



# A Glossary of Standard Criminal Terminology©

*The following common abbreviations are provided by Derek Hinton, Larry Henry, Esq., and Lester Rosen, Esq.*

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- abstract of record:** a complete history in short, abbreviated form of the case as found in the record.
- acquittal:** a term used in cases where a criminal defendant goes forward to trial, with the jury or judge finding the defendant not guilty of a certain crime or crimes.
- administrative license suspension (ALS):** a law enforcement officer may seize the driver's license of an individual believed to be driving under the influence If the person's test results show an alcohol concentration higher than the legal limit or the presence of drugs or other intoxicating substances. That individual has seven days after receiving the notice of suspension to petition the court to challenge the suspension.
- Alford plea:** a plea entered by a defendant while maintaining his/her innocence in order to gain the benefit of a plea agreement.
- alternative dispute resolution (ADR):** a process by which an independent party is asked to review the issues in dispute between two other parties in hopes of bringing the dispute to a resolution before the court is required to conduct a formal hearing or trial. This process may occur prior to the filing of the civil action or may occur after the case is filed. A judge may choose to refer a case for alternative dispute resolution.
- amicus curiae:** a friend of the court; one who interposes and volunteers information or argument upon some matter of law.
- arraignment:** the defendant is advised of the charge against him or her and the rights he or she has. Bail is set. If the charge is a misdemeanor the defendant enters a plea in the Magistrate's Division. If the charge is a felony, the defendant appears first in the Magistrate's Division, but the defendant cannot enter a plea--the defendant determines whether he or she desires a preliminary hearing. If the defendant is bound over on a felony to answer the charge in district court, the defendant enters a plea in the District Court.
- arrest of judgment:** the act of staying the effect of a judgment already entered.
- arrest warrant:** is a warrant that authorizes law enforcement to arrest an individual.
- attachment:** a remedy by which a plaintiff is enabled to acquire possession of property or effects of a defendant for satisfaction of judgment which a plaintiff may obtain in the future.
- bail bond:** an obligation signed by the accused, with sureties, to secure his presence in court. If the defendant fails to appear, the bondsman has a period of time to deliver the defendant to the court. If this is not done, the bond is forfeited.
- bail bond forfeiture:** the process in which the court requires the surety to pay over the amount of bail
- bail bond exoneration:** a process by which the bond money paid to the court to ensure an individual's appearance in court is returned to that individual, typically when the case is concluded.

**bailiff:** a court attendant whose duties are to keep order in the courtroom and to have custody of the jury.

**banc-(bangk) bench:** the place where a court permanently or regularly sits. A "sitting en banc" is a hearing with all the judges of a court, as distinguished from the sitting of a single judge.

**bench warrant:** process issued by the court itself, or "from the bench," for the attachment or arrest of a person.

**binding instruction:** one in which jury is told if they find certain conditions to be true, they must find for the plaintiff, or defendant, as the case may be.

**burden of proof:** the necessity or duty of affirmatively proving a fact or facts in dispute.

**caption:** the caption of a pleading, or other papers connected with a case in court, is the heading or introductory clause which shows the names of the parties, name of the court, number of the case, etc.

**certiorari-(ser'shi-o-ra'ri):** an original writ commanding judges or officers of inferior courts to certify or to return records of proceedings in a cause for judicial review. Proceedings for a writ of certiorari are not applicable in the Idaho judicial system, except as the United States Supreme Court may grant certiorari on a case decided by the Idaho Supreme Court.

**change of venue:** the removal of a case begun in one county or district to another, typically done for the convenience of the parties, or when the news coverage of the circumstances associated with a case make it difficult to find a jury that can put aside what they have heard about the case and judge it fairly on the evidence presented in court.

**Child Protective Act:** (commonly referred to as CPA) the statutory law dealing with the protection of neglected or abused children.

**common law:** the body of law arising from decisions made by the courts. Also called "case law".

**concurrent sentence:** sentences for more than one crime in which the time of each is to be served at the same time, rather than successively

**consecutive sentence:** a sentence, additional to others, imposed at the same time for another offense, one sentence to begin at the expiration of another.

**contempt of court:** any act calculated to embarrass, hinder, or obstruct a court in the administration of justice, or calculated to lessen its authority or dignity. Contempt is of two kinds: direct and indirect. Direct contempt are those committed in the immediate presence of the court; indirect contempt is the term chiefly used with reference to failure or refusal to obey a lawful order outside the presence of the Court.

