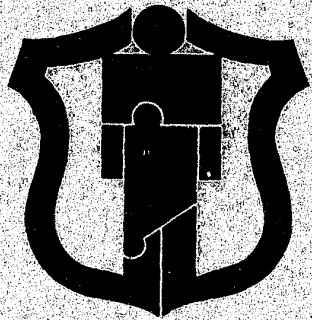


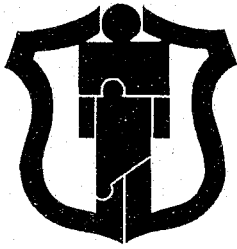
THE CRIMINAL JUSTICE SYSTEM: A GUIDE FOR CITIZENS



**Crime Analysis Project
Criminal Justice Services**

**National Retired Teachers Association
American Association of Retired Persons**

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THE CRIMINAL JUSTICE SYSTEM: A GUIDE FOR CITIZENS

by

Stephen R. Stiles

Criminal Justice Services

Program Department

National Retired Teachers Association

American Association of Retired Persons

prepared for

The Law Enforcement Assistance Administration

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Project Staff:

George Sunderland, project director

Mary C. Crow, project manager

Stephen R. Stiles, research analyst

FOREWORD

This guide has been prepared to provide a basic understanding of the criminal justice system and its operation. It does not pretend to be an all-encompassing description. Many scholars devote their lifetimes to studying the system and keeping abreast of its changes. The system's complexities cannot be captured within these few pages.

The information is designed to serve persons, other than career professionals, who are involved in some capacity with the criminal justice system. Whether full or part-time, paid or nonpaid, these individuals provide a much-needed support function to the system. This function will become more fulfilling as they begin to understand their personal contributions to the overall effort.

Also included in this publication are a glossary of criminal justice terms and lists of sources which can provide additional information or assistance on specialized topics.

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INTRODUCTION

The American system of criminal justice is a barometer of social strength and cohesiveness. As our community standards fragment and decline, so does the ability of the criminal justice system to maintain order and to protect us. Conversely, our system improves as we gain collective direction.

Recent history clearly demonstrates the changing directions that our system of justice experiences. We have seen accepted concepts of justice plunge to near-extinction. We are now seeing their re-birth as the criminal justice system again begins to serve our communities' needs.

The determining factor in criminal justice system effectiveness is the involvement of its people, the community. The results of active participation by communities across the country prove *without exception* that system effectiveness can be increased. Criminals *can* be apprehended, they *can* be convicted, and they *can* be punished.

We hire professionals to conduct technical activities. By assisting with non-technical or support activities, we allow the professionals to undertake more applications of their special expertise. Programs in every facet of the criminal justice system have benefitted from community involvement. The community serves as a resource that increases activities without appreciably increasing costs. Most important, the community visibly demonstrates its concern and conviction about crime, standing behind the standards it has set.

The special people who donate their time, energy and concern to criminal justice activities require information about the system and its processes. NRTA-AARP Criminal Justice Services commends their efforts, and is proud to assist this need.

George Sunderland
Senior Coordinator
Criminal Justice Services
NRTA-AARP

THE CRIMINAL JUSTICE SYSTEM: A GUIDE FOR CITIZENS

The American system of criminal justice is a network of police agencies, courts and correctional institutions with varying degrees of autonomy and interdependency, acting toward a common purpose: the prevention and control of crime. This necessary function protects the social order on which communities build—its breakdown jeopardizes the security and well-being of every community member.

Our criminal justice system is participatory in nature. Each citizen shares in the responsibility to prevent crime, reduce criminal opportunities, and cooperate with law enforcement in the preservation of enacted law (an important distinction to be noted is that the criminal justice system itself does not *make* laws, but upholds them). This responsibility is evident in the design of the three primary facets of the system: (1) enforcement, (2) adjudication, and (3) corrections.

Initially, law enforcement was assisted by any citizen who observed criminal behavior. Citizens also helped apprehend perpetrators. In each case the suspect was then brought before someone responsible for conducting the trial according to the law (judge) and tried before a body of his peers (jury). If found guilty, he was sentenced to any number of punishments: reparations, fines, corporal or capital punishment, isolation, banishment or confinement. Most of these punitive measures required citizens' cooperation and support.

The American system of criminal justice today has grown significantly from its origins. The basic precepts remain unchanged, however, and the following overview will briefly explain the legal foundation which directs the system and examine its three primary facets.

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I. THE LAW

The task of defining what constitutes a criminal act is strictly legislative. Duly elected representatives work at all levels of American government (federal, state and local) to determine the rules of conduct within the jurisdictions they serve, although all such statutes are ultimately required to conform to the rights of the people guaranteed in the United States Constitution.

The majority of criminal law is legislated by the states and the District of Columbia, creating fifty-one bodies of statutes that share one great similarity—legal roots embodied in English common law. Common law proscribed behavior that threatened civilized society, and originally forbade acts of treason, murder, arson, rape, robbery, burglary and theft—crimes considered repugnant by all reasonable persons. This underlying principle is woven throughout American law. Major prohibitions against certain behaviors are generally consistent among the states, but distinctions are found in comparing the particular elements of major crimes and a multitude of lesser offenses.

All jurisdictions (federal, state and local) in America share a common delineation of the severity of offenses. An offense considered major is defined as a felony, the commission of which may lead to a prison sentence of one or more years. Lesser offenses, which carry less serious punishment, are known as misdemeanors. The definition of a particular act as a felony or a misdemeanor, however, can vary among jurisdictions.

Regardless of the jurisdiction or level of government, the law is the guiding principle of the criminal justice system. It prescribes necessary behavior in some cases, and in *all* cases proscribes intolerable acts. The criminal justice system has no jurisdiction over acts that do not violate the law except requirements such as jury duty, etc. Laws are enforceable only when written, and must always carry penalties for deviation or non-compliance. The burden of proof of deviation or non-compliance *always* lies with the state. The innocence of the individual is *always* assumed until proven otherwise.

The enactment and enforcement of laws in a society provides a means of social control. This requires a highly complex organization of people effectively functioning and interacting through the following activities:

- Maintaining order in the society
- Preventing and controlling illegal conduct
- Supporting societal values
- Providing forums for dispute settlement
- Delegating governmental authority
- Regulating the exercise of power by government

II. LAW ENFORCEMENT

The primary law enforcement mission is the protection of the community through the enforcement of enacted law. When an individual acts outside the law, it is the responsibility of a law enforcement agency to arrest and apprehend him, thereby:

- Preventing the individual from continuing such acts, and
- Holding the individual accountable to the courts for his actions.

A. Structure

There are many types of law enforcement agencies operating in the United States, distinguished by their particular enforcement powers and functions. Major categories are listed below, with the numbers of agencies in each as of 1978 (*1979 Sourcebook of Criminal Justice Statistics*).

- **Federal law enforcement agencies.** 213 federal agencies perform a wide range of investigatory and enforcement activities in every state and the District of Columbia. In addition, each military department has its own law enforcement structure.
- **State police.** 55 state agencies are primarily responsible for highway and traffic enforcement. However, many departments perform the total range of law enforcement duties. State police departments are maintained in every state except Hawaii and the District of Columbia.
- **Special police.** 1,139 special police agencies operate at state and local levels. These agencies serve specific enforcement roles, such as those performed by harbor police or housing authorities.
- **Medical examiners and coroners.** 1,696 such departments at state and local levels generally perform crime scene/autopsy investigatory duties and possess general powers of arrest.
- **County sheriff's departments.** 3,071 county sheriff's departments nationwide often perform the total range of law enforcement duties, as well as maintain custody of criminal offenders or persons awaiting trial.
- **Municipal/county police departments.** 13,349 local police departments nationwide generally perform the total range of investigatory and enforcement duties.

As this brief list documents, law enforcement is a complex operation spanning many jurisdictional levels. In 1978 there were 19,523 separate agencies, not counting private police employed by business and industry. The magnitude of this operation is further reflected in its cost of approximately 12 billion dollars per year (*1979 Sourcebook*).

This overview is primarily concerned with the operations of the county sheriff's and municipal/county police departments, which are considered to have the

primary responsibility at the local level of law enforcement in America, and share operational approaches.

Traditionally, sheriffs were the primary law enforcement officers in rural county areas, while police departments operated in urban jurisdictions. Urban expansion and population growth have eliminated many distinctions, however, and police and sheriffs' departments now perform similar enforcement requirements. The principal agents of both are sworn law enforcement officers who take oaths to uphold the law and perform their often hazardous duties without regard to personal risk. Both require individuals of a special caliber to carry out difficult, sensitive, and demanding tasks.

Two major differences still prevail. The sheriff, unlike the police officer, is an elected official and is responsible for securing and maintaining county jails. But this overview will consider the general functions of law enforcement applicable to both. Indeed, some jurisdictions across the country have consolidated police and sheriff into one law enforcement agency.

B. Operations

1. Patrol

Law enforcement serves as the first response to criminal activity. A major element of policing is the function of patrol, in which officers observe daily activity in assigned geographical areas, or beats. Patrol is accomplished in police cruisers, on foot, or horseback, on motorcycle, or from the sea or air. Regardless of the method employed, patrol serves to deter potential criminal activity, interrupt crimes in progress, and respond to calls for assistance.

The great majority of criminal activity is observed by the citizen, not the patrolling officer. The citizen's act of reporting crime is the single most important factor in determining law enforcement effectiveness, because departments have neither the manpower nor the mandate to saturate the streets with officers. The public's participation in this crucial role has always been one of the foundations of policing.

When a criminal act is reported by a citizen, the call is taken at the department and an officer is dispatched by radio command. Upon arriving at the scene, the beat officer's response is to apprehend the suspect(s) and aid the victim. More often than not the suspect has fled the scene, and the officer reports the circumstances back to the department, conducts a preliminary investigation of the occurrence, and initiates an incident report. This report details the events of the incident, including statements from the victim and witnesses (if any).

(If an officer happens to witness criminal activity himself, without a radio dispatch, the same steps would apply.)

If a suspect has been apprehended, the officer may arrest him or release him if there is insufficient evidence for arrest. If an arrest is made, the suspect is brought back to the department to face formal charges, or booking. This constitutes an administrative record of arrest, which accompanies the responding officer's preliminary incident report.

At this point a trial date is set by a magistrate, commissioner or justice of the peace and the suspect may be released on bail or personal recognizance. If not, he is held for trial at a jail or detention center, but in either case he has completed his sojourn in the enforcement component of the criminal justice system.

2. Investigation

Many incidents require more detailed investigation and time than the patrol officer is able to devote. In such cases the criminal investigation division (or an investigative unit using a similar name) will respond to the crime scene and/or victim(s).

The criminal investigation division (often referred to as the C.I.D.) is made up of detectives who may specialize in investigating specific crime types, such as crimes against property, or who may handle major crime types. As agencies increase in size, assignments within their investigation divisions become more crime-specific.

In any case, the degree of the detective's involvement depends upon the circumstances of the incident. If a suspect is apprehended, the detective will generally be responsible for the recovery of stolen property, case preparation for court, and the investigation of previous crimes possibly committed by the suspect. If an apprehension has not been made, the detective must gather an in-depth collection of the facts, circumstances, and clues leading to responsible parties.

The investigative efforts which follow the preliminary response of the patrol officer are recorded in follow-up reports. These supplemental reports are included with the original incident report and become part of the on-going file, or case. Each case always has an identifying number—case number—which ties information from one report to the next.

