

# NATIONAL CRIME VICTIM LAW INSTITUTE

## at Lewis & Clark Law School

PROTECTING, ENFORCING *and* ADVANCING VICTIMS' RIGHTS

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### **CRIMINAL PROCEDURE 101<sup>1</sup>**

The exact procedure of a criminal investigation and prosecution will vary jurisdiction-to-jurisdiction. This educational sheet is designed to present an overview of common stages of a criminal investigation and prosecution and to identify victims' rights implicated during those stages. Please keep in mind that while this presents a linear story of the criminal justice process, many of the stages identified here can recur throughout a criminal investigation and prosecution. For instance, in most jurisdictions a defendant may be released at any stage of the criminal prosecution.

#### ***Pre-arrest Investigation***

Pre-arrest investigation is the stage of criminal procedure that takes place after a report of suspected criminal activity or law enforcement otherwise becomes aware of such activity, but before an arrest is made. Law enforcement investigates whether a crime has occurred and whether an arrest should be made. If law enforcement determines that the evidence uncovered during pre-arrest investigation reveals that a crime was committed and a suspect is identified, law enforcement may arrest the suspect or, depending upon the jurisdiction, present the investigation results to the prosecuting attorney. If the jurisdiction is one in which the

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<sup>1</sup> This educational sheet presents an overview of adult criminal proceedings.

prosecuting attorney becomes involved pre-arrest, the prosecuting attorney generally decides whether and what charges to file; only after such determination does an arrest take place.

Alternatively, after an investigation, law enforcement may determine that there is insufficient evidence to pursue the matter, and no arrest is made.

Victims' rights that may be implicated during pre-arrest investigation:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to Information
- Right to Protection
- Right to Compensation

### ***Arrest***

An arrest occurs when the individual accused of a crime is taken into custody by law enforcement. Generally, an arrest may be made in two ways: 1) if a law enforcement officer arrives at the scene of the crime and determines that there is probable cause for an arrest, the officer can take a person into custody immediately, or 2) the officer may make an arrest pursuant to an arrest warrant. The requirements for making a proper arrest and obtaining a warrant vary jurisdiction-to-jurisdiction and often depend upon whether the crime at issue is a felony or a misdemeanor.

Victims' rights that may be implicated at arrest:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to Information
- Right to Protection

### ***Initial Appearance***

Generally, as soon as practicable following arrest, the accused must be brought before a court. At the initial appearance, the court will inform the accused of the charges and advise the accused of his or her rights to counsel and to remain silent. The defendant may be released at the initial appearance.

Victims' rights that may be implicated at initial appearance:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to be Heard
- Right to Protection

### ***Grand Jury***<sup>2</sup>

A felony case is usually commenced by grand jury indictment or a preliminary hearing, which is discussed below. If instituted by a grand jury, the prosecutor goes to the grand jury to ask the grand jury to indict an accused. A grand jury is a group of private citizens who conduct proceedings, generally with the grand jury members sworn to secrecy. The proceedings consist of the prosecutor presenting evidence and providing legal advice to the grand jury. As part of its investigation, the grand jury has the power to compel testimony, including the testimony of a crime victim. After hearing the evidence presented by the prosecution, and through its own investigation, the grand jury votes on whether the case should be indicted or dismissed.

Victims' rights that may be implicated at grand jury:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to Information

### ***Preliminary Hearing***

A felony case may also be commenced by a preliminary hearing held within a reasonable time of the filing of the information. If commenced by a preliminary hearing, the defendant has the right to be present and to be represented by counsel at such hearing. At the hearing, the prosecutor and the defense attorney can each present evidence to establish or challenge whether probable cause exists to believe a felony was committed, and whether it was committed by the defendant. This evidence can include testimony, including that of the victim. Generally, limited

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<sup>2</sup> Not all jurisdictions have grand juries.

discovery is available to the defendant at this stage and, during the presentation of evidence, the defense is generally allowed to cross-examine any of the state's witnesses, including the victim.

If the court finds there is probable cause to believe a felony was committed by the defendant, the defendant is "bound over" for trial. A defendant may be released at this stage.

If the court finds there is no probable cause to believe a felony was committed by the defendant, the court must dismiss the case and release the accused.

