

Basic Legal Terms

Accused A person who is believed to have committed a crime but has not yet been put on trial.

Acquittal A final decision by the judge or jury that the defendant is not guilty beyond a reasonable doubt of the crime charged.

Adjudicate To decide an issue in a case.

Adjudicatory Hearing An Adjudicatory Hearing is a court event in which the judge will adjudicate or convict the defendant. A sentencing hearing or hearing for final disposition will normally follow the adjudicatory hearing.

Affidavit A statement of facts that is written down and the truth of which is sworn to before an officer who can administer oaths.

Affirm A legal finding by a higher court on appeal that the ruling or decision of the lower court was legally correct.

Aggravating Factor/ Circumstance A fact or situation related to the defendant or the crime that may be used by the court to enhance the severity of the defendant's sentence.

Allegation Something declared to be true in legal papers; a formal statement of fact as true but yet to be proven.

Alford Plea In an Alford plea, the defendant does not claim guilt nor innocence toward charges filed against him or her. Like a nolo contendere/no contest plea, the defendant accepts the ramifications of a guilty verdict without admitting to having committed the crime. The name, Alford plea, is taken from case law: North Carolina v. Alford 400 U.S. 25.

Allocution A statement of a convicted defendant or the victim before the defendant is sentenced.

Amenability to Treatment Hearing An Amenability to Treatment Hearing is a court event in which the judge will determine whether or not the defendant can be rehabilitated through treatment/therapy.

Appeal A request to a higher court to review a ruling or decision made by a lower court.

Arraignment The hearing in which a person charged with a crime is arraigned in his or her first appearance before a judge. The charges are presented to him or her, and the opportunity to enter a plea (or ask for a continuance to plead) is given. A determination of whether the party has a lawyer is made (or whether a lawyer needs to be appointed). This is the initial appearance of a criminal defendant in which all of the preliminaries are taken care of.

Arrest Warrant A warrant is issued for the defendant's arrest when there is probable cause to believe the defendant committed a crime. An affidavit for an arrest warrant must be filed with the warrant. If approved by a judge, the arrest warrant will be issued.

Assistant District Attorney (ADA) An attorney employed by a District Attorney's Office representing the state in criminal proceedings. (Prosecutor)

Bail A deposit of money, property, or bond with the court that allows the release of a suspect or defendant from jail before or after a criminal proceeding or trial has begun. The general purpose of bail is to ensure that the suspect or defendant shows up at the next proceeding.

Bench Trial A Bench Trial is a trial in which the judge will determine the verdict.

Bench Warrant A warrant is issued for the defendant's arrest due to a violation of one or more conditions set forth by the judge.

Bench Warrant for Failure to Appear A warrant is issued for the defendant's arrest due to failure to appear for a court appearance.

Bind-Over Order A Bind-Over order transfers a case from the Magistrate Court to the District Court for prosecution. The magistrate court does not have jurisdiction to adjudicate on felony cases.

Capital Felony A felony for which capital punishment is a possible penalty.

Capital Punishment A sentence of death.

Change of Plea Hearing A Change of Plea Hearing is a hearing in which the defendant changes his plea from not guilty and enters into a plea agreement.

Charge To formally accuse a person of committing a crime.

Clearance Hearing is most used in deferred sentences or defense continuances. The case is brought back to the docket to make sure that the defendant has met their obligations and the case is cleared and dismissed.

Competency refers to the mental ability to understand problems and make decisions. It is measured by the capacity to understand the proceedings, to consult meaningfully with counsel, and to assist in the defense.

Complaint (Criminal) A formal, written charge made to the court which initiates a case by accusing an individual of committing a crime.

Compliance The Pretrial Services officer will have filed a compliance violation with the courts and the judge will hear the argument if the conditions the defendant is currently on should be changed or modified and the judge can choose to remand the defendant into custody.

Conditions of Release (COR) The conditions a judge imposes on a defendant who is released from custody before a conviction or acquittal.

Conditional Discharge A Conditional Discharge is a type of sentence given on adult felony cases in which the defendant pleads guilty, but is not adjudicated guilty, allowing a one-time opportunity to avoid a felony conviction. If the defendant complies with conditions set forth by the judge, there will be no felony conviction on his/her record, however, the case may be used against him/her for habitual offender enhancement. If the defendant does not comply, the judge may adjudicate and sentence the defendant.

Consent Decree A Consent Decree is a type of sentence given in Children's Court cases, in which the defendant may or may not admit guilt, but is not adjudicated and placed on probation. If the child

completes probation, the case is dismissed. If the child violates his/her probation, the judge may either continue the child on the consent decree without adjudicating or adjudicate and sentence the child.