Each case is given an open or closed status. An open case requires further information in the investigatory phase of law enforcement. Cases are defined as closed by the following criteria:

- **Closed by arrest.** A suspect has been arrested and evidence links him with the crime.
- **Closed by exception.** A suspect is identified and sufficient evidence exists

for an arrest; however, extenuating circumstances make an arrest unnecessary, undesirable or impossible.

- **Closed as unfounded.** There is insufficient or conflicting evidence linked to a circumstance, creating doubt as to its occurrence or that elements necessarily constitute criminal behavior.
- **Administrative closure.** Administrative circumstances may bring an early end to the investigation, or closure may be brought about by little or no expectation of additional information.

As the descriptions so far indicate, the patrol and investigative functions are largely reactive measures. Although these are necessary elements, they represent only part of the total law enforcement function.

3. Crime Prevention

Crime prevention is a law enforcement agency's basic mandate. As stated earlier no agency has the personnel to be everywhere at all times. This arrangement would be neither cost-effective nor desirable.

The lion's share of responsibility for the prevention of crime lies with the *citizenry*. History has clearly demonstrated the effectiveness of community involvement with responsive law enforcement in reducing criminal activity.

Community involvement means that citizens are concerned about crime and are taking steps to protect themselves and their neighbors, as well as the property of both. Responsive law enforcement provides leadership by disseminating information on protective measures (crime prevention education), and providing assistance by organizing citizens into groups willing to take effective action (community volunteerism).

There are countless examples of crime prevention/volunteer programs operated under the auspices of police and sheriff's departments nationwide. They serve as contemporary models of community involvement with the law enforcement mission, and represent a rediscovery of the successful origins of policing in America. Recent history has also proved conclusively that a police force operating in isolation cannot properly serve its community.

4. Crime Analysis

Crime prevention education, in order to be effective, must address actual crime problems within the targeted jurisdiction. Further, the information must describe the specific characteristics of the crime type(s) in order to suggest effective countermeasures. The sources of this information lie primarily in the patrol and investigation divisions—specifically the preliminary and supplemental incident reports described earlier. These reports serve as raw data

from which crime factors and trends are identified—a process known as crime analysis.

Crime analysis is a set of systematic analytical processes, providing timely and useful information on crime patterns or trends. Its uses are department-wide—for patrol deployment, investigative assistance, crime prevention information, and administrative considerations. Crime analysis can be a computerized or manual system, but it follows five basic steps:

- **Data collection.** Extraction of usable facts about crimes from various sources, including incident and supplemental reports. Crime analysis may focus on serious or frequently committed crimes, such as burglaries or robberies. These are called *target crimes*.
- **Data collation.** Organization of crime information. Facts about a particular type of crime such as burglary, auto theft or robbery, are grouped together as files. These facts, or crime elements, may include suspect identifiers and specific occurrences during the criminal incident, collated into categories. The specific crime elements vary with the crime. As an example, the elements of burglary can include point and method of entry.
- **Data analysis.** Examination of crime data to identify crime patterns and trends. A crime *pattern* can be determined, for example, by analyzing pursesnatchings occurring at the same time of day in a specific location. A crime *trend* may simply be reflected by a significant rise in the number of pursesnatchings within a jurisdiction, regardless of pattern.
- **Dissemination.** Timely delivery of analytical information to user groups, such as crime prevention, patrol, and investigative officers.
- **Evaluation.** Appraisal of crime analysis operational effectiveness, including feedback from user groups.

Within this process are many activities and responsibilities, some requiring extensive education and training, others involving careful concentration, accuracy and on-the-job training. Some departments now employ full time crime analysts, many with advanced college degrees, and use citizens to fill roles which can expand and enhance the analysis process.

Crime analysis is a vital activity which directs many law enforcement functions in innumerable ways. It is an effective tool in detecting crime problems, identifying persons responsible, and providing counter-measures.

Including its facilitation of management decisions on subjects such as resource allocation, crime analysis is quickly becoming a central element of law enforcement and providing the community a significant means of participation in the law enforcement mission.

III. JUDICIARY

When a suspect has been identified, apprehended, and formally charged (booked), he departs the jurisdiction of law enforcement and enters the judicial stage of the criminal justice system. It is necessary to understand that up to this point there have been several opportunities for him to exit the system without further prosecution. These are due to constitutional safeguards which guarantee the rights of the individual, and the proper procedures in handling his case (due process). If individual rights or due process have been violated at any point, as determined by the judiciary, or the decision is made that the evidence is insufficient, charges are dismissed and the individual is released.

Through this process, a substantial "weeding out" occurs before suspects ever reach the judicial stage of the system. If they do continue in the system, this stage accelerates the elimination process significantly as it seeks to fulfill the judicial mission *to determine guilt or innocence and suitable measures to take if the accused is found guilty.*

A. Structure

Given the purpose of the judiciary process, it is useful to examine the American court system structure. This "system" is in reality 51 court configurations with little or no interrelationship. Each state has its own highly autonomous court structure, as does the federal government. Some common features occur including lower courts to adjudicate minor offenses or ordinance violation. Because these courts differ by jurisdiction, this overview will examine courts of major or general jurisdiction.

The federal system operates at three distinct levels: trial courts, appellate courts, and the United States Supreme Court. Each level is described below.

1. Trial courts (United States District Courts)

At least one District Court is located in each state. Larger, more populous states are divided into several districts. Each court holds trials (determination of guilt/innocence/punishment) of federal crimes committed in the district it serves.

Some common federal crimes are listed below as examples:

- fraud against the government
- counterfeiting
- espionage/sabotage
- thefts from interstate shipments
- robbery of national or federally-insured banks
- postal interference or theft
- crime on a government reservation (military, parks, etc.)
- federal election laws

2. Appellate courts (United States Courts of Appeals)

Each serves an area of several states, designated a circuit, and the District of Columbia. An appellate court is not a trial court. It reviews cases originating from trial courts, in this case the U.S. District Courts.

In a criminal trial, the defendant has the right to appeal a felony conviction to a higher, or appellate court. This procedure varies by state, because there is no constitutional right to appeal except as a necessary element of due process. The appellate court reviews the records (transcripts) of the trial in most cases. In some states the appellate court may uphold the original verdict, but modify the sentence passed.

In the federal system, the Court of Appeal may uphold or reverse the decision of the District Court. If upheld, the case may end here or continue through appeal to the U.S. Supreme Court. If reversed, the case is sent back to the District Court (remanded) for retrial, or dismissed.

There are eleven circuits, or areas of jurisdiction, of the U.S. Courts of Appeal. They are as follows:

- **First Circuit:** Maine, Massachusetts, New Hampshire, Rhode Island, Puerto Rico
- **Second Circuit:** Connecticut, New York, Vermont
- **Third Circuit:** Delaware, New Jersey, Pennsylvania, Virgin Islands
- **Fourth Circuit:** Maryland, North Carolina, South Carolina, Virginia, West Virginia
- **Fifth Circuit:** Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, Canal Zone
- **Sixth Circuit:** Kentucky, Michigan, Ohio, Tennessee
- **Seventh Circuit:** Illinois, Indiana, Wisconsin
- **Eighth Circuit:** Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota
- **Ninth Circuit:** Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Washington
- **Tenth Circuit:** Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming.
- District of Columbia

3. United States Supreme Court

The U.S. Supreme Court is the only American court mandated by the United States Constitution. The Supreme Court has ultimate jurisdiction throughout the U.S. but only in specific types of cases. Some are obligatory, but more are discretionary in nature; that is, the Court determines whether or not it will consider the case.

The Supreme Court is constitutionally bound to review *only* those decisions affected by federal statute or constitutional intent. This responsibility has far-

reaching implications; constitutional issues include very broad areas of civil and due process rights. At no time is a trial conducted before the Supreme Court. It is strictly an appellate court with profound jurisdiction.

At the state level, the same structural model as the federal court system generally exists. Within a given state's system, a case is adjudicated at the trial court level, can be appealed to an appellate court, and may eventually rest with the state's equivalent of the U.S. Supreme Court as the court of last resort. The state is divided into regions of jurisdiction for appellate courts (similar to the Circuits of the U.S. Courts of Appeals), and the court of last resort has state-wide jurisdiction. If the case is argued on a constitutional issue, it may be reviewed by the U.S. Supreme Court, although this is not commonplace.

B. Operations and Key Personnel

The overwhelming majority of judicial proceedings are conducted within the individual state systems which vary widely. Similarities among state judicial systems are generally found among proceedings of a serious nature, rather than among proceedings that deal with petty misdemeanors.

The following sections will examine the *general* functions of key judicial personnel as they are involved in cases which exercise the process of formal court trial. This approach accounts for only a minority of criminal cases, but it provides the general framework of activities within the judicial element of the criminal justice system.

1. Magistrate

Other than law enforcement personnel, the first individual encountered by an arrested person is generally a *magistrate*, or *justice of the peace*. The magistrate's function varies among jurisdictions more than that of any other criminal justice official. In a very few cities, the magistrate can serve as a trial judge for any crime committed within city boundaries. More often, his judicial authority is limited to lesser offenses.

In a criminal case of consequence, an accused's appearance before a magistrate provides for the following:

- Formal notification of charges
- Notification of rights
- If necessary, initial procedures for assignment of an attorney at public expense (public defender)
- Guarantee of appearance at trial, including bail (the posting of money which will be forfeited by failure to appear), release on personal recognizance, detention, or other methods
- Scheduling of a preliminary hearing to determine the strength of the state's case (weight of evidence). In some instances this appearance before the

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- Guarantee of appearance at trial, including bail (the posting of money which will be forfeited by failure to appear), release on personal recognizance, detention, or other methods
- Scheduling of a preliminary hearing to determine the strength of the state's case (weight of evidence). In some instances this appearance before the

magistrate constitutes a preliminary hearing, and the accused may proceed to trial or be bound over (directed to appear) to a grand jury which will examine the weight of evidence

2. Prosecutor

A key individual in the judicial element of the criminal justice system is the *prosecuting attorney*, known by a variety of titles. Every trial court in America has such an attorney representing the governing body of its jurisdiction. Prosecutors' titles include: City/County Attorney, District Attorney, State/Commonwealth Attorney, and Attorney General. At the federal level, prosecutors are known as United States District Attorneys, with the Attorney General of the United States representing the federal government before the U.S. Courts of Appeals and the U.S. Supreme Court. State and local prosecutors are generally elected, whereas federal prosecutors (including the Attorney General) are appointed by the President.

The role of the prosecutor is one of the most important in the entire system. In many if not most jurisdictions, he has sole responsibility for the decision to prosecute or dismiss (*nolle pros*) a criminal case once it has left the law enforcement domain. The prosecutor enters a case at the time of a suspect's arrest to determine formal charges. He can negotiate to lesser charges or dismiss them altogether. He conducts the criminal trial on behalf of the state, and often influences the sentence passed if a conviction is reached. He is a primary facilitator of the "weeding out" process in the criminal justice system, only prosecuting cases which appear to have sufficient evidence for convictions.

