

Legal Terms

Legal Terms

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

A

Abate

To put an end to; to cancel out.

Abatement of Action

A suit which has been set aside and ended.

Absentee

One who is absent from his usual place of residence or domicile.

Absentia

Absent; proceeding without defendant being present.

Accomplice - A partner in a crime or a person who knowingly and voluntarily participates with another in a criminal activity.

Acquittal

A finding of not guilty by judge or jury.

Adjournment

To put off a court hearing until another time or place.

Adjudication

A judgment rendered by the court after a finding of guilt.

Ad Litem

Comes from Latin meaning for the "purposes of the lawsuit." For example, a guardian ad litem is a person appointed by the court to protect the interests of a minor or legally incompetent person in a lawsuit.

Admissible

Pertinent and proper to be considered in reaching a decision.

Admonition

Advice or caution by the court to the jury respecting their duty or conduct as jurors, and the purpose for which evidence may be considered.

Affidavit of Insolvency

A form signed by the defendant under oath attesting to inability to pay.

Aggravation

Circumstances that may be considered as magnifying, or adding to, the degree of punishment.

Aggravated Arson

Deliberately setting fire with specific intent to cause injury or damage structures where defendant has been previously convicted of arson, the damage exceeds \$5m, or at least 5 residences were damaged.

Aggravated Battery

Unlawful use of force against another such as using a dangerous weapon.

Aggravated Mayhem

Causing permanent disability or disfigurement with specific intent to cause the injury and with extreme indifference to well-being of other person.

Aggravated Trespass

Unlawfully entering property of another with specific intent to carry out prior threat of serious bodily injury.

Aggravated Factors

Any factors associated with the commission of a crime which increase the seriousness of the offense.

Aggregate Term

The total length of imprisonment.

Aid and Abet

to help or assist, in committing a crime.

Allege

To say, declare, or charge that something is true even though it is not proved yet.

Allegation

A statement or claim that is made and has not been proved to be true or false.

Alias

Known by another name; or means "also known as" which A.K.A. is short for.

Alimony

Money the court orders you to pay to a spouse or ex-spouse.

Alternative Dispute Resolution (ADR)

A mediation program for certain misdemeanor offenders.

Amicus Curiae (A-MI'KUS KU'RIE)

Someone that gives advice to the court about the law in a case, but is not part of the case. Comes from Latin for "friend of the court."

Answer to Demand

A document filed by the State Attorney's Office responding to a demand for discovery by a defense attorney, setting forth witnesses in the case, information about the case, and allowing duplication of case information/reports.

Appeal

An application, lodged by the defendant or the State Attorney's Office, requesting a review of the case by the court of appeal.

Arraignment

Appearance of the defendant in court to enter his/her plea to charges.

Assistant State Attorney

State employee designated by the State Attorney to prosecute defendants.

Asylum State

The state holding the fugitive.

Attorney of Record

The attorney retained/assigned to represent a client.

B**Bail**

Cash or surety posted to procure the release of a defendant and to ensure his or her future appearance in court, compelling him/her to remain in the jurisdiction of the court.

Bailiff

Person who is in charge of security in the court. Bailiffs are picked by sheriffs.

Battery

Illegal beating or physical violence or control of a person without their permission.

Bench Trial

A trial without a jury. A judge decides the case.

Bench Warrant

An order given by the judge (or "bench") to arrest a person who didn't do what the court ordered. For example, didn't go to court when they were supposed to. (See Warrant)

Beneficiary

Someone who gets something from a trust.

Beyond a Reasonable Doubt

The burden of proof in a criminal case requiring that the jury be convinced that every element of a crime has been proven by the prosecution.

Bond Amounts

Cash or surety to be posted for release on bail.

Bond - Surety

A certificate posted by a bonding company to the sheriff releasing defendant.

Bond - Supersedeas

The bond set by court during the appeal procedure posted with the Clerk of Court.

Breach

The breaking or violating of a law, right, obligation, or duty either by doing an act or failing to do an act.

Burden of Proof

When one person in the case has to prove more than the other person.

C**Capias**

A writ to the Sheriff to arrest an accused person.

Capias - Instanter

Issuance of the arrest order with court direction to bring the accused before court immediately with no bond.

Capital Offense

A crime that you can get the death penalty for committing.

Case

A lawsuit. Or a complaint filed in criminal, traffic, or civil court.

Caseload

The number of cases a judge has in a specific time.

Cease and Desist Order

An order of an administrative agency or court prohibiting a person or business from doing something.

Certified

Saying that something is true or an exact reproduction.

Certified Copy

A document that is authenticated, signed, and sealed by the Clerk of Court.

Challenge

Term used in a jury trial when attempting to excuse a juror.

Chambers

A judge's private office.

Charge

In criminal law, each thing the defendant is accused of. (See Count).

Charges - Multiple

A case with more than one count of offenses listed in the Information or charging document.

Charging Document

A Citation, Information, Indictment, Petition, 923.01, or Notice to Appear indicating that the named person is accused of committing a specific criminal offense or civil infraction.

Chief Judge

Presiding or Administrative Judge in a court.

Child Support

Money paid by a parent to help support a child or children.

Circuit Court

Court that hears felony cases.

Circumstantial Evidence

All evidence that is indirect. Testimony not based on actual personal knowledge or observation of the facts in dispute.

Citation

A Court Order or Summons that tells a defendant what the charges are. Also tells the defendant to go to court and/or post bail.

Civil

This type of case involves private rights and remedies of citizens.

Civil Procedure

The rules and process by which a civil case is tried and appealed, including the preparations for trial, the rules of evidence and trial conduct, and the procedure for pursuing appeals.

Claim

The statement of a right to money or property.

Class Action

A lawsuit brought by one or more persons on behalf of a larger group.

Clerk

Officer of the court who files pleadings, motions, judgments, etc., issues process, and keeps records of court proceedings.

Clerk of Court

County office that receives all original paperwork on each criminal case.

Closing Argument

Counsel's final statement to the judge or jury after all parties have concluded their presentation of evidence.

