term of imprisonment. The prisoner is entitled to discharge at the expiration of the longest term specified. A term of imprisonment which does not overlap with another, but is served either before or after another term is completed, is a "consecutive" or "cumulative" sentence.

CONFESS - To admit guilt or to knowingly make an incriminating statement.

CONFESSION - An admission of guilt or other knowingly incriminating statement made by the accused, either orally or in writing.

CONFIRM - To give new assurance of truth or certainty.

CONFLICT OF INTEREST - A conflict between loyalties of an attorney. It can arise when a criminal defense attorney represents more than one defendant in the same case because the codefendants' interests or defenses may be dissimilar or incompatible. Counsel believing that a conflict exists must ask to be relieved from representing at least one of the defendants.

CONSECUTIVE SENTENCE - A term of imprisonment which does not overlap with another, but is served either before or after any other term imposed is completed. Also termed a "cumulative sentence."

CONSENT - Agreement or permission. For example, a suspect consents to a search when he permits authorities to search his property.

CONSOLIDATED CASES - Separate cases joined together for purposes of trial or other proceedings.

CONSPIRACY - Conspiracy is an agreement between two or more persons formed for the purpose of committing some criminal or otherwise unlawful act and which, in the case of civil as opposed to criminal conspiracy, causes injury to person or property.

CONTEMPT OF COURT - Willful violation of a rule or order of the court, the result of which is ordinarily to interfere with the orderly administration of justice. Contempt is punishable by the court.

CONTEND - To assert or argue.

CONTEST, TO - To dispute or object.

CONTINUANCE - The postponement of a trial or proceeding in a case until some future date.

CONVICTION - The determination at the end of a criminal trial that the defendant is guilty.

CORONER - A public official who investigates the causes and circumstances of deaths that occur within his jurisdiction, especially to determine whether the death was by natural causes.

CORPUS DELICTI - The essential elements of a criminal offense which must be proved by the prosecutor.

COUNSEL - Lawyer, attorney, or law firm.

COUNSEL FOR THE DEFENSE - Attorney or law firm representing the defendant in a criminal or civil case.

COUNSEL FOR THE PROSECUTION - Attorney representing the prosecuting party (*i.e.*, state or federal government) in a criminal proceeding. Synonymous with "prosecutor."

COUNT - The sections into which an indictment or information is typically divided, each including a set of related allegations against the defendant. Each count often alleges a separate crime by the defendant.

COUNTY JAIL - A jail operated by a county which is ordinarily used to detain defendants awaiting trial or defendants convicted and sentenced for minor crimes.

COURT TRIAL - Trial by a judge alone without a jury; in this sense, synonymous with "bench trial." Also any trial held in a court of law, as opposed to another forum (*e.g.*, an administrative agency.)

CREDIBILITY - Worthiness of belief.

CRIME - Any act which the law classifies as criminal, usually punishable by imprisonment. Crimes include felonies and misdemeanors.

CRIMINAL CASE – A case in which the government is prosecuting one or more defendants for a crime, thereby seeking to impose upon them the punishment provided by law.

CROSS-EXAMINATION - Questioning of a witness by a lawyer for the opposing side. Also questioning of a witness by a lawyer on the same side as the witness when the witness is uncooperative. Generally, in cross examination the lawyer seeks to obtain testimony harmful to the witness's side and the witness's own credibility. Leading questions are permissible in cross-examination.

CUSTODY - The care and control of a thing or person.

CUT AND DRIED - Clear, obvious, not complicated or difficult.

DAMAGES - Monetary compensation which the law awards to one who has been injured by the action of another. Also the injuries to person or property for which such compensation is awarded.

DEAD TIME - Time spent by a defendant in jail awaiting trial and sentencing.

DEBRIEF - To interrogate in order to obtain useful information.

DECISION - A determination by a judge typically made after consideration of relevant facts and law.

DECREE - The judgment of a court exercising its equity jurisdiction.

DE FACTO/DE JURE - De facto means in fact, in deed, actually. De jure means by law, or in compliance with the law.

DEFAULT - A failure to take some action which one is required to do or should do.

DEFAULT, TO - To fail to do something which was required to be done.

DEFAULT JUDGMENT - A judgment entered against a defendant due to the defendant's failure to take action necessary to preserve his right to a determination on the merits, such as failing to appear for trial.

DEFENDANT - The person against whom a criminal or civil case is brought.

DEFENSE - That which is offered by the party being prosecuted or sued as a reason in law or fact why the government or plaintiff should not prevail.

DENY - To give a negative answer or reply to. To refuse to grant or accept.

DEPORTATION - Banishment to a foreign country.

DEPOSITION - The testimony of a witness given outside a trial or hearing in response to oral or written questions, and intended for use in preparation for or at trial in a civil or criminal case. Also the proceeding at which such testimony is taken.

DEROGATE - To partially repeal or abolish a law, as by a subsequent act which limits its scope or force.

DETAIN - To hold a person or his property against his will.

DETAINER - The act of holding a person or his property against his will; in this sense, synonymous with “detention.” Also an order authorizing the detention of a person.

DETENTION - The act of holding a person or his property against his will. It often refers to brief periods of incarceration.

DETENTION HEARING - Judicial or quasi-judicial proceeding used to determine the propriety of detaining a person on bail or a juvenile in a shelter facility.

DETERMINATION OF PRIORS - A hearing the purpose of which is to determine prior criminal convictions of the defendant.

DIGRESS - In speaking or writing, to switch from the main topic under consideration to another, often unrelated topic.

DIMINISHED CAPACITY - A mental impairment, not reaching the level of insanity, which the law recognizes as preventing formation of the intent necessary for conviction of certain crimes.

DIRECT EVIDENCE - Evidence of facts offered to prove such facts as an end in themselves. Direct evidence includes the testimony of a witness who actually saw the defendant commit the crime at issue.

DIRECT EXAMINATION - The first examination (*i.e.*, interrogation) of a witness by the attorney representing the party on whose behalf the witness is called.

DISALLOW - To deny or not permit, as in disallowing the admission of certain evidence.

DISCHARGE - To release from an obligation, duty, or liability (*e.g.*, jury service or prison confinement, damages caused by a car accident). Also to carry out an obligation or job (*e.g.*, discharge the office of clerk).

DISCOVERY - The pretrial procedures used by the parties to obtain information about the case from the other parties in order to prepare for trial.

DISCRETIONARY POWER - The power of a judge in certain matters to take or not to take certain actions as he sees fit, subject to only broad limitations in the law.

DISMISS - To terminate a claim, defense, or entire case.

DISMISSAL - The act of dismissing a claim, defense, or case. Also the order, stipulation, notice, or other document effecting the dismissal.

