

A

- abandonment** - A parent's or custodian's act of leaving a child without adequate care, supervision, support or parental contact for an excessive period of time. Also, the desertion of one spouse by the other with the intent to terminate the marriage relationship.
- accessory** - A person who assists in the commission of a crime, either before or after the fact.
- accord** - A satisfaction agreed upon between the parties in a lawsuit which bars subsequent actions on the claim.
- accused** - The name for the defendant in a criminal case.
- acquittal** - The legal certification of the innocence of a person who has been charged with a crime, setting the person free from a charge of guilty by a finding of not guilty.
- adjudication** - Giving or pronouncing a judgment or decree, or the rendering of a decision on a matter before a court.
- admissible evidence** - Evidence which can legally and properly be used in court.
- admission** - A statement tending to establish the guilt or liability of the person making the statement.
- affidavit** - A written and sworn statement witnessed by a notary public or another official possessing the authority to administer oaths. Affidavits may be admitted into evidence.
- aggravated assault** - An attempt to cause serious bodily injury to another or purposely, knowingly or recklessly causing such injury, or an attempt to cause or purposely or knowingly cause bodily injury to another with a deadly weapon.
- aggravated battery** - The unlawful use of force against another with unusual or serious consequences such as the use of a dangerous weapon.
- alibi** - A defense claim that the accused was somewhere else at the time a crime was committed.
- allegation** - The assertion, declaration, or statement of a party to an action, made in a pleading, establishing what the party expects to prove.

- answer** - A pleading by which defendant responds to the plaintiff's complaint.
- appeal** - The bringing of a case to a higher court for review of a lower court's order or judgment.
- arraignment** - In a misdemeanor case, the initial appearance before a judge at which the criminal defendant enters a plea; in a felony case, the proceeding after the indictment or bindover at which the defendant comes before a judge in district court, is informed of the charges, enters a plea, and has a date set for trial or disposition.
- arrest** - To deprive a person of his liberty by legal authority.
- assault** - A willful attempt to illegally inflict injury on or threaten a person.
- attempt** - An endeavor or effort to do an act or accomplish a crime, carries beyond preparation, but lacking execution.
- attorney of record** - Attorney who name appears in the permanent records or files of a case.

B

- bail** - In criminal cases, a sum of money posted by or on behalf of a defendant to guarantee his appearance in court after being released from jail.
- bail bond** - An obligation signed by the defendant, with sureties, to secure his/her presence in court.
- bail bondsman** - A person who posts bail in exchange for a fee, usually 10 percent of the total bail.
- bailiff** - A court officer whose duties are to keep order in the courtroom and to have custody of the jury.
- battered child syndrome (B.C.S.)** - Physical condition of a child indicating that external or internal injuries result from acts committed by a parent or custodian.
- battery** - Actual physical violence, whether serious or minor, inflicted on a person (A mere threat is called assault, whereas the completed act is called battery).



Court Watch

Justice doesn't just happen

Legal Glossary

bench - Where the judge sits during court proceedings; the term also is often used for referring to the judge.

bench trial - Trial without a jury in which the judge decides the case.

bench warrant - An order issued by the court for the arrest of a person.

beyond a reasonable doubt - Entirely convinced; in a criminal case the defendant's guilt must be proven to the jury to this extent. This is the highest burden of proof any party has in any proceedings.

bias - Undue partiality leading a judge to decide cases other than on the law and facts presented to the court. Distinguish this from conflict of interest which is potential bias, and exists before a decision is made.

bind over - A magistrate's decision in circuit court to hold a criminal defendant for trial.

booking - An official police record of the arrest of a person accused of a crime identifying the accused, the time and place of arrest, the arresting authority, and the reason for the arrest.

brief - A lawyer's written statement of a client's case filed in court. It usually contains a summary of the facts in the case, the pertinent laws, and an argument of how the law applies to the facts supporting the client's position.

burden of proof - The duty to establish a claim or allegation by admissible evidence. This is usually the duty of the plaintiff in a civil case and always is the duty of the state in a criminal case.

burglary - The unlawful breaking into or entering of a building or dwelling with the intent to commit a serious crime or theft.