Codefendant

Person accused of committing the same criminal incident with other defendant(s).

Collateral

1. Property that is pledged as security against a debt. 2. A person belonging to the same ancestry (a relation), but not in a direct line of descent.

Community Control

Form of probation restricting defendant's movements.

Community Service

Work performed as punishment for a crime. It may also be performed instead of a fine, or as a condition of probation.

Companion Cases

Cases involving more than one defendant arrested on the same criminal incident. (Codefendant cases.)

Compensatory Damages

Money that one person must pay another to cover the cost of a wrong or injury. (See Damages)

Complainant

Person who wants to start a court case against another person. In a civil case, the complainant is the Plaintiff. In a criminal case, the complainant is the state.

Confession

When someone admits out loud or in writing that they committed a certain kind of crime.

Conflict Attorney

One of a pool of attorneys who is appointed on a rotation basis when the public defender has a conflict of interest such as representing a codefendant.

Contempt of Court

Act of disrespect to the court; willful disregard of the court's authority.

Conflict of Interest

When you have two different interests at the same time. For example, a lawyer who represents two sides at the same time can't be fair.

Consecutive Sentences

Successive sentences, one beginning at the end of another, imposed against a person convicted of two or more violations.

Consent

A written agreement to obey a decision or deal.

Consideration

The cause, price, or impelling influence which makes a party enter into a contract.

Conspiracy

Where two or more persons intentionally agree to commit crime and do an act towards committing the crime.

Contempt (Of Court)

Disobeying a court order. Punishment can be a fine or jail.

Continuance

Postponing a trial or hearing to a later date. (See Adjournment)

Controlled Substances

Any drug identified by law whose availability is restricted. Unless otherwise specified, a drug, substance, or immediate precursor which is listed in any schedule in Health & Safety Code sections 11054, 11055, 11056, 11057 or 11058.

Convict

(1) A person who has been found guilty of a crime and is serving a sentence for that crime; a prison inmate. (2) To find a person guilty of an offense by either a trial or a plea of guilty.

Corroborating Evidence

Supplementary evidence that tends to strengthen or confirm the initial evidence.

Counsel

One or more lawyers who represent a client. Also, legal advice.

Count

Each separate charge (or statement) in a criminal case. (See Charge).

Counterfeit

To forge, to copy or imitate, without authority or right, and with the purpose to deceive by passing off the copy as genuine.

County Court

Court that hears misdemeanor, traffic cases, municipal ordinance violations, etc.

County Jail

A building or structure used to put alleged criminals or convicted criminals of local area crimes.

Court

A judge or group of judges whose job is to hear cases and carry out justice.

Court Appointed Counsel

A defense attorney assigned by the court to represent a defendant who cannot afford to hire an attorney.

Court Clerk

Courtroom personnel who attends court sessions and prepares record of court proceedings in conformance with statutes, policies, and the direction of a Judge; swears in witnesses and juries; maintains exhibits offered in evidence.

Court Date Notice

A written form used to bring the accused to court.

Court Order

A decision made by a judicial officer that gives someone certain rights or tells someone to do something.

Court Reporter

Maintains a verbatim record of court events. What is recorded is called a Transcript.

Court Appeals

In some states, the highest appellate court, where it is the Court's decision whether to hear the case.

Courtroom

The section of a courthouse in which the judge presides over the proceedings.

Crime

Something you do, or don't do, that breaks a law. If you are found guilty, you can be punished by: death; jail or prison; fine; being removed from office; being unable to hold any office of honor, trust, or profit.

Criminal Case

A court case that starts because of a crime.

Criminal Record

(1) Arrest record. A written account listing all the instances in which a person has been arrested. (2) A form completed by a police officer when a person is arrested.

Cross-examination

When the other side's lawyer asks a witness questions in a hearing or trial.

Custody

(1) When someone is under the physical control of the court to make sure they go to court when they're supposed to; (2) when the judge sends a person to jail after they are found guilty of a crime; (3) the care and control of children.

D

Damages

Money that the losing side must pay to the winning side to make up for losses or injuries. There are two kinds of damages: (1) "compensatory," meaning money to pay for the actual cost of an injury or loss; and (2) "punitive" or "exemplary", meaning an amount of money that's more than the actual damages. This is a punishment for willful or malicious acts.

Decision

A court's Judgment or decree that settles a dispute. (See also Decree, Judgment.)

Decree

A court decision. It can be (1) "interlocutory," which means it is not a final decision, or (2) "final," which means all issues of the case are settled.

Defamation

When one person hurts another person's character, fame, or reputation by making false and malicious statements that are not protected by law.

Defendant

Person accused of a crime.

Defense

In a civil case, the facts or arguments presented by the defendant to show why the plaintiff doesn't have a right to the relief asked for. In a criminal case, the reasons why a defendant should not be convicted of the charge(s).

Defense Attorney

In a criminal case, the lawyer that represents the accused person (called the "defendant").

Defraud

To make a misrepresentation of an existing material fact, knowing it to be false or making it recklessly without regard to whether it is true or false. To practice fraud; to cheat or trick. To deprive a person of property or any interest, estate, or right by fraud, deceit or artifice.

Deferred Payment

Court grants additional time to pay a fine.

Deliberation

When a jury, for either a civil or criminal case, goes into the jury room to discuss the evidence and testimony and reach a verdict.

Delinquency Court

The division of the Juvenile Court hearing cases where juveniles have been charged with committing a crime.

Delinquency, Juvenile

Antisocial behavior by a minor; especially behavior that would be criminally punishable if the minor were an adult, but instead is usually punished by special laws pertaining only to minors.

Demand for Discovery

Demand by the defense attorney to the State Attorney to furnish material information on a case.

Demanding State

The state seeking the return of a fugitive.

De Novo

Starting a case all over again as if it had not been heard before. In Latin, novo means "new." (Trial de Novo)

Dependency Court

The division of the Juvenile Court hearing cases of child abuse and neglect.