DISPUTE - A conflict or controversy.

DISTRICT ATTORNEY - The chief prosecuting officer in each of a state's prosecutorial districts.

DIVERSION - The suspension of criminal prosecution of an offender. The offender may be asked to participate in a treatment or supervisory program in exchange for his agreement to stop or to suspend prosecution.

DOCKET - The aggregate of cases pending in a court. The criminal docket refers to the criminal cases and the civil docket to the civil cases. Also a court record summarizing the cases before it or a particular case.

DONEE - The recipient of a gift or a power.

DONOR - The party making a gift or conferring a power.

DOSSIER - A collection of papers or file concerning a particular person.

DOUBLE JEOPARDY - Trial of a person by the same jurisdiction more than once for the same crime. The U.S. Constitution prohibits subjecting persons to double jeopardy.

DUE PROCESS - The constitutional guarantee that governmental judicial and administrative proceedings, including trials, be fundamentally fair.

EMBEZZLEMENT - To take for one's own use another person's money or other thing of value which is entrusted to one's care.

ENHANCEMENT - An increase in value.

ENTITLEMENT - A right to something. Often used to refer to welfare benefits, which often may not be reduced or cut off without due process.

ENTRAPMENT - The instigation by a government official of the commission of a crime by a person who was not predisposed to commit such crime. Entrapment is a defense to a criminal charge.

EQUAL PROTECTION - A constitutional guarantee that all persons receive the same treatment under the law as all other persons under the same circumstances.

ESSENTIAL ELEMENT - One of the basic sets of facts which the proponent of a charge, claim, or defense must establish to prevail on such charge, claim, or defense. In other words, one of the basic parts of the definition of a crime. For example, the essential elements of second-degree murder are (1) to kill (2) another living human being (3) with malice aforethought. The essential elements of a charge, claim, or defense often vary among different jurisdictions.

ETHICS CODE - A set of rules or regulations setting out requirements for ethically proper conduct.

EVIDENCE - Anything that tends to establish whether the existence of one or more facts is more or less probable, which is presented at a trial or other legal proceeding for the purpose of inducing belief in the minds of the court or jury. Evidence includes witness testimony, documents, and tangible objects.

EVIDENTIARY FACTS - Those specific facts derived from the evidence presented which form the basis of the ultimate facts making up the essential elements of a crime or claim.

EXCLUSIONARY RULE - A constitutional rule of law which provides that otherwise admissible evidence may not be used in a criminal trial if it was obtained illegally.

EXCULPATORY EVIDENCE - A statement or other evidence which tends to exonerate a person from alleged fault or guilt.

EXPERT - One who has specialized knowledge in a particular area, as shown by his knowledge, skill, experience training, or education.

EXPERT WITNESS - A person with specialized knowledge in a particular area, as shown by his knowledge, skill, experience, training, or education, that will assist the trier of fact who offers testimony regarding such specialized knowledge. An expert witness may offer opinions, unlike lay witnesses in most circumstances.

EXPUNGE - To remove information from (e.g., expunging a conviction from a person's criminal record).

EXTENUATING CIRCUMSTANCES - Factors which tend to lessen or mitigate the guilt or liability of a person for his conduct, or the punishment or other consequences therefor, often factors over which the person has little or no control. Synonymous with “mitigating circumstances,” below. Aggravating factors are the opposite, tending to enhance guilt or liability, or the punishment or other consequences.

EXTORTION - Threatening or communicating a threat to another person with the intent of obtaining wrongfully anything of value.

EXTRADITION - The process by which a state or country turns a person over to another state or country for prosecution there.

FACE OF THINGS - As something appears to be (*e.g.*, the words of a written paper in their apparent or obvious meaning).

FACT - A circumstance, event, or occurrence, that actually takes or took place.

FALSE ARREST - Any unlawful physical restraint of another’s liberty, whether in prison or elsewhere.

FALSE PRETENSE - Use by a person of a false representation that intentionally deceives another and by which the person obtains property or another thing of value.

FAMILY LAW - Branch of law, also denominated domestic relations law, relating specifically to the family and family relations, including such matters as adoption, amendment, divorce, separation, maternity, and custody.

FAULT - Error or defect in conduct or thought. Fault is usually an essential element of a crime or civil claim, but not always, as with strict liability offenses such as statutory rape.

FELONY - A broad term used to distinguish more serious crimes from less serious crimes, which are termed “misdemeanors.” In many jurisdictions, a crime qualifies as a felony if it is punishable by incarceration for more than one year or in a state prison, or by death.

FILE, TO - To submit a document to the court for inclusion in the court’s record of a case. A document so submitted may be referred to as a “filing.”

FINAL DECISION - Synonymous with “final judgment,” below.

FINAL JUDGMENT - The final order in a case resolving all remaining charges or claims at issue.

FINAL ORDER - An order terminating a case or a charge or claim therein. To be appealable, an order must ordinarily qualify as a final order, rather than as an interlocutory order.

FINDING - A formal determination by a judge or jury on an issue of fact.

FINGERPRINTS - The distinctive pattern of lines on human fingertips, often used as a method of identification in criminal cases. Also an imprint taken of fingerprints.

FORGERY AND UTTERING – “Forgery” is the making of a false but seemingly genuine document which, if genuine, would have legal effect, with intent to defraud. The separate offense of “uttering” is the passing of a forged document.

FORMAL PROBATION - Probation of a formal nature. See “Probation” below.

FRAUD - Intentionally deceiving another.

FRYE HEARING - A hearing to determine the admissibility of scientific evidence or expert testimony. It derives its name from a U. S. Supreme Court case of that name.

FUGITIVE - One who flees. Used in criminal law with the implication of a flight, evasion, or escape from arrest, prosecution, or imprisonment.

GOOD FAITH - The intention to act properly. Something done in good faith is done in the belief that it is proper and not for improper purposes.

GRAND JURY - A jury whose purpose is to investigate and report on crimes committed within its jurisdiction, and formally accuse persons of crimes when it has discovered evidence establishing probable cause that the persons committed the crime.

GRANT OF LEGAL AID - To provide a defendant an attorney at the government’s expense.

GREATER WEIGHT OF THE EVIDENCE - The burden of proof applicable to most civil claims requiring that the jury be persuaded that, considering all the evidence, the necessary facts at issue are more likely than not exist. The term refers to the quality and convincing force of the evidence, not the quantity of evidence. Also termed “preponderance of the evidence.”

GRIEVANCE - In labor law, a complaint filed by an employee, or by his representative, regarding working conditions and for resolution of which there is a procedure in place.