C

calendar - A court's list of cases for arraignment, hearing, trial or arguments.

calling the docket - The public calling of the docket or list of causes at commencement of term of court, for setting a time for trial or entering orders.

case law - The law made by courts interpreting cases and laws instead of law made by legislatures. In the American system, the primary sources of law are: 1) constitutions, 2) statutes/regulations. and 3) case law.

challenge for cause - Questioning the qualifications of an entire jury panel, usually on the ground of partiality or some fault in the process of summoning the panel.

chambers - A judge's private office in the courthouse.

change of venue - The removal of a suit begun in one county or district to another for trial, or from one court to another in the same county or district. In criminal cases, for example, a change of venue will be permitted if the court feels the defendant cannot receive a fair trial where the court is located.

character evidence - The testimony of witnesses who know the general character and reputation of a person in the community in which he or she lives. It may be considered by the jury in a dual respect: (1) as substantive evidence upon the theory that a person of good character and reputation is less likely to commit a crime than one who does not have a good character and reputation, and (2) as corroborative evidence in support of a witness's testimony as bearing upon credibility.

charge - The statement accusing a person of committing a particular crime. Also the judge's instructions to jury on its duties, on the law involved in the case and on how the law in the case must be applied. The charge is always given just before jury deliberations.

child abuse - Any form of cruelty to a child's physical, moral or mental well-being.

circumstantial evidence - All evidence of an indirect nature. Testimony not based on actual personal knowledge or observation of the facts in controversy.

citation - An order of the court requiring the appearance of a defendant on a particular day to answer to a particular charge.

civil case - A lawsuit brought to enforce, redress, or protect private rights or to gain payment for a wrong done to a person or party by another person or party. In general, all types of actions other than criminal proceedings.



clerk of the court - Court official who keeps court record, files pleadings, motions, and judgment, and administers the oath to juror and witnesses.

closing arguments - The final statements by the attorney to the jury or the court arguing the evidence that they have attempted to establish and the evidence that they feel the other side has failed to establish.

code - A collection, compendium or revision of laws, rules and regulations enacted by legislative authority.

commit - To send a person to prison or jail in criminal proceedings or to another institution in civil cases by authority of a court.

common law - General provisions of law existing before codification or interpretation by courts.

commutation - The change of punishment for a greater degree to a lesser degree, as from death to life imprisonment.

competency - A witness's ability to observe, recall and recount under other what happened. Criminal defendants must also be competent to stand trial; they must understand the nature of the proceedings and have the ability to assist their lawyers.

complainant - The person who files a formal criminal complaint or the victim of the crime described in the complaint.

complaint - A formal written statement filed in court by any person, often a prosecutor or a victim, which accuses a specific person of committing a specific crime.

concurrent sentences - Sentences for two or more crimes ordered by the judge to be served simultaneously rather than successively.

conditional release - A release from custody which imposes regulations on the activities and associations of the defendant. If a defendant fails to meet the conditions, the release is revoked.

confidentiality - A requirement that certain facts about a proceeding or the nature of a proceeding be withheld from public discussion or scrutiny, ostensibly to serve the interests of justice.

conflict of interest - Potential bias giving a judge a reason to decide cases other than on the basis of the law and facts presented to the court. It includes

situation where a judge has a close social, political or financial relationship to a party or attorney appearing before the court, or has property involved in litigation.

consecutive sentences - Successive sentences imposed against a person convicted of two or more crimes. One sentence begins at the expiration of another.

conspiracy - A combination of two or more persons formed for the purpose of committing by joint collaboration some unlawful act.

contempt of court - Any act involving disrespect to the court or failure to obey its rules or orders. Carries a maximum of 30 days in jail.

continuance - A court order postponing proceedings.

conviction - In a criminal case, a finding that the defendant is guilty.

