

## Common Legal and Criminal Justice Terms

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**Accomplice:** a person who knowingly and voluntarily aids, assists, cooperates or is an accessory with the principal offender in the commission of a crime.

**Acquittal:** the legal and formal determination that the evidence is not sufficient to prove that a person who has been charged with a crime actually committed it.

**Adjudication:** the determination or decision made by the court, usually resulting in a judgment of acquittal or a judgment of conviction.

**Admission to Sufficient Facts:** an acknowledgment on the part of the accused admitting that there is sufficient evidence to warrant a finding of guilty.

**Appeal:** a request to a higher court to review the decision of a lower court.

**Arraignment:** the initial court appearance of the accused which is held for the purpose of reading the complaint or indictment against the accused, having the accused enter a plea to the charges, and setting bail and other release conditions.

**Arrest:** the apprehension or detention of an individual by legal authority for the purpose of charging him or her with a specific offense.

**Assistant District Attorney:** a lawyer for the Commonwealth who represents the interests of the general public (also known as the *prosecutor* or *ADA*).

**Attorney-Client Privilege:** a professional relationship between an attorney and a client which prevents the attorney from disclosing the content of communications with his or her client without the client's consent.

**Bail:** an amount of money or property sometimes required by a judge to be paid to the court by the defendant to insure future attendance in court.

**Bench Trial:** a trial held before a judge without a jury.

**Boston Municipal Court (BMC):** the part of the Massachusetts Trial Court which has jurisdiction over certain cases originating within the downtown Boston area.

**Burden of Proof:** a legal standard which establishes the amount of evidence that must be met for proving a case. The burden of proof in criminal trials requires prosecutors to prove beyond a reasonable doubt that a defendant is guilty of the alleged crime. The burden of proof in civil trials requires plaintiffs to prove their case by a preponderance of the evidence, which means that it is more likely than not that the facts alleged by the plaintiff occurred.

**Case Law:** the area of law where legal precedent has been created by earlier published court decisions. This law is distinct from the Constitution, state and federal statutes or administrative regulations but often interprets them.

**Cause of Action:** the legal basis for a civil lawsuit brought by one party against another, such as the victim against the offender.

**Change of Venue:** the transfer of a case from one court to another having the same authority but in a different geographic location.

**Civil Action:** a lawsuit to enforce private rights, to obtain compensation for a violation of those rights, or to recover monetary damages. A civil action is brought directly by the person who is complaining, usually with the help of a private attorney. Civil actions are all types of actions which are not criminal proceedings.

**Co-defendant:** one of two or more persons charged in the lawsuit or tried in the same criminal proceedings.

**Commutation:** an act of the Governor, with the assent of the Governor's Council, changing of a sentence imposed for a crime to a less severe punishment after a formal request from the offender.

**Competency:** proof that a defendant has sufficient mental capacity to stand trial and to assist defense counsel in the defense of the charges.

**Complaint:** a formal written document submitted to the court to formally initiate a civil or criminal proceeding.

**Concurrent Sentence:** a criminal penalty consisting of two or more sentence of any type which are to be served simultaneously.

**Consecutive Sentence:** a criminal penalty consisting of two sentences which are to be served in sequence, with one to begin when the other has been completed.

**Contempt of Court:** the willful failure to obey a court order or the showing of disrespect or unacceptable behavior in the presence of the court.

**Continuance:** a postponement of a scheduled court event until a future date.

**Continued Without a Finding (CWOFF):** a procedure by which, after accepting an admission of sufficient facts from a defendant, or finding after trial that there are sufficient facts to support a finding of guilty, the court does not enter a guilty finding, but rather continues the case for a period of time. At the end of that time, if the defendant has not further violated the law and has met the conditions of the continuance, the charge is dismissed.

**Conviction:** the result of a criminal trial which ends in a verdict or finding that the defendant is guilty.

**CORI:** Criminal Offender Record Information.

**CORI Certification:** a process by which a victim of crime or other citizen becomes eligible to receive certain information about a convicted offender.