GUILT - Responsibility for a crime.

GUILTY PLEA - Synonymous with “plea of guilty,” below.

HABEAS CORPUS - Latin for “you have the body.” It is a written judicial order to the person detaining a prisoner to bring him into court to determine whether such prisoner has been denied his liberty in violation of the law. It is basically a procedure for obtaining a judicial determination of the legality of a person’s custody.

HEAR A CASE - Refers to a court holding a hearing or the trial in a case. Also refers to a determination by a court, often an appellate court, to exercise power over a case and decide it.

HEARING - A proceeding similar to a trial without a jury in which issues of fact or law are heard by a judge. A hearing may include presentation of evidence and attorneys' arguments, and may be held at any stage of the case. There are also administrative hearings, which may take place outside the judicial process, before officials who have been granted judicial authority for the purpose of conducting such hearings.

HEARSAY - A written or oral out-of-court statement offered to prove the truth of the matter asserted. Hearsay is inadmissible into evidence, unless one or more of the hearsay exceptions apply.

HEARSAY EVIDENCE - Evidence which constitutes hearsay.

HEARSAY TESTIMONY - Testimony which constitutes hearsay.

HIT AND RUN - The criminal offense of a driver who is involved in an accident causing injury or death and who knows or should know of such involvement, but who nevertheless fails to stop or remain at the scene, to assist those injured or struck, or to provide identifying information to them. The failure to report an accident to authorities may also constitute a hit and run offense.

HOMICIDE - A neutral word that indicates the killing of a human being by another human being, without implying whether the killing was lawful or unlawful.

HOSTILE WITNESS - A witness testifying on behalf of an opposing party or an uncooperative witness. A witness declared to be hostile may be asked leading questions and is subject to cross-examination by the party that called him just as if he had been called by the other party.

HUNG JURY - A jury whose members cannot reconcile their differences of opinion and agree on a verdict (*e.g.*, whether the accused is guilty or not guilty of the charges against him).

ILLEGAL ALIEN - A person who is not a citizen of the particular country in which he is located and who is there unlawfully.

IMMATERIAL - Not of consequence to determination of the case.

IMMUNITY FROM PROSECUTION - An exemption from prosecution, often granted in exchange for a witness's cooperation or testimony.

IMPEACHMENT OF A WITNESS - Attacking the credibility of a witness by means of evidence offered for that purpose, including the witness's own testimony elicited through cross-examination.

IMPLICATE - To incriminate.

IN CAMERA HEARING - A hearing conducted in the judge's chambers (*i.e.*, office) rather than in the courtroom.

INCOMPETENT WITNESS - A person who is not qualified to be a witness because of age, mental incapacity, or other reason.

INCONSISTENT STATEMENT- A statement inconsistent with a prior statement on the same subject matter. Inconsistent statements are used to attack a witness's credibility.

INCRIMINATE - To suggest guilt.

INCULPATORY STATEMENT - A statement which tends to establish guilt.

INDETERMINATE SENTENCE - A sentence to imprisonment for the maximum period defined by law, subject to termination by the parole board or other agency at any time after service of the minimum period.

INDICTMENT - A formal written accusation submitted to a grand jury by a prosecutor, charging one or more persons with one or more crimes. The grand jury must determine whether the person or persons named should be prosecuted for the crime charged, in which case the indictment is endorsed by the foreman of the grand jury as a true bill. An indictment authorizes trial of the persons named for the crimes charged.

INDIGENT - A person with little or no money or property.

INEFFECTIVE ASSISTANCE OF COUNSEL - The claim often brought in a habeas corpus proceeding, alleging that the criminal defendant's attorney failed to provide a minimally acceptable standard of legal assistance to the defendant.

INFORMATION - A formal written accusation by a prosecutor that one or more persons have committed one or more crimes, issued without a grand jury. An information authorizes trial of the persons named for the crimes charged.

INFORMED CONSENT - A person's agreement to allow something to be done that is based on a disclosure of the information needed by the person to make the decision intelligently.

INFORMER - One who provides information to law enforcement authorities regarding criminal activity.

INFRACTION - A violation of a legal duty or requirement defined as an infraction by the law, which is typically non-criminal in nature.

INJUNCTION - A court order directing a party not to perform a specified act or, less frequently, to perform a specified act. An injunction is intended to preserve the status quo pending determination of the parties' rights.

IN OPEN COURT - A trial, hearing, or other proceeding held in a court open to the public.

INSANITY - A mental defect or illness which the law recognizes as excusing or mitigating guilt for the commission of a crime. A common definition of insanity is that, when the crime was committed, the defendant, as a result of a mental defect or illness, did not know the nature and quality of his conduct, or did not know that his conduct was wrong, or was unable to control his conduct.

INTENT - A state of mind wherein the person desires that his acts cause certain consequences or knows that they will. Intent is not synonymous with motive, which relates to the reasons for a person's actions.

INTERLOCUTORY ORDER - An order which decides less than all the charges or claims in a case. Interlocutory orders are ordinarily not appealable.

INTERROGATION - The oral questioning by authorities of a criminal suspect. More generally, the questioning of any person by one or more others.

INTERROGATORY - A written question from one party to another, which must be answered under oath. Interrogatories are one of the devices used in pretrial discovery.

INVALIDATE - To make void.

INVOLUNTARY MANSLAUGHTER - The unlawful killing of a living human being through recklessness or negligence.

JUDGE - The judicial officer who administers the law, controls the proceedings of a case or trial in court, and presides over them.

JUDGMENT - The final order in a case resolving all charges or claims.

JUDGMENT BY DEFAULT - Synonymous with "default judgment," above.

JUDICIAL NOTICE - A judge's determination that certain facts exist without requiring formal proof thereof. The facts of which judicial notice may be taken are generally well-known within the community or easily proved with certainty (*e.g.*, the fact that Congress passed a particular statute).

JUMP BAIL, TO - To flee or hide in violation of the obligation of a bail bond.

JURISDICTION - The power to hear and to decide cases. Jurisdiction exists over particular types of cases (*i.e.*, over subject matter), and over parties (*i.e.*, personal jurisdiction). Also used to refer to a particular unit of government (*e.g.*, a state), particularly with respect to its judicial powers (*e.g.*, different jurisdictions have different legal tests for insanity).

JUROR - Member of a jury. In addition to regular jurors, the term may refer to special and alternate jurors.

JURY - A body of persons selected according to law, and obligated to inquire of certain matters of fact and to determine the truth regarding such matters based upon the evidence presented to them.

JURY INSTRUCTIONS - The explanation of the law applicable to a case which the judge gives the jury immediately before it retires to the jury room to deliberate over the case.