The general functions of the prosecutor are:

- Determining formal charges (if any) of criminal activity, based on evidence and testimony collected by law enforcement officers. A common practice known as *plea bargaining* is the negotiation with the accused (or his attorney) toward a plea of guilty. This occurs when the prosecutor reduces the initial charges to a lesser offense, to which the accused pleads guilty without a formal trial. Plea bargaining greatly reduces court backlogs and serves as an administrative facilitator of criminal cases. This practice has been the subject of much controversy in recent years.
- Recommending adequate guarantee of the accused's appearance at trial, such as release on personal recognizance, amount of bail, or detention. Such recommendations are based on the severity of the crime and the criminal history of the accused, and are made to the magistrate or judge.
- Conducting the criminal trial on behalf of the State, and presenting the evidence and testimony against the accused (now known as defendant) to the court for deliberation (decision of guilt or innocence). He further challenges the evidence and testimony submitted on behalf of the accused.
- Recommending an appropriate sentence to the court if a guilty verdict is reached. Recommendations are again based on the severity of the crime and the criminal history of the newly convicted individual.

3. Defense Attorney

The defense attorney is the counterpart of the prosecutor. His obligation is to the accused, rather than the state. The general functions of the defense attorney are similar to those of the prosecutor, with several exceptions:

- He enters the criminal case at the moment an investigation becomes accusatory, for example, during interrogation or formal charging, unless specifically waived by the accused.
- He participates in the decision-making process of criminal charging only in instances of plea-bargaining, and on behalf of the accused, not the state.
- His participation in the process of guaranteeing the accused's appearance is based on the best interests of his client.
- He participates in the criminal trial on behalf of the defendant (accused), challenging the evidence and testimony presented by the prosecution and submitting counter-evidence of the defendant's innocence.
- He solicits lenient sentencing, if a guilty verdict is reached, based on his client's interests.

All persons facing criminal charges are entitled to representation by legal counsel. Persons without the means to retain private counsel must be provided with a defense attorney (public defender) at public expense. Public defenders may be appointed by the court from available lawyers or may be full-time salaried employees, depending upon the jurisdiction.

4. Grand Jury

In some criminal cases, generally those of a very serious nature, the evidence against the accused is presented to a body of citizens drawn from the jurisdiction where the trial takes place. This body, known as a *grand jury*, is convened in order to determine whether probable cause exists to charge an individual with a crime (indictment).

The size of a grand jury varies considerably by state. The common range is between twelve and twenty-three jurors.

As with size, the authority of grand juries varies by state. They review evidence of the prosecution and may call additional witnesses. In some cases they may call the accused to testify (the accused and witnesses do *not* have the right to appear with legal counsel during the proceedings, as they are investigatory in nature). In some states, grand juries may begin investigations independent of the prosecutor.

After deliberation, the grand jury will decide for or against the indictment of the accused. This action does *not* determine guilt or innocence, but it does establish the existence or lack of probable cause for a criminal trial.

5. Judge

The judge holds a powerful position within the judicial element of criminal justice, and throughout the entire system. He presides over the court which renders binding decisions for the jurisdiction it serves. Examples of court authority illustrate its pervasiveness:

- Determination of an accused's guilt or innocence by the judge or jury, the central factor around which all criminal justice efforts revolve
- Interpretation of laws governing appropriate law enforcement behavior, including applicable civil rights and due process rulings
- Interpretation of laws governing the administration of correctional institutions, including institutional conditions and inmate rights
- Decisions regarding the constitutionality of enacted laws

The duties of the judge are varied, ranging from issuing arrest or search warrants to hearing an appealed case from a lower court. Appellate judges must also make critical decisions on the very important issues of state and federal constitutional guidelines.

The primary duty of a judge is to preside at a criminal trial. In this capacity he generally acts as a referee over the prosecution and defense, determining the legal boundaries for each side.

In trials by jury, the judge determines legal issues such as admissibility of evidence, or possible charges to consider. The jury determines guilt or innocence. In trials without juries, the judge determines guilt or innocence as well.

The judge is usually responsible for sentencing the offender after a guilty verdict has been reached. Exceptions include situations in which the death penalty can be invoked, in which case a jury makes a recommendation. Otherwise, the judge virtually has full latitude to invoke whatever punishment (or none) within the confines of the jurisdictional law.

The majority of judges in America are elected for specific terms of office. Others, including all federal judges, are appointed. The removal of a judge from office varies widely by state. In many cases removal requires an act of impeachment. Federal judges are appointed by the President to a life term, and can only be removed by retirement, impeachment, or death.

6. Petit Jury

The term *petit jury* is used in this section to distinguish it from a *grand jury*. A petit jury is the formal name for the body of citizens that reviews the evidence and testimony presented by the prosecutor and defense counsel in a criminal trial. This body, or jury, is charged to determine the guilt or innocence of the defendant.

A jury usually consists of twelve citizens, although this number varies among jurisdictions. In all cases jurors are drawn from the jurisdiction served by the court, and screened for impartiality by the prosecution and defense. To maintain impartiality, jurors are shielded from media coverage of the trial either voluntarily or by physical separation (sequestered.) The jury must make its decisions solely on the basis of the evidence and testimony, without outside influences.

Following the presentation of all evidence and testimony, the jury is given instructions by the judge about its options for reaching a verdict. These instructions may include any number of charges for which the evidence shows guilt or innocence. (A guilty verdict requires proof beyond a reasonable doubt in all criminal trials in America.) The jury deliberates in closed sessions, and it must return a unanimous verdict to the court. If a unanimous verdict cannot be reached (*hung jury*), a mistrial is declared and the case is either retried or dismissed. In some cases, especially those involving capital punishment, a jury will be further charged to determine sentencing after a guilty verdict has been reached.

7. Clerk of Court

The Clerk of Court is primarily a record-keeping official within the judicial element of the criminal justice system. Each criminal case that reaches the court level necessarily involves many documents, including:

- Arrest or search warrants
- Indictments
- Defendant plea(s)
- Subpoenas (the calling of witnesses to the court)
- Jury duty notifications
- Instructions to the jury
- Verdict
- Jury fees
- Sentence passed

The Clerk is responsible for maintaining these records in an orderly manner. In addition, he swears in (administers oath to) persons submitting testimony during the trial, and keeps cumulative data on cases tried in his court.

8. Bailiff

The bailiff is responsible for security and proper behavior in the courtroom. He assists the judge in maintaining order, summons witnesses, and watches the defendant's courtroom behavior.

The care and protection of the jury is a primary responsibility of the bailiff. He is alert for improper behavior by the jurors or persons attempting to communicate with them. If a jury is sequestered, the bailiff stays with them at all times. He also escorts the jury in and out of the courtroom at appropriate times.

9. Court Reporter

The court reporter is responsible for recording the actual court proceedings. This is done in a variety of ways, including the use of shorthand, stenotype, or tape recording machines to produce the actual court transcript, or record of the trial. It is this transcript that is reviewed by an appellate court if a case is appealed. The court reporter also maintains the security of physical evidence presented during the trial, although permanent responsibility lies with the Clerk.

C. Community Support

The judicial element of the criminal justice system is complicated on paper, but even more so in reality. An individual unfamiliar with the process can be extremely frustrated by the usual confusion and delay. The demands on victim or witness are substantial and very often support a losing cause.

Assistance programs for victims and witnesses are developing to offset these negative aspects of the system.

A victim/witness assistance program refers the person in need to sources of aid to help him through the judicial process itself, including:

- Keeping information concerning appointments, trends, etc., current and accurate
- Informing the victim/witness of developments in the case as they occur
- Assisting with transportation, child care, or other services required in order to allow for participation in hearings, trials, or other judiciary functions
- Reporting instances of victim/witness harrassment to appropriate authorities

Programs that assist victims and witnesses depend upon community involvement and support. Volunteers generally staff such programs, as well as the direct aid programs the victim/witnesses are referred to. Without active community involvement, these vital auxiliary efforts within the judicial element would collapse. A collapse would further deteriorate the ability of the criminal justice system to deal with crime. The system *requires* the testimony of victims and witnesses to effectively prosecute offenders.

IV. CORRECTIONS

The final responsibility of the criminal justice system, the disposition of convicted offenders, lies within the corrections process. An apprehended individual found guilty of criminal behavior must be dealt with in some fashion under the direction of the criminal court's sentence (excepting the levying of fines), which must conform to statutory provisions.

There are various alternatives for dealing with the offender after conviction, depending upon statutes, the severity of the crime(s), or many other factors. Because there are few if any absolute conditions which will lead to a particular method of correction, this section will briefly describe the primary correction alternatives but omit the realm of situations which could lead to their selection.

A. Probation

Probation is a frequently used process that technically places the offender under the "supervision of the court." The court assigns a specific length of time during which the probationer will be supervised according to specific terms, but not incarcerated. If the probationer violates the terms set, he may be brought back before the court to face possible incarceration. The supervisor, or probation officer, is often administratively housed in the state department of corrections, but reports to the court.

Probation is intended to keep the less serious offender productive within the community, but under supervision to prevent further offenses and facilitate rehabilitation. Probation attempts to shield the individual from the many negative aspects of prison, and is far less costly, at least in the short run.

In reality, probation allows the criminal justice system to process tremendous caseloads efficiently, but not necessarily effectively. There is no real "supervision" for probationers, and the process has come under increasing public scrutiny because of its arbitrary application and the lack of a deterrent effect on the probationer or others in the community. It has become a primary contributor to the phenomenon within the system known as "revolving-door justice."

A form of probation is the suspended sentence. It carries a specific length of time during which the offender must demonstrate good behavior, or else he may be brought before the court again to face incarceration. A suspended sentence imposes even less supervision than probation, a situation which has prompted some of the public concerns listed above.

B. Incarceration

Incarceration is the physical confinement of an offender for a period of time in an institution designed with some degree of security against escape. Such security may range from a minimum security work camp to a maximum security penitentiary. The terminology defining facilities changes by location. However, very general distinctions can be made:

1. A *penitentiary* is generally the facility that houses more serious felony offenders for one year or more. The term is used interchangeably with prison and applies to most state or federal facilities.
2. A *jail* is nearly always operated at the local (city or county) level as a facility housing persons awaiting trial or convicted of less serious offenses.
3. A *reformatory* is most often used to describe the facility housing juvenile offenders for the purpose of character reformation as opposed to strict imprisonment.

The length of time served in confinement is determined initially by the court (within legislated parameters). The sentence can be fixed, such as five years, or indeterminate, such as one to three years. The actual time served under an indeterminate sentence is largely affected by the behavior of the individual while incarcerated (good time). If the offender is found guilty and sentenced for two or more crimes (counts), the two or more sentences may run consecutively or concurrently. If consecutive, he must serve one sentence, then begin the next, and so on. If concurrent, the time he serves will be applied to all sentences simultaneously.

Incarceration is intended to serve four purposes: 1-punishment, 2-separation from the community, 3-deterrence of the offender and others from future criminal activity, and 4-rehabilitation. The question of rehabilitation is hotly contested among criminal justice professionals as well as the general public, as it often directly conflicts with the other purposes mentioned. The system of corrections must attempt to strike a delicate balance between these conflicting purposes. Much debate is expected to continue over the priorities of incarceration specifically and corrections in general.

C. Parole

With few exceptions, a person demonstrating good behavior and indications of rehabilitation while incarcerated is eligible for an early release (parole) from the institution. Parole is designed to further the prisoner's reformation and rehabilitation with reintegration into the community, assisting the sometimes difficult transition from institutional to community life. The parolee remains under the supervision of the parole officer, who is part of the system of corrections.