Deposition

Written or oral testimony given under oath in front of an authorized third person like a court reporter. Depositions take place outside of the court. They allow the parties to get a record of a person's testimony, or to get testimony from a witness that lives far away. They can help the lawyers prepare their court papers called "pleadings." (See also Discovery.)

Demurrer

A legal attack on a document as to sufficiency.

Detention Hearing

The initial hearing in Dependency Court soon after the child has been removed from the parent.

Directed Verdict

Dismissed by a judge.

Disbarment

Form of discipline of a lawyer resulting in the loss (often permanently) of that lawyer's right to practice law.)

Discharge of Bond

A court order to release bond, usually once the case is disposed.

Discovery

The gathering of information (facts, documents, or testimony) before a case goes to trial. Discovery is done in many ways, such as through depositions, interrogations, or requests for admissions. It can also be done through independent investigation or by talking with the other side's lawyer.

Discovery Motion

A motion to have evidence disclosed to the moving party.

Dismiss

To terminate legal action involving outstanding charges against a defendant in a criminal case.

Dismissal with Prejudice

When a court dismisses a case and will not allow any other suit to be filed on the same claim in the future.

Dismissal without Prejudice

When a court dismisses a case, but will allow other suits to be filed on the same claim.

Disposition

The final action of a case.

Dispositional Hearing

The hearing held after a petition is sustained (allegation found true), to determine whether the child will become a dependent of the court, where the child will reside, and what reunification services, if any, will be provided to the parent.

Dissolution

A marriage that is ended by a judge's decision, also known as a "divorce." (Compare to Nullity.)

Dissolution of Marriage

The act of terminating a marriage; divorce; but the term does not include annulment.

Docket

A list of cases pending before the court.

D. O. C.

Department of Corrections/State Prison facility.

Domestic Violence

An assault committed by one member of a household against another.

Domicile

The place where a person has his or her permanent legal home. A person may have several residences, but only one domicile.

Double Jeopardy

The constitutional prohibition under the Fifth Amendment against a person being put on trial more than once for the same offense.

Due Process of Law

The regular way that the law is administered through the courts. The U.S. Constitution says that everyone has to have a day in court, has the right to be represented by a lawyer, and the right to benefit from court procedures that are speedy, fair, and impartial.

Duress

Consists in any illegal imprisonment or threats of bodily harm in order to coerce the will of another and inducing him to do an act contrary to his free will.

E**Electronic Monitoring**

Use of an electronic device to keep an eye on where a sentenced person is in community and to restrict his or her activities, instead of putting the person in jail.

Emancipation

A legal way for children to become adults before they are 18. Once a child is emancipated, his or her parents don't have custody or control of him or her anymore.

Embezzlement

Taking property by a person to whom the property has been entrusted.

Eminent Domain

The right of the state to take private property for public use after giving fair compensation to the owner.

Endorse

To sign your name on a document to authorize its contents or transfer (as in a check that is endorsed to transfer money).

Enter a Guilty Plea

The formal statement before the court that the accused admits committing the criminal act.

Entrapment

A defense to criminal charges alleging that agents of the government induced a person to commit a crime he or she otherwise would not have committed.

Escrow

Money or a written instrument such as a deed that, by agreement between two parties, is held by a neutral third party (held in escrow) until all conditions of the agreement are met.

Estreature of Bond

A court order to forfeit bond to the county.

Et Al

In Latin, this means "and others." Refers to parties not included in the formal name of a court case.

Et Seq

An abbreviation for et sequentes, or et sequentia. Latin meaning "and the following," ordinarily used in referring to a section of statutes.

Et Ux

In Latin, this means "and wife."

Evidence

Any proof legally presented at trial through witnesses, records, and/or exhibits.

Evidence Log

A list of all items entered as evidence in trial (exhibits).

Excessive Force

Use of unreasonable amount of force by police officer.

Executor

person or company named in a will to carry out the will's instructions and requests. The executor is usually supervised by the probate court.

Exhibit

Any paper or object offered in court that is marked for identification or evidence.

Exonerate

To clear or blame or to relieve from responsibility.

Ex Parte

A court procedure with only one side. For emergencies only.

Ex Parte Proceeding

The legal procedure in which only one side is represented.

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.

Expert Witness

Experts in medicine, forensics, etc., who testify at trial.

Expungement

Destroy, obliterate and wholly strike out the criminal history record of a person's case.

Extortion

The act of obtaining the property of another person or threatened force, violence, or fear.

Extradition

Surrender by one state to another of a person accused or convicted of an offense outside its own territory and within territorial jurisdiction of the other, with the other state which is competent to try him/her demanding his/her surrender.

E**Factual Basis**

The underlying facts supporting a defendant's guilt or Nolo Contendere plea.

Felony

Crime carrying a penalty of possible incarceration in state prison. A serious crime that can be punished by more than one year in prison or by death.

Fiduciary

A person that acts for another person's benefit, like a trustee or guardian. It also means something that is based on a trust or confidence.

Fifth Amendment

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

File/Record

The Clerk's office's official recording of minutes and all documents signed by the judge.

Finding

When a judicial officer or jury says something is a fact.

First Appearance

Accused right to see a judge within 24 hours of arrest. This is the initial appearance of an arrested person before a judge to determine whether there is probably cause for his or her arrest. Generally, the person comes before a judge within hours of the arrest, and are informed of the charges against him or her and of his or her rights to a preliminary hearing, to counsel, and to bail. No plea is asked for at this time. Also called Initial Appearance.

Florida Statutes

A listing or book of the laws of the state of Florida.

Foreclosure

Procedure by which mortgaged property is sold on default of the mortgagor in satisfaction or mortgage debt.

Fost Care

A program that gives money to a person, family, or institution to raise someone else's child.

Fourteenth Amendment

Among other matters, the 14th Amendment to the U.S. Constitution prohibits states from depriving any person of life, liberty, or property without adequate Due Process.

Fraud

Deceiving someone on purpose in a way that financially hurts others.

Fugitive

A person who flees from one state to another to avoid prosecution.