corpus delicti - The body (material substance) upon which a crime has been committed, e.g., the corpse of a murdered man or the charred remains of a house burned by an arsonist.

corroborating evidence - Evidence supplementary to that already given and tending to strengthen or confirm it.

count - Each separate offense listed in a complaint, information, or indictment accusing a person of committing a crime.

court reporter - A court official who records testimony and arguments, and transcribes it into a permanent record of all court proceedings.

costs - An allowance for expenses in prosecuting or defending a suit. Ordinarily this does not include attorney fees.

criminal case - A case brought by the government against a person accused of committing a crime.

criminal insanity - Lack of mental capacity to do or abstain from doing a particular act; inability to distinguish right from wrong.

criminal summons - An order commanding an accused to appear in court.

cross-claim - In a civil proceeding, if there are two or more defendants, one defendant can raise a claim against another defendant.



cross-examination - The questioning of a witness by the lawyer for the opposing side.

custody - The right to or responsibility for a child's care and control, carrying with it the duty of providing food, shelter, medical care, education and discipline.

D

damages - Pecuniary (money) compensation which may be recovered by a party for personal injury, or loss or damage to one's property or rights as a result of another party's unlawful act or negligence.

decree - A decision or order of the court. A final decree is one which fully and finally disposes of the litigation. An interlocutory decree is a preliminary decree which is not final.

defamation - The making of false, derogatory statements about a person's character, morals, abilities, business practices or financial status (Includes **libel**, which is written, and slander, which is spoken).

default - Occurs when a defendant fails to respond to the plaintiff's complaint within the time allowed, or fails to appear at the trial. The court may then enter a default judgment.

defendant - The accused in a criminal case; the person from whom money or other recover is sought in a civil case.

deliberation - The jury's decision-making process after hearing the evidence and closing arguments and being given the court's instructions.

delinquency - The commission of an illegal act by a juvenile.

dependent child - A child who is homeless or without proper care through no fault of the parent, guardian, or custodian.

deposition - The taking of testimony of a witness under oath outside of court, usually transcribed in writing by a court reporter, or less frequently, recorded on video tape.

deprivation of custody - In juvenile court, a judicial hearing, usually held after the filing of a petition, to

determine interim custody of a minor pending a judgment.

direct examination - The first questioning of a witness by the attorney for the party on whose behalf the witness is called. Usually proceeds with open ended, non leading questions.

directed verdict - In civil cases in which there is insufficient basis for any other conclusion, the judge may direct the jury to render a specific verdict. Criminal defendants may also ask the court to rule in their favor rather than submitting the case to the jury.

discovery - The process through which parties to an action are allowed to obtain relevant information known to other parties or nonparties before trial.

dismissal - A decision by a judicial officer to end a case for legal or other reasons..

dismissal with prejudice - A dismissal which bars the right to subsequently bring an action on the same cause.

dismissal without prejudice - A dismissal which permits the plaintiff to sue again on the same cause of action or the state to proceed again.

disposition - The order of a juvenile court determining what is to be done with a minor already adjudged to be within the court's jurisdiction. In criminal cases, the settlement of a case.

diversion - A procedure used in some criminal prosecutions against persons who are arrested and have no previous criminal background. Diversion creates a written contract between the prosecutor and accused in that if the accused completes the requirements in the contract. at a time in the future, the prosecutor will dismiss all charges.

docket - A brief entry or the book containing such entries of any proceeding in court.

domicile - That place where a person has his true and permanent home. A person may have several residences, but only one domicile.

due process - The guarantee of due process requires that no person be deprived of life, liberty, or property without a fair and adequate process. In criminal proceedings this guarantee includes the fundamental aspects of a fair trial, including the right to adequate notice in advance of the trial, the

right to counsel, the right to confront and cross-examine witnesses, the right to refuse self-incriminating testimony, and the right to have all elements of the crime proven beyond a reasonable doubt.