In reality, parole compares with probation in its operation and effectiveness (or lack thereof). Often the parole officer is also the probation officer, with a caseload prohibiting individual attention and supervision. Thus, parole may not

accomplish reformation or rehabilitation, as the number of offenders repeating criminal activity after incarceration (recidivism) indicates. Parole does serve to keep prison populations within tolerable limits, and it has become a cost-saving administrative function.

Decisions of parole eligibility are made by a state-level board of parole within the department of corrections. Inmate eligibility varies radically by state, crime types, and sentence imposed. Often, but not always, parole is possible after the minimum time of an indeterminate sentence or one-third of a determinate sentence has been served. Parole eligibility on a life sentence commonly occurs after seven years of incarceration. The distinction between eligibility for and granting of parole is important, because the parole board is authorized to make its own independent decisions, regardless of eligibility. If paroled the offender remains under supervision for the duration of his sentence. He may be re-incarcerated for violation(s) of parole terms.

D. Pardon

The power of releasing an individual from the control of the criminal justice system (pardon), either conditionally or unconditionally, is generally an executive function of the governor (or President). In some states authority to pardon is retained in the legislature. The pardon is a throwback to the English system of justice under which the king could forgive any transgressors he chose.

The process of pardoning varies by state. In some states, the accused or convicted must notify any number of personnel in the system that he is petitioning; in others the petitioning authority (usually the governor) must notify the system that application has been made. Some states require a board of pardons to recommend petitioners to the governor or legislature, one of whom retains the final authority to grant or deny, but only to those cases recommended by the board.

A full pardon releases the individual from any authority of the criminal justice system and restores all rights of citizenship, except to perform military service. A conditional pardon is not valid until the conditions are met, and can be revoked if the terms are violated.

E. Capital Punishment

Capital Punishment, commonly known as the death penalty, is an absolute method of dealing with an offender. Its profound effect on recidivism of the individual is evident; however, it is reserved for only the most serious of crimes. Not all states have instituted capital punishment, and those that have must conform to constitutional guidelines set down by the U.S. Supreme Court. The method of execution varies considerably by state.

In virtually all cases, every level of appeal short of the U.S. Supreme Court must be exhausted before an execution can take place. Generally, a review by the state's highest court is automatic in cases involving the death penalty. For this reason and others, a state seldom attempts such a lengthy process.

V. A TOUCH OF REALITY

The criminal justice system shares one feature with virtually all systems: it never quite works the way it was designed. More than 40,000 autonomous criminal justice agencies in the U.S. carry out specific functions within their own jurisdictions, sometimes meshing well with the "system" and sometimes not.

In reality, the system does not work as well as it should. Police do not arrest all criminals, and, of those that are arrested, not all reach the courts. The courts do not adjudicate all cases that reach them, and among those who are found guilty, all are not incarcerated. Of those who are incarcerated few stay very long and seemingly none are rehabilitated. The remote likelihood of incarceration for the commission of most criminal acts reveals the telling truth about our system of justice: crime often *does* pay, and it pays well.

How the system deteriorated to this degree is a subject of debate far beyond the scope of this brief overview. It is clear, however, that the system responds to input. From its inception it was designed to be an extension of the people's will, to uphold and enforce the standards required by the community. But the public abdicated its responsibility of participation and oversight decades ago, ushering in an era of special interest pressure, social experimentation, and wildly varying interpretations of doctrine. Despite well-intentioned and "forward looking" system changes, crime rates soared and community standards disappeared behind bars, locks, fences and walls. Criminals ruled the streets and the community imprisoned itself.

This negative effect on American lifestyles produced a public awakening. Concern for personal safety and security of property launched organized crime prevention programs across the country in the early seventies. Spearheaded by concerned law enforcement agencies, successful programs demonstrated the responsibility of the police and the community to work together to fight crime effectively. These early interactions grew by community involvement throughout law enforcement activities and into the entire criminal justice system. People began understanding the system's problems and took active roles in correcting them. Accountability to the client, the community, is being now re-introduced throughout criminal justice.

The American criminal justice system is beginning to face the realities of the function it must carry out, and with community direction and support it will again reflect the ability and resolve of the people it serves.

GLOSSARY OF CRIMINAL JUSTICE TERMINOLOGY

1. **ACCESSORY** - One who is not the chief actor in the offense. A person who, even if not present, is concerned either before (accessory before the fact) or after (accessory after the fact), in the perpetration of a felony.
2. **ACCUSATION** - A formal charge against a person to the effect that he is guilty of a punishable offense.
3. **ACCUSED** - The generic name for the defendant in a criminal case.
4. **ACCUSATORY INSTRUMENT** - An indictment, an information, a simplified traffic information, a prosecutor's information, a misdemeanor complaint, or a felony complaint. Every accusatory instrument, regardless of the person designated therein as the accuser, constitutes an accusation on behalf of the state as plaintiff against a designated person, known as the defendant.
5. **ACCUSATORY STATE** - In police practice, the investigation that occurs after suspicion has focused upon one or more particular individuals as being guilty of the offense. Distinguished from investigatory stage during which the offense is the subject of general investigation before suspicion has focused on a particular accused. Also used to mean the stages in a criminal prosecution from arrest to conviction or acquittal.
6. **ACQUITTAL** - A legal and formal certification of the innocence of a person charged with a crime.
7. **ACT OF GOD** - An act occasioned exclusively by violence of nature without the interference of any human agency; an act, event, happening or occurrence due to natural causes.
8. **ACTUS** - An act or action.
9. **ACTUS REUS** - The criminal act; the act of a person committing a crime.
10. **ADJUDICATION** - The court determination of the accused's guilt or innocence; the petition or charges are found to be true or not true, sustained or non-sustained.
11. **ADVERSARY** - An opponent. The opposite party in a writ or action.
12. **ADVERSARY PROCEEDING** - One having opposing parties, as distinguished from an *ex parte* proceeding.
13. **ADVERSARY SYSTEM** - The practice of conducting legal proceedings as a battle between opposing parties under the judge as an impartial umpire with the outcome determined by the pleadings and evidence introduced into court; in Anglo-American jurisprudence includes the presumption of innocence of the accused. To be distinguished from the accusatory system used in continental law where the accusation is taken as evidence of guilt which must be disproved by the accused.
14. **ADVOCATE** - One who assists, defends, or pleads for another.
15. **AFFIDAVIT** - A written or printed declaration or statement of facts, taken before an officer having authority to administer oaths.

16. **AFTER-CARE** - Supervision given to a child for a limited period of time after he is released from training school (institution), but is still under the control of the school or the juvenile court.
17. **AGGRAVATED ASSAULT** - Assault with intent to kill or for the purpose of inflicting severe bodily injury; assault with the use of a deadly weapon.
18. **AID AND ABET** - To be party to a crime.
19. **ALIAS** - Otherwise; in another manner; a fictitious name.
20. **ALIENIST** - One who specializes in the study of mental disease.
21. **ALLOCUTION** - The court's inquiry of a prisoner as to whether he has any legal cause why judgment should not be pronounced against him on conviction.
22. **AMICUS CURIAE** - A friend of the court. Also a person who has no right to appear in a suit but is allowed to introduce argument, authority or evidence to protect his interests.
23. **APPEAL** - The removal of a cause from a court of inferior jurisdiction to one of superior jurisdiction for the purpose of obtaining a review and retrial.
24. **APPEARANCE BOND** - A bail bond in which the only obligor is the principal.
25. **APPELLANT** - The party who takes an appeal from one court of justice to another. In criminal law usually the defendant in the lower court.
26. **APPELLATE JURISDICTION** - The right of a court to review the decision of a lower court; the power to hear cases appealed from a lower court.
27. **APPEARANCE** - The coming into court as party to a suit.
28. **APPELLEE** - The party in a cause against whom an appeal is taken; in criminal law, usually the state or the United States.
29. **APPREHENSION** - Adult - common term meaning arrest. Juvenile - taking a child into custody by police or other designated court officer with a detention order.
30. **ARRAIGN** - To bring a prisoner before the court to answer the indictment or information. In practice, used to refer to any appearance of the accused before a magistrate or before the trial court to enter his plea.
31. **ARRAIGNMENT** - The first appearance before the court of a person charged with a crime where he is advised of all pending charges, is asked to plead guilty or not guilty to the charges, and is advised of the right to counsel and of the right to trial by jury. This procedure is usually reserved for felony cases.
32. **ARRAY** - The whole body of jurors summoned to attend a court.
33. **ARREST** - The taking of a person into custody to answer a criminal charge.
34. **ARSON** - The intentional and unlawful burning of property. At common law, the malicious burning of the house or outhouse of another.
35. **ASPORTATION** - The removal of things from one place to another, such as is required in some states in the offense of larceny.
36. **ASSAULT** - The intentional unlawful use of force by one person upon another. If severe bodily harm is inflicted or a weapon is used, the offense is aggravated assault or simple assault.

37. **ASSAULT AND BATTERY** - A battery is an unlawful touching of the person of another.
38. **AUTO THEFT** - Stealing or driving away and abandoning a motor vehicle. Excludes taking for temporary use when actually returned by the taker or unauthorized use by those who have lawful access to the vehicle.
39. **BAIL** - Amount of financial security for release from pre-trial detention. Amount determined by the court after considering the seriousness of the offense and the likelihood that the person will appear in court at the stated time or times. Failure to appear results in forfeiture of the financial security.
40. **BAIL BOND** - A bond executed by a defendant who has been arrested, together with other persons as sureties, naming the sheriff, constable, or marshal as obligee, in a penal sum conditioned that the defendant shall duly appear to answer the legal process.
41. **BATTERY** - Any unlawful beating or other wrongful physical violence or constraint inflicted on a human being without his consent.
42. **BENCH WARRANT** - Process issued by the court itself, or "from the bench," for the attachment or arrest of a person; either in case of contempt, or whether an indictment has been found, or to bring in a witness who does not obey a subpoena. So called to distinguish it from a warrant issued by a justice of the peace or magistrate. A bench warrant means a process of a criminal court in which a criminal action is pending, directing a police officer to take into custody a defendant in such action who has previously been arraigned upon the accusatory instrument by which the action was commenced and to bring him before such court. The function of a bench warrant is to achieve the court appearance of a defendant in a pending criminal action for some purpose other than his initial arraignment in the action.
43. **BEYOND A REASONABLE DOUBT** - It is proof to a moral certainty, such proof as satisfies the judgment and conscience of the jury, as reasonable men and women, that the crime charged has been committed by the defendant.
44. **BOOKING** - The clerical process involving the entry on the police "blotter" or arrest book of the suspect's name, the time of the arrest, the offense charged and the name of the arresting officer. Used in practice to refer to the police station-house procedures that take place from arrest to the initial appearance of the accused before the magistrate.
45. **BREACH OF THE PEACE** - A violation of disturbance of the public tranquility and order. The offense of breaking or disturbing the public peace by any riotous, forcible or unlawful proceeding.
46. **BREAKING AND ENTERING** - Any unlawful entry even though no force was used to gain entrance.
47. **BURGLARY** - Act of intentionally entering any of the following places without the consent of the person in lawful possession and with intent to steal or commit a felony therein: (a) any building or dwelling; (b) an enclosed railroad car; (c) an enclosed portion of any ship or vessel; (d) a locked, enclosed cargo portion of a truck or trailer; or (e) a room within any of the above.
48. **CAPIAS** - Latin for "that you take." A legal writ which requires that a sheriff or police officer take the body of the defendant into custody.