G**Garnishment**

A legal process that allows part of a person's wages or property to be withheld for payment of a debt.

General Jurisdiction

Refers to courts that have no limit on the types of criminal and civil cases they may hear.

Grand Jury

A group of 16 to 23 citizens that listen to the prosecutor's evidence of criminal allegations and decide whether there is probable cause to believe a person committed a crime and to charge them with that crime.

Grand Theft

Taking a carrying away personal property of another person of value in excess of an amount set by law with the intent to deprive the owner or possessor of it permanently.

Grantor or Settlor

The person who sets up a trust

Grounds

A foundation or basis; points relied on.

Guardian

A person appointed by will or by law to assume responsibility for incompetent adults or minor children. If a parent dies, this will usually be the other parent. If both die, it probably will be a close relative. In Juvenile Dependency cases, once a guardian is appointed, dependency may be terminated.

Guardian Ad Litem

An audit appointed by a court who represents a minor child or legally incompetent person. (See also Ad Litem).

Guardianship

A court proceeding where a judge chooses someone to care for a person under age 18 or to manage the minor's estate (property), or both. In some states, conservatorship of an adult is called guardianship.

Guilty Plea

When a person admits in court that he or she is guilty of a crime.

H**Habeas Corpus**

A means to bring the defendant before the court to determine whether he/she is being detained unlawfully. The term comes from Latin.

Hearing

A formal court proceeding with the judge and opposing sides present, but no jury.

Hearing Proceedings

Record of testimony/evidence entered.

Hearing, Preliminary

The hearing given to person accused of crime, by a magistrate or judge, to determine whether there is enough evidence to warrant the confinement and holding to bail the person accused.

Hearsay

Statements by a witness who did not see or hear the incident in question, but heard about it from someone else. Hearsay usually can't be used as evidence in court.

Holding Cell

A temporary location inside a courthouse where prisoners are held before and after their court appearance.

Hung Jury

A jury whose members cannot agree upon a verdict.

I**Implied Consent**

Requirement to take a chemical test when arrested for driving under the influence.

Imprisonment

The act of putting or confining a man in prison, or the restraint of a man's personal liberty.

Inadmissible

Cannot be admitted as evidence in a trial or hearing.

Incarcerate

To put in jail or prison.

Indemnify

Liability for loss is shifted from one person held legally responsible to another.

Indemnity

An obligation to provide compensation (usually money) for a loss, hurt or damage.

Indictment

A formal charging document issued by a Grand Jury to the Court wherein the named person(s) is accused of committing a specific crime.

Indigent

A defendant unable to afford a private defense attorney. These clients are represented by the public defender or a conflict attorney.

Informant

An undisclosed person who confidentially discloses material information of a crime to the police, which is usually done in exchange for a reward or special treatment.

Information

A formal charging document issued by the State Attorney wherein the named person is accused of committing a specific offense.

Infraction

A non-criminal traffic/marine offense.

Initial Appearance

In criminal law, the hearing at which a judge determines whether there is sufficient evidence against a person charged with a crime to hold him or her for trial. The Constitution bans secret accusations, so initial appearances are public unless the defendant asks otherwise; the accused must be present, though he or she usually does not offer evidence. Also called First Appearance.

Initial Proceedings

The first court appearance of a defendant on a charge.

Injunction

A court order that says a defendant can't perform, or must perform, a specific act. (See Restraining Order.)

Intake

Process by which the State Attorney makes up a criminal file, files upon the case, etc.

Intent

The purpose to use a particular means to bring about a certain result.

Interpreter

A person who is certified as being able to translate, orally or in writing, spoken or sign language into the common language of the court.

Interrogatories

Written questions asked by one party in a lawsuit for which the opposing party must answer them in writing.

Intervention

An action by which a third person who may be affected by a lawsuit is permitted to become a party to the suit. Differs from the process of becoming an Amicus Curiae.

Invoke the Rule (of sequestration)

Separation and exclusion of witnesses from the courtroom while testimony is being offered from other witnesses.

J.K**Jail**

A place of confinement that is more than a police station and less than a prison. It is usually used to hold persons convicted of misdemeanors or persons awaiting trial.

Jeopardy

Risk to a defendant of possible conviction and punishment. In a criminal case, the defendant is usually said to be "in jeopardy" after the preliminary hearing has taken place and the jury has been sworn in.

Judge

An elected or appointed public official with authority to hear and decide cases in a court of law.

Judgment/Sentence

The official document of a judge's disposition (decision) of a case and sentence of a defendant.

Jurisdiction

(1) The legal authority/power of a court to hear and decide a case. (2)The geographic area over which the court has authority to decide cases. (3) the territory, subject matter, or persons over which lawful authority may be exercised by a court.

Juror

Member of the jury.

Juror, Alternate

Additional juror impaneled in case of sickness or disability of another juror.

Jury

A group of citizens picked according to law and authorized to decide a case.

Jury Box

The specific place in the courtroom where the jury sits during the trial.

Jury Foreman

The juror who is in charge of the jury during deliberations and speaks for the jury in court when announcing the verdict.

Jury, Hung

A jury which is unable to agree on a verdict after a suitable period of deliberation.

Jury Trial

A trial that is heard and decided by a jury.

Juvenile

A child under the age of 18 years. (See also Minor.)

L**Larceny**

Stealing or theft.

Lesser Included

Any less serious offense whose definition is included within the definition of the original charge.

Law

Combination of rules and principles of conduct made known by legislative authority, derived from court decisions, and established by local custom.

Lawsuit

An action between two or more persons in the courts of law, not a criminal matter.

Levy

To obtain money by legal process through seizure and/or sale of property.

Liability

Legal debts and obligations.

Lien

The right to keep a debtor's property from being sold or transferred until the debtor pays what he or she owes.

Limine

A motion requesting that the court not allow certain evidence that might prejudice the jury.

Lineup

A police identification procedure by which the suspect to a crime is exhibited, along with others, before the victim or witness to determine if the victim or witness can identify the suspect as the person who committed the crime.

Litigant

A party, or side involved in a lawsuit.