**Court Order:** the decision of a judge on any motion or request by which a particular outcome is granted.

**Court Record:** the official record of court decisions in a particular case.

**Cross-Examination:** a part of a trial when questions are asked of a witness by the opposing counsel, following the direct examination, usually in the form of leading questions.

**Defendant:** a person who is formally charged with committing a crime or, in a civil case, a person against whom an action is filed for monetary damages or to enforce other rights.

**Defense Attorney:** the attorney representing the defendant in criminal or civil proceedings.

**Depositions:** pre-trial proceedings in which attorneys for parties in a civil case have the opportunity to question, under oath, the opposing parties and potential witnesses in the case.

**Direct Examination:** a part of a trial when questions are asked to a witness by the attorney who called that witness to testify.

**Dismissal:** the formal decision to terminate a court action.

**Dismissal with Prejudice:** a judge's decision to terminate the prosecution of a pending charge in a case after which the same criminal charge cannot be brought against the defendant again at a later date.

**Dismissal without Prejudice:** a judge's decision to terminate the prosecution of a pending charge in a case but which does not prevent the prosecution from bringing the same criminal charge against the defendant in the future.

**Discovery:** the pre-trial process by which both parties seek and obtain the disclosure of facts and evidence about the case from the other.

**Disposition:** the outcome of a criminal case, usually referring to the sentence imposed.

**District Attorney:** an elected public official in each county who prosecutes crimes on behalf of the Commonwealth.

**District Court Department:** the part of the Massachusetts Trial Court which has jurisdiction over all misdemeanor criminal offenses and certain felony criminal offenses, except for parts of Boston over which the Boston Municipal Court has jurisdiction.

**Docket:** the calendar of court cases awaiting action on a particular day; also refers to the books in which all official court action on a case is recorded.

**Double Jeopardy:** the constitutional prohibition against a person being tried twice for the same offense.

**Due Process:** the constitutional guarantee that legal proceedings will be carried out according to basic rules of fairness established for the protection of an individual's rights.

**Earned Credits:** a specified period of time which is earned by incarcerated offenders by successfully participating in rehabilitative programs operated by correctional facilities, and is applied as a reduction in the offender's sentence.

**Evidence:** any type of admissible information presented before a court that relates to or establishes a point in question, the use of which is dictated by the laws and rules of evidence.

**Exhibits:** any document or other physical item offered and admitted in evidence at trial.

**Expert Witness:** a specialist in a particular subject matter whose training and expertise is sought at trial to provide information and opinions on a contested issue and who is approved as

an expert witness by the judge.

**Finding:** the formal decision made by a judge upon completion of the trial.

**Felony:** a criminal offense deemed to be of a more serious nature and punishable by stiffer penalties, including a sentence to state prison.

**Furlough:** the temporary release of an inmate from a correctional institution for a brief period. Inmates convicted of first degree murder are not eligible for furlough releases.

**Gag Order:** a slang term for a court ruling limiting the information that can be revealed about a criminal or civil case.

**Grand Jury:** a group of 23 citizens whose duty is to receive complaints and hear evidence in criminal cases as presented by the prosecutor and decide whether that evidence is sufficient to charge an individual with a crime by issuing an indictment.

**Hearing:** a court proceeding in which evidence and arguments on a particular legal issue are presented to a judge.

**Hostile Witness:** a witness who is antagonistic and adverse to the party who called the person to testify and, therefore, may be questioned by the use of leading questions.

**House of Correction:** a county correctional facility.

**Hung Jury:** a jury whose members cannot agree unanimously as to whether the defendant should be found guilty or not guilty. The case may be retried at a later date with a new jury.

**Incident Report:** a police officer's written report of a police response to a reported crime.

**Indictment:** a formal written statement issued by a grand jury concluding that there is sufficient evidence to charge a specific person with committing a crime.

**Injunction:** a court order directing one or more persons to refrain from doing specified acts.

**Insanity Defense:** a criminal defense which is based on the theory that a defendant suffered such a degree of mental impairment to render him or her unable to understand the nature and consequences of his or her criminal actions.

**Judge:** a public official appointed to preside over legal proceedings and decide questions of

law brought before the court. The judge may also be the trier of fact in a jury-waived trial.