E

enjoin - To order a person to perform, or to abstain and desist from performing a specified act or course of conduct. See *injunction*.

evidence - Testimony, records, documents, material objects, or other things presented at a trial to prove the existence or nonexistence of a fact.

exclusionary rule - A rule by which evidence that was obtained illegally cannot be used in a criminal trial against a defendant. Also, in criminal cases, a rule which prevents witnesses from observing each other testify or from discussing testimony during the course of the proceeding.

exclusion of witnesses - An order of the court requiring all witnesses to remain outside the courtroom until each is called to testify, except the plaintiff or defendant. The witnesses are ordered not to discuss their testimony with each other and may be held in contempt if they violate the order.

exhibit - A paper, document or other article presented and offered into evidence in court during a trial or hearing or prove the facts of a case.

ex parte - By or for a single party; done for, in behalf of or on the application of one party only as distinguished from an adversary (contested).

expert testimony - Testimony given in relation to some scientific, technical or professional matter by experts, i.e., person qualified to speak authoritatively by reason of their special training, skill or familiarity with the subject.

F

felony - A crime punishable by death or imprisonment for a term of not less than one year, and the crime is of a more serious nature than a misdemeanor.

Fifth Amendment - Among other right, the Fifth Amendment to the U.S. Constitution guarantees that a person cannot be compelled to present self-incriminating testimony in a criminal proceeding.

fine - A sum of money paid as part of a penalty of conviction for a particular criminal offense.

first appearance - A proceeding in a felony case in which the defendants come before the magistrate and are informed of the charges against them and of their rights to a preliminary hearing, to counsel and to bail. No plea is asked for at this state.

foundation - In a trial, a foundation must be laid to establish the basis for the admissibility of certain types of evidence. For example, an expert witnesses' qualifications must be shown before expert testimony will be admissible.

G

guilty - The verdict of a judge or jury that a person accused of committing a specific crime did so.

guilty plea - The formal admission by a person accused of committing a specific crime that the charges are true.

H

habeas corpus - Latin phrase meaning "you have the body"; A civil proceeding used to review the legality of a prisoner's confinement in criminal cases.

hearing - A legal proceeding in which arguments, witnesses and/or evidence are heard by a judicial officer or administrative body.

hearsay - Second-hand evidence, generally consisting of a witness's testimony that he/she heard someone else say something.

hung jury - A jury which cannot agree on a final verdict. If a jury is hung, the court declares a mistrial and the case may be re-tried.



hypothetical question - An imaginary situation, incorporating facts previously admitted into evidence, upon which an expert witness is permitted to give an opinion as to a condition resulting from the situation.

I

immunity - Legal protection from liability. There are many categories of immunity in civil and criminal law. For example, sovereign immunity protects government agencies from civil liability and judicial immunity protects judges acting in their official capacities.

impanel - To seat a jury. When voir dire is finished and both sides have exercised their challenges, the jury is impanelled. The jurors are sworn in and the trial is ready to proceed.

indictment - A formal written accusation, made by a grand jury and filed in a court, alleging that a specific person has committed a specific crime.

indigent - An accused person who has been found by the court to be too poor to pay for his or her own attorney. The court provides an attorney for indigent defendants.

injunction - A court order forbidding or requiring a certain action. Florida Statute 741.30 provides that any spouse or other person related by blood or marriage who is or was residing in the same dwelling unit, who is the victim of domestic violence or has reasonable cause to believe that s/he is about to become such a victim, may file a petition for a domestic violence injunction for protection

An injunction is granted in two steps:

- Ex parte (temporary) on request of victim; good for 15 days
- Injunction (permanent) after hearing the testimony of the alleged offender and rereading testimony of the victim; it can be made permanent
- Respondent cannot go to or within 500 feet of the victim

- Respondent cannot go to the victim's home, work, school, or any other location designated by the victim
- Respondent cannot call, email, mail, send someone on their behalf, or contact the victim in any other manner
- Respondent cannot go to the children's school or daycare facility

in loco parentis - "In the place of the parent"; refers to actions of a custodian, guardian or other person acting in the parent's place.

instruction - A direction given by the judge to the jury concerning the law to be applied in the case.

irrelevant - Evidence not sufficiently related to the matter in issue.