49. **CARNAL KNOWLEDGE** - Sexual intercourse; the slightest penetration of the sexual organ of the female by the sexual organ of the male.
50. **CARRYING CONCEALED WEAPONS** - All violations of regulations or statutes controlling the carrying, using, possessing, furnishing, and manufacturing of deadly weapons or silencers.
51. **CASE** - A general term for an action, cause, suit, or controversy in law or equity; a question contested before a court of justice.
52. **CERTIORARI** - To be informed of, to be made certain in regard to. The name of a writ of review or inquiry; a writ directed by a superior court to an inferior court asking that the record of a case be sent up for review; a method of obtaining a review of a case by the United States Supreme Court.
53. **CHANCERY COURT** - The court having the jurisdiction of a chancellor; a court administering equity. In some states in the United States, a court with equity power distinct from the courts of common law. Also called Court of Chancery.
54. **CHANGE OF VENUE** - The removal of a suit from one county or jurisdiction to another for trial.
55. **CHARGE** - To impose a burden, duty, or obligation; to claim, demand; to accuse, to instruct a jury on matters of law.
56. **CHILD ABUSE** - Serious injury to children by adults, especially parents.
57. **CHILD IN NEED OF SERVICES (CHINS)** - A child who is habitually away from school or home, or uncontrolled by parent, guardian or legal custodian, or who habitually so deports himself as to injure or endanger the morals or health of himself or others.
58. **CHILD SUPPORT** - Provision for the necessary and adequate maintenance of a child under eighteen (18) years of age.
59. **CIRCUIT COURT** - Courts whose jurisdiction extends over several counties or districts. Also, the Federal Courts of the United States which hold terms in two or more places successively in various circuits into which the country is divided for this purpose.
60. **CIRCUMSTANCES** - Attendant facts. Any fact may be a circumstance with reference to another fact.
61. **CIRCUMSTANTIAL EVIDENCE** - Indirect evidence. Evidence which does not lend directly to prove the facts in issue, but does so indirectly by establishing collateral facts from which the facts in issue may be inferred logically.
62. **CITIZEN** - One who, under the constitution and laws of the United States, or of a particular state, is a member of the political community.
63. **CIVIL ACTION** - An action brought to recover some civil right, or to obtain redress for some wrong not being a crime or misdemeanor.
64. **CIVIL LAW** - Having to do with the establishment, recovery, or redress of private and civil rights.
65. **CIVIL COURT** - Courts established for the adjudication of controversies between private persons, or the ascertainment, enforcement, and redress of private rights.

66. **COERCION** - Compulsion, constraint, compelling by force.
67. **COMMITMENT** - Decision by the judge that a child should be sent to the State Board of Corrections for evaluation and placement, or an adult sentenced to imprisonment.
68. **COMMUNITY YOUTH HOME** - State or locally operated facility for small number of clients or residents needing homelike, therapeutically oriented programs or services. Serves youth in need of supervision.
69. **COMPLAINT** - A plain and concise statement of the alleged facts which charge that the person named has committed a specified offense with an offer to prove the fact to the end that a prosecution may be instituted. Usually the first document filed in a court charging the offense.
70. **CONCURRENT** - Running together; contemporaneous. Concurrent sentences run at the same time; each day served by the prisoner is credited on each of the concurrent sentences.
71. **CONFERENCE, INFORMAL ADJUSTMENT** - A type of disposition not involving a court hearing or formal action, used primarily for the first-time offenders and offenses that would not be criminal if the juvenile were an adult.
72. **CONSECUTIVE SENTENCES** - Sentences which are served one after the other; inmates refer to such sentences as "stacked."
73. **CONTEMPT** - A willful disregard or disobedience of a public authority.
74. **CONTEMPT OF COURT** - Any act which is calculated to embarrass, hinder, or obstruct the court in the administration of justice, or which is calculated to lessen its authority or dignity. Direct contempts (also called "criminal contempt") are those committed in the immediate view of the court (such as insulting language or acts of violence) and are punishable summarily. Constructive (or indirect) contempts are those which arise from matters not occurring in or near the presence of the court, but with reference to the failure or refusal of a party to obey a lawful decree of court.
75. **CONTEMPT POWER** - The power of a court to punish for contempt. A court of record has this power.
76. **CONTINUANCE, CONTINUED PETITION** - Decision to continue the case generally holding adjudication in abeyance dependent upon good behavior or other conditions set by the court.
77. **CONTRABAND** - Any article not issued through authorized channels.
78. **CONVICTION** - In a general sense, the result of a criminal trial which ends in a judgment or sentence that the person is guilty as charged.
79. **CORPUS DELICTI** - The body of the crime; the essential elements of the crime; the substantial fact that a crime has been committed. The actual commission by someone of the offense charged.
80. **CORRECTIONAL** - Bringing into conformity with a standard; treatment and rehabilitation of offenders through a program involving penal custody, parole, and probation; the administration of such treatment through public policy.

81. **COUNT** - The plaintiff's statement of his cause of action; also used to specify the several parts of an indictment or information each charging a distinct offense. Often used synonymously with the word "charge."
82. **COURT ABOVE, COURT BELOW** - In appellate practice, the "court above" is the one to which a case is removed for review, whether by appeal, writ of error, or certiorari; while the "court below" is the one from which the case is removed.
83. **COURT OF APPEAL** - An appellate tribunal. The name given to the court of last resort in several states; the court of last resort of a particular type of case; or in some states, an intermediate appellate court below the supreme court.
84. **COURTS OF APPEALS** - A system of courts of the United States (one in each circuit) created by act of Congress, composed of three or more judges (provision also being made for allotment of the justices of the Supreme Court among the circuits), and having appellate jurisdiction as defined by statute. Called the United States Courts of Appeals; formerly called the Circuit Courts of Appeals or United States Circuit Courts of Appeals.
85. **COURT OF COMMON PLEAS** - In English law, one of the four superior courts at Westminster. In American law, the name given to a court of original and general jurisdiction for the trial of issues and law.
86. **COURT OF COMPETENT JURISDICTION** - One having power and authority of law at the time of acting to do the particular act.
87. **COURT OF EQUITY** - A court which has jurisdiction in equity, which administers justice and decides controversies in accordance with the rules, principles and precedents of equity.
88. **COURT OF GENERAL SESSIONS** - The name given in some states to a court of general original jurisdiction in criminal cases.
89. **COURT MARTIAL** - A military court convened under the authority of the government and the Uniform Code of Military Justice for trying and punishing offenses committed by members of the armed forces.
90. **COURT NOT-OF-RECORD** - Lower court (district court) which tries misdemeanor charges and conducts preliminary hearings on felony charges, also includes juvenile and domestic relations courts.
91. **COURT OF RECORD** - A court from which the appeals are heard on the record. A court whose judicial acts and proceedings are recorded and which has the power to fine or imprison for contempt.
92. **COURT OF STAR CHAMBER** - An English court of a very ancient origin. Originally, its jurisdiction extended legally over riots, perjury, misbehavior of sheriffs, and other misdemeanors contrary to the laws of the land; afterwards, jurisdiction expanded to the asserting of all orders of state, creating a court of law to determine civil rights and a court of revenue to enrich the treasury. It was finally abolished "to the general satisfaction of the whole nation."
93. **COURTS OF THE UNITED STATES** - Comprise the following: The Senate of the United States as a Court of impeachment; the Supreme Court; the courts of appeals,

the district courts; the court of claims; the court of customs and patent appeals; the customs court; the tax court of the United States; the provisional courts; and courts of territories and outlying possessions.

94. **CRIME** - A positive or negative act in violation of penal law; an offense against the state.
95. **CRIME ANALYSIS** - A set of systematic analytical processes, providing timely and useful information on crime patterns and trends.
96. **CRIME PREVENTION** - The anticipation, recognition and appraisal of a crime risk and the initiation of some action to remove or reduce it.
97. **CRIMINAL** - One who has committed a criminal offense; one who has been legally convicted of a crime; one adjudged guilty of a crime.
98. **CRIMINAL ACTION** - The whole or any part of the procedure provided by law for bringing offenders to justice.
99. **CRIMINAL CHARGE** - An accusation of crime in a written complaint, information, or indictment.
100. **CRIMINAL COURT** - A court charged with the administration of the criminal laws and empowered to sentence the guilty person to fine or imprisonment.
101. **CRIMINAL HOMICIDE** - All willful, felonious homicides as distinguished from deaths caused by negligence.
102. **CRIMINAL INFORMATION** - A formal accusation of crime, differing from an indictment only in that it is preferred by a prosecuting officer instead of a grand jury.
103. **CRIMINAL INTENT** - An intent to commit a crime; malice, as evidenced by a criminal act; an intent to deprive or defraud the true owner of his property.
104. **CRIMINAL LAW** - That branch or division of law which treats the commission of crimes and their punishment.
105. **CRIMINAL PROCEEDING** - One instituted and conducted for the purpose either of preventing the commission of crime, or for fixing the guilt of a crime already committed, and punishing the offender.
106. **CRIMINAL PROSECUTION** - An action or proceeding instituted in a proper court in behalf of the public for the purpose of securing the conviction and punishment of one accused of crime.
107. **CRIMINAL JUSTICE PROCESS** - The sequence of steps taken from the initial contact of the offender with the law until he is released back into a free society.
108. **CRIMINAL JUSTICE SYSTEM** - The system by which society identifies, accuses, convicts, and punishes offenders against the norms of the society expressed in the law.
109. **CRIMINAL PROCEDURE** - A method for the apprehension, trial, prosecution, and fixing the punishment of persons who have broken the law.
110. **CROSS EXAMINATION** - The examination of a witness, upon a trial or hearing, by the party opposed to the one who produced him, upon his evidence given in chief, to test its truth, to further develop it, or for other purposes.

111. **CURFEW OFFENSES** - Offenses relating to violation of local curfew or loitering ordinances which regulate the time of day a person (usually a juvenile) may lawfully be on the streets.
112. **CUSTODY (TAKE INTO)** - The act of the police in securing the physical custody of a child engaged in delinquency. With adults this is called arrest.
113. **DAY IN COURT** - The opportunity to present one's claim before a competent tribunal.
114. **DEALER** - In the popular sense, one who buys to sell—not one who buys to keep.
115. **DECREE** - The judgment of the court; a declaration of the court announcing the legal consequences of the facts found.
116. **DEFENDANT** - The person defending or denying; the party against whom relief or recovery is sought in an action or suit. In criminal law, the party charged with a crime.
117. **DEFENSE** - An opposing or denying of the truth, validity, or sufficiency of a plaintiff's complaint.
118. **DEFENSE ATTORNEY** - The attorney representing the accused in a criminal action.
119. **DELAYED COMPLAINT** - A complaint not reported by the complainant at the first opportunity to a person one would expect to be told.
120. **DELIBERATE** - As applied to a jury, the weighing of the evidence and the law for the purpose of determining the guilt or innocence of a defendant. In the case of jury sentencing, the deliberation may be for the purpose of fixing the sentence.
121. **DELINQUENT CHILD** - A child who has committed an act which if committed by an adult would be called a crime.
122. **DEPOSITION** - A sworn statement of a party or witness taken outside the court, after notice is given to the opposing side, which provides information or evidence to a court.
123. **DETENTION** - Holding an adult in a jail or similar facility, usually prior to trial. Juveniles are held in special detention centers.
124. **DIRECT EVIDENCE** - That means of proof which tends to show the existence of a fact in question without the intervention of the proof of any other fact; distinguished from circumstantial evidence, which is often called "indirect."
125. **DIRECT EXAMINATION** - In practice, the first interrogation or examination of a witness, on the merits, by the party on whose behalf he is called.
126. **DISORDERLY CONDUCT** - Certain minor offenses, usually defined by statutes which consist of disturbance of the peace and quiet of the public of communities, families, etc.
127. **DISPOSITION** - The final outcome of a case.
128. **DISPOSITIONAL HEARING** - A hearing before the juvenile court at which time the court worker presents his written and verbal reports on his investigation and gives his recommendations as to the best placement and means of supervision of the juveniles. At this hearing other interested parties, including parents and defense attorney, may also present their views and recommendations.

