



## Legal Terms Glossary Excerpt

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<https://www.justice.gov/usao/justice-101/glossary>

The Legal Terms Glossary defines over 100 of the most common legal terms in easy-to-understand language. Selected terms are listed in alphabetical order.

### A

acquittal - Judgment that a criminal defendant has not been proven guilty beyond a reasonable doubt.

affidavit - A written statement of facts confirmed by the oath of the party making it. Affidavits must be notarized or administered by an officer of the court with such authority.

affirmed - Judgment by appellate courts where the decree or order is declared valid and will stand as decided in the lower court.

allegation - Something that someone says happened.

answer - The formal written statement by a defendant responding to a civil complaint and setting forth the grounds for defense.

appeal - A request made after a trial, asking another court (usually the court of appeals) to decide whether the trial was conducted properly. To make such a request is "to appeal" or "to take an appeal." Both the plaintiff and the defendant can appeal, and the party doing so is called the appellant. Appeals can be made for a variety of reasons including improper procedure and asking the court to change its interpretation of the law.

arraignment - A proceeding in which an individual who is accused of committing a crime is brought into court, told of the charges, and asked to plead guilty or not guilty.

### B

bench trial - Trial without a jury in which a judge decides the facts. In a jury trial, the jury decides the facts. Defendants will occasionally waive the right to a jury trial and choose to have a bench trial.

brief - A written statement submitted by the lawyer for each side in a case that explains to the judge(s) why they should decide the case (or a particular part of a case) in favor of that lawyer's client.



## C

case law - The use of court decisions to determine how other law (such as statutes) should apply in a given situation. For example, a trial court may use a prior decision from the Supreme Court that has similar issues.

chambers - A judge's office.

charge to the jury - The judge's instructions to the jury concerning the law that applies to the facts of the case on trial.

chief judge - The judge who has primary responsibility for the administration of a court. The chief judge also decides cases, and the choice of chief judges is determined by seniority.

circumstantial evidence - All evidence that is not direct evidence (such as eyewitness testimony).

clerk of court - An officer appointed by the court to work with the chief judge in overseeing the court's administration, especially to assist in managing the flow of cases through the court and to maintain court records.

common law - The legal system that originated in England and is now in use in the United States. It is based on court decisions rather than statutes passed by the legislature.

complaint - A written statement by the plaintiff stating the wrongs allegedly committed by the defendant.

continuance - Decision by a judge to postpone trial until a later date.

contract - An agreement between two or more persons that creates an obligation to do or not to do a particular thing.

counsel - Legal advice; a term used to refer to lawyers in a case.

court - Government entity authorized to resolve legal disputes. Judges sometimes use "court" to refer to themselves in the third person, as in "the court has read the briefs."

court reporter - A person who makes a word-for-word record of what is said in court and produces a transcript of the proceedings upon request.

cross-examine - Questioning of a witness by the attorney for the other side.



## D

damages - Money paid by defendants to successful plaintiffs in civil cases to compensate the plaintiffs for their injuries.

default judgment - A judgment rendered because of the defendant's failure to answer or appear.

defendant - In a civil suit, the person complained against; in a criminal case, the person accused of the crime.

deposition - An oral statement made before an officer authorized by law to administer oaths. Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used later in trial.

direct evidence - Evidence that supports a fact without an inference.

discovery - Lawyers' examination, before trial, of facts and documents in possession of the opponents to help the lawyers prepare for trial.

docket - A log containing brief entries of court proceedings.

## E

evidence - Information presented in testimony or in documents that is used to persuade the fact finder (judge or jury) to decide the case for one side or the other.

exculpatory evidence - Evidence which tends to show the defendant's innocence.

exhibit - Physical evidence or documents that are presented in a court proceeding. Common exhibits include contracts, weapons, and photographs.

## F

felony - A crime carrying a penalty of more than a year in prison.

file - To place a paper in the official custody of the clerk of court to enter into the files or records of a case. Lawyers must file a variety of documents throughout the life of a case.

## G

grand jury - A body of citizens who listen to evidence of criminal allegations, which are presented by the government, and determines whether there is probable cause to believe the offense was committed.