JURY PANEL - The group of prospective jurors who are summoned to appear on a stated day and from which a grand jury, petite jury, or special jury is chosen.

LARCENY - The unlawful taking and carrying away of the personal property of another person without his consent and with the intent to permanently deprive him of it.

LAWSUIT - A proceeding in a court or similar body for the determination of the parties' rights, usually used in reference to civil rather than criminal proceedings.

LEADING QUESTION - A question asked of a testifying witness phrased in such a way that it suggests the answer the witness is to give.

LIABLE - Culpable or responsible. In criminal cases, the term "guilty" is usually used instead.

LINEUP - Display of a group of persons by law enforcement officials, to a witness or a victim for the purpose of such witness's or victim's identification of a criminal suspect.

LITIGANT - A party to a lawsuit.

LITIGATION - One or more lawsuits. Also the process by which lawsuits are conducted.

LITIGIOUS - Having a tendency to bring lawsuits.

MAGISTRATE - A judicial officer of lower rank than a judge with duties similar to, but more limited than those of a judge.

MAINTENANCE ALLOWANCE - Expenditures permitted for the upkeep or preservation of property, including costs of ordinary repairs necessary and proper from time to time for that purpose.

MALICE - Refers to a state of mind required for certain crimes and civil claims. Express malice (also termed “malice in fact” or “actual malice”) is ill will, hatred, spite, or like emotions, implying a desire to harm. Legal malice (also termed “malice in law”) refers to the absence of legal justification or excuse for action taken.

MALICE AFORETHOUGHT - The state of mind required for the crime of murder. It encompasses intent to kill, intent to do serious bodily injury, disregard of a high and unjustifiable risk of death, and, in the case of felony murder, the intent required for certain other felonies. At times used synonymously with “malice.”

MANDATORY SENTENCE - A sentence the court is required by law to impose for certain crimes or on certain criminals.

MANSLAUGHTER - The unlawful killing of a human being without malice aforethought. Most jurisdictions distinguish between voluntary and involuntary manslaughter, both defined herein.

MARSHAL - The chief law enforcement officer of each U.S. District Court, whose duties include executing orders of the court, maintaining security in the courtroom, and transporting prisoners to and from jail. Federal marshals perform duties comparable to those of sheriffs in many states.

MATERIAL - Of consequence to determination of the case or other matter at issue.

MATERIAL WITNESS - A witness whose testimony is important to the issues in a trial.

MAYHEM - The malicious maiming (*i.e.*, dismemberment or disablement of a body part) or disfigurement of another.

MENTAL INCAPACITY - Lack of ability to understand or conduct one’s affairs.

MIRANDA RULE - The rule of law requiring the government to inform a suspect after arrest and before questioning of certain matters bearing on his rights, including that he has the right to remain silent, that the statements he makes may be used against him, that he has the right to counsel, and that counsel may be appointed if he cannot afford one. The required disclosures are termed “Miranda warnings” and “Miranda rights.” “Miranda” refers to a U. S. Supreme Court case of that name which first required the warnings.

MIRANDIZE - The process by which a person is informed of his Miranda rights (*e.g.*, that he has a right to remain silent, that any statement that he makes may be used as evidence against him, that he has a right to the presence of an attorney during questioning).

MISCONDUCT - An act or omission in violation of a rule or other requirement.

MISDEMEANORS - A broad term used to distinguish less serious crimes from more serious crimes, which are termed “felonies.” In many jurisdictions, a crime qualifies as a misdemeanor if it is punishable by imprisonment for less than one year or by a fine.

MISTRIAL - A trial which has been terminated and declared void generally prior to the jury’s returning of a verdict or the judge’s issuing his judgment in a court trial for reasons recognized by law (*e.g.*, hung jury, fundamental error prejudicial to the defendant).

MITIGATING CIRCUMSTANCES - Factors which tend to lessen the guilt or liability of a person for a crime or other wrongful conduct, or the punishment or other consequences therefor, often factors over which the person has little or no control. Synonymous with “extenuating circumstances,” above.

MOOT POINT - A matter of law or fact which is of no consequence to determination of the case. Often used to refer to matters which at one time were of consequence but are no longer.

MORAL TURPITUDE - A crime of moral turpitude is one demonstrating baseness, vileness, or depravity. The law often provides special punishment for crimes of moral turpitude, such as disqualification from office, loss of licensed employment, and, in the case of an immigrant, deportation.

MOTION - An oral or written application to the court requesting an order or other relief in favor of the applicant (*e.g.*, motion to quash a subpoena, motion to dismiss, and motion to suppress evidence illegally obtained).

MOTION IN LIMINE - A pre-trial motion seeking limitation on the admission of certain evidence at the trial.

MOTION TO DISMISS - A motion requesting that a case or a charge or claim therein be dismissed.

MOTIVATING FACTOR - Synonymous with “motive,” below.

MOTIVE - A factor or reason which induces a person to do something. Synonymous with “motivating factor,” above. Motive should be distinguished from intent, which refers to a person’s desire that his acts cause certain consequences, or his knowledge that they will.

MOVE - To request an order or other relief from the court.

MURDER - The unlawful killing of a living human being with malice aforethought (defined above), either express or implied. Murder committed with premeditation and deliberation (*i.e.*, the intent to kill being formed beforehand and in a cool state of mind) is “first-degree murder” and without is “second-degree murder.” A special form of murder is “felony murder,” in which the defendant unintentionally kills another person in the commission of a particular felony.

NEGLIGENCE - Failure to exercise that degree of care which a person of ordinary prudence (*i.e.*, a reasonable person) would exercise under the same circumstances. In other words, failure to do something that a reasonable person would do or the doing of something which a reasonable person would not do. Also a civil cause of action for damages proximately caused by another’s negligence.

NO CONTEST PLEA - A plea in a criminal case in which the defendant states that he will not contest a charge against him. In many jurisdictions, a no contest plea has a legal effect similar to a guilty plea. Synonymous with a plea of “*nolo contendere*,” below.

NOLO CONTENDERE - Latin for “I do not wish to contest.” A plea in a criminal case in which a defendant states that he will not contest a charge against him, which in many jurisdictions, is equivalent to a plea of guilty for most purposes. Synonymous with “no contest plea,” above.

NONRESPONSIVE ANSWER - An answer from a witness which is not called for by the question. When given a nonresponsive answer, counsel questioning the witness may request that the court strike the answer and instruct the witness to give a responsive answer.

NOTICE - Information sent to or otherwise made available to a person to formally advise him of a matter. Also a document containing or comprising a notice.

OATH - Any form of attestation by which a person signifies that he is bound in conscience to perform an act faithfully and truthfully. To take an oath is to swear.