Litigation

A case, controversy, or lawsuit.

Local Rules

A set of rules you have to follow to start a court case. Every county and court has different local rules.

M**Malpractice**

Violation of a professional duty to act with reasonable care and in good faith without fraud or collusion. This term is usually applied to such conduct by doctors, lawyers, or accountants.

Mandate

A judicial command or order proceeding from a court or judicial officer, directing the proper officer to enforce a judgment, sentence, or decree.

Manslaughter, Involuntary

Unlawful killing of another, without malice, when the death is caused by some other unlawful act not usually expected to result in great bodily harm.

Manslaughter, Voluntary

Unlawful killing of another, without malice, when the act is committed with a sudden extreme emotional impulse.

Material Witness

In criminal trial, a witness whose testimony is crucial to either the defense or prosecution.

Mediation

A process in which people that are having a dispute are helped by a neutral person to communicate so they can reach a settlement acceptable to both.

Mental Incapacity

Where a person is found to be incapable of understanding and acting with discretion in the ordinary affairs of life due to a loss of reasoning faculties.

Minor

A child under the age of 18 years. (See also Juvenile).

Minutes

A written accounting of what took place in court.

Miranda Rights

Requirement that police tell a person who is arrested or questioned their constitutional rights before they question him or her: specifically, the right to remain silent; that any statement made may be used against him or her; the right to an attorney; and if the person cannot afford an attorney, one will be appointed if he or she desires.

Misdemeanor

A crime that is less serious than a felony and is usually punishable by fine, penatly, forfeiture, or confinement (usually for a brief term) in a place other than prison (such as a county jail).

Mistrial

A trial that has been ended and declared void (of no legal effect) due to prejudicial error in the proceedings or other extraordinary circumstances.

Mitigating Circumstances

Facts which do not constitute a justification or excuse for an offense but which may be considered as reasons for reducing the degree of blame.

Modification

A spoken or written request that one side makes to ask the judge to make a decision or an order on a specific point.

Motion

Oral or written request made by a party to an action before, during, or after a trial asking the judge to issue a ruling or order in that party's favor.

Motion Denied

Ruling or order issued by the judge refusing the party's request.

Motion Granted

Ruling or order issued by the judge approving the party's request.

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.

Motion to Mitigate Sentence

A motion to reduce sentence.

Motion to Quash

A request to make something null or ineffective, such as to "quash a subpoena."

Motion to Seal

A motion to close a record to public inspection.

Motion to Sever

A request usually by defense, to have a separate trial as to either jointly tried defendants or jointly charged counts.

Motion to Suppress

A request that the court prohibit the introduction of illegally obtained evidence at a criminal trial.

N**Negligence**

When someone fails to be as careful as the law requires to protect the rights and property of others.

No Contest

A defendant neither admits nor denies the charges, letting them stand as is.

No-Fault Proceedings

A civil case in which parties may resolve their dispute without a formal finding of error or fault.

No File/Unfiled Disposed

State Attorney's Office does not file on a case.

No Information

Document indicating formal charges will not be filed by the State Attorney's Office.

No Probable Cause

Insufficient grounds to hold the person who was arrested.

No True Bill

A finding by a Grand Jury that there is no probable cause to decide that a crime has been committed.

Nol-Pros

To drop prosecution of by entering a nolle prosequi on the courts records.

Nolle Prosequi (Nol-Pros)

Decision by a prosecutor not to go forward with charging a crime. It translates, "I do not choose to prosecute." Also loosely called nolle pros. A declaration that the plaintiff in a civil case or the prosecutor in a criminal case will drop prosecution of all or part of a suit or indictment.

Nolo Contendere

Same as pleading guilty, except that your plea cannot be used against you in civil court. This can only be used in traffic or criminal court. From the Latin for "I do not wish to contend."

Non Compos Mentis

Not of sound mind; insane.

Non-Jury Trial

A case tried by a judge.

Not Guilty

The form of a verdict in criminal cases where the jury acquits the defendant.

Notary Public

A person authorized to certify a person's signature, administer oaths, certify that documents are authentic, and take depositions.

Notice

Written information or warning. For example, a notice to the other side that you will make a motion in court on a certain date.

Notice of Motion

A notice to the opposing party, that on a certain date a motion will be made in court.

Nuisance

That activity which arises from unreasonable, unwarranted or unlawful use by a person of his own property, and producing such material annoyance resulting in damage.

Nullity

Something that is legally void.

Nunc Pro Tunc

An entry made now for an act done previously and to have the effect as if it were done on a prior date.

O**Oath**

When a witness promises to tell the truth in a legal proceeding.

Oath of Indigency and Order Appointing Counsel

A document signed by the defendant under oath before the judge stating he/she is without funds to retain an attorney. The judge may then declare the defendant indigent and sign an order appointing counsel.

Objection

A formal protest made by a party over testimony or evidence that the other side tries to introduce in court.

Objection Overruled

A ruling by the court upholding the act or omission of the opposing party.

Objection Sustained

A ruling by the court in favor of the party making the objection.

Offender

One who commits a crime, such as a felony, misdemeanor, or other punishable unlawful act.

On a Person's Own Recognizance

Release of a person from custody without the payment of any Bail or posting of Bond, upon the promise to return to court.

Opinion

A judge's written explanation of a decision of the court or of a majority of judges. A dissenting opinion disagrees with the majority opinion because of the reasoning or the principles of law on which the decision is based. A concurring opinion agrees with the decision of the court but offers further comment.

Opposition

(1) act of opposing or resisting. (2) confronting another.

Oral Argument

The part of the trial when lawyers summarize their position in court and also answer the judge's questions.

Order to Show Cause

Court order that makes someone go to court to explain to the judge why he or she did not follow the rules.

Order, Court

(1) Decision of a judicial officer; (2) a directive of the court.

Ordinance

A regulation made by a local government to enforce, control, or limit certain activities.

Original Jurisdiction

The court in which a matter must first be filed.

Overrule

A judge's decision not to allow an objection. A decision by a higher court finding that a lower court decision was wrong.