**corroborating evidence:** evidence supplementary to that already given and tending to strengthen or confirm it.

**count:** In a criminal action, the distinct allegation in an indictment or information that the defendant committed a crime.

**counterclaim:** a claim presented by a defendant against the plaintiff.

**de novo (de no'vo):** anew, afresh. A "trial de novo" is the retrial of a case.

**declaratory judgment:** one which declares the rights of the parties or expresses the opinion of the court on a question of law, without ordering anything to be done.

**default:** a "default" in an action of law occurs when a party omits to plead within the time allowed or fails to appear at the trial.

**default judgment:** the court may enter judgment against a defendant in a civil case in his/her absence or in the event they have failed to complete the filing of required documents within a specified time.

**deferred adjudication:** a form of plea deal available in various jurisdictions, where a defendant pleads "guilty" or "No Contest" to criminal charges in exchange for meeting certain requirements laid out by the court within an allotted period of time also ordered by the court. Upon completion of the requirements, which may include probation, treatment, community service, or some form of community supervision, the defendant may avoid a formal conviction on their record or have their case dismissed. In some cases, an order of non-disclosure can be obtained, and sometimes a record can be expunged.

**directed verdict:** an instruction by the judge to the jury to return a specific verdict.

**discovery:** a process whereby one party to an action may be informed as to facts known by other parties or witnesses. In Idaho, the usual modes of discovery are depositions, interrogatories, requests for production of documents, and requests for admission.

**dismissal:** the dropping of charges by the district attorney before a jury or judge renders a verdict.

**disposition:** the final outcome in a criminal case.

**District Attorney:** also known as the Prosecutor or DA, is a government attorney responsible for overseeing the prosecution of an accused in a criminal court of law.

**dockets:** in a criminal case refer to the court case calendar or schedule of cases to be heard at a given time.

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

**en banc:** on the bench; all judges of the court sitting together to hear a cause.

**enjoin:** to require a person, by writ of injunction from a court to perform, or to abstain from or stop some act.

**equitable action:** an action which may be brought for the purpose of restraining the threatened infliction of wrongs or injuries, and the prevention of threatened illegal action.

**estoppel (es-top'el):** a person's own act, or acceptance of facts, which preclude that person from later making claims to the contrary.

**et al.:** an abbreviation for et alli, meaning "and others."

**et seq.:** an abbreviation of et sequentes, or et sequentia, meaning "and the following"

**ex parte (ex par'te):** by or for one party; done for, in behalf of, or on the application of, one party only.

**ex post facto (ex post fak'to):** after the fact; an act or fact occurring after some previous act or fact, but which relates back thereto. In criminal law, an ex post facto law is one that imposes or increases punishment for an act that was committed before the law was passed, such a law is forbidden by the U.S. and Idaho Constitutions.

**fugitive warrant:** a judge in one state may issue a warrant for the arrest of an individual being held in custody in another state. The fugitive may then be returned to the state where he is charged through the process of extradition.

**Grand Jury:** In some Felony cases, a Grand Jury consisting of used to establish probable cause to proceed with the criminal case.

**guardian ad litem (ad li'tum):** a person appointed by a court to look after the interests of a child or incompetent whose property or rights are involved in litigation.

**Guilty by plea or verdict:** in criminal law, a defendant admits the conduct before trial, is said to be guilty. Guilt can also be established by means of a jury or court trial.

**habeas corpus (ha'be-as kor' pus):** "you have the body." The name given a variety of writs whose object is to bring a person before a court or judge. In most common usage, it is directed to the official or person detaining another, commanding him to produce the body of the prisoner or person detained so the court may determine if such person has been denied liberty without due process of law.

**harmless error:** in appellate practice, an error committed by a lower court during a trial, but not prejudicial to the rights of the party or the outcome of the case and for which the court will not reverse the judgment.

**hearsay:** evidence of a statement made out of court and offered to prove the truth of the statement, e.g., "I didn't see the accident myself, but my friend told me the light was red." It should be noted that the law on hearsay is one of the more complicated areas of the law of evidence with many qualifications and exceptions.