OBJECT, TO - To state one’s opposition to a particular action or other matter (*e.g.*, to the admission of particular evidence, to a particular question). The judge may sustain the objection, prohibiting the action objected to (*e.g.*, denying admission of the evidence, disallowing the question) or he may overrule the objection, permitting the action (*i.e.*, allowing admission of the evidence, permitting the question).

“OBJECTION OVERRULED” - Phrase typically used by a judge to disallow or deny an objection.

“OBJECTION SUSTAINED” - Phrase typically used by a judge to allow or grant an objection.

OFFENSE - A violation of a criminal law, which is punishable by fine or imprisonment or both, or by death. Also a violation of a non-criminal law designed to protect the public.

OFFICIAL DOCUMENT - A document certified as authentic in accordance with law.

OPENING STATEMENT - A lawyer's statement to the jury at the start of a trial describing what he expects to prove at the trial.

OPINION - The statement by a judge setting out his decision in a case or on some matter in a case and the reasons for such decision. Also a form of testimony consisting of certain beliefs held by the witness as opposed to facts of which he has knowledge. With limited exceptions, only expert witnesses may testify to their opinions.

OPPOSE - To disagree with or seek to defeat.

ORAL ARGUMENT - Oral presentation of argument by counsel in support of their respective positions before an appellate court.

ORDER - A written or oral directive by the court requiring that something be done.

ORDINANCE - A law enacted by and applicable to a locality (*e.g.*, city, county). It is distinguishable from a statute, which is a law enacted by the state or federal government. Ordinances are enacted to regulate zoning, highway speed, parking, refuse disposal, and other matters typically or traditionally of local concern.

OVERRIDE - To deny or to annul. Used to refer to a decision by a judge to deny a party's objection to the introduction of particular evidence or to a particular question. Also, a judicial decision is said to be overruled when a later decision, rendered by the same court or by a higher court, expressly or impliedly reverses, modifies, or vacates it.

OVERT ACT - An outward, objective action knowingly performed by one or more members of a conspiracy which evidences the agreement upon which the conspiracy is based. In many jurisdictions, an essential element of a conspiracy charge is that at least one overt act have been performed during the existence of the conspiracy and in furtherance of it.

PARDON - Exoneration of a person from guilt for a crime, relieving him from any further punishment and any legal disability because of the crime.

PAROLE - A conditional release from imprisonment which entitles the person receiving the parole to serve the remainder of his term outside of prison if he satisfactorily complies with all the terms and conditions connected therewith.

PART-TIME RELEASE- Permission given to a convicted offender or a juvenile in custody to spend part of his time in the community to learn a skill or to study, although the rest must be spent in jail or in a correctional facility.

PARTY - A litigant in a judicial proceeding. In a civil case, the principal parties are a plaintiff or petitioner against a defendant or respondent. In a criminal case, the parties are the government called, *e.g.*, “State,” “People,” or “United States,” against the defendant.

PENALTY - The punishment that the law provides for the commission of a crime and certain other violations of law.

PENALTY ASSESSMENT - A proceeding in which punishment is determined or imposed.

PEOPLE - The name used in some jurisdictions for the governmental unit prosecuting a criminal case.

PEREMPTORY CHALLENGE - The right of a party to exclude a prospective juror from serving on the jury for any reason and without explanation, subject to the civil rights laws.

PERJURY - Criminal offense of intentionally making a statement known by the person to be false under oath or affirmation.

PERPETRATOR - The person who actually commits a crime.

PERSONAL RECOGNIZANCE - A pre-trial release without bail based on the defendant’s own promise to appear for subsequent proceedings, including trial. Conditions of release may be imposed, such as remaining in the custody of another person or abiding by certain travel restrictions. Also the order providing for such release. May be referred to simply as “a recognizance.”

PETIT JURY - A body of jurors empaneled to hear a case, as opposed to a grand jury empaneled to investigate criminal activity and indict. A petit jury derives its name from the fact that it is ordinarily smaller than a grand jury.

PETITION - A formal written request to a court asking it to grant the relief specified and setting out supporting allegations. A petition may be the initial pleading commencing a lawsuit, similar to a complaint, or an appeal. A request for a writ must often be in the form of a petition.

PETITIONER - One who submits a petition to a court.

PHOTO SPREAD - An arrangement of photographs presented to a witness for the purpose of his identifying a suspected criminal or other person associated with a crime.

PLAINTIFF - The party who initiates a civil lawsuit, ordinarily by filing a complaint demanding relief of some type against the defendant.

PLEA - The formal allegation by a criminal defendant in response to the charges against him (*e.g.*, guilty, not guilty. *nolo contendere*).

PLEA BARGAINING - The process whereby a criminal defendant, usually through his attorney, and the prosecutor negotiate a mutually satisfactory disposition of the case. Plea negotiations can center around the defendant's pleading guilty to a lesser offense, or to only one or several of the counts in a multi-count indictment or information. In return, the defendant seeks to obtain concessions as to the type or length of his sentence or the reduction or elimination of charges against him. However, such an agreement does not bind the court, which has the discretion as to whether to accept the plea and its attendant bargain or not.

PLEADING - A formal written statement by a party of its allegations in a legal proceeding. In civil cases, the pleadings include a complaint, answer to the complaint, a reply to a counterclaim, an answer to a cross claim, a third-party complaint, and an answer to a third-party complaint.

PLEA OF GUILTY - The plea in a criminal case in which the defendant confesses guilt for the crime charged.

PLEA OF NOT GUILTY - The plea in a criminal case in which the defendant denies guilt for the crime charged.

POISONED FRUIT - Evidence discovered as a result of an illegal search or seizure or other unlawful action, which is subject to being suppressed as evidence at trial (*e.g.*, statements made after an unlawful arrest). Also called "fruit of the poisoned tree."

POLLING THE JURY - The questioning of each member of the jury by the court clerk after it has reached its verdict to confirm that each jury member agrees with the verdict.

POSSESSION - The act of having or holding. Possession of certain things can be a crime (*e.g.*, possession of illicit drugs, certain firearms, stolen property).

PRAYER FOR JUDGMENT CONTINUED - Formally a request that entry of final judgment in a case be postponed, although it is generally used to refer to the postponement itself. The motor vehicle laws of certain states provide that prayers for judgment continued may be allowed for certain violations and the violations thereby never officially entered against the offender, provided that for a specified period the offender not commit certain additional violations.

PRECLUDE - To prohibit or prevent from doing something.

PRELIMINARY HEARING - A hearing to determine whether a person charged with a crime should be held for trial.