Own Recognizance

Release of a person from custody without the payment of any bail or posting of bond.

P**PAD**

Prosecutor's Alternative Division (not in Brevard Co.); settlement of a case without prosecution.

Paralegal

A person with legal skills, but who is not an attorney, and who works under the supervision of a lawyer or who is otherwise authorized by law to use those legal skills.

Pardon

When the chief executive of a state or country releases a convicted person from the punishment given him or her by a court sentence.

PDP

Pretrial Diversion Program for certain misdemeanor offenders.

Parole

A conditional release from a correctional facility of a prisoner who has served part of the term/sentence to which he/she was sentenced.

Party

One of the sides of a case. The person who started the case is called the plaintiff or petitioner. The person being sued is called the defendant or respondent.

Penitentiary

A prison or place of confinement where convicted felons are sent to serve out the term of their sentence.

People (Prosecution)

A state, for example, the People of the State of Florida.

Perjury

A false statement made on purpose while under oath in a court proceeding.

Petit Jury or (Trial Jury)

A group of citizens that listen to the evidence presented by both sides at trial and figure out the facts in dispute. Criminal juries are made up of 12 people; civil juries are made up of at least 6 people.

Petition

A court paper that asks the court to take action. For example, in juvenile cases, the Petition starts the court case. (Compare MOTION.)

Petitioner

A person who presents a petition to the court.

Plaintiff

The one bringing the charges against the accused.

Plea

Defendant's answer to the charge.

Plea Bargain

An agreement between the prosecutor and the defendant. It lets the defendant plead guilty to a less serious charge, if the court approves.

Plea Negotiations

Negotiations between the State and the defense for a fair disposition of the case, and requiring approval of the court.

Pleading

Written statements filed with the court that describes a party's legal or factual claims about the case and what the party wants from the court.

Praecipe

A writ commanding the Clerk of Court to issue a subpoena or summons.

Pre-Sentence Investigation

A background investigation of the defendant by Probation and Parole Services which is provided to the sentencing judge, State Attorney, and defense attorney.

Pre-Trial Intervention

A county program to aid certain qualified defendants by diverting them from court proceedings upon successful completion of the program.

Probable Cause

Reasonable belief that a crime was committed and that the named person committed the crime.

Pre-Trial Release

Release of a defendant after arrest and before any court appearance date.

Prima Facie

On the face of it; factually.

Probation

Suspension of a sentence, with or without adjudication of guilt, and placing the defendant under supervision of the Department of Corrections Probation and Parole Services for a specified period of time, and with conditions of behavior.

Post Conviction

A procedure by which a convicted defendant challenges the conviction and/or sentence on the basis of some alleged violation or error.

Postponement

To put off or delay a court hearing.

Power of Attorney

Formal authorization of a person to act in the interest of another person.

Precedent

A court decision in an earlier case that the court uses to decide similar or new cases.

Preliminary Hearing

The hearing available to a person charged with a felony to determine if there is enough evidence (probable cause) to hold him for trial.

Preliminary Injunction

In civil cases when it is necessary to preserve the status quo prior to trial, the court may issue this or a temporary restraining order ordering a party to carry out a specified activity.

Premeditation

The planning of a crime before the crime takes place, rather than committing the crime on the spur of the moment.

Presumption

An inference of the truth or falsity of a proposition or fact, that stands until rebutted by evidence to the contrary.

Pretrial Conference

Any time both sides of the case go to court before trial. In criminal cases, it's usually when the defendant and prosecutor talk about settling the case.

Priors

Term meaning previous conviction(s) of the accused.

Prior Conviction

As used in Superior Court pleadings, an allegation that defendant has previously been imprisoned.

Prison

A federal or state public building or other place for the confinement of persons. It is used as either a punishment imposed by the law or otherwise in the course of the administration of justice. Also known as penitentiary, penal institution, adult correctional institution, or jail.

Privileged Communications

Confidential communications to certain persons that are protected by law against any disclosure, including forced disclosure in legal proceedings. Communications between lawyer and client, physician and patient, psychotherapist and patient, priest, minister, or rabbi and penitent are typically privileged.

Probable Cause

A good reason to believe that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

Probate

The judicial process to determine if a will of a dead person is genuine or not; lawful distribution of a decedent's estate.

Probate Court

The court with authority to deal with the estates of people who have died.

Probation

A sentencing alternative to imprisonment in which the court releases a convicted defendant under supervision of a probation officer that makes certain that the defendant follows certain rules, for example, gets a job, gets drug counseling.

Probation Officer

One who supervises a person placed on probation and is required to report the progress and to surrender the them if they violate the terms and conditions of the probation.

Pro Bono

Legal work done for free. From the Latin meaning "for the public good."

Procedural Law

The method, established normally by rules to be followed in a case; the formal steps in a judicial proceeding.

Proffer

An offer of proof as to what the evidence would be if a witness were called to testify or answer a question.

Prohibition

Act or law that forbids something.

Promissory Note

A written document that says a person promises to pay money to another.

Proof

Any fact or evidence that leads to a judgment of the court.

Proof of Service

A form filed with the court that proves that court papers were properly delivered to someone.

Pro Per

Person who presents their own cases in court without lawyers (See also IN Propia Persona and Pro Se.)

Pro Se

Person who presents their own cases in court without lawyers (See also Pro Per and Pro Se.)

Prosecuting Attorney

A public office who prosecutes criminal cases for the state. See Prosecutor and State Attorney.

Prosecution

The party that starts a criminal case and files criminal charges. The prosecution is the lawyer for the state. A common name for the state's side of the case.

Prosecutor

A trial lawyer representing the government in a criminal case and the interests of the state in civil matters. In criminal cases, the prosecutor has the responsibility of deciding who and when to file charges.

Public Defender

A court appointed attorney for those defendants who are declared indigent (cannot afford a lawyer).

Public Defender Lien

Upon order of the Judge, a fee paid to the county by the defendant for legal services rendered by the Public Defender.