Victims' rights that may be implicated at preliminary hearing:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Protection

### ***Arraignment***

After charges have been brought, whether by information or grand jury indictment, the defendant is arraigned. At the arraignment, the defendant is formally informed of the charges, given a copy of the indictment or information, and enters a plea responding to the charges. A defendant may enter a plea bargain at the arraignment. Even if a defendant does not enter a plea, the defendant may be released.

Victims' rights that may be implicated at arraignment:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to Confer
- Right to be Heard
- Right to Protection

### ***Discovery & Motion Practice***

Discovery is the pretrial process by which the prosecutor and the defendant exchange information and material about the case. Discovery is an intricate process governed by each jurisdiction's rules of criminal procedure and implicates a number of victims' rights, including issues of privacy.

In addition to discovery, and often stemming from discovery, there is usually considerable pretrial motion practice. Motions by the defense may include motions to dismiss the indictment, to suppress evidence, or to introduce specific evidence at trial such as "rape shield" evidence. Motions by the state may include a request for reciprocal disclosure or a request for defendant to disclose alibi or psychiatric evidence. A crime victim's attorney may also bring motions asserting the victim's rights. These may include motions to quash a subpoena, to protect a victim's identifying information, or to preclude the press from certain hearings.

Victims' rights that may be implicated during discovery & motion practice:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Protection
- Right to Privacy

### ***Plea Bargaining & Entry of Plea***

Instead of going to trial, a defendant may plead guilty pursuant to a plea agreement. A plea agreement is an agreement that the defendant will plead guilty to the original charge, or to another charge, in return for a concession from the prosecutor. Typical concessions include: 1) dismissal of other charges; 2) recommendation of a particular sentence, or agreement not to

oppose defendant's request for a particular sentence; or 3) recommendation for, or agreement on, another appropriate disposition of the case.

After a plea agreement has been reached, the plea is presented to the court, and the court may do one of three things: 1) reject the plea agreement; 2) discuss alternatives to the plea agreement that are acceptable to the court; or 3) accept the plea agreement. If the court rejects the plea agreement, the defendant may withdraw the guilty plea.

Victims' rights that may be implicated during plea bargaining & entry of plea:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Protection
- Right to Privacy
- Right to Restitution

### ***Trial***

A trial is the proceeding during which evidence is presented and guilt is determined. A trial is held before a jury or, if the defendant waives the right to trial by jury or for certain misdemeanors, before a judge, which is called a bench trial. Generally, a trial proceeds as follows:

#### *Voir dire*

*Voir dire* is the process by which a jury is questioned and selected. In a capital case, *voir dire* is split into two phases: the death qualification phase and the general *voir dire* phase.

#### *Guilt Phase*

The guilt phase generally begins with the prosecutor's opening statement. The defense then has the option to make an opening statement or, in some jurisdictions, reserve its opening statement for the beginning of its case-in-chief. The prosecutor presents the state's direct case

after which the defense may move the court to acquit, arguing that there is legally insufficient evidence to convict. If the defense motion is denied, the defense presents its case-in-chief. Following the defense case, the prosecutor and defendant may each present a rebuttal case. The defense may then again move for an acquittal. If the defense motion is denied, closing arguments are presented by each side; the order of these is jurisdiction-specific. Following closing arguments, the case will be submitted to the jury or bench for deliberation and return of a verdict.

### Sentencing Phase

This phase is discussed below in sentencing.

Victims' rights that may be implicated at trial:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Protection
- Right to Privacy

### *Sentencing*

Upon a finding of guilt on some, even if not all, counts charged, the formal imposition of the punishment occurs. Depending upon the jurisdiction, the judge or the jury decides the punishment that will be given to the offender.

In most jurisdictions, before a sentencing hearing is conducted, a probation officer will prepare a pre-sentence report. Most reports contain a variety of information that may be helpful in imposing sentence: information about the offender's prior criminal record and about the offender's characteristics, financial condition, social history, and circumstances affecting

behavior. In addition, most jurisdictions now require that these reports contain victim information.

Generally, a sentencing hearing cannot occur unless the offender is present, although this requirement may be waived in certain instances. In addition, in most jurisdictions, the victim has the right to be present and give a victim impact statement at the sentencing hearing.

At the sentencing hearing, the court generally has three options. First, the court may impose sentence, which may include imprisonment or some other punishment, such as probation, community service or a treatment program. Second, in many jurisdictions, the court may decide not to sentence the offender, but to instead suspend imposition of sentence and place the offender on probation. Finally, the court may impose sentence, but suspend execution of it and place the offender on probation subject to conditions. After sentence is imposed, the court will enter a judgment of conviction, setting forth the plea, verdict, findings, the adjudication, and the sentence imposed. At this point, the offender may make a motion to set aside the verdict.

