

Division: Law

Specialization: private Law

(Second Year)

Criminal Law Glossary

Accessory:

Someone who intentionally helps another person commit a felony (examples – giving advice before the crime, helping to conceal the evidence or the perpetrator). An accessory is usually not physically present during the crime.

Accomplice:

Someone who helps another person (known as the principal) commit a crime. Unlike an accessory, an [accomplice](#) is usually present when the crime is committed. An accomplice is guilty of the same offense and usually receives the same sentence as the principal.

Accused:

A person or persons formally charged but not yet tried for a crime.

Acquittal:

A legal judgment, based on the decision to either a jury or a judge, that an accused is not guilty of the crime for which he or she has been charged or tried.

Admissible Evidence:

The evidence that a trial judge or jury may consider, because the rules of evidence deem it reliable.

Admission:

Confession of a charge, an error, or a crime; acknowledgment.

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.

Allegation:

A claim or statement of what a party intends to prove; the facts as one party claims they are.

Appeal:

A request made by the defense or State that the case be reviewed by a court of appeal.

Arraignment :

The appearance of the defendant in court to enter his or her plea to the charges.

Assault:

Threat to inflict injury with an apparent ability to do so. Also, any intentional display of force that would give the victim reason to fear or expect immediate bodily harm.

Bail / Bond:

The money or property given to the court as security when an accused person is released before and during a trial with the agreement that the defendant will return to court when ordered to do so. Bail is forfeited if the defendant fails to return to court.

Bench Trial:

Trial without a jury in which a judge decides the facts. Also known as court trial.

Bench Warrant:

An order issued by a judge for the arrest of a person. This is also known as a “[capias](#).”

Best Evidence Rule:

A rule of evidence that demands that the original of any document, photograph or recording be used as evidence at trial, rather than a copy. A copy will be allowed into evidence only if the original is unavailable.

Beyond a Reasonable Doubt:

The burden of proof that the prosecution must carry in a criminal trial to obtain a guilty [verdict](#). The jury must be convinced that the defendant committed each element of the crime beyond a reasonable doubt before returning a guilty verdict.

Booking:

Part of the process of being arrested in which the details of who a person is and why he or she was arrested are recorded in police records.

Brief:

A written argument by counsel arguing a case, which contains a summary of the facts of the case, pertinent laws, and an argument of how the law applies to the fact situation. Also called a memorandum of law.

Cause of Action:

One or more related charges combined and made against a defendant for wrongs committed.

Change of Venue:

A change in the location of a trial, usually granted to avoid prejudice against one of the parties.

Charge:

A formal accusation or indictment filed by the prosecutor's office that a specific person has committed a specific crime. Also known as pressing charges.

Circumstantial Evidence:

All evidence except eyewitness testimony. One example is physical evidence, such as fingerprints, from which an inference can be drawn.

Coercion:

The use of physical force or threats to compel someone to commit an act against their will.

Concurrent Sentence:

Sentences for different offenses (crimes) that run together or are served at the same time.

Consecutive Sentence:

Sentences that are successive and are served one after another.

Corroborating Evidence:

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

Criminal Summons:

An order commanding an accused to appear in court.

Cross-Examination:

The questioning of a witness produced by the other side.

Custody:

Detaining of a person by lawful process or authority to assure his or her appearance to any hearing; the jailing or imprisonment of a person convicted of a crime.

Declaration under Penalty of Perjury :

A signed statement, sworn to be true by the signer, that will make the signer guilty of the crime of perjury if the statement is shown to be materially false — meaning, the lie is relevant and significant to the case.

Deferred Sentence:

Postponement or delay of a sentence to a future date.

Disclosure:

The making known of a fact that had previously been hidden.

Discovery:

The pre-trial devices that can be used by one party to obtain facts and information about the case from the other party in order to assist the party's preparation for trial.

Dismissal:

The termination of formal charges.

Due Process of Law:

Procedures followed by law enforcement and courts to ensure the protection of an individual's rights as assigned by the Constitution.