**Judgment:** the final decision of the court in a given case resolving legal questions.

**Jurisdiction:** the subject matter and geographical range of a court's authority to hear a particular issue.

**Jury:** a panel consisting of a statutorily defined number of citizens selected according to law and sworn to hear evidence and decide matters of fact in a criminal or civil action and to render a verdict in such action.

**Juvenile Court Department:** the part of the Massachusetts Trial Court which has jurisdiction over cases of delinquency, children in need of services (CHINS) and Care and Protection petitions.

**Juvenile Delinquent:** an individual under the age of 17 who has been found to have violated a criminal law.

**Leading Question:** a question asked by an attorney of a witness which offers information and requires a yes or no answer. Leading questions are permitted only by opposing counsel during cross examination, or of a witness who has been declared a hostile witness during a direct examination.

**Mandatory Sentence:** a type of sentence which by statute requires that a fixed penalty shall be imposed upon conviction for certain crimes and does not allow a judge discretion in sentencing.

**Mediation:** a process by which a trained facilitator assists the conflicting parties in reaching a settlement.

**Misdemeanor:** a criminal offense less serious than a felony which may be punished by a house of correction sentence or a fine, but not by imprisonment in state prison.

**Mistrial:** a trial which is terminated by a judge prior to its normal conclusion because of circumstances which the judge has concluded prevent fair proceedings, or a trial ending in a hung jury.

**Mitigating Circumstances:** factors related to the commission of an offense or the offender which do not excuse a criminal act but which may reduce the severity of the sentence for that act.

**Motion:** an application to the court requesting that an order be issued to bring about a specific action.

**No Contest/Nolo Contendere:** a defendant's formal response in court in which it is stated that the charges are not contested and which, while not an admission of guilt, subjects the defendant to the same sentencing consequences as a plea of guilty.

**Nolle Prosequi:** the termination of court action by the prosecutor's decision not to pursue the case.

**Objection:** opposition by either of the parties to some proceeding or evidence in the course of a case on the grounds that what is objected to is illegal or improper. Objections are used to call the court's attention to improper evidence or procedure. Objections are usually in open court so that they will appear on the record if there is an appeal.

**Overruled:** the judge's denial of any motion or objection raised to the judge. If an objection is overruled, the judge allows the question to be answered and the evidence or conduct objected to is admitted for the jury's or judge's consideration.

**Pardon:** an act of the Governor releasing a prisoner from serving the remainder of a sentence.

**Parole:** the conditional release of an offender from a house of correction or prison prior to completing the sentence imposed, under the supervision of a parole officer, which is granted at the discretion of the Parole Board and subject to its own rules and certain state statutes.

**Parole Board:** the state agency authorized to determine whether and under what conditions an eligible offender should be released on parole to serve the remainder of his or her sentence in the community. The Parole Board also makes recommendations to the Governor on the merits of petitions for pardons and commutations, supervises all those released on parole, and revokes parole permits for violations of parole conditions.

**Parole Officer:** an employee of the Parole Board whose responsibility it is to supervise offenders throughout their parole period.

**Peremptory Challenge:** removal of a prospective juror without stating a reason. The number of such challenges permitted to the prosecution and the defense is limited, and challenges are not allowed if they are part of an effort to exclude based on race.

**Personal Recognizance:** the release of an arrested person based on a personal promise that

such person will return to court for subsequent criminal proceedings.

**Plea Agreement:** an admission in court by the defendant to some or all of the charges, based on an agreement that the prosecutor will make a certain sentence recommendation . If the defendant enters a guilty plea, there is no need for a trial.

**Presentence Report:** a report completed by the probation officer and submitted to the judge before the sentencing of a defendant. The report is based on an investigation by the probation officer into the defendant's background, the circumstances of the crime and information supplied by the victim.

**Presumption of Innocence:** a fundamental principle of law which assumes that the defendant is innocent of the offense charged, and requires that the prosecution prove the guilt of the defendant beyond a reasonable doubt.

**Pretrial Conference:** a meeting, before trial, between the prosecutor and the defense attorney. During this meeting the attorneys may discuss the merits of the case, exchange discovery information, and possibly work out a plea agreement.