Punitive Damages

Money awarded to an injured person, over and above the measurable value of the injury, in order to punish the person who hurt him.

Purge

To clean or clear, such as eliminating inactive records from court files; with respect to civil contempt, to clear the noncompliance that caused the contempt finding.

Q**Quash**

To overthrow, to vacate, to annul or make void.

Quasi Judicial

Authority or discretion vested in an officer whose actions are of a judicial character, such as General Magistrate or Child Support Hearing Officers.

Quid Pro Quo

Something for something; giving one valuable thing for another.

Quickie Order (Short form order)

A form used by a judge directing that some action be taken.

R**Rap Sheet**

A written summary of a person's criminal history.

Reasonable Doubt, Beyond a

The degree of certainty required for a juror to legally find a criminal defendant guilty. An accused person is entitled to acquittal if, in the minds of the jury, his or her guilt has not been proved beyond a "reasonable doubt"; that state of mind of jurors in which they cannot say they feel a persisting conviction as to the truth of the charge.

Rebuttal

Evidence presented at trial by one party in order to overcome evidence introduced by another party.

Recall Order

Order recalling a Warrant/Capias.

Record/File

The Clerk's office's official recording of minutes and all documents signed by the judge.

Recidivism

The continued, habitual, or compulsive breaking the law after having been convicted of 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.

Record

The official papers that make up a court case.

Recusal

A judge excuses himself from hearing/considering a case due to some conflict.

Reinstated

To bring back to a previous condition. When bail that had been forfeited, exonerated, or reduced is reestablished in its original amount.

Rejoinder

Opportunity for the side that opened the case to offer limited response to evidence presented during the Rebuttal by the opposing side.

Relinquishment

A forsaking, abandoning, renouncing, or giving over a right.

Remand

(1) When an appellate court sends a case to a lower court for further proceedings; (2) to return a prisoner to custody.

Rendition

The transfer of a fugitive from the asylum state to the demanding state.

Release on Own Recognizance (ROR)

Release of a prisoner with no bond by a judge.

Respondent

If you are the person that answers the original Petition, you are the respondent. Even if you later file an action of your own in that case, you are still the respondent for as long as the case is open.

Restitution

Giving something back to its owner. Or, giving the owner something with the same value, like paying to fix his or her property .

Reverse

An action of a higher court in setting aside or revoking a lower court decision.

Reversible Error

A procedural error during a trial or hearing sufficiently harmful to justify reversing the judgment of a lower court. (See Prejudicial Error.)

Revoke

To change or take back.

Rule of Court

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.

S**Sanction**

A financial punishment meant to make someone obey the law. For example, a judge can order someone to pay for not following court orders.

Scoresheet

A form used for sentencing utilizing the points system mandated by the legislature.

Seal

Clerk of the Court symbol of authenticity.

Sealing

The closure of court records to inspection, except to the parties.

Sealing a criminal record

To close a criminal record, make unavailable, confidential, or exempt from public record.

Search and Seizure

A person or place is searched and evidence useful in the investigation and prosecution of a crime is taken. The search is conducted after an order is issued by a judge.

Search Warrant

An order that tells the police to search a specific place to find specific people or things. A judge can order a search warrant if there is probable cause.

Second Appearance

Court appearance after initial proceedings in which the state may file an Information, the defendant is discharged, or continuance for another appearance.

Self-Defense

Claim that an act was legally justifiable because it was necessary to protect a person or property from the threat or action of another.

Self-Incrimination

Acts or declarations by which one implicates oneself in a crime.

Sentence/Judgment

The official document of a judge's disposition (decision) of a case and sentence of a defendant.

Sentencing

The hearing where the court determines a person's punishment.

Sequestration of Witnesses

Keeping all witnesses (except plaintiff and defendant) out of the courtroom except for their time on the stand, and cautioning them not to discuss their testimony with other witnesses. Also called separation of witnesses. This prevents a witness from being influenced by the testimony of a prior witness.

Service of Process

The delivery of legal papers to the opposing party. The papers must be delivered by an adult aged 18 or older that is not involved in the case and that swears to the date and method of delivery to the recipient.

Settlement

When both sides reach an agreement that solves the case before the judge or jury makes a decision.

Sheriff

Elected officer of a county whose job is to conserve peace within his or her territorial jurisdiction as well as aid in the criminal and civil court processes.

Show Cause Order

An order issued by the court requiring a person to appear and show why some action should not be taken.

Sidebar

A conference between the judge and lawyers, usually in the courtroom, out of hearing of the jury and spectators.

Signature Bond

A signature bond sometimes secured by a mortgage or real property but usually unsecured.

Slander

Defamation of a person's character or reputation through false or malicious oral statements. See Defamation.

Small Claims Court

A court that handles civil claims for \$5,000 or less. People often represent themselves rather than hire an attorney.

Speedy Trial

A rule of law wherein the defendant must be brought to trial within 90 days for misdemeanor and 175 days for felony (as guaranteed by the 6th Amendment of the United States.)

Standard of Proof

There are essentially three standards of proof applicable in most court proceedings. In criminal cases, the offense must be proven Beyond a Reasonable Doubt, the highest standard. In civil cases and neglect and dependency proceedings, the lowest standard applies by a mere Preponderance of the Evidence, (more likely than not). In some civil cases, and in juvenile proceedings such as a permanent termination of parental rights, an intermediate standard applies, proof by Clear and Convincing Evidence.

Stare Decisis

The doctrine that courts will follow principles of law established in previous cases. Similar to Precedent.

Statement, Closing

The final statements by the attorneys to the jury or court summarizing the evidence that they have established and the evidence that the other side has failed to establish. Also known as Closing Argument.

Statement, Opening

Outline or summary of the nature of the case and of the anticipated proof presented by the attorney to the jury before any evidence is submitted. Also known as Opening Argument.

Statement of Fact

Any written or oral declaration of facts in a case.

Statement of Particulars

A detailed statement of the offense charged, sufficient to enable the defendant to properly prepare his/her defense.

Statute

A law passed by Congress or a state legislature.

Stipulate

To agree to something.