Victims' rights that may be implicated at sentencing:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to Confer
- Right to be Heard
- Right to Protection
- Right to Privacy
- Right to Restitution

### ***Restitution***

Restitution is the monetary payment by an offender to the victim to compensate the victim for the financial consequences caused by the commission of the crime. Generally, restitution must be requested at or before sentencing.

Victims' rights that may be implicated by restitution:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Compensation

### *Appeal by the Defendant and the State*

There are a number of avenues for the defense or the state to seek appellate review in a criminal case. The most common are identified here. For each of these, the practice in most jurisdictions is that the state attorney general represents the state in all felony appeals, while the county prosecuting attorney represents the state in misdemeanors.

- Interlocutory appeal. This is an appeal of a non-final court decision that may occur anytime before the final judgment.
- Direct appeal. A direct appeal may be taken after the final judgment has been rendered.
- Post-conviction relief. A post-conviction motion may be brought by the defendant.
- Habeas corpus. A defendant may petition for habeas corpus – both under state and federal law.
- Writ of mandamus. A writ of mandamus is an extraordinary writ that compels performance of a mandatory duty.
- Writ of prohibition. A writ of prohibition is an extraordinary writ issued by a higher court to a lower court prohibiting that lower court from acting in excess of its jurisdiction.

Victims' rights that may be implicated during appeals:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to Information
- Right to be Present
- Right to Notice

### ***Probation & Probation Revocation Hearings***

Probation is a procedure under which a defendant found guilty of a crime is not imprisoned but instead is released subject to conditions imposed by the court and subject to the supervision of a board of probation or parole, or the jurisdiction's equivalent. If a defendant is accused of violating the conditions of probation, generally he or she may be arrested and brought to court for a hearing to determine whether there is probable cause to conclude that a violation took place. If probable cause is found, or if the defendant waives the hearing, the defendant is subject to a revocation hearing to have probation revoked and to be re-sentenced.

Victims' rights that may be implicated by probation and probation revocation hearings:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Protection
- Right to Privacy
- Right to Restitution

### ***Parole and Parole Revocation Hearings***

Parole is the release of an offender to the community by the court or a probation/parole board prior to the expiration of the offender's term, subject to conditions imposed by the court or board. In many jurisdictions, offenders are eligible for parole prior to the completion of their entire sentence. Generally, before an offender is released, there is a parole hearing to determine if there is reasonable probability that the offender can be released without detriment to the community. If it is determined that it is proper to release the offender, the offender is released but remains in the legal custody of the department of corrections, or the jurisdiction's equivalent, and is subject to conditions placed on him or her.

If the offender violates any of the conditions imposed, generally the offender may be arrested, incarcerated, and – unless waived – given a preliminary hearing on whether the alleged violation occurred. Following the preliminary hearing, the offender will generally have a full parole revocation hearing at which there is a determination of whether a violation took place and whether to revoke parole.

Victims' rights that may be implicated by parole and parole revocation hearings:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard
- Right to Protection

### ***Compensation***

Compensation, sometimes referred to as Reparations, is money paid by the government to victims of crimes to restore all or part of the financial losses the victim suffered as a result of the crime committed against him or her.

Victims' rights that may be implicated by a compensation hearing:

- Right to be Treated with Fairness, Respect, and Dignity
- Right to be Present
- Right to Information
- Right to Notice
- Right to be Heard

## CRIMINAL PROCEDURE GLOSSARY<sup>3</sup>

- **Accused.**  
A person who is believed to have committed a crime but has not yet been put on trial.
- **Acquittal.**  
A final decision by the judge or the jury that the defendant is not guilty beyond a reasonable doubt of the crime charged.
- **Adjudicate.**  
To decide an issue in a case.
- **Affidavit.**  
A statement of facts that is written down and the truth of which is sworn to before an officer who can administer oaths.
- **Affirm.**  
A legal finding by a higher court on appeal that the ruling or decision of the lower court was legally correct.
- **Aggravating Factor/Circumstance.**  
A fact or situation related to the defendant or the crime that may be used by the court to enhance the severity of defendant's sentence.
- **Allegation.**  
Something declared to be true in legal papers; a formal statement of fact as true but yet to be proven.
- **Allocution.**  
A statement of a convicted defendant or the victim before defendant is sentenced.
- **Appeal.**  
A request to a higher court to review a ruling or decision made by a lower court.

