

Courtroom Terminology

A

Accused: formally charged but not yet tried for committing a crime; the person who has been charged may also be called the defendant.

Acquittal: a judgment of court, based on the decision of either a jury or a judge, that a person accused is not guilty of the crime for which he has been tried.

ADA: Assistant district attorney. An assistant district attorney works for the elected District Attorney. An ADA will review and prosecute cases as assigned. ADA's meet with law enforcement, witnesses, and victims. They generally have authority to dispose of those cases assigned to them.

Adjournment: putting off or postponing business or a session of court until another time or place.

Adjudication: the judicial decision that ends a criminal proceeding by a judgment of acquittal, conviction, or dismissal of the case.

Affidavit: a written statement that the writer swears is true.

Aggravating factors: factors that make a crime worse than most similar crimes. Aggravating factors are often defined by law and include such things as: victim very old, gang related, done for hire, especially cruel, defendant does not support his family, or took advantage of a position of trust.

Aggravated range: When a person is sentenced, this indicates a sentence that is more severe than the "presumed" sentence for a given crime. A defendant may receive more time if the judge finds aggravating factors. If no aggravating factors are found, the sentence will come from either the "presumptive" or "mitigated" range.

Alleged: said to be true, but not yet proven to be true; until the trial is over, the crime may be called the "alleged crime."

Appeal: a request by either the defense or the prosecution that a higher court review the results of a decision on certain motions or in a completed trial. This can be an appeal from superior court to an appeals court, or an appeal from district court to superior court for a trial.

Arraignment: to bring a prisoner before a judge to ask how he pleads to the charges against him.

Arrest warrant: A written order issued by the District court or magistrate including a statement of the crime of which the person to be arrested is accused, and directing that the person be arrested and held to answer the accusation before a magistrate or other judge.

Assailant: person identified as the attacker.

B

Bail: an amount of money set by the court that allows a person charged with a crime to be released from custody. The purpose of bail is to insure that the offender will return to court.

Bailiff: a uniformed officer who keeps order in the courtroom.

Bench: how the judge is sometimes referred to as in “the bench;” also where the judge sits during the proceedings.

Bench warrant: an order issued by a judge to bring to court an accused person who has been released before trial and does not return to court when ordered to do so; or a witness who has failed to appear when ordered to do so.

Beyond a reasonable doubt: the degree of proof needed for a jury or judge to convict an accused person of a crime.

Bond: in criminal court, a term meaning the same thing as “bail;” generally a certificate or evidence of a debt.

Bond Forfeiture: a hearing to determine if the bond on a defendant is to be forfeited after a defendant fails to show for court. Forfeited bond money goes to the public schools.

Bondsman: (also Bail Bondsman) a licensed person or person working for a licensed company, who will post bond for a defendant upon payment of a fee. The fee is generally fifteen per cent (15%) of the bond.

Booking: an official police record of the arrest of a person accused of committing a crime which identifies the accused, the time and place of arrest, the arresting authority, and the reason for the arrest.

C

Calendar: a document listing cases for hearing before a court. Calendars may be for district court, superior court, motions, forfeitures, criminal docket management, plea, or trials.

Capital Case: This is a first-degree murder case in which the jury can impose either a life sentence or the death penalty. If a person is guilty of first-degree murder and there are any statutory aggravating factors then the State has to seek the death penalty.

Charge: the formal accusation filed by the prosecutor’s office that a specific person has committed a specific crime; the filing may be called “pressing charges.”

Clerk of Court: an officer of a court of justice who has charge of the clerical part of its business-- who keeps its records and seal, issues process, enters judgments and orders, gives certified copies from the records, etc.

Commitment: the warrant or order by which a court or magistrate directs an officer to take a person to prison.

Complaint: a term in civil cases that signifies a filing of a suit. In criminal court, the complaint is the reporting of a crime to authorities.

Concurrent sentence: running together; when two or more sentences are served at the same time. Opposite of consecutive sentence.

Consecutive sentence: successive; succeeding one another in regular order; one sentence beginning at the completion of another.

Continuance: postponement of a court hearing; putting it off until another day.

Criminal Court: a court that hears cases concerned with the alleged violation of criminal law.

Criminal Docket Management: A system used to review cases that have been taken to criminal superior court. Generally, an ADA meets with defense attorneys and reviews the strengths and weaknesses of a case. If no plea is worked out during CDM, cases are set for trial during CDM.