Strike

(1) to delete or remove. (2) To dismiss an allegation before sentencing. (3) A serious violent felony prior conviction that is charged as a prior allegation, e.g. a second strike, or third strike.

Subpoena

An official order to go to court at a certain time. Subpoenas are commonly used to tell witnesses to come to court to testify in a trial.

Subpoena Duces Tecum

Court process requiring a witness to produce requested documents or other materials, at a specific time/date.

Subrogation

To substitute one person for another in a legal claim.

Sue

To commence legal proceedings for recovery of a right.

Summary Judgment

When the judge decides a case without going to trial. The decision is based on the papers filed by both sides.

Summons

(1) A notice to a defendant that he or she has been sued or charged with a crime and is required to appear in court. (2) A jury summons requires the person receiving it to report for possible jury duty.

Suppress

To stop or put an end to someone's activities.

Sustain

To maintain, to affirm, to approve.

Swear

To put to oath and declare as truth.

Sworn Complaint Affidavit

A sworn, witnessed complaint filed with the Clerk of Court initiating a criminal case.

T**Temporary Relief**

Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

Temporary Restraining Order (TRO)

A court order that says a person must not do certain things that are likely to cause harm that can't be fixed.

Testament

A will disposing of personal property. (See Will.)

Testimony

Oral evidence at a trial or deposition.

Time Served

A sentence given by the court to a convicted criminal equal to the amount of time that the criminal was incarcerated during the trial.

Tort

When a person is hurt because someone did not do what he or she was supposed to do. The most common tort action is a suit for damages as a result of an automobile accident.

Transcript

A record of everything that is said in a hearing or trial.

Traverse

A formal denial of allegations.

Trial

A court process in which the issues of fact and law are heard and decided according to legal procedures so a judicial officer or jury can make a decision.

Trial, Court (Bench)

A trial where the jury is waived and the case is seen before the judge alone.

Trial, Speedy

The Sixth Amendment of the Constitution guarantees the accused to an immediate trial in accordance with prevailing rules, regulations and proceedings of law.

True Copy

An exact copy of a written document.

Trust

A legal device used to manage real or personal property, established by one person (the Grantor or Settler) for the benefit of another (the Beneficiary). A third person (the Trustee) or the grantor manages the trust. In Traffic - Trust is an account into which bail is posted to insure appearance or compliance until the case is settled.

Trustee

The person or institution that manages the property put in trust.

U**Unconscionability**

An absence of meaningful choice on the part of one of the parties to a contract, and contract terms which are unreasonably favorable to the other party.

Unconstitutional

That which is contrary to or in conflict with the federal or state constitutions.

Undue Influence

When someone pressures the person making a will (called testator) to include or leave out people or things from his or her will. This can be a reason to challenge a will.

Under the Influence

Any abnormal mental or physical condition which is the result of indulging in any degree in intoxicating liquors, and which tends to deprive one of that clearness of intellect and control of himself which he would otherwise possess.

Unlawful Assembly

At common law, the meeting together of three or more persons, to the disturbance of the public peace, and with the intention of forcible and violent execution of some unlawful private enterprise.

Unfiled Disposed/No File

State Attorney's Office does not file on a case.

V**Vacate**

To render an act void; to set aside.

Vacate Estreature

A court order that cancels the bond forfeiture.

Verdict

The findings of a judge or jury at the end of a trial.

Victim

A person who is the object of a crime or civil wrongdoing.

Violation of Probation

A new allegation against a defendant for non-compliance with a previous probation condition related to a criminal sentence.

Voir Dire

Examination of a jury panel by the judge, defense counsel, and the State Attorney for selection to serve on a case. Latin meaning "to speak the truth."

W, X, Y, Z**Waiver of Extradition**

A form signed before a judge in which the defendant voluntarily submits to be picked up by a foreign jurisdiction waiving his rights guaranteed under the Constitution.

Warrant

A writ issued by a judge authorizing an officer to make an arrest, a seizure, or a search, or to do other acts incident to the administration of justice.

Warrant, Arrest

Commands a peace officer to arrest and bring before the court the person accused of an offense for purpose of commencing legal action.

Warrant, Search

A written order directing a law enforcement officer to conduct a search of a specified place and to seize any evidence directly related to the criminal offense.

Will

A legal paper that says what a person wants to happen to his or her personal property after the person dies. A will can be changed or cancelled at any time before a person dies. (See Testament.)

Withhold of Adjudication

The judge withholds the judgment of guilt/conviction on an offense.

Witness

1. A person called testify about what he or she saw, heard, or knows. 2. To sign your name to a document for the purpose of authenticity.

Witness Stand

The space in the courtroom occupied by a witness while testifying.

Witness, Defense

A non-hostile witness that is called by the defense counsel to assist in proving the defense's case.

Witness, Expert

Qualified by knowledge, skill, experience, training or education to provide a scientific, technical or specialized opinion of the subject about which he or she is to testify. That knowledge must not be generally possessed by the average person.

Witness, Hostile

An uncooperative witness.

Witness, Material

A witness who can give testimony relating to a particular matter that very few others, if any, can give.

Witness, Prosecution

The person whose complaint begins a criminal prosecution and whose testimony is mainly relied on to secure a conviction at the trial.

Writ

A written document/order requiring the performance of a specified act, or giving authority and commission to have it done.

Writ of Certiorari

An order by the appellate court used when the court has the discretion on whether or not to hear an appeal.

Writ of Execution

A court order that tells the sheriff to enforce a judgment.

Writ of Mandate

A petition used to compel the court, officer, or agency to perform a duty required by law or to compel a court to assume jurisdiction and exercise its discretion after its refusal to act.

Writ of Habeas Corpus Ad Prosequendum

A writ of the court ordering that a prisoner be brought before the court to be prosecuted.

Writ of Habeas Corpus Ad Testificandum

A writ of the court ordering that a prisoner be brought before the court to testify.

Written Plea of Not Guilty

A defendant's plea in writing to the court. In the felony court, this plea may only be filed by counsel.