**hung jury:** in a criminal trial, a hopelessly deadlocked jury in which neither side is able to prevail.

**impeachment of witness:** an attack on the credibility of a witness by the testimony of other witnesses or evidence.

**in camera (in kam'e-ra):** in chambers; in private.

**indeterminate sentence:** an indefinite sentence of "not to exceed" so many years, the exact term to be served being afterwards determined by parole authorities within the maximum limits set by the court or by statute.

**indictment:** an accusation in writing found and presented by a grand jury, charging that a person has committed a crime.

**information:** an accusation for a felony criminal offense which is presented by a prosecuting attorney instead of a grand jury.

**Infraction:** a minor offense that is not criminal in nature but rather is a civil public offense punishable by a fine only. Examples of infractions include: speeding, failure to fasten a safety belt.

**injunction:** a mandatory or prohibitive writ issued by a court.

**instruction:** a direction given by the judge to the jury concerning the law of the case.

**interlocutory:** provisional; temporary; not final; refers to orders and decrees of a court.

**interrogatories:** written questions propounded by one party and served on an adversary, who must provide written answers under oath.

**jurisdiction:** the power of a court to hear and determine a given class of cases; the power to act over a particular defendant. Referred to as subject matter jurisdiction (jurisdiction over the subject of the case) or personal jurisdiction (jurisdiction over the parties).

**jury, grand:** a jury of inquiry whose duty is to receive complaints and accusations in criminal cases, hear the evidence and return an indictment when they are satisfied that there is a probable cause that a crime was committed and the defendant committed it.

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

**Lesser included crime:** generally means an alternative to the charged crime at trial where the jury is given an lesser but related charge, in case the jury feels the defendant is not guilty of the charged crime, but is guilty of a related yet less serious crime.

**mandamus:** the name of a writ which issues from a court commanding the performance of a particular act.

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

**misdemeanor:** offenses less than felonies; generally those punishable by fine or imprisonment in a county jail, rather than in the state prison.

**mistrial:** an erroneous or invalid trial, a trial which cannot stand in law because of lack of jurisdiction, wrong drawing of jurors, deadlocked jury or failure of some other fundamental requisite

**moot:** unsettled; undecided. A moot point is one not settled by judicial decisions.

**no bill:** this phrase, endorsed by a grand jury on the indictment, is equivalent to "not found" or "not a true bill." It means that in the opinion of the jury, evidence was insufficient to warrant the return of a formal charge.

**No contest:** a type of plea in a criminal case that is the same as a guilty plea, for all purposes, including applying for jobs and background checks. The no-contest plea is utilized in criminal cases to avoid civil litigation (being sued) as a result of the criminal plea.

**NOLLE PROSEQUI:** An entry made on the record, by which the prosecutor or plaintiff declares that he will proceed no further.

**of counsel:** a phrase commonly applied to counsel employed to assist in the preparation or management of the case, or its presentation on appeal, but who is not the principal attorney of record.

**order to show cause hearing:** a hearing in which a person is ordered to court to show cause why they did not comply with the order of the court.

**peremptory challenge:** the challenge which the parties may use to reject a certain number of prospective jurors without assigning any reason.

**petition:** in the context of juvenile case processing, the petition is the formal document filed with the court outlining the charges against the juvenile.

**pleading:** the process by which the parties in a suit or action alternately present written statements of their contentions, to narrow the field of controversy.

**post conviction relief:** a court hearing in which a defendant convicted of a crime petitions the court set to aside the conviction or modify or reduce the sentence imposed by court.

**power of attorney:** an instrument authorizing another to act as one's agent or attorney.

**prejudicial error:** synonymous with "reversible error"; an error which warrants the appellate court to reverse the judgment before it.

**preliminary hearing:** a hearing held in the Magistrate's Division on a felony charge to determine if the defendant should be bound over to the District Court to stand trial. If the magistrate determines that there is probable cause to believe that an offense has been committed and that the defendant committed the offense, the case is then presented to the District Court.

**pretrial hearing:** a court hearing that occurs before trial in which the judge sits down with the parties to the matter to review issues associated with the case. A hearing that attempts to ensure that all proceedings and documents have been completed and efforts to resolve the matter have been exhausted.

**preponderance of evidence:** greater weight of evidence, or evidence which is more credible and convincing to the mind, not the greater number of witnesses.

**probable cause:** The amount of information needed to justify the issuance of an arrest warrant or search warrant, or to allow an officer to make an arrest without a warrant, or to permit a defendant to be bound over to the district court on a felony charge at a preliminary hearing. It is defined as facts and circumstances sufficient to allow a prudent person to believe that a person committed a crime, or that contraband or evidence of a crime is present at a particular location.