Criminal Justice System: the government agencies charged with law enforcement, prosecution of alleged violations of the criminal law, the court hearing of charges against the accused, and the punishment and supervision of those convicted.

Criminal Law: the law whose violation is considered an offense against the state and is punishable upon conviction by imprisonment and other penalties for adult offenders and by action of a juvenile court for juvenile offenders.

Cross Examination: the examination of a witness by the party opposed to the one who produced him during a trial or hearing, or upon taking a deposition.

CRS: Initials showing a case is in superior criminal court. CR is the designation for a case still in district court.

D

DA: Commonly refers to an attorney for the community elected by the people in his district to represent the interests of the general public, including crime victims, in court proceedings against people accused of committing crimes. Other jurisdictions use other terms: prosecutor, such as U.S. Attorney (a federal prosecutor), solicitor, or state's attorney.

Defendant: a person who has been formally charged with committing a crime; the person accused of a crime.

Defense Attorney: the lawyer who represents the defendant in legal proceedings. Victims are usually not required to speak with defense attorneys except in court, but may do so if they choose.

Deferred prosecution: Prosecution that the DA postpones for a certain period of time. The North Carolina Legislature has authorized District Attorneys to place defendants who commit offenses up to class H felonies on supervised probation with the agreement that the charges will be dismissed if probation is successfully completed. Defendants placed on deferred prosecution cannot have been on probation before. They are subject to all the regular conditions of probation such as paying restitution and community service. If the time elapses with no problems, the D A will dismiss the case.

Deferred sentence: defendant enters a guilty plea, receives probation for a certain amount of time, and gives up the right to trial. The DA dismisses the case if the probation is completed successfully.

Direct examination: the first interrogation or examination of a witness during trial by the party on whose behalf he is called.

Discovery: Process by which the DA provides to a Defense Attorney information gathered during the investigation of a felony; the ascertainment of that which was previously unknown.

Dismissal: a decision by the prosecutor or other judicial officer to end a case for legal or other reasons.

Disposition: the final judicial decision which ends a criminal proceeding by a judgment of acquittal or dismissal, or which states the sentence if the accused is convicted.

District Attorney: Commonly refers to an official elected by the people of the community in his/her district to represent the interests of the general public, including crime victims, in court proceedings against people accused of committing crimes. Some jurisdictions use other terms: such as prosecutor, U.S. Attorney (a federal prosecutor), solicitor, or state's attorney.

District Attorney's Report: A report that is prepared by law enforcement in felony cases to inform the District Attorney what the facts are in a case. This is also known as a "felony report."

District court: where misdemeanor cases are heard concerning the violation of state statutes.

Double jeopardy: putting a person on trial more than once for the same offense; double jeopardy is forbidden by the U.S. Constitution.

E

Electronic House Arrest: Defendants are placed on supervised probation and monitored electronically twenty-four hours a day. Defendants on this program must remain in their homes when not at their employment or receiving treatment. A response team responds to violations twenty-four hours a day.

Endorsement of witnesses: all prosecution witnesses must be named.

Enhanced Intensive Probation: Intensive probation with the added requirement of electronic monitoring of the defendant similar to that used in electronic house arrest.

Exculpatory: clearing or tending to clear from alleged fault or guilt.

Ex parte: on one side only, done for one party.

Expert witness: Woman/man of a science educated in the art, or persons possessing special or peculiar knowledge acquired from practical experience.

Extradition: the surrender by one state to another of an individual accused or convicted of an offense outside its own territory and within the territorial jurisdiction of the other.

Evidence: testimony and objects used to prove statements made by the victim and the accused.

Exceptional Case: a case designated during Criminal Docket Management process as one so complicated as to fall outside the time guidelines of the general CDM rules.

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F

Failure to appear (FTA): defendant does not appear for court, order for arrest is issued.

Felony: a crime of graver or more atrocious nature than those designated as misdemeanors, carrying more potential jail time for an offender.

Felony diversion: DA does not file charges if certain conditions are met.

First Setting: The initial hearing for a case in the Criminal Docket Management process.

Final Setting: The final hearing for a case in the Criminal Docket Management process. Cases not disposed of during this setting are set for trial.

Fugitive: one who flees or escapes from some duty or penalty.

G

Grand Jury: a grand jury is composed of eighteen citizens who meet in felony cases to determine whether a crime occurred and whether the defendant can be held accountable for the crime. If twelve of the eighteen jurors, agree then they return a true bill of indictment. The office of the District Attorney prepares indictments.

H

Hung jury: a jury whose members cannot agree whether the accused is guilty or not; mistrial.