J

jeopardy - The peril in which an accused is placed when he is properly charged with a crime before a court. Jeopardy normally attaches when the petit jury is impaneled. After such time, the accused may not be released and tried at a later date for the same offense. Subject to exception.

judgment - The official decision of a court disposing of a case.

jurisdiction - The legal authority of a court to hear a case or conduct other proceedings; power of the court over persons involved in a case and the subject matter of the case.

juvenile - A young person who has not yet attained the age at which he or she should be treated as an adult for purposes of criminal law.

K

kidnapping - The unlawful and carrying away of a human being by force and against his or her will.

knowingly - With knowledge, willfully or intentionally with respect to a material element of an offense.

L



larceny - An actual or constructive taking away of the goods or property of another without the consent and against the will of the owner with a felonious intent to deprive the owner thereof.

M

magistrate - An officer having power to issue a warrant for the arrest of a person charged with a crime; includes any justice or judge of the appellate courts, and judges of the district court.

malfeasance - Unlawful conduct.

manslaughter - The unlawful killing of another without malice; may be either voluntary, upon a sudden impulse, or involuntary, in the commission of some unlawful act.

material evidence - Evidence which is relevant to the issues in a case.

mens rea - Literally, "guilty mind." The intent required to commit the crime. It is a prerequisite to conviction for a crime involving a moral wrong, but it is not a prerequisite to conviction for an act that is a crime only because a statute designates it to be a crime, e.g., overtime parking.

Miranda Rule - The rule, pronounced in *Miranda v Arizona*, that confessions are inadmissible in a criminal prosecution if the police do not advise the suspect in custody of certain rights before questioning. The rights include:

- The right to remain silent and to refuse to answer any questions.
- The right to know that anything the suspect says can and will be used against the suspect in a court of law.
- The right to consult with an attorney and to have an attorney present during questioning.
- The right to have counsel appointed at public expense, prior to any questioning if the suspect cannot afford counsel.

misdemeanor - A minor offense, lower than a felony, and punishable by a fine or imprisonment other than in penitentiaries.

mistrial - A trial which is void because of some error.

mitigating circumstance - A circumstance which may be considered to reduce the degree of moral culpability, although it does not entirely justify or excuse an offense.

motion - A verbal or written request made by the prosecutor or the defense attorney before, during, or after a trial that the court issue an order about.

motion in limine - A written motion which is usually made before or after the beginning of a jury trial for a protective order against prejudicial questions and statements.

murder - Intentionally causing the death of another person without extreme provocation or legal justification; causing the death of another while committing or attempting to commit another crime.

N

nolo contendere - A defendant's formal answer in court to the charges in which the defendant states that he or she does not contest the charges. The nolo contendere ("no contest") plea is not an admission of guilt, but carries the same legal consequences as a guilty plea.

nolle prosequi or nolle prosequere - The prosecutor opts to drop the charge against the defendant.

notice - A written order to appear in court at a certain time and place.

O

objection - The act of a party used to call the Court's attention to improper evidence or procedure.

obstruction of justice - A variety of criminal and quasi-criminal improprieties which interfere with or impede the orderly conducting of investigations or the orderly disposition of cases.

P

pardon - Action by an official of an executive branch of government relieving a criminal from a conviction.

parole - The conditional release of a convicted offender from a jail or prison before the end of his sentence.

parties - The persons who are actively involved in the prosecution or defense of a legal proceeding, including the plaintiff or prosecution, the defendant and any "third party defendant."

peremptory challenge - Each party to a suit tried to a jury has the right to peremptorily "challenge" (reject) a certain number of prospective jurors without giving a reason. The number of peremptory challenges is fixed by law, according to the nature of the case.

perjury - Lying while under oath.

perpetrator - A person who commits a crime.

personal recognizance - The promise of an accused person to the court that he or she will return to court when ordered to do so.