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<sup>3</sup> Definitions adapted, in part, from following sources: BLACK'S LAW DICTIONARY (7<sup>th</sup> ed. 1999); American Bar Association, Glossary of Legal Terms (<http://www.abanet.org/publiced/glossary.html>); Office for Victims of Crime: Roles, Rights and Responsibilities: Glossary of Legal Terms (<http://www.ojp.usdoj.gov/ovc/publications/infores/fraud/rrr/gloss.htm>); State Bar of New Mexico, Common Legal Terms: Criminal Law Glossary ([http://www.nmbar.org/Content/NavigationMenu/Public\\_Services\\_Resources/Common\\_Legal\\_Terms/Common\\_Legal\\_Terms.htm](http://www.nmbar.org/Content/NavigationMenu/Public_Services_Resources/Common_Legal_Terms/Common_Legal_Terms.htm)); The Victims of Crime Resource Center, located at the McGeorge School of Law ([http://www.1800victims.org/glossary\\_legal\\_terms.htm](http://www.1800victims.org/glossary_legal_terms.htm)).

- **Arraignment.**  
The appearance of defendant before the court during which defendant is formally told of the charges and of his or her rights and enters a plea. If not previously done, conditions of release may be set or reviewed at this proceeding.
- **Attorney General.**
  1. (State) A person elected to statewide office to be the chief law officer of that state and who, with assistants, advises and represents that state in legal matters.
  2. (Federal) The chief law officer of the United States, who, with assistants, advises and represents the United States in legal matters.
- **Bail.**  
A deposit of money, property, or bond with the court that allows the release of a suspect or defendant from jail before or after a criminal proceeding or trial has begun. The general purpose of bail is to ensure that the suspect or defendant shows up at the next proceeding.
- **Bail Bond.**  
A promise by a surety to deposit money or property with the court that allows the release of a suspect or defendant from jail before or after a criminal proceeding or trial has begun. The purpose of a bail bond is to ensure that the suspect or defendant shows up at the next proceeding.
- **Bailiff.**  
A court official who maintains order in the courtroom during proceedings.
- **Bench Trial.**  
A trial held only before a judge, without a jury, and the judge alone decides the verdict and sentence.
- **Bench Warrant.**  
A warrant issued directly by a judge for the arrest of someone who has been held in contempt of court, has been indicted, has disobeyed a subpoena, or has failed to appear for a hearing or trial.
- **Capital Felony.**  
A felony for which capital punishment is a possible penalty.
- **Capital Punishment.**  
A sentence of death.
- **Charge.**  
To formally accuse a person of committing a crime.

- **Competency.**
  1. A court proceeding to evaluate a child's ability to remember the incident and know the difference between the truth and a lie.
  2. A court proceeding for an adult defendant determining defendant's mental capacity to understand nature of prosecution and assist in his or her own defense.
  3. A court proceeding to determine the qualification of an individual to testify as a witness.
  
- **Complaint (Criminal).**  
A formal, written charge made to the court which initiates a case by accusing an individual of committing a crime.
  
- **Contempt.**  
Disobedience to a court order or misbehavior that interferes with the administration of justice or the integrity of the court. If a person is found in contempt, he or she may be imprisoned, fined, or both.
  
- **Continuance.**  
The postponement of a court proceeding to a later date.
  
- **Conditions of Release.**  
The conditions a judge imposes on a defendant who is released from custody before a conviction or acquittal.
  
- **Conviction.**  
A decision that defendant is guilty of committing a criminal offense beyond a reasonable doubt.
  
- **Count.**  
A portion of a complaint that identifies one particular crime the defendant is accused of.
  
- **Cross Examination.**  
The questioning, either during a hearing or trial, of a witness by a party opposed to the party that called the witness to testify.
  
- **Default.**  
The omission or failure to perform a legal duty. In criminal law, often the situation where the defendant fails to appear in court at the proper time.
  
- **Defendant.**  
A person accused and charged with a crime.