As it is used in federal criminal cases, "the government" refers to the lawyers of the U.S. Attorney's office who are prosecuting the case.



Grand jury proceedings are closed to the public, and the person suspected of having committed the crime is not entitled to be present or have an attorney present. States are not required to use grand juries, but the federal government must do so under the Constitution.

## H

habeas corpus - A writ that is often used to bring a prisoner before the court to determine the legality of his imprisonment. A prisoner wanting to argue that there is not sufficient cause to be imprisoned would file a writ of habeas corpus. It may also be used to bring a person in custody before the court to give testimony, or to be prosecuted.

hearsay - Statements by a witness who did not see or hear the incident in question but learned about it through secondhand information such as another's statement, a newspaper, or a document. Hearsay is usually not admissible as evidence in court, but there are many exceptions to that rule.

## I

impeachment - (1) The process of calling something into question, as in "impeaching the testimony of a witness." (2) The constitutional process whereby the House of Representatives may "impeach" (accuse of misconduct) high officers of the federal government for trial in the Senate.

inculpatory evidence - Evidence which tends to show the defendant's guilt.

indictment - The formal charge issued by a grand jury stating that there is enough evidence that the defendant committed the crime to justify having a trial; it is used primarily for felonies.

initial hearing - Court proceeding in which the defendant learns of his rights and the charges against him and the judge decides bail.

injunction - An order of the court prohibiting (or compelling) the performance of a specific act to prevent irreparable damage or injury.

interrogatories - Written questions asked to one party by an opposing party, who must answer them in writing under oath. Interrogatories are a part of discovery in a lawsuit.

interview - A meeting with the police or prosecutor.

issue - (1) The disputed point in a disagreement between parties in a lawsuit. (2) To send out officially, as in to issue an order.

**J**

judge - Government official with authority to decide lawsuits brought before courts. Judicial officers of the Supreme Court and the highest court in each state are called justices.

judgment - The official decision of a court finally determining the respective rights and claims of the parties to a suit.

jurisdiction - (1) The legal authority of a court to hear and decide a case. Concurrent jurisdiction exists when two courts have simultaneous responsibility for the same case. Some issues can be heard in both state and federal courts. The plaintiff initially decides where to bring the suit, but in some cases, the defendant can seek to change the court. (2) The geographic area over which the court has authority to decide cases. A federal court in one state, for example, can usually only decide a case that arose from actions in that state.

jury - Persons selected according to law and sworn to inquire into and declare a verdict on matters of fact. State court juries can be as small as six jurors in some cases. Federal juries for civil suits must have six jurors; criminal suits must have twelve.

jury instructions - A judge's explanation to the jury before it begins deliberations of the questions it must answer and the law governing the case. Each party suggests jury instructions to the judge, but the judge chooses the final wording.

**L**

lawsuit - A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty, resulting in harm to the plaintiff.

law clerk (or staff attorney) - Assist judges with research and drafting of opinions.

librarian - Meets the informational needs of the judges and lawyers.

litigation - A case, controversy, or lawsuit. Participants (plaintiffs and defendants) in lawsuits are called litigants.

**M**

misdemeanor - Usually a petty offense, a less serious crime than a felony, punishable by less than a year of confinement.

mistrial - An invalid trial caused by fundamental error. When a mistrial is declared, the trial must start again, beginning with the selection of a new jury.

motion - Attempt to have a limited issue heard by the court. Motions can be filed before, during, and after trial.



## N

nolo contendere - No contest. Has the same effect as a plea of guilty as far as the criminal sentence is concerned, but the plea may not be considered an admission of guilt for any other purpose. Sometimes, a guilty plea could later be used to show fault in a lawsuit, but the plea of nolo contendere forces the plaintiff in the lawsuit to prove that the defendant committed the crime.