Embezzlement:

The fraudulent appropriation by a person to his own use or benefit of property or money entrusted to him by another.

Exhibit:

A document or other item introduced as evidence during a trial or hearing.

Expunge:

To intentionally destroy, obliterate or strike out records or information in files, computers and other depositories.

Eye Witness:

Person who sees a crime taking place.

False Arrest:

Any unlawful physical restraint of another's personal liberty, whether or not carried out by a peace officer.

False Imprisonment:

Intentionally restraining another person without having the legal right to do so. It's not necessary

that physical force be used; threats or a show of apparent authority are sufficient. False imprisonment is a misdemeanor and a tort (a civil wrong). If the perpetrator confines the victim for a substantial period of time (or moves him a significant distance) in order to commit a felony, the false imprisonment may become a kidnapping.

Finding:

Formal conclusion by a judge or regulatory agency on issues of fact. Also, a conclusion by a jury regarding a fact.

First Appearance:

A first appearance is held in the jail within 24 hours of your arrest. You will attend this hearing if you have not already been released from jail on bond or your own recognizance. A judge will inform you of the charges against you, review the charging affidavit to determine if the minimal probable cause has been demonstrated to support your detention, discuss the hiring or appointment of an attorney, and should consider your release on bond or your own recognizance.

Felony:

A felony is a serious criminal offense, usually punishable by a prison term or, in some cases, by death. Felonies are considered more severe than misdemeanors. Murder, extortion and kidnapping are some examples of felonies. Felonies are classified as 1st degree, 2nd degree, 3rd degree or capital felonies.

Forensic Studies:

This term refers to methods used to examine firearms, documents, polygraph results, DNA, medical information, accounting and other information, and the use of handwriting experts and other known expert witnesses available to testify to their findings in court.

Grand Jury:

A body of persons with the authority to investigate and accuse, but not to try cases. The grand jury will listen to and review evidence to see if there are sufficient grounds to bring an individual to trial.

Hearing

This is a legal proceeding (not a trial) held before a judge or administrative body. Evidence and arguments are presented in an effort to resolve a disputed factual or legal issue.

Homicide:

The killing of one human being by another human being. The term applies to all such killings, criminal and non-criminal. [Homicide](#) is considered non-criminal in a number of situations, including deaths as the result of war and putting someone to death by the valid sentence of a court. It may be legally justified or excused, as in cases of self-defense or when someone is killed by another person who is attempting to prevent a violent felony. Criminal homicide occurs when a person purposely, knowingly, recklessly or negligently causes the death of another. Murder and manslaughter are both examples of criminal homicide.

House Arrest:

House arrest (home confinement, home detention, electronic monitoring) is when a person is confined by authorities to his or her residence. House arrest is a lenient alternative to prison time or juvenile-detention time.

Hung Jury:

A jury whose members cannot unanimously agree whether the accused is guilty or innocent.

Immunity:

Grant by the court, which assures someone will not face prosecution in return for providing criminal evidence.

Impeach:

To impeach a witness is to introduce evidence intended to contradict testimony or to question his creditability.

Inadmissible:

That which, under the rules of evidence, cannot be admitted or received as evidence.

Incarceration:

Incarceration is when a person is confined to a jail or prison.

Indictment:

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

Interrogation:

Questioning, usually by the police of a suspect in custody. The suspect is not obligated to answer the questions, and the fact that he/she has remained silent generally cannot be used by the prosecution to help prove guilt. If the suspect has asked for a lawyer, the police must cease questioning. If they do not, they cannot use the answers against the suspect at trial.

Jail:

Jails are often run by sheriff and/or local governments are designed to hold individuals awaiting trial or serving short sentences (364 days or less).

Judgment / Sentence:

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

Jury Nullification :

The acquitting of a defendant by a jury in disregard of the judge's instruction and contrary to the

jury's findings of fact. Often occurs because the jury is sympathetic towards the defendant or law which the defendant is charged.