PREPONDERANCE OF THE EVIDENCE - Synonymous with “greater weight of the evidence,” above.

PRE-SENTENCE INVESTIGATION - An investigation of the relevant background of a convicted offender, usually conducted by a probation officer attached to a court, designed to assist the sentencing judge.

PRESUMPTION - The assumption in the law that something is true without any proof thereof (*e.g.*, the presumption that a child below the age of seven lacks the capacity to have criminal intent). A presumption may be rebuttable (*i.e.*, the parties can prove it inapplicable) or irrebuttable (*i.e.*, the presumption is conclusive and incontestable).

PRESUMPTION OF INNOCENCE - The assumption by the law that a person charged with a crime is innocent until the government proves that he is guilty. The presumption places on the government the burden of proving every element of a crime and relieves the defendant of any burden to prove his innocence.

PRESUMPTIVE - Assumed.

PRE-TRIAL - That part of the litigation process which precedes the trial, including pre-trial motions and discovery, which are designed to narrow and clarify the issues for trial.

PRE-TRIAL CONFERENCE - A meeting between counsel and the judge in a case prior to trial designed to help prepare the case for trial and often to facilitate possible settlement. Matters addressed at a pre-trial conference may include stipulations regarding evidence and pending motions.

PREVENTIVE DETENTION - Confinement of a criminal defendant pending trial or another proceeding to prevent his fleeing from prosecution, his commission of a crime, or violation of the law in some other respect.

PREVENTIVE MEASURE - An action taken to prevent or protect against future harm.

PRIMA FACIE CASE - Evidence which is minimally sufficient on its face to establish the existence of the essential elements of a claim, charge, or defense.

PRIMA FACIE EVIDENCE (OR PROOF) - Evidence which is sufficient on its face to establish the existence of a given fact or raise a particular presumption.

PRIVILEGE - A person’s right in certain circumstances to prevent another person from disclosing certain communications between them by virtue of a special relationship between them, including attorney-client, husband-wife, and priest-penitent.

PRIVILEGED COMMUNICATIONS - Statements made by a person in the course of a protected relationship with another, such as husband-wife, attorney-client, or priest-penitent, which the law protects from forced disclosure.

PROBABLE CAUSE - Reasonable ground for belief that certain facts exist.

PROBATION - Release of a convicted defendant from imprisonment by a court, subject to specified terms and conditions. A general condition typically imposed is to obey all laws and to otherwise observe standards of good conduct. Among the special conditions which may be imposed are a term of incarceration prior to probation, payment of a fine, psychological and medical treatment, and drug testing.

PROBATION OFFICER - An official who supervises a person placed on probation by a court in a criminal proceeding and performs related duties, such as preparation of pre-sentence reports.

PROBATION VIOLATION - A failure to observe or to comply with any of the terms or conditions of probation. If the defendant is found to be in violation of his probation, the probation may be revoked, modified, or terminated.

PROCEDURAL COSTS - Costs incident to a legal proceeding, such as filing fees.

PROCEEDING - The set of all actions taken to determine a particular case or matter therein before a court or other body.

PRONOUNCE JUDGMENT - To announce the judgment of the court.

PROOF - Evidence. Also establishment of the existence of a fact by presenting convincing evidence of its truth.

PRO SE - A party who acts as his own attorney and proceeds without a lawyer's assistance.

PROSECUTION - The governmental entity initiating a criminal case. Also active litigation of a civil or criminal case, usually in reference to the party which initiated the case.

PROSECUTORIAL DISCRETION - The broad discretion the law allows prosecutors to decide which cases to prosecute.

PROSPECTIVE JUROR - A person summoned for jury duty who is awaiting possible selection to sit on a jury.

PROTECTIVE CUSTODY - A law enforcement agency's detaining a person for his own protection, as in the case of a material witness whose safety is in jeopardy.

PROVISIONAL MAINTENANCE ALLOWANCE - An allowance given for temporary or preliminary maintenance.

PROXY - A person who is authorized by another to substitute and act for the other in some specific matter (*e.g.*, to cast votes at a corporate shareholders meeting). Also the document evidencing the authority of the person to act as a proxy.

PUBLIC DEFENDER - A governmental official whose job it is to represent indigent criminal defendants.

PUBLIC HEARING - A proceeding before a court or other body that is open to the public.

PUNISHMENT - The sanction imposable for violation of a criminal law, including incarceration and fines.

QUESTION - A statement inquiring about something. Also an issue or matter (*e.g.*, the question of guilt).

RAP SHEET - A record of a person's prior criminal convictions.

RAPE - An act of sexual intercourse with a person by force and against the person's will. Statutory rape is an act of sexual intercourse with a person under a certain age irrespective of the person's consent or the offender's knowledge of the person's age.

RAPE SHIELD LAW - A statute or rule limiting or preventing admission of evidence of a rape victim's past sexual conduct.

REASONABLE DOUBT - A reasonable doubt is a doubt based on reason and common sense, arising out of some or all of the evidence that has been presented, or the lack or insufficiency of the evidence, as the case may be. Proof beyond a reasonable doubt, the burden of proof which the prosecution must meet in a criminal case, is proof that fully satisfies or entirely convinces the jury of the defendant's guilt.

REBUTTAL - Rebuttal evidence is evidence offered to contradict other evidence or to rebut a presumption. Rebuttal also refers to argument presented at a hearing or oral argument by the party which argued first (*e.g.*, the appellant) after the opposing party has argued and for the purpose of contradicting the opposing party's argument.

RECIDIVIST - A repeat or habitual criminal.

RECITATION OF FACTS - The formal statement of facts relating to a matter, often as a prelude to and basis for some subsequent action or argument. A recitation of facts by the prosecution is ordinarily part of the proceeding at which a court takes a criminal defendant's guilty plea.

RECKLESS DRIVING - Driving a vehicle on a highway or other public roadway carelessly either in conscious disregard of the probable harmful consequences to others or in a manner that could or does endanger others or their property.

RECKLESSNESS - Conduct undertaken with conscious disregard of the possible harmful consequences.

RECORD - An official written or otherwise recorded account of some act. The record in a case refers to the collective record of all proceedings therein, including, *e.g.*, court filings, trial exhibits, and transcripts of trial testimony.

RECUSE/RECUSAL - Removal of a judge from a specific case, often effected by the judge himself. Grounds for recusal include a relationship by the judge with the parties or the subject matter of the case giving rise to apparent or actual bias of the judge.

RE-DIRECT EXAMINATION - Examination of a witness by the party who called him, subsequent to cross-examination of the witness by the opposing party.

REDRESS OF GRIEVANCES - Satisfaction for injuries or damages suffered, which is given in response to a complaint about such injuries or damages.