- 129. DISPOSITIONAL INVESTIGATION** - A fact-finding inquiry about the social, psychological, and behavioral circumstances of a juvenile before the court. An investigation to provide further information and/or extenuating circumstances which will assist in determining the best placement and means of supervision of the juvenile.
- 130. DISTRICT ATTORNEY** - One title of a prosecutor for the State.
- 131. DIVERSION** - A decision to interrupt the normal justice process by referring the offender outside the system for service or alternative handling. Diversion may take place at many stages of the system and be the decision of the police, the court intake counselor, the judge, or the State.
- 132. DOUBT** - Uncertainty of mind; the absence of a settled opinion or conviction; the state of the case which, after the entire comparison and consideration of the evidence, leaves the minds of the jurors in such a condition that they cannot say to a moral certainty of the truth of the charge. If upon proof there is a reasonable doubt remaining, the accused is entitled to the benefit of an acquittal.
- 133. DRIVING WHILE INTOXICATED** - Driving or operating any motor vehicle while drunk or under the influence of liquor or narcotics.
- 134. DUCES TECUM** - From the Latin "bring with you." A subpoena *duces tecum* requires a party to appear in court and bring with him certain documents, pieces of evidence, or other matters to be inspected by the court.
- 135. DUE PROCESS OF LAW** - The fundamental rights of the accused to a fair trial; the prescribed forms for conducting a criminal prosecution; the safeguards and protections of the law given to one accused of a crime. In substantive criminal law, the right to have crimes and punishments clearly defined in the law.
- 136. EMBEZZLEMENT** - Misappropriation or misapplication of money or property entrusted to one's care, custody, or control.
- 137. EMPATHY** - The capacity for participating in or a vicarious experience of another's feelings, volitions, or ideas.
- 138. ET AL** - And another; and others.
- 139. EVALUATION** - Report on the social and adjustment problems of the persons coming before the court; used to assist the judge in arriving at a disposition.
- 140. EVIDENCE** - Any species of proof, presented at the trial for the purpose of inducing belief in the minds of the court or jury.
- 141. EXCLUSIONARY RULE** - The rule which excludes, from the trial of an accused, evidence illegally seized or obtained.
- 142. EXPERT WITNESS** - One who gives result of process of reasoning which can be mastered only by special scientists; one who has skilled experience or extensive knowledge in his calling or in any branch of learning; person competent to give expert testimony.
- 143. EXPERT EVIDENCE** - Testimony given in relation to some scientific, technical, or professional matter by experts, i.e. persons qualified to speak authoritatively by reason of their special training, skill, or familiarity with the subject.
- 144. EX REL** - By or on the information of. Used in case title to designate the person at whose instance the government or public official is acting.

145. **EX PARTE** - On one side only; by or for one party; done for, on behalf of, or on the application, of one party only.
146. **EX POST FACTO** - After the fact.
147. **EX POST FACTO LAW** - A law passed after the occurrence of a fact or commission of an act which retrospectively changes the legal consequences or relations of such fact or deed. Forbidden to both the states and the federal government by the United States Constitution Art. 1.
148. **FEDERAL QUESTION** - A case which contains a major issue involving the United States Constitution or statutes. The jurisdiction of the federal courts is governed, in part, by the existence of a federal question.
149. **FELONY** - Generally an offense punishable by death or imprisonment in a penitentiary. At common law, an offense occasioning total forfeiture of either land or goods to which capital or other punishment might be superadded according to the degree of guilt. A crime of graver or more atrocious nature than those designated as a misdemeanor.
150. **FELONY COMPLAINT** - A verified written accusation by a person, filed with a local criminal court, which charges one or more defendants with the commission of one or more felonies and which serves to commence a criminal action but not as a basis for prosecution thereof.
151. **FORCIBLE RAPE** - Rape by force, assault to rape and attempted rape. Excludes statutory offense (no force of victim under age of consent).
152. **FORGERY** - Making, altering, uttering (passing) or possessing anything false which is made to appear true, with intent to defraud.
153. **FRUITS OF A CRIME** - Material objects acquired by means of and in consequence of the commission of a crime, and sometimes constituting the subject matter of the crime.
154. **GAULT DECISION** - The decision of the United States Supreme Court that all minors have the same constitutional protection as do adults in the criminal justice (Juvenile Justice) process.
155. **GOOD TIME** - Credit allowed on the sentence for exemplary conduct in confinement.
156. **GRAND JURY** - A group of persons selected to investigate criminal activity by secretly hearing evidence against an accused person to determine whether sufficient evidence exists to bring that person to trial.
157. **GRAND LARCENY** - Larceny of the grade of felony.
158. **GRIEVANCE, COMPLAINT (JUVENILE)** - A formal complaint concerning an alleged misapplication of policy, alleged lack of due process procedures, or alleged conditions contrary to welfare of juvenile.
159. **GROUP HOME** - Any small residence for caring for juveniles or children in the community which utilizes educational, recreational, employment or other services as needed. May refer to a community youth home as halfway house or probation house; connotes small, non-secure homelike facility.

160. **GUARDIAN** - A person or an agency that is legally responsible for the care and management of the person or property of one who is considered by law to be incompetent to manage his own affairs, as a child during its minority.
161. **HABEAS CORPUS** - Literally, "you have the body." See Writ of Habeas Corpus.
162. **HALFWAY HOUSE** - Residential care facility which houses adult or juvenile offenders who are returning to the community after a period of commitment.
163. **HEARING** - In a broad sense, whatever takes place before a court or a magistrate clothed with judicial function and sitting without a jury. A trial is a hearing, but not all hearings require the formalities of a trial.
164. **HEARSAY** - Evidence not proceeding from the personal knowledge of the witness, but from the mere repetition of what he has heard others say.
165. **HOMICIDE** - The killing of one human being by another.
166. **HUNG JURY** - A jury so irreconcilably divided in opinion that it cannot agree upon any verdict.
167. **INCEST** - Sexual intercourse between closely related individuals.
168. **INDEX CRIMES** - The crimes used by the Federal Bureau of Investigation in reporting the incidence of crime in the United States in the Uniform Crime Reports. The statistics on the Index Crimes are taken as an index of the incidence of crime in the United States.
169. **INDICTMENT** - An accusation in writing found and presented by a grand jury, charging that a person therein named has been guilty of a public offense punishable on indictment.
170. **INDIGENT** - Any person whose financial resources are insufficient (as defined by court rule or law) to obtain legal counsel or pay court fees.
171. **INFAMOUS CRIMES** - A crime which entails infamy upon one who has committed it; crimes punishable by imprisonment in the state prison or penitentiary. At common law, all felonies were considered to be infamous crimes.
172. **INFORMAL DISPOSITION** - A decision made by an officer of the court or persons designated by the court regarding an offense or harmful behavior or juveniles where there has been no court hearing, but services are continuing on a consent basis between agency and parent and child.
173. **INFORMATION** - An accusation exhibited against a person for some criminal offense, without an indictment. An accusation in the nature of an indictment, from which it differs only in being presented by a competent public officer on his oath of office, instead of a grand jury on their oath.
174. **INFORMER** - A person who informs or prefers an accusation against another whom he suspects of the violation of some penal statute.
175. **INFRACTION** - The name given to minor offenses (chiefly traffic offenses).
176. **IMPEACHMENT** - A criminal procedure against a public officer to remove him from office. In the law of evidence, the adducing of proof that a witness is unworthy of belief.

177. **IN FORMA PAUPERIS** - In the form of a pauper; as a poor person or indigent. Permission to bring legal action without the payment of required fees for counsel, writs, transcripts, and the like.
178. **INJUNCTION** - A writ prohibiting an individual or organization from performing some specified action.
179. **IN RE** - In the affair; in the matter of; concerning. This is the usual method of entitling a judicial proceeding in which there are no adversary parties. For this reason, used in the title of cases in a juvenile court.
180. **ISSUE** - A single, certain, and material point, deduced from the pleadings of the parties, which is affirmed by the one side and denied on the other; a fact put in controversy by the pleadings; in criminal law a fact which must be proved to convict the accused, or which is in controversy.
181. **INSTRUMENTALITIES OF A CRIME** - Tools or implements used to commit a crime.
182. **INTAKE** - Process of making preliminary findings regarding a case referred to juvenile court. Determines whether court has jurisdiction over complaint, whether formal complaint or petition will be filed; recommends release or detention prior to adjudicatory or other hearings.
183. **INVESTIGATORY STAGE** - In police practice the stage of investigation during which the offense is the subject of general inquiry before suspicion has focused on a particular person or persons. Distinguished from the accusatory stage which covers the investigation that occurs after suspicion has focused upon one or more particular individuals as being guilty of the offense.
184. **INVESTIGATION** - Close examination and systematic inquiry.
185. **JAIL TIME** - Credit allowed on a sentence for the time spent in jail awaiting trial or mandate on appeal.
186. **JUDGE** - An officer so named in his commission, who presides in some court. Includes any judicial officer who is a member of or constitutes a court, whether referred to in another provision of law as a justice or by any other title.
187. **JUDGMENT** - In general, the official and authentic decision of a court of justice upon the respective rights and claims of the parties to the action or suit therein litigated and submitted to its determination.
188. **JUDICIAL PROCESS** - The sequence of steps taken by the courts in deciding cases or disposing of legal controversies.
189. **JURISDICTION** - The power conferred upon a court to hear certain cases; the power of the police or judicial officer to act. The extent of the power of a public official to act by virtue of his authority.
190. **JURY PANEL** - A list of jurors returned by a sheriff, to serve at a particular court or for the trial of a particular case. The word may be used to denote either the whole body of the persons summoned as jurors for a particular term of court or those selected by the clerk by lot.
191. **JUVENILE** - A person who is a minor under the law of the state of residence of the parent, guardian or person or agency entitled to legal custody of such minor.