Leniency:

Recommendation for a sentence less than the maximum allowed.

Material Evidence:

Evidence which is relevant to the issues in a case.

Misdemeanor:

A crime, less serious than a felony, and punishable by jail time. Misdemeanors are classified as 1st degree and 2nd degree misdemeanors and are handled in County Court. Petty theft, first-time drunk driving and leaving the scene of an accident are some examples of misdemeanor crimes.

Mistrial:

A trial which is invalid because of some fundamental errors in procedure, wrongdoing or a hung jury. A judge can set the case for a new trial or retrial at a future date.

Motion:

An application made to a court or judge which requests a ruling or order in favor of the applicant.

No Contest:

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

Nolle Prose / Nolle Prosequi:

When an indictment, information, or other charging document, if filed or issued in the case, is dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction, and that none of the charges related to the arrest or alleged criminal activity to which the petition to expunge pertains resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt.

Notice of Appearance:

Should you retain an attorney, he will file a Notice of Appearance with the court on your behalf. This document informs the judge, the prosecutor and the clerk's office that your attorney represents you.

No Probable Cause:

Insufficient grounds to hold the person who was arrested.

Objection:

The process by which one party takes exception to some statement or procedure. An objection is either sustained (allowed) or overruled by the judge.

Own Recognizance (OR) / Personal Recognizance:

In some cases (less serious crimes) this allows the defendant to get out of jail, without paying bail, by promising to appear in court when next required to be there. Only those with strong ties to the community (steady job, local family, and no history of failing to appear in court) are candidates for "OR" release.

Parole:

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

Plea:

The first pleading by a criminal defendant, the defendant's declaration in open court that he or she is guilty or not guilty. The defendant's answer to the charges made in the indictment or information.

Plea Bargain / Negotiations:

A negotiation between the defense and prosecution for a fair disposition of the case and must be approved by the court.

Prison:

Prisons are operated by state governments and the Federal Bureau of Prisons and are designed to hold individuals convicted of crimes.

Probation:

An alternative to imprisonment allowing a person found guilty of an offense to stay in the community, usually under conditions and under the supervision of a probation officer. A violation of probation can lead to its revocation and to imprisonment.

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 prosecute.

Public Defender:

A court appointed attorney for those defendants declared indigent (unable to hire private counsel).

Rules of Evidence:

Standards governing whether evidence in a civil or criminal case is admissible.

Search Warrant :

An order signed by a judge for probable cause that directs owners of private property to allow the police to enter and search for items named in the warrant. In limited situations the police may search without a warrant, but they cannot use what they find at trial if the defense can show that there was no probable cause for the search.

Sentence:

The punishment ordered by a court for a defendant convicted of a crime.

Standard of Proof:

Indicates the degree to which the point must be proven. In a civil case, the burden of proof rests with the plaintiff, who must establish his or her case by such standards of proof as a “preponderance of evidence” or “clear and convincing evidence.”

Subpoena:

A command to a witness to appear and give testimony.

Suppress:

To forbid the use of evidence at a trial because it is improper or was improperly obtained.

Trial:

A trial is where a judge presides over the courtroom proceedings and decides the questions of the law, and a six-person jury or a twelve-person jury of your peers (depending on case type) will hear the evidence presented and must unanimously determine whether you are guilty or not guilty of the crime(s) charged.

Testimony:

The evidence given by a witness under oath. It does not include evidence from documents and other physical evidence.

Trafficking:

Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of illegal drugs (ex, cannabis, cocaine, heroine, methamphetamine, etc.).

Voir Dire:

The process by which judges and lawyers select a petit jury from among those eligible to serve, by questioning them to determine knowledge of the facts of the case and a willingness to decide the case only on the evidence presented in court.

Witness:

One who personally sees or perceives a thing; one who testifies as to what he has seen, heard, or otherwise observed.

Writ:

A judicial order directing a person to do something.