**probable cause hearing:** a hearing to determine if there is sufficient evidence to warrant the filing of a charge or to bind a defendant over for trial.

**probation:** a sentence whereby a defendant is permitted to avoid serving the full sentence under specified conditions.

**probation violation:** a person who has been found guilty or has admitted to committing a crime is often placed on probation by a judge. Typically, there are conditions attached to probation that if not fulfilled or violated by the defendant, may result in probation being revoked.

**pro se:** representing himself or herself

**proximate cause:** a cause which, in natural or probable sequence, produced the damage complained of. It need not be the only cause. It is sufficient if it concurs with some other cause acting at the same time, which in combination with it, causes damage.

**Public Defender's Office:** lawyers employed specifically to represent indigent clients in criminal court.

**punitive damages:** are damages in excess of those required to compensate the plaintiff for the wrong done which are imposed to punish the defendant because of the particularly wanton or willful character or his or her wrongdoing.

**quash:** to vacate; to annul or void

**reasonable doubt:** an accused person is entitled to acquittal if, in the minds of the jury, his guilt has not been proved beyond a "reasonable doubt"; that state of the minds of jurors in which they cannot say they feel an abiding conviction as to the truth of the charge.

**remanded:** ordered back to custody, or sent back; e.g., a defendant being remanded to the custody of the sheriff or an appeal being remanded to the lower court.

**retained jurisdiction:** a judge, after sentencing an individual to a correctional institution may retain jurisdiction over that individual, which typically lasts 180 days. At the end of that time, the prisoner is returned to the court where his/her progress is evaluated to determine whether the prisoner should be placed on probation or required to serve out the sentence originally imposed.

**sequestration:** holding a jury separate and apart from outside contact.

**small claims:** known as the "peoples' court," the small claims court handles disputes between people that involve monetary amounts of less than \$5,000. No jury trials are available in small claims nor are attorneys allowed to represent parties in small claims court.

**stare decisis (sta're de-si'sis):** the doctrine that when a court has once laid down a principle of law as applicable to a certain set of facts, it will adhere to that same principle and apply it to future cases where the facts are substantially the same.

**statute of limitations:** the statutory provisions limiting the amount of time within which a claim must be filed.

**stay:** a stopping or arresting of a judicial proceeding by order of the court.

**stipulation:** an agreement by the opposing parties or attorney pertaining to the proceedings that is binding on the parties to the stipulation.

**subpoena:** a notice or process served upon a witness to compel the witness to appear and give testimony before a court or agency authorized to issue subpoenas.

**subpoena duces tecum:** a notice or process by which the court commands a witness to produce certain documents or records.

**summons:** a court document used to require a person's appearance in Court.

**tort:** an injury or wrong committed, either with or without force, to the person or property of another.

**trial de novo (de no'vo):** a new trial or retrial held in a higher court in which the whole case is heard as if no trial had been held in a lower court.

**under advisement:** if during the course of a hearing, a question is posed that requires the judge to give more thought or do further research before making a decision, the judge takes the matter under advisement to review the matter and to render a decision.

**venire-(ve-ni're):** technically, a writ summoning persons to court to act as jurors; popularly used as meaning the body of names thus summoned.

**venue-(ven'u):** the particular county, city or geographical area in which a court with jurisdiction may hear and determine a case.

**voir dire-(vwor der):** to speak the truth - the process by which potential jurors are questioned to determine if they may serve on a jury.

**waiver of speedy trial:** State law requires that a defendant be tried within a specified period of time. The U.S. and Idaho Constitutions also provide every defendant with the right to a speedy trial. A defendant may waive that right to allow the proceeding to continue beyond the speedy trial deadline.

**with prejudice:** The dismissal of an action that prevents further proceedings on the same claim.

**withheld judgment:** A criminal disposition in which a judge does not impose a judgment of conviction but grants probation and imposes other conditions deemed appropriate. If the defendant successfully completes the conditions as outlined by the judge, the judge will then dismiss the case, resulting in the defendant having a clean record.

**without prejudice:** a dismissal "without prejudice" allows a new suit to be brought on the same cause of action.

**writ:** an order issued from a court requiring the performance of a specified act, or giving authority and commission to have it done.