- 192. JUVENILE DELINQUENT** - A child or adolescent who exhibits anti-social or criminal behavior.
- 193. LARCENY** - The taking of property from the possession of another with intent of the taker to convert it to his own use. Depending upon the value of the property taken, the offense is a felony or a misdemeanor.
- 194. LAW** - Law is the formal means of social control that involves the use of rules that interpreted, and are enforceable, by the courts of a political community. Law is the effort of society to protect persons, in their rights and relations, to guard them in their property, enforce their contracts, hold them to liabilities for their torts, punish their crimes, by means of remedies administered by government.
- 195. LAW ENFORCEMENT ASSISTANCE ADMINISTRATION (LEAA)** - Federal agency which is responsible for the administering of funds granted and programs established under the Omnibus Crime Control and Safe Streets Act of 1968 passed by Congress within the Department of Justice.
- 196. LEADING QUESTION** - A question which is suggestive of the answer; one which instructs witness how to answer or puts into his mouth words to be echoed back; one which suggests to witness the answer desired.
- 197. LEGAL** - Conforming to the law; according to a law; required or permitted by law; not forbidden or discountenanced by law; good and effectual law.
- 198. LEGAL DUTY** - That which the law requires to be done or foreborne.
- 199. LEGAL ETHICS** - Usages and customs among members of the legal profession, involving their moral and professional duties toward one another, toward clients, and toward the courts.
- 200. LEGAL PROVOCATION** - Provocation sufficient in law to be a defense to the act.
- 201. LEGISLATION** - Legislation is rules of general application, enacted by a law-making body in a politically organized society. Included in legislation are constitutions, treaties, statutes, ordinances, administrative regulations, and court rules. Distinguished from case law, common law, and "judge-made law."
- 202. LESSER INCLUDED OFFENSE** - When it is impossible to commit a particular crime without concomitantly committing, by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense."
- 203. LESSER OFFENSE** - Sometimes used synonymously with a "less-serious offense," or "minor offense."
- 204. LIMITATION OF ACTIONS** - The time at the end of which no action at law can be maintained; in criminal law, the time after the commission of the offense within which the indictment must be presented or the information filed.
- 205. LINE-UP** - A police identification procedure during which the person of a suspect is exhibited to witnesses to the crime to determine whether or not they can connect him with the offense. Also called a "show-up."
- 206. LOCAL CRIMINAL COURTS** - A city court; or a town court; or a village court; or a supreme court justice sitting as a local criminal court; or a county judge sitting as a local criminal court.

207. **LOITERING** - Remaining in an area for no obvious reason. Hanging around.
208. **MALA IN SE** - Wrong in themselves; acts immoral or wrong in themselves.
209. **MALA PROHIBITA** - Crimes *mala prohibita* embrace things prohibited by statute as infringing on other's rights, though no moral turpitude may be attached, and constituting crimes only because they are prohibited.
210. **MALICIOUS MISCHIEF** - Willful, wanton, or reckless damage to or destruction of another's property.
211. **MANSLAUGHTER** - The lowest degree of culpable homicide; death caused by culpable recklessness or negligence.
212. **MATERIAL ALLEGATION** - One essential to the claim or defense, and which could not be stricken from the pleading without leaving it insufficient.
213. **MATERIAL FACT** - One which is essential to the case, defense, application, etc. and without which it could not be supported.
214. **MENS REA** - A guilty mind, a guilt or wrongful purpose, a criminal intent. Guilty knowledge and wilfulness.
215. **MINOR** - A person or infant who is under the age of legal competence.
216. **MIRANDA WARNING** - The warning which must be given to the suspect whenever suspicion focuses upon him. The officer must warn the suspect (1) that he has a right to remain silent; (2) that if he talks, anything he says may be used against him; (3) that he has a right to be represented by counsel and the right to have counsel present at all questioning; and (4) that if he is too poor to afford counsel, counsel will be provided for him at state expense.
217. **MISDEMEANOR** - Offenses less serious than felonies and generally punishable by fine or by imprisonment in an institution other than a penitentiary.
218. **MISDEMEANOR COMPLAINT** - A verified written accusation by a person filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony, and which serves to commence a criminal action but which may not, except upon the defendant's consent, serve as a basis for prosecution of the offenses charged therein.
219. **MOOT** - A subject for argument; unsettled, undecided. A moot point is one not settled by judicial decision.
220. **MOOT CASE** - One which seeks to get a judgment on a pretended controversy, or a decision in advance about a right before it has been actually asserted and contested, or a judgment on some matter which, when rendered, for any reason, cannot have any practical legal effect upon a then existing controversy.
221. **MORAL TURPITUDE** - An act of baseness, vileness, or depravity in the private and social duties which man owes to his fellow men, or to society in general, contrary to the accepted and customary rule of right and duty between man and man.
222. **MURDER** - The highest degree of culpable homicide.
223. **NARCOTIC OFFENSES** - Offenses relating to narcotic drugs, such as unlawful possession, sale or use. Also used to describe any substance abuse offense.

224. **OBJECTION** - Opposition by a prosecutor or defense counsel to a specific question, line of questioning, or evidence presented.
225. **ORDER OF RECOGNIZANCE OR BAIL** - A securing order releasing a principal on his own recognizance or fixing bail.
226. **ORIGINAL JURISDICTION** - Jurisdiction in the first instance; jurisdiction to take cognizance of a case at its inception, impanel a jury, try the case, and pass judgment upon the law and the facts. Distinguished from appellate jurisdiction.
227. **VERRULE** - A judge's decision to set aside the authority of a former decision or reject a motion or objection made by a prosecutor or legal counsel.
228. **PARDON** - An act of grace, proceeding from the power entrusted with the execution of the laws, which exempts the individual on whom it is bestowed from the punishment the law inflicts for the crime he has committed.
229. **PARENS PATRIAE** - Literally, "father of his country." The doctrine that the juvenile court treats the child as "a kind and loving father."
230. **PAROLE** - The release of a prisoner from imprisonment, but not from the legal custody of the State, for rehabilitation outside of prison walls under such conditions and provisions for disciplinary supervision as the Board of Parole may determine. Parole is an administrative act and follows incarceration.
231. **PAROLE OR PROBATION OFFICER** - A person delegated by a criminal court to supervise a defendant on suspended sentence.
232. **PER CURIAM** - By the court. An opinion of the court which is authored by the justices collectively.
233. **PER SE** - By himself or itself, in itself; taken alone.
234. **PEREMPTORY CHALLENGE** - Self determined, arbitrary, requiring no cause to be shown. As applied to selection of jurors, challenges allowed by law to both the state and defense to remove a prospective juror without cause from the panel of jurors. The number of peremptory challenges are always limited by statute or rule of court.
235. **PERJURY** - A false statement made under oath.
236. **PETIT JURY** - A group of persons selected to determine certain matters of fact in a criminal action and to render a verdict of guilty or not guilty. In civil actions they reach verdicts for or against parties involved and decide whether to award monetary damages.
237. **PETTY LARCENY** - Larceny of the grade of misdemeanor.
238. **PLAINTIFF** - A person who initiates a lawsuit in a civil action. There is no person named as plaintiff in a criminal case because these cases are brought in the name of the State.
239. **PLEA BARGAINING** - The exchange of prosecutorial concessions—usually a lesser charge, the dismissal of other charges, a prosecutorial recommendation for reduced sentence, or a combination of these—in return for a plea of guilty.
240. **PLEA OF GUILTY** - A confession of guilt in open court.
241. **PLEA OF NOLO CONTENDERE** - One which has the same effect in a criminal action as a plea of guilty, but does not bind the defendant in a civil suit for the same wrong. Literally, "No contest."

- 242. PLEA OF NOT GUILTY** - A plea denying the guilt of the accused to the offense charged and putting the state to the proof of all of the material elements of the offense.
- 243. PRECEDENT** - An adjudged case or decision of a court of justice considered as furnishing an example or authority for an identical or similar case afterwards arising on a similar question of law.
- 244. PRELIMINARY HEARING** - The examination of a person charged with a crime before a magistrate.
- 245. PRELIMINARY JURISDICTION** - A criminal court has "preliminary jurisdiction" of an offense when, regardless of whether it has trial jurisdiction thereof, a criminal action for such offense may be commenced therein, and when such court may conduct proceedings with respect thereto which lead or may lead to prosecution and final disposition of the action in a court having trial jurisdiction thereof.
- 246. PREPONDERANCE OF THE EVIDENCE** - Greater weight of evidence: the preponderance of the evidence rests with the evidence which produces the stronger impression and is more convincing as to its truth when weighed against the evidence in opposition.
- 247. PRESENTMENT** - The initial appearance by the accused before the magistrate after arrest. Also, a written notice taken by a grand jury of any offense, from their own knowledge or observation, without any bill of indictment laid before them at the suit of the government. See Indictment.
- 248. PRESUMPTION OF FACT** - An inference affirmative or disaffirmative of the truth or falsehood of any proposition or fact. Presumptions of fact are not the subject of fixed rules, but are merely natural presumptions such as appear from common experience to arise from the particular circumstances.
- 249. PRESUMPTION OF LAW** - A rule of law that courts and judges shall draw a particular inference from a particular fact, or from particular evidence, unless and until the truth of such inference is disproved; an inference which the court will draw from the proof which no evidence, however strong, will be permitted to overcome. Presumptions are evidence, or have the effect of evidence.
- 250. PRIMA FACIE CASE** - A case developed with evidence such as will suffice until contradicted and overcome by other evidence.
- 251. PRIMA FACIE EVIDENCE** - Evidence good and sufficient in its face; such evidence as in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense, and which if not rebutted or contradicted, will remain sufficient.
- 252. PROBABLE CAUSE** - Reasonable cause. Having more evidence for than against. An apparent state of facts which would induce a reasonably intelligent and prudent man to believe, in a criminal case, that the accused person had committed the crime charged. More than suspicion, less than certainty.

- 253. PROBATION** - A legal act allowing a person convicted of an offense to go at large under suspension of sentence, but usually under the supervision of a probation officer. The court may impose certain conditions of probation, such as the avoidance of alcohol, drugs, etc. A probationer who violates probation may be arrested/detained on warrant or petition and subjected to (the original) sentence/disposition.
- 254. PROBATION REPORT** - Up-date of social history or abbreviated report of problem at hand.
- 255. PROCEDURAL LAW** - Machinery for carrying on a suit or action.
- 256. PROCEDURE** - The mode of proceeding by which a legal right is enforced as distinguished from the law which gives or defines the right; the machinery, as distinguished from its product. A form, manner, and order of conducting prosecutions.
- 257. PROCESS** - The whole course of proceedings in a legal action. The summons, mandate or writ by a court to compel the appearance of the defendant in a legal action or compliance with its orders. To proceed against by law. To take out a summons against. To serve a summons on.
- 258. PROSECUTION** - The institution and continuance of a criminal suit involving the process of pursuing formal charges against an offender to final judgment; the party by whom criminal proceedings are instituted or conducted.
- 259. PROSECUTOR** - An attorney employed by a government agency to initiate and maintain criminal proceedings on behalf of the government against persons accused of committing criminal offenses.
- 260. PROSECUTOR'S INFORMATION** - A written accusation by a district attorney filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which serves as a basis for prosecution thereof.
- 261. PROSTITUTION** - Sex offenses of a commercialized nature.
- 262. PROVOCATION** - The act of inciting another to do a particular deed; that which arouses, moves, calls forth, causes, or occasions.
- 263. PROXIMATE CAUSE** - That which, in a natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred.
- 264. PUBLIC COMPENSATION** - Public program to provide monetary compensation for injuries and death caused by acts of criminal violence.
- 265. PUBLIC DEFENDER** - An attorney designated by law or appointed by the court to represent indigent defendants in criminal proceedings. A public defender is paid by the state or by a private agency, or serves without fee.
- 266. RAPE** - The unlawful carnal knowledge of a woman by a man forcibly and against her will. See also Statutory Rape.
- 267. REAL EVIDENCE** - Evidence furnished by things themselves on view or inspection, as distinguished from a description of them given by a witness.
- 268. REBUTTAL** - The introduction of rebutting evidence; the showing that a statement of witnesses as to what occurred is not true; the stage of a trial at which such evidence may be introduced; also the rebutting evidence by itself.