- **Delinquent.**  
In criminal law, generally refers to a child who has committed an offense that would be a crime if committed by an adult.
- **Deposition.**  
Oral testimony, given under oath and recorded in writing or by video during the discovery process.
- **Direct Testimony.**  
The first examination of a witness by the attorney for the party who called the witness to testify.
- **Discovery.**  
A process that occurs after a crime but before trial during which the prosecutor and defense exchange the evidence and information they each have about the case pursuant to express rules of criminal procedure, which govern the type of information to be exchanged and how the exchange should take place.
- **Dismiss/Dismissal.**  
An order by a judge ending the prosecution of a case without deciding whether the defendant is guilty or innocent. A dismissal can be “with prejudice,” which means that the charges cannot be refiled against that same defendant, or a dismissal can be “without prejudice,” which means the charges can be refiled against the same defendant.
- **District Attorney.**  
A public official appointed or elected to represent the state in a particular district and to prosecute crimes in that district.
- **Evidence.**  
Testimony, documents, records, or objects presented by the prosecutor or defense during a hearing or trial to prove a particular fact or legal issue.
- **Exclusionary Rule (Criminal).**  
A rule that excludes from trial evidence that was obtained in violation of a person’s constitutional rights.
- **Exhibit.**  
A document, record, or object offered to the judge or jury during a hearing or trial as evidence.
- **Extradition.**  
The official surrender of a person by one state or nation to another to face criminal charges in that state or nation.

- **Felony.**  
A serious crime that is generally punishable by imprisonment of more than one year.
- **Grand Jury.**  
A panel of citizens who hear evidence generally presented by the prosecutor and decide whether there is enough evidence to issue an indictment to formally charge the accused with a crime.
- **Guilty.**  
A finding by judge or jury that the defendant committed the crime charged beyond a reasonable doubt.
- **Guilty Plea.**  
A plea in open court by a defendant admitting that he or she is guilty of the crime charged.
- **Hearing.**  
A formal legal proceeding before a judge addressing one or more legal issues.
- **Hung Jury.**  
A jury that cannot agree on a verdict by the necessary number of votes.
- **Immunity.**  
A promise by the prosecutor not to prosecute a person for a particular crime or a promise to that person that his or her testimony or the evidence he or she reveals will not be used in a prosecution against him or her.
- **Impact Statement.**  
A statement made by a victim, either in writing or orally, describing the victim's feelings about a crime, how the crime affected the victim or the victim's family, and sometimes, also recommending a sentence to impose on defendant.
- **Indictment.**  
A formal, written accusation that charges defendant with a particular crime and is brought by the grand jury, rather than by the prosecutor.
- **Information.**  
A formal, written accusation that charges defendant with a particular crime and is brought by the prosecutor, rather than by the grand jury.
- **Initial Appearance.**  
A defendant's first appearance in court to hear the charges, to be advised of his or her rights, and to have bail determined.

- **Investigation.**  
The gathering of evidence about a crime by law enforcement and/or the prosecutor.
- **Join/Joinder.**  
1. Of offenses: The combining of two or more charges against a single defendant into one trial. 2. Of defendants: The combining of charges against two or more defendants into one trial.
- **Judgment of Conviction.**  
The written record of a criminal judgment, consisting of the plea, the verdict, the adjudication, and the sentence.
- **Jurisdiction.**  
1. A geographic area within which political or judicial power can be exercised.  
2. A court's power to decide a case.
- **Jury.**  
A panel of citizens who hear evidence, testimony, and arguments of counsel at trial and decide whether defendant is guilty of the crime(s) charged.
- **Jury Trial.**  
A trial in which a jury hears the evidence and decides whether defendant is guilty.
- **Misdemeanor.**  
A crime that is usually punishable by imprisonment for not more than one year, a fine, or both.
- **Mistrial.**  
A trial that ends before a verdict is given because of a hung jury, violation of a legal procedure, or due to serious misconduct occurring during the proceedings.
- **Motion.**  
A formal written or oral request made to a judge for a specific order or ruling.
- **Motion to Dismiss.**  
A motion asking a judge to end the prosecution without further hearings or trial.
- **Motion to Suppress.**  
A motion asking a judge not to allow certain testimony, documents, or objects into evidence.
- **No Contact Order.**

An order by the court requiring that there be no contact, or only the limited contact expressly set forth by the court, between defendant and a victim or witness.

- **No Contest Plea.**

The formal plea of defendant that he or she will not dispute the charge, but which does not admit guilt. See also *Nolo Contendere*.

- ***Nolle Prosequi.***

A dismissal without prejudice filed by the prosecutor before trial.