I

Impeach: to discredit the truthfulness of a witness.

Indictment: a formal written accusation, made by a grand jury after submission by the prosecutor and filed in a court, alleging that a specific person committed a specific crime. The office of the District Attorney prepares indictments.

Indigent: an accused person who has been found by the court to be too poor to pay for his/her own attorney.

Infraction: minor violations of the law that do not rise to the level of misdemeanor. Driving offense make up the bulk of charges designated as infractions.

Innocent: free from guilt; free from legal fault. This should not be confused with the term "not guilty." Not guilty is a verdict by a judge or a jury that a person accused of a crime did not commit it or that there is not enough evidence to prove beyond a reasonable doubt that the accused committed the crime.

Intensive Probation: Defendants are on supervised probation, have curfews, and see probation officer at least once a week.

Investigation: the gathering of evidence by law-enforcement officials (and in some cases prosecutors) for presentation to a grand jury or in a court, to prove that the accused did commit the crime.

J

Jail: a confinement facility. Technically, a jail is administered by a local law-enforcement agency for adults and sometimes juveniles who have been accused of committing a crime but whose trials are not yet over, and persons who have been convicted and sentenced to imprisonment for one year or less; (see prison).

Judge: a judicial officer who has been elected or appointed to preside over a court of law.

Judgment: a court's final determination of the rights and obligations of the parties in a case. This may be in answer to a motion or trial.

Jury: a group of citizens who decide whether the accused is guilty or not. They are selected by law and sworn to determine certain facts by listening to testimony in order to reach a decision as to guilt or innocence.

Jury selection: the process by which the judge, the prosecutor, and the defense attorney screen citizens who have been called to jury duty to determine if they will hear the evidence and decide guilt or innocence in a particular trial.

Juvenile: a person accused of an offense who is too young at the time of the alleged offense to be subject to criminal court proceedings as an adult and is therefore handled in the juvenile justice system.

M

Magistrate: person who can issue warrants when a person is accused of a crime. They are clothed with power as a public civil officer and have additional duties such as setting bond, hearing small claims, and accepting payment for certain infractions and misdemeanors.

Misdemeanor: offenses lower than felonies and generally those punishable by fine or imprisonment otherwise than in penitentiary. These crimes are generally punishable by no more than 150 days in jail.

Mitigating Factor: a factor that makes a crime less deserving of punishment than most similar crimes. Mitigating factors are often defined by law and include such things as: defendant was very young; the person was honorably discharged from the armed forces, etc. A comprehensive list can be found in North Carolina General Statute 15A-131340.16(e).

N

Not guilty: a verdict by a judge or a jury that a person accused of a crime did not commit it or that there is not enough evidence to prove beyond a reasonable doubt that the accused committed the crime.

Not guilty plea: a formal response by a person accused of committing a specific crime in which the accused says that the charges are not true and he did not commit the crime.

Notice: a written order to appear in court at a certain time and place.

O

Offender: an adult who has been convicted of a crime.

Offense: a crime; technically, in some jurisdictions, only the most minor crimes are called offenses.

Opening statement: an outline of anticipated proof. Its purpose is to advise the jury prior to testimony of the facts relied upon and of issues involved; and to give the jury a general picture of the facts and the situations so that the jury will be able to understand the evidence.

Order of Arrest: an order for the arrest of a defendant following the filing of charges or failure to appear when required by the court.

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P

Parole: the conditional release of a convicted offender from a confinement facility before the end of his sentence with requirements for the offender's behavior set and supervised by a parole agency.

Penitentiary: a state or federal prison.

Perjury: deliberate false testimony under oath involving a material fact.

Perpetrator: a person who actually commits a crime.

Personal recognizance: the promise of an accused person to the court that he will return to court when ordered to do so; given in exchange for release before and during his trial.

Petition: a document filed in juvenile court alleging that a juvenile should come under the jurisdiction of the juvenile court for some offense or asking that the juvenile be transferred to criminal court for prosecution as an adult.

Plea: a defendant's formal answer in court to the charge that he has committed a crime. Some possible pleas include: guilty, not guilty, no contest, or not guilty by reason of insanity.

Plea bargain (agreement): a plea agreed to by a defendant and the prosecutor; a negotiated plea that may set out exact terms relating to punishment and disposition of a case.

Pre-sentence investigation (PSI): report compiled by the Probation Department after plea and before sentencing to make sentencing recommendations to the judge.