269. **REBUTTING EVIDENCE** - Evidence given to explain, repel, counteract, or disprove facts given in evidence by the adverse party.
270. **REBUTTABLE PRESUMPTION** - A presumption which may be rebutted by evidence; a species of legal presumption which holds good until disproved.
271. **RECEIVING STOLEN PROPERTY** - Buying, receiving, and possessing stolen property with knowledge that it is stolen, or under circumstances requiring inquiry as to its origin.
272. **RECIDIVIST** - One who has been repeatedly imprisoned for criminal offenses.
273. **RECORD** - A written account of some act, transaction, or instrument; a written memorial of all the acts and proceedings in an action or suit, in a court of record; the official and authentic history of the cause, consisting in entries in each successive step in the proceedings. At common law, a roll or parchment upon which the proceedings and transactions of a court are entered.
274. **REFORMATORY** - A penal institution to which young or first offenders are committed for training and reformation.
275. **REHABILITATION CENTER** - A minimum security facility for rehabilitation of offenders.
276. **RELEASE ON OWN RECOGNIZANCE** - A court releases a person on his own recognizance when, having acquired control over his person, it permits him to be at liberty during the pendency of the action upon his own agreement and without furnishing sureties for his appearance.
277. **RELEVANT** - Applying to the matter in question. A fact is relevant to another fact when, according to common course of events, existence of one taken alone or in connection with the other fact renders existence of the other certain or more probable.
278. **RES GESTAE** - Things done. The whole of the transaction under investigation and every part of it. Considered an exception to the hearsay rule, and is extended to include not only declarations by the parties to the suit, but statements made by bystanders and strangers under certain circumstances.
279. **RESPONDENT** - The defendant on appeal; the party who contends against an appeal.
280. **REUS** - A person judicially accused of a crime; a person criminally proceeded against.
281. **REVOCAION** - The annulment or cancellation of an instrument, act or promise by or on behalf of the party who made it. Also spoken of as the action of a motor vehicle bureau in revoking an operator's license for serious violations of the traffic laws.
282. **RIGHT OF ALLOCUTION** - See Allocution. The right of the convicted person to speak in his own defense before judgment is pronounced.
283. **ROBBERY** - Stealing or taking anything of value from the person by force or violence or by putting in fear.
284. **RUNAWAY (JUVENILE)** - Juvenile taken into protective custody under provisions of local statutes as runaways.
285. **RUNAWAY HOUSE** - A short-term, temporary residential facility for housing runaway youth voluntarily pending youth's decision to return home, find an alternative placement or action of the court.

286. **SCIENTER** - knowingly, with guilty knowledge.
287. **SEARCH WARRANT** - A warrant requiring the officer to whom it is addressed to search a place specified therein for property specified in the warrant, and if same is found upon search, to bring such property together with the body of the person possessing the same before some justice of the peace or authorized officer.
288. **SECURING ORDER** - An order of a court committing a principal to the custody of the sheriff, or fixing bail, or releasing him on his own recognizance.
289. **SENTENCE** - The judgment formally pronounced by the court or judge upon the defendant after his conviction in a criminal prosecution awarding the punishment to be inflicted.
290. **SERVICE OF PROCESS** - The service of writs, summonses, rules, etc. signifies the delivering or leaving them with the party to whom or with whom they ought to be delivered or left; and when they are so delivered, they are then said to be served.
291. **SEQUESTER** - To keep a jury together and in isolation from other persons under charge of the bailiff during the pendency of a trial, sometimes called "separation of the jury." To keep witnesses apart from other witnesses and unable to hear their testimony. In the case of witnesses sometimes called "putting the witness under rule."
292. **SEX OFFENSES** - Rape, prostitution, commercialized vice, statutory rape, offenses against chastity, common decency, and morals.
293. **SHOPLIFTER** - One guilty of stealing goods exposed for sale in a store or who intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without his consent and with intent to deprive the merchant permanently of possession, or the full purchase price.
294. **SHOW CAUSE** - An order to appear as directed and present to the court reasons and considerations as to why certain circumstances should be continued, permitted, or prohibited, as the case may be.
295. **SIMPLE ASSAULT** - Assault which is not of an aggravated nature. See Aggravated Assault.
296. **SIMPLIFIED TRAFFIC INFORMATION** - A written accusation by a police officer filed with a local criminal court which charges a person with a traffic violation or misdemeanors relating to traffic violation or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.
297. **SLANDER** - The utterance in words of defamation matter, which directly or indirectly tends to expose any person to hatred, contempt or ridicule.
298. **SOCIAL CONTROL** - The process by which subgroups and persons are influenced to conduct themselves in conformity to group expectations.
299. **STANDING** - The qualifications needed to bring legal action.
300. **STATUS OFFENSE** - A juvenile offense which would not be against the law for adults. An offense which regulates the behavior of a minor but not an adult (i.e. runaway, truancy, incorrigibility, etc.).

- 301. STARE DECISIS** - To abide by, or adhere to decided cases; doctrine that, when a court has once laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle, and apply it to all future cases where facts are substantially the same, regardless of whether the person and property are the same.
- 302. STATE** - The supreme political community. Also a state of the United States.
- 303. STATUTORY LAW** - See Legislation.
- 304. STATUTORY RAPE** - Carnal knowledge of a female child below the age fixed by statute. Neither force nor lack of consent are necessary elements of this offense.
- 305. SUBPOENA** - Judicial writ requiring a person to appear as a witness at a specified time and place, under penalty for default.
- 306. SUMMONS** - A written order signed by a justice directing the person named therein to appear at a given time to the court named with reference to a matter named therein.
- 307. SUPERIOR COURTS** - Used generally to denote courts of general jurisdiction. The name given to the felony courts in California and Illinois. In New York, a superior court means the supreme court or a county court with criminal jurisdiction.
- 308. SUPERVISION** - Counseling and guidance by the court service unit or probation department.
- 309. SUPREME COURT** - The highest court of the United States, created by the Constitution. The name given in most states to the highest court of appeals, the court of last resort.
- 310. SUSPECT** - To have a slight or even vague idea concerning; not necessarily involving knowledge of belief or likelihood. Is sometimes used in place of the word "believe." Also, a person who is suspected of having committed an offense, or who is believed to have committed an offense.
- 311. SUSPICION** - Arrest made on "suspicion"—for no specific offense; the apprehension of something without proof or upon slight evidence. Implies a belief or opinion based upon facts or circumstances which do not amount to proof.
- 312. SUSTAIN** - To support an objection made by a prosecutor or defense counsel.
- 313. TAKING INTO CUSTODY** - Juveniles are not arrested, but are taken into custody or detained by police.
- 314. TESTIMONY** - Evidence given by a competent witness, under oath or affirmation; as distinguished from evidence derived from writings and other sources. Testimony is one species of evidence, but the words "testimony" and "evidence" are often used interchangeably.
- 315. THEFT** - A popular name for larceny.
- 316. THE GREAT WRIT** - A name given to the Writ of Habeas Corpus.
- 317. TORT** - A private or civil wrong or injury; a legal wrong committed upon the person or property independent of contract which is redressed in a civil court. A personal tort involves or consists in an injury to the person or to the reputation or feelings as distinguished from an injury or damage to real or personal property, called a "property tort."
- 318. TORT FEASOR** - One who commits a tort.

- 319. TRANSCRIPT OF RECORD** - The printed record as made up in case for review by a higher court; also a copy of any kind. In referring to the written documents on appeal the words "transcript," "record" and "Record on Appeal" are used interchangeably.
- 320. TRANSFER HEARING** - A hearing to determine "probable cause" regarding a serious charge against a juvenile nearing adult status, which would be a felony if committed by an adult. A transfer hearing report is prepared by the court service unit to determine whether the juvenile would be amenable to juvenile justice handling and services or whether he should be treated as an adult.
- 321. TRESPASS** - The act of entering or being upon land or property of another without right. A trespasser who refuses to leave on request may, by his conduct, tend to provoke breach of the peace and thereby become liable to arrest and prosecution.
- 322. TRIAL JURISDICTION** - A criminal court has trial jurisdiction of an offense when an indictment or an information charging such offense may properly be filed with such court, and when such court has authority to accept a plea to try or otherwise finally dispose of such accusatory instrument.
- 323. UNWRITTEN LAW** - A rule or custom established by general usage; a law which rests on customs and judicial decision and not on a written command, decree or statute; customs having the force of a law.
- 324. VAGRANCY** - Vagabondage, betting, loitering. Soliciting for prostitution is sometimes included in the definition of vagrancy.
- 325. VANDALISM** - Willful or malicious destruction, injury, disfigurement, or defacement of property without consent of the owner or person having custody or control.
- 326. VENIRE** - From the Latin "to come, to appear." The name given to the writ for summoning the jury, and also to the body of jurors summoned.
- 327. VENIRE FACIAS** - In practice, a judicial writ directed to the sheriff of the county in which a cause is to be tried, commanding him that he "cause to come" before the court, on a certain day therein mentioned, twelve good and lawful men of the body of his county, qualified according to law, who are in no way kin to the plaintiff or to the defendant, to make a jury of the county between the parties in the action.
- 328. VENIREMAN** - A member of a panel of jurors; a juror summoned by the writ of *venire facias*.
- 329. VENUE** - A neighborhood; the neighborhood, place, or county in which an injury is declared to have been done, or fact declared to have happened. "Jurisdiction" of the court means the inherent power to decide a case, whereas "venue" designates the particular county or city in which a court with jurisdiction may hear and determine the case.
- 330. VERDICT** - The formal and unanimous (or one concurred in by the majority of jurors required by law) decision or finding made by a jury, impaneled and sworn for the trial of a cause, and reported to the court (and accepted by it) upon the matters or questions duly submitted to them upon the trial. From the Latin *veredictum*, a true declaration.
- 331. VOIR DIRE** - Literally "to speak the truth." The preliminary examination of a witness or juror as to his competency, interest, etc.

332. **VOLUNTEER** - A person who, of his own free will, gives time and/or monetary assistance without receiving financial gain.
333. **WAIVE** - To abandon or throw away; in modern law, to abandon, throw away, renounce, repudiate, or surrender a claim, a privilege, a right, or the opportunity to take advantage of some defect, irregularity, or wrong.
334. **WARRANT OF ARREST** - A written order issued and signed by a magistrate, directed to a peace officer or some other person specially named, and commanding him to arrest the body of a person named in it, who is accused of an offense.
335. **WITNESS** - Attestation of a fact or event; testimony. One who has knowledge of facts relating to a given cause and is subpoenaed to testify. One who attests another person's signature.
336. **WRIT** - An order or mandatory process in writing issued under seal in the name of a court or judicial officer commanding the person to whom it is directed to perform or refrain from performing an act specified therein. A formal written document.
337. **WRIT OF HABEAS CORPUS** - A writ directed to a person detaining another and commanding him to produce the body of the prisoner or person detained.
338. **YOUTH BUREAU-YOUTH DIVISION** - a bureau of detectives usually in a large police department who are specifically assigned to work with juvenile matters within the department's jurisdiction.

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The following documents are excellent resources to consult for information in this subject area. This overview could not have been written without them.

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1909 K Street, N.W.
Washington, D.C. 20049