- ***Nolo Contendere.***

The formal plea of defendant that he or she will not dispute the charge, but which does not admit guilt. See also No Contest Plea.

- **Not-Guilty Plea.**

The formal plea of defendant denying that he or she committed the crime charged.

- **Not-Guilty.**

A verdict by the court or a jury at the end of a trial that the evidence presented did not show beyond a reasonable doubt that the defendant committed the crime charged.

- **Oath.**

A solemn promise to tell the truth or be subject to penalties for perjury.

- **Objection.**

A formal statement to the judge by an attorney involved in a case that something that has occurred or is about to occur is legally improper and should not be permitted. A court may overrule an objection, which means the matter objected to will be allowed; the court may sustain the objection, which means that the matter objected to will not be allowed.

- **Offender.**

A person who has committed a crime.

- **Order.**

A written or oral command from the court.

- **Parole.**

The release of an offender from imprisonment before his or her full sentence has been served, usually granted due to good behavior by offender while in custody and conditioned on parolee reporting to supervising officer for specified period of time.

- **Perjury.**

The act of telling a deliberate lie while under oath.

- **Personal Recognizance.**

The release of a defendant without payment of bail or bond, relying on defendant's promise that he or she will appear at the next proceeding.

- **Plea.**

A defendant's formal answer to charges denying or admitting guilt. Common pleas include guilty plea, not-guilty plea, *nolo contendere*, no contest plea or not guilty by reason of insanity.

- **Plea Bargain.**

A compromise reached between defendant and the prosecutor that generally allows a defendant to plead guilty to a lesser offense or fewer of the counts in exchange for something offered by the prosecutor, such as a recommendation for a lesser sentence or dismissal of other counts.

- **Preliminary Hearing.**

A hearing to determine if there is enough evidence – probable cause – to proceed with a prosecution.

- **Probable Cause.**

A reasonable ground for belief that defendant committed a specific crime or that an identified location contains specific items connected with a crime.

- **Probation.**

A judicially imposed sentence that, subject to specific conditions, allows the defendant to be released into the community instead of serving time in prison.

- **Pro Se.**

A person who acts for him or herself, without an attorney, during a hearing or trial.

- **Prosecution.**

The act of trying a defendant for a crime.

- **Prosecutor.**

A lawyer representing the municipal, state or federal government in criminal proceedings.

- **Reasonable Doubt.**

The belief that there is a real possibility that a defendant is not guilty.

- **Remand.**

A legal ruling of a higher appeals court to send a case back to the lower court for further action.

- **Reparations.**

Compensation for an injury or wrong to make amends.

- **Restitution (Criminal).**

Payment by defendant to the victim to compensate victim, in full or part, for financial losses caused by the defendant.

- **Sentence.**

The punishment imposed on an offender.

- **Severance.**

An order to separate charges or defendants previously joined.

- **Speedy Trial.**

The right of a defendant to have a case proceed to trial within specified time, unless the defendant agrees to a continuance and waives the right to speedy trial. Some states also grant the victim the right to speedy disposition.

- **Statute.**

A law enacted by a legislative body.

- **Statute of Limitations.**

A statute setting the time limit by which a crime must be prosecuted.

- ***Sua Sponte.***

Court acting on its own authority without a motion by a party.

- **Summons.**

A notice requiring a person's appearance in court on or by a specific day and time.

- **Subpoena.**

A written order requiring a person to appear at a certain place and time to bring documents and/or to give testimony.

- **Suspect.**

A person thought to have committed a crime.

- **Testify.**

To answer questions and give evidence under oath at a trial, deposition, or hearing.

- **Testimony.**

Evidence given by a witness under oath, at trial, deposition, or hearing.

- **Trial.**

A hearing at which the jury or judge hears evidence and decides whether a defendant is guilty of the crime(s) charged.

- **Verdict.**  
The decision of a jury or a judge whether defendant is guilty.
- **Victim.**  
Each jurisdiction has distinct definitions of “victim,” but generally a victim is a person harmed by a crime, or the family or close friend of that person when he or she is incapacitated or was killed.
- **Voir Dire.**  
The pretrial questioning of individuals who are potential jurors to decide whether they can be on a jury.
- **Warrant.**  
An order based upon probable cause authorizing either the arrest of a person or the search of a person or place.
- **Witness.**  
A person who testifies at a hearing or trial.