Probation: conditional freedom granted to an offender by the court after conviction or guilty plea with requirements for the offender's behavior set and supervised by the court.

Probation hearing: a hearing before a judge to review the performance of a defendant while on probation. Hearings are not generally held unless a probationer has violated some term of their probationary sentence.

Prosecutor: an attorney for the community elected by the voters of a district to represent the interests of the general public, including crime victims, in court proceedings against people accused of committing crimes. Some jurisdictions use other terms for the prosecutor, such as U.S. Attorney (a federal prosecutor), district attorney, or state's attorney.

Public defender: an attorney employed by a government agency to represent defendants who are unable to hire private counsel.

R

Remand: to send back to a lower court. Typically refers to a situation where a Defendant in Superior Court asks to return a misdemeanor conviction to District Court for compliance with the judgment of that court.

Restitution: State law allows the prosecutor to request restitution (repayment for the victim's losses) as part of the sentence of any defendant who is found guilty of a crime. Reimbursable losses include out-of-pocket expenses (such as repair costs, medical bills, and stolen property) which have not previously been covered.

Retainer: the fee a defendant pays for an attorney to represent him.

Rights of the defendant: the powers and privileges which are constitutionally guaranteed to any person arrested and accused of committing a crime including: the right to remain silent; the right to an attorney at all stages of the proceedings; the right to a court-appointed attorney if the defendant does not have the financial means to hire her/his own counsel; the right to release on reasonable bail; the right to a speedy public trial before a jury or judge; the right to the process of the court to subpoena and produce witnesses; the right to see, hear and question the witnesses during the trial; and the right not to incriminate himself/herself.

Rule 24 hearing: a hearing before a judge in first degree murder cases. The purpose is to determine whether the State will be seeking the death penalty in the case.

S

SAVAN: The Statewide Automated Victim Assistance & Notification system. SAVAN is a free, anonymous, computer-based telephone program that provides victims of crime two important services: court information and information from the jail and the department of correction about defendants being held in custody. Victims should contact the DA's office for information on this important service.

Search warrant: an order in writing, issued by a judge or magistrate, in the name of the state, directed to a sheriff, or other officer, commanding him to search a specific house, shop, or other premises, for specific property related to a crime.

Second Setting: the second court hearing during the Criminal Docket Management process.

Statute: an act of the legislature declaring, commanding, or prohibiting something. A law.

Subpoena: a court paper requesting the appearance of a witness or documents to be present at a court proceeding.

Summons: a citation requiring a defendant to appear in court to answer a suit to which has been brought against him.

Superior court: where most felony cases are heard concerning violation of state statutes.

Supreme Court: a court of higher powers and extensive jurisdiction; our state has supreme court and the United States has a Supreme Court.

Suspect: a person who is believed by criminal justice officials to be one who may have committed a specific crime, but who has not been arrested or formally charged. Once arrested a suspect is called a defendant.

T

Testimony: statements made in court by people who have sworn or affirmed to tell the truth.

Transcript: In court it is a verbatim writing of what was said in court during a trial, or a paper writing setting out terms of a plea taken from a defendant. Also a copy of an original writing or deed.

Trial: an examination of issues of fact and law before a judge and sometimes a jury at which evidence is presented to determine whether or not the accused person is guilty of committing a specific crime.

Traffic Court: an administrative court that hears only traffic matters, usually uncontested.

U

U.S. Attorney: a federal prosecutor.

V

Venue: a neighborhood, place, or county in which an injury or crime was done; or where a hearing/trial is held.

Verdict: the decision of a judge or jury at the end of a trial that the accused defendant is either guilty or not guilty.

Victim Compensation Program: a program of the state designed to provide compensation to victims of certain crimes for their damages and expenses. Initial application for funds is generally made through the office of the District Attorney through the use victim impact statements.

Victim Impact Statement: a form provided to allow victims of crime to provide the court with their comments about the impact the crime had on them.

Victim Witness Assistant: Employees of the District Attorney's Office that are assigned to provide information and assistance to the victims of crime. They act as liaison between the victim and the Assistant District Attorney assigned to a case.

W

Waiver: the intentional or voluntary relinquishment of a known right.

Warrant: see arrest warrant and bench warrant.

Watson Hearing: a procedure in death penalty cases where the defense attempts to require the state specific what aggravating factors it will use in seeking a death sentence.

Witness: a person who has directly seen an event, such as a crime or who has other knowledge that is related to a court case; or some thing, such as a piece of physical evidence.

Writ of execution: a writ to put in force the judgment of decree of a court.

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