REGULATION - A rule adopted by an administrative agency. Regulations typically set out detailed requirements based on more general statutes.

RELEASE - An agreement discharging another from specified liabilities or duties. Parties settling a civil case typically exchange mutual releases. Also release from jail or prison.

RELEVANT - Refers to evidence which tends to make the existence of a fact that is of consequence to the determination of the case (*i.e.*, a material fact) more or less probable.

RELIEF - The collection of remedies (*e.g.*, money damages, injunctions) which the law provides for wrongs suffered. Also refers to public or private financial assistance provided to indigent persons.

REMAND - A court's sending back a case or other matter to the court or other body from which it came, often for further action. An appellate court may remand a case to a trial court for a new trial, or a federal court may remand a case to the state court from which it was removed.

REMEDIAL ACTION - A lawsuit which is brought to obtain compensation or indemnity. Also action taken to repair a condition which allegedly caused injury or damage, evidence of which subsequent remedial action is generally inadmissible to prove liability.

REMOVAL HEARING - A hearing to determine whether or not a case will be removed from state to federal court.

RE-OPEN A CASE - To allow additional proceedings in a case which had been terminated. A case may be re-opened for such purposes as re-trial. Also to allow a party to re-open its case is to permit it to present additional evidence or take some other action after it has rested at trial (*i.e.*, formally terminated presentation of its evidence).

REPEAL - The nullification of a previously enacted statute or rule, ordinarily by enactment of a subsequent statute providing expressly for such repeal.

REPORT - A formal and authoritative statement on a particular matter (*e.g.*, an expert witness's report, police report).

REPRESENTATION - A statement or any other conduct (*e.g.*, a gesture) intended to convey meaning. Also an attorney's professional service on behalf of a client.

REPRIMAND - A mild punishment, often in the form of a statement criticizing the person receiving it for his wrongful conduct.

RESCISSION OF CONTRACT - To cancel a contract.

RES JUDICATA - Rule that a final judgment rendered by court of competent jurisdiction on the merits conclusively resolves the rights of the parties (and their privies) and bans them from bringing a subsequent action involving the same claims.

RESPONDENT - Party against whom a petitioner files a petition.

REST A CASE - In the trial of an action, a party is said to rest or rest his case (or close or close his case) when he advises the court that he has produced all the evidence he intends to offer at that stage of the trial, and submits the case either finally or subject to his right to offer rebuttal evidence later.

RESTITUTION - Payment by a convicted criminal defendant to the victim of his crime for funds or other property taken, or the return to the victim of the actual funds or other property taken.

REVERSAL - Superseding a prior decision or order with a contrary decision or order, as in an appellate court reversing a decision of a trial court.

RISK OF FLIGHT - The danger that a defendant, if not in custody, will flee to avoid prosecution.

ROBBERY - The unlawful taking and carrying away of the personal property of another, from his person or immediate presence and without his consent, with the intent to permanently deprive the person of it, accomplished by means of violence or intimidation.

Robbery is larceny with the added elements that the property is taken from the person or his presence and by violence or intimidation.

RULING - A judicial or administrative decision or order.

SALARY - Compensation earned by an employee for services rendered, ordinarily based on a specific period of service rather than the number of hours worked or the output produced.

SANCTION - Penalty or other punishment imposed for violation of the law.

SCAPEGOAT - One who is unfairly assigned blame for the actions of others.

SEARCH AND SEIZURE - An examination of a person's house or other buildings or premises, or of his person, by law enforcement authorities with a view to the discovery and removal of contraband, stolen property, or other evidence of guilt for use in the prosecution of a criminal action against the person or others.

SEARCH WARRANT - An order in writing, issued by a judge or magistrate, authorizing a law enforcement officer to search a specific house or other premises for specified evidence of an allegedly committed crime.

SENTENCE - The court order specifying the punishment imposed on a convicted criminal defendant.

SEPARATE MAINTENANCE - Money paid by one spouse to the other for support if they are no longer living as husband and wife.

SEQUESTER - To remove a potential witness from the courtroom during a trial or hearing to preclude him from hearing and seeing testimony and other evidence presented. Also to isolate the jury from contacts with the outside world when not in the courtroom to avoid improper influences on the jury from the outside.

SEQUESTRATION - The act or process of sequestering.

SERVICE - The delivery of papers submitted by one participant in a legal proceeding to the other participants, thereby giving them notice of such papers and the contents thereof.

SERVICE OF A NOTICE - The delivery of a notice.

SESSION LAW - A statute in the form enacted by the legislature, as opposed to one set out in a statutory code.

SET ASIDE - To cancel or nullify some legal action taken, such as an order, decision, or verdict.

SEVER A CASE - To separate cases from each other. Also to separate proceedings in a single case (*e.g.*, separate trials for particular defendants; separate trials on liability and damages).

SHOPLIFTING - The criminal offense of willfully concealing, without authority and without having purchased it, merchandise of a store while on the store premises, or willfully marking or tagging merchandise at lower than the true price and then presenting it for purchase.

SHORTCOMING - A deficiency or weakness.

SIDE BAR - A conference among the judge and counsel held at the bench (*i.e.*, where the judge sits) intended not be heard by the jury. Also termed a “bench conference.”

SIT - To hold a session, as of a court, grand jury, legislature, or other body.

SMUGGLING - The criminal offense of willfully bringing into the United States or taking out of it goods or other things without paying customs duties on them, or bringing in or taking out goods or other things which are prohibited by law from being brought in or taken out.

SMUGGLING ALIENS - The criminal offense of willfully bringing aliens into the United States who have not been or cannot be lawfully admitted.

SOLICITATION - The crime of encouraging or ordering another person to commit a crime with the intent that the person do so. It is not essential that the crime solicited actually be committed.

SPLIT SENTENCE - A set of sentences imposed upon a defendant (for multiple convictions) one or more of which run concurrently and one or more of which run consecutively.

STARE DECISIS - The rule of precedent whereby a principle of law laid down on a particular set of facts in one case will be applied by the courts in future cases where the facts are materially the same.

STATUTE - A written law enacted by a legislature.

STATUTORY CODE - A comprehensive compilation of a particular jurisdiction’s statutes organized by subject matter (*e.g.*, United States Code, North Carolina General Statutes).

STAY - An order or rule stopping or preventing a proceeding for a limited period of time.

STAY OF EXECUTION - An order or rule stopping or preventing for a limited period enforcement of a civil or criminal judgment. In criminal capital cases, a stay of execution is issued to prevent temporarily the convicted defendant from being put to death.

STEAL - To take and carry away the personal property of another, without right and without leave or consent of the owner.