**Privileged Communications:** statements made by persons with a certain relationship to each other, such as husband/wife, priest/penitent, attorney/client and doctor/patient, which by law either do not have to be disclosed, or may not be disclosed.

**Probable Cause:** a set of facts or circumstances which would indicate to a reasonable person that an offense was committed by a particular individual.

**Probable Cause Hearing:** a court proceeding held in a court before a judge to determine whether there is sufficient evidence for holding the defendant without an arrest warrant or for sending the criminal case against the defendant from District Court to Superior Court.

**Probation:** a sentence whereby conditional freedom is granted by a judge to a convicted offender. The offender is required to abide by established conditions or face a period of imprisonment.

**Probation Department:** a court agency whose primary functions include the investigation and supervision of individuals placed on probation by the court and the preparation of presentence reports to assist judges in determining the appropriate penalty.

**Probation Officer:** an employee of the probation department whose main responsibility is the supervision of a convicted offender who is not incarcerated.



**Prosecutor:** an attorney employed by a government agency whose primary responsibility is to conduct criminal proceedings against individuals accused of committing criminal offenses.

**Public Defender:** an attorney employed by a government agency to represent persons accused of a crime who are unable to pay the costs of hiring an attorney.

**Release On Recognizance:** a pre-trial release in which the defendant signs a promise to appear in court whenever notified to do so, but does not pledge anything of value to be forfeited upon non-appearance on a court date; same as personal recognizance.

**Restitution:** a condition of a sentence imposed by a court which requires the offender to pay for crime-related financial losses incurred by the victim because of the offender's crime such as repair or replacement costs for damaged or stolen property.

**Sentencing Guidelines:** an instrument developed to indicate to judges a narrow range of appropriate sentences for a particular offense.

**Sequester:** to set witnesses apart from the court proceedings so that they do not hear the testimony of other witnesses.

**Statute of Limitations:** a law which sets forth the period of time within which a civil action or criminal prosecution must be started after the date of the crime or wrongful act.

**Subpoena:** a court-issued written command to appear at a certain time to give testimony about a crime or other matter.

**Superior Court Department:** the part of the Massachusetts Trial Court which has jurisdiction over all crimes and generally exercises jurisdiction over the most serious felony matters (those carrying potential sentences of ten years or more in state prison).

**Sustain:** a judge's acceptance of any objection. If an objection is sustained, the evidence or conduct objected to will not be admitted for the jury's or judge's consideration.

**Testimony:** statements given under oath by witnesses as evidence in court.

**Time Served:** a period of time spent in confinement during the pendency of a case, prior to conviction and sentence, which is subtracted from the sentence imposed.

**Transfer Hearing:** a court proceeding in which a judge decides whether or not a juvenile between the ages of 14 and 17 should be prosecuted in the adult court system.

**Trial:** a legal proceeding consisting of an examination in a court of the issues of fact and law in a case, for the purpose of reaching a judgment of conviction or acquittal of the defendant in a criminal case or the liability and damages caused by a defendant in a civil case.

**Venue:** a place from which a jury is drawn and in which a trial is held.

**Verdict:** the formal decision made by a jury upon completion of the trial.

**Victim:** one who has suffered as the result of the commission of a crime or some other wrong.

**Victim Impact Statement:** a written or oral statement made by the victim to the court at sentencing describing the physical, emotional and financial effects of the crime and recommending a sentence to be imposed on the offender.

**Victim Witness Advocate:** an individual employed by the prosecutor's office or other criminal justice agency to inform crime victims of their rights and available services and to assist them through the criminal justice system.

**Voir Dire:** a process of examining prospective jurors by prosecutors and defense attorneys through which persons who might be biased or incapable of rendering a fair verdict may be screened out of the jury pool.

**Warrant:** an order issued by a court which directs a law enforcement officer to arrest a person, search a location, seize an object, or do some other specified act.

**Witness:** someone who has personal knowledge of relevant circumstances of a case and who testifies under oath as to what has been seen, heard, or otherwise observed by that person.

**Witness Fee:** a token fee provided to victims and other witnesses to cover travel expenses for each day they are required to come to court or otherwise participate in a criminal proceeding.