petit jury - The ordinary jury of twelve (or fewer) persons for the trial of a civil or criminal case. So called to distinguish it from the grand jury.

plaintiff - A person who files a lawsuit.

plea - The defendant's formal response to a criminal charge (guilty, not guilty, nolo contendere, not guilty by reason of insanity, and guilty and mentally ill).

plea bargaining - An agreement between the prosecutor and the defense attorney that the defendant will admit guilt to a crime in exchange for some concession from the state, usually a lesser charge, the dismissal of other pending charges, or a recommendation by the prosecutor for a reduced sentence.

preliminary hearing - A legal proceeding before a judicial officer in which arguments, witnesses and/or evidence are presented to determine if there is sufficient cause to hold the accused for trial. Sometimes called a probable cause hearing or a pretrial hearing.

probable cause - The degree of proof needed to arrest and begin prosecution against a person suspected of committing a crime; the evidence must be such that a reasonable person would believe that this specific crime was committed and that it is probable that the person being accused committed it.

probation - Conditional freedom granted to an offender by the court after conviction or a guilty plea with requirements for the offender's behavior set and supervised by the court.

Q

quash - To overthrow; to abate; to vacate

R

reasonable doubt - A person accused of a crime is entitled to acquittal if, in the minds of the jury or judge, his or her guilt has not been proved beyond a "reasonable doubt"; the jurors are not entirely convinced of the person's guilt.

rebuttal evidence - Evidence given to explain, repel, contradict, or disprove facts given in evidence by the adverse party.

recidivism - The continued, habitual or compulsive commission of law violations after first having been convicted or prior offenses.

recognizance - The practice which enables an accused awaiting trial to be released without posting any security other than a promise to appear before the court at the proper time. Failure to appear in court at the proper time is a separate crime.

redirect examination - Follow cross-examination, and is conducted by the party who first examined the witness.

relevant - An order made by a court having competent jurisdiction. Rules of court are either general or special; the former are the regulations by which the practice of the court is governed, the latter are special orders made in particular cases.

restitution - The requirement that a convicted criminal restore something to its rightful owner or give an equivalent in cash or work for an injury.

S



Court Watch

Justice doesn't just happen

Legal Glossary

sanction - A hearing on a criminal defendant's motion to prohibit the prosecutor's use of evidence alleged to have been obtained in violation of the defendant's rights. This hearing is held outside of the presence of the jury, either prior to or at trial. The judge must rule as a matter of law on the motion.

sentence - The punishment imposed by the court on a person convicted of a crime. May include probation, fines, incarceration, alcohol/drug treatment, participation in a batterer's intervention program, and/or restitution.

subpoena - A written order by a judicial officer requiring a named individual to appear in a designated court at a specific time and place in order to serve as a witness in a case or to bring material to the court.

summons - A written order by a judicial officer requiring a person accused of a criminal offense to appear in a designated court at a specific time and place to answer to the charge(s).

suspended sentence - A court decision to postpone the pronouncement of sentence on a convicted person or to postpone the execution of a sentence that has been pronounced by the court.

T

temporary restraining order - an order of a specified duration issued after a hearing attended by all parties that is intended to protect one individual from violence, abuse, harassment, or stalking by another especially. by prohibiting or restricting access or proximity to the protected party. *See injunction.*

U

undue influence - Whatever destroys free will and causes a person to do something he would not do if left to himself.

V

voir dire - "To speak the truth" The questioning of potential jurors by the judge and the lawyers to determine any biases, prejudices or other reasons for disqualification.

W

waive - To give up a right or claim voluntarily.

warrant - A written order issued and signed by a judge or magistrate which allows the police to search a place and seize specified items found there (search warrant), or to arrest or detain a specified person (arrest warrant).

witness - A person who has directly seen an event (such as a crime) or thing (such as a piece of physical evidence), or who has other knowledge that is related to a court case.

Bibliography

Model Domestic Violence CourtWatch Program,
National Council of Jewish Women, Louisville,
KY
Ninth Judicial Circuit, www.ninja9.org