STIPULATION - Any agreement made by the attorneys in a case, usually in writing or on the record (*i.e.*, recorded by the court reporter for inclusion in the transcript), relating to any matter in the proceeding.

STRICT LIABILITY OFFENSE - A crime which has no intent element (*e.g.*, statutory rape). Strict liability offenses are ordinarily designed to protect classes of people deemed unable to protect themselves.

STRIKE FROM THE RECORD - To remove testimony or other material from the recorded proceedings in a case.

SUBMIT - To file with the court. May also refer to a person's consent to some action (*e.g.*, to submit to an independent physical or medical examination).

SUBPOENA - An order to appear at a certain time and place to give testimony upon a certain matter and/or produce specified documents or other things.

SUBSTANTIVE COUNT - A count in a criminal indictment or information, or a civil complaint which sets out an essential element, or portion thereof, of a crime charged or claim asserted.

SUBSTANTIVE EVIDENCE - Evidence offered for the purpose of proving a fact in issue, as opposed to evidence offered for some other purpose, such as corroborating or discrediting the credibility of a witness.

SUMMARY JUDGMENT - A judgment deciding a civil case or a claim or defense therein without trial, which is available when, with respect to such case, claim, or defense, there is no dispute as to any material fact and a party is entitled to judgment as a matter of law.

SUMMING UP - Closing argument by the attorneys at a trial after presentation of the evidence. Also recitation by the judge in his instructions to the jury of the salient issues and evidence in the case.

SUMMONS - The notice issued by a court upon commencement of a civil case to the party sued (*i.e.*, the defendant) formally advising him of the case and extending the court's personal jurisdiction over him. Also an order issued by a court directing a person to appear for a specified proceeding.

SUPERSEDE - To take the place of. For example, a judge may issue an order stating that it supersedes a prior order entered on the same subject matter or an appellate court may issue a decision superseding a decision of a lower court.

SUPPRESS - To prevent the admission or other use at trial of particular evidence, often on grounds that it was illegally obtained. The order effecting the suppression of evidence is termed a suppression order or order to suppress and may be sought by a motion to suppress.

SURVEILL - To monitor a person or place without knowledge of those being monitored.

SURVEILLANCE - Visual, aural, or other observation of a person or place, whether personally, electronically, or by other means, without the knowledge of those being monitored for the purpose of gathering information about those being monitored.

SUSPENDED SENTENCE - A criminal sentence the operation of all or a portion of which is deferred by the court for a specified period of time.

SUSTAIN - To uphold or approve, as when an appellate court sustains the decision of a lower court or a judge sustains an evidentiary objection.

SWEAR TO - To formally declare that statements, which may include those in an affidavit, are true.

TECHNICAL NICETY - A procedural detail, often one which a party uses or attempts to use to affect significantly the determination of a case.

TERRY STOP - The stopping, without arrest, of a person by the police in the absence of probable cause to believe that the person has committed a crime. The term derives from the U.S. Supreme Court case of Terry v. Ohio, which upheld the constitutionality of such stops.

TESTIFY - To make statements in a judicial or other proceeding offered as evidence (*i.e.*, for the purpose of establishing the existence of one or more facts).

TESTIMONY - Statements in a judicial or other proceeding offered as evidence (*i.e.*, for the purpose of establishing the existence of one or more facts).

THIEF - One who steals.

TRAFFIC CITATION - A notice issued by the police charging a person with violation of the motor vehicle laws and informing him of the hearing thereon.

TRANSCRIPT - A contemporaneous written record of testimony and other statements made at a legal proceeding, usually verbatim.

TRANSCRIPT OF RECORD - A transcript of all proceedings in a trial or hearing.

TRIAL - A proceeding in which evidence is presented to a judge or jury, and the judge or jury determines whether the charges or claims at issue in the case have been proved based on the evidence presented.

TRIER OF FACT - The entity, either judge or jury, which determines whether or not the facts necessary to prove a charge or claim exist. In a criminal case, the trier of fact determines whether the defendant is guilty; in a civil case, whether the defendant is liable.

TRUE BILL - The endorsement made by a grand jury upon an indictment when it finds from the evidence that there is probable cause to believe that the crime charged has been committed.

ULTIMATE FACTS - Those facts which make up the essential elements, or parts of the definition, of a crime or claim.

UNLAWFUL DETAINER - A legal action between a landlord and tenant to determine who has the right to occupy the premises.

UNLAWFUL USE OF FUNDS - The use of funds for an illegal purpose.

UNTENABLE - Not able to be supported or defended.

VENUE - The particular district, county, or other geographical area in which a case, trial, or other proceeding is held. The law specifies the proper venue for the various types of legal proceedings.

VERDICT - The formal decision issued by a jury deciding a case (*e.g.*, guilty verdict). Should be distinguished from the formal decision of the judge deciding a case, which is termed a “judgment.”

VOIR DIRE - Derived from the French for “to speak the truth.” It most often refers to the process selecting jurors, in which the judge or the attorneys question prospective jurors. It also refers to the examination of a witness or prospective witness on the record, but outside the presence of the jury, to determine the witness’s competency to testify or to record for purposes of appeal testimony by the witness which the judge has not allowed to be presented to the jury.

VOLUNTARY MANSLAUGHTER - An intentional homicide committed under circumstances which, although they do not justify the homicide, mitigate it (*e.g.*, in a heat of passion deemed reasonable by the law, in the course of defending oneself with excessive force or after initiating a fight).

WAGES - Compensation earned by an employee for services rendered, often based on time worked or output of production.

WAIVE - To intentionally and voluntarily relinquish or give up a known right.

WAIVER - An intentional and voluntary relinquishment or giving up of a known right. A guilty plea acts as a waiver of the right to trial. Before a court may accept a defendant's guilty plea, the record must indicate in some manner that the defendant understands the nature and consequences of the plea and that he freely, voluntarily, and intelligently waives his right to trial.

WARNING - Notice given to a person of his rights (*e.g.*, Miranda warnings). Also a directive to a person to do something, subject to punishment for failure to comply. May also refer to notice given to a person of a danger.

WARRANT - A written order issued by a court that authorizes an arrest or a search.

WITNESS - One who personally sees or perceives a thing or event. Also one who testifies in a legal proceeding.

WITNESS, TO - To perceive a thing or event with one's own senses.

WRIT - An order from a court to a lower court or other governmental body or official commanding such entity to perform or not to perform some official act. Writs currently in use include writ of habeas corpus, writ of certiorari, writ of mandamus, and writ of prohibition.

WRIT OF HABEAS CORPUS - A type of order issued by a court directing that an inmate be released.