## O

oath - A promise to tell the truth.

objection - A protest by an attorney, challenging a statement or question made at trial. Common objections include an attorney "leading the witness" or a witness making a statement that is hearsay. Once an objection is made, the judge must decide whether to allow the question or statement.

opinion - A judge's written explanation of a decision of the court. In an appeal, multiple opinions may be written. The court's ruling comes from a majority of judges and forms the majority opinion. A dissenting opinion disagrees with the majority because of the reasoning and/or the principles of law on which the decision is based. A concurring opinion agrees with the end result of the court but offers further comment possibly because they disagree with how the court reached its conclusion.

oral argument - An opportunity for lawyers to summarize their position before the court in an appeal and also to answer the judges' questions.

## P

parties - Plaintiffs and defendants (petitioners and respondents) to lawsuits, also known as appellants and appellees in appeals, and their lawyers.

plaintiff - The person who files the complaint in a civil lawsuit.

plea - In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges in open court. A plea of nolo contendere or an Alford plea may also be made. A guilty plea allows the defendant to forego a trial.

pleadings - Written statements of the parties in a civil case of their positions. In federal courts, the principal pleadings are the complaint and the answer.



precedent - A court decision in an earlier case with facts and law similar to a dispute currently before a court. Precedent will ordinarily govern the decision of a later similar case, unless a party can show that it was wrongly decided or that it differed in some significant way. Some precedent is binding, meaning that it must be followed. Other precedents need not be followed by the court but can be considered influential.

procedure - The rules for the conduct of a lawsuit; there are rules of civil, criminal, evidence, bankruptcy, and appellate procedure.

preliminary hearing - A hearing where the judge decides whether there is enough evidence to require the defendant to go to trial. Preliminary hearings do not require the same rules as trials. For example, hearsay is often admissible during the preliminary hearing but not at trial.

pretrial conference - A meeting of the judge and lawyers to discuss which matters should be presented to the jury, to review evidence and witnesses, to set a timetable, and to discuss the settlement of the case.

## R

record - A written account of all the acts and proceedings in a lawsuit.

reporter - Makes a record of court proceedings, prepares a transcript, and publishes the court's opinions or decisions.

## S

settlement - Parties to a lawsuit resolve their difference without having a trial. Settlements often involve the payment of compensation by one party in satisfaction of the other party's claims.

sequester - To separate. Sometimes juries are sequestered from outside influences during their deliberations.

sidebar - A conference between the judge and lawyers held out of earshot of the jury and spectators.

statement - A description that a witness gives to the police and that the police write down.

statute - A law passed by a legislature.

statute of limitations - A law that sets the time within which parties must take action to enforce their rights.



stay - A temporary pause or suspension of a judicial proceeding. Stays are usually designed to terminate upon the completion of specified event (e.g., a judicial decision in a separate case or the end of a government shutdown) or after a specific period of time.

subpoena - A command to a witness to appear and give testimony.

subpoena duces tecum - A command to a witness to produce documents.

summary judgment - A decision made on the basis of statements and evidence presented for the record without a trial. It is used when there is no dispute as to the facts of the case, and one party is entitled to judgment as a matter of law.

## T

temporary restraining order - Prohibits a person from an action that is likely to cause irreparable harm. This differs from an injunction in that it may be granted immediately, without notice to the opposing party, and without a hearing. It is intended to last only until a hearing can be held.

testify - Answer questions in court.

testimony - Evidence presented orally by witnesses during trials or before grand juries.

tort - A civil wrong or breach of a duty to another person as outlined by law. A very common tort is negligent operation of a motor vehicle that results in property damage and personal injury in an automobile accident.

transcript - A written, word-for-word record of what was said, either in a proceeding such as a trial or during some other conversation.

trial - A hearing that takes place when the defendant pleads "not guilty," and the parties are required to come to court to present evidence.

## U

U.S. Marshal (or bailiff) - enforce the rules of behavior in courtrooms.

## V

venue - The geographical location in which a case is tried.

verdict - The decision of a petit jury or a judge.

victim advocate - work with prosecutors and assist the victims of a crime.

**W**

warrant - An arrest warrant is a written order directing the arrest of a party. A search warrant orders that a specific location be searched for items, which if found, can be used in court as evidence. Search warrants require probable cause in order to be issued.

witness - A person called upon by either side in a lawsuit to give testimony before the court or jury.

writ - A formal written command, issued from the court, requiring the performance of a specific act.