Contempt Disobedience to a court order or misbehavior that interferes with the administration of justice or the integrity of the court. If a person is found in contempt, they may be imprisoned, fined, or both.

Continuance The postponement of a court proceeding to a later date.

Conviction A decision that the defendant is guilty of committing a criminal offense beyond a reasonable doubt.

Count A portion of a complaint that identifies one particular crime the defendant is accused of.

Cross Examination The questioning, either during a hearing or trial, of a witness by a party opposed to the party that called the witness to testify.

Defendant A person accused and charged with a crime.

Deferred Sentence A Deferred Sentence is a type of sentence in which the defendant is adjudicated guilty, but the imposition of sentence is deferred. When a defendant is given a deferred sentence, there is a conviction on his record.

Delinquent In criminal law, generally refers to a child who has committed an offense that would be a crime if committed by an adult.

Deposition Oral testimony, given under oath and recorded in writing or by video during the discovery process.

Deputy District Attorney (DDA) Attorney employed by a District Attorney's Office to supervise and assist the Assistant District Attorney's prosecution of crimes.

Direct Testimony The first examination of a witness by the attorney for the party who called the witness to testify.

Discovery A process that occurs after a crime but before trial during which the prosecutor and defense exchange the evidence and information they each have about the case pursuant to express rules of criminal procedure, which govern the type of information to be exchanged and how the exchange should take place.

Dismiss/Dismissal An order by a judge ending the prosecution of a case without deciding whether the defendant is guilty or innocent. A dismissal can be "with prejudice," which means that the charges cannot be refiled against the same defendant, or a dismissal can be "without prejudice," which means that the charges can be refiled against the same defendant.

District Attorney (DA) A public official appointed or elected to represent the state in a particular district and to oversee the prosecution of the crimes in that district.

Evidence Testimony, documents, records, or objects presented by the prosecutor or defense during a hearing or trial to prove a particular fact or legal issue.

Evidentiary Hearing is most used when there is a violation of conditions of release. A hearing is set to examine the violation through the testimony of the witness/victim, or receiving evidence in support.

Exclusionary Rule (Criminal) A rule that excludes from trial evidence that was obtained in violation of the person's constitutional rights.

Exhibit A document, record, or object offered to the judge or jury during a hearing or trial as evidence.

Extradition When the defendant is removed from one state and sent to another for prosecution or execution of a sentence.

Felony A serious crime that is generally punishable by imprisonment of more than one year.

Felony First Appearance In most cases the defendant is still at the metropolitan detention center. A district attorney is present, either the defendant is released on their own recognizance with conditions, 3rd party released to Pretrial services, held on a motion of Preventative Detention, or in very rare cases; a bond is given.

Final Disposition A Final Disposition Hearing is a hearing in a Children's Court case in which the child is sentenced. The child's evaluation, predisposition report, and recommendations on the child's behalf will be considered.

Forfeiture Hearing When a court appearance is missed, and the company or person who put up the bond is required to pay the defendant's outstanding bail amount.

Formal Time Waiver A Formal Time Waiver is used in Children's Court cases prior to adjudication, or diverting prosecution. With a formal time waiver, a child will be given certain conditions he/she is required to comply with. If he/she complies with the conditions set, his/her case will be dismissed. If the child does not comply with the conditions, prosecution will recommence.

Global or Joint P&D Refers to a Plea & Disposition Agreement in which the defendant is pleading to or the prosecutor is dismissing counts within multiple cases, as opposed to counts within just one case.

Governor's Warrant When a defendant is to be extradited from another state (brought from another state to New Mexico for prosecution), the Governor must provide documentation as to the warrant issued by the State of New Mexico to the Governor of the state in which the defendant is being held.

Grand Jury In felony cases, in order for the District Attorney to prosecute the case, there must be an initial hearing to determine that there is sufficient evidence to establish probable cause. When a felony case begins in district court, the grand jury will make this decision. If the grand jury finds that there is sufficient evidence, a Grand Jury Indictment will be filed and prosecution will commence. If the grand jury finds that there is insufficient evidence, a no-bill is filed and the case is closed.

Guilty A finding by judge or jury that the defendant committed the crime charged beyond a reasonable doubt.

Guilty Plea A plea in open court by a defendant admitting that he or she is guilty of the crime charged.

Habeas Corpus A Writ of Habeas Corpus is a petition seeking to vacate, set aside, or correct a sentence or order of confinement on the grounds that such custody or restraint is or will be, in violation of the

constitution or laws of New Mexico, that the court was without jurisdiction to impose such sentence, or that the sentence was illegal or in excess of the maximum authorized by law.

Habitual Offender Enhancement If a defendant has been previously convicted of a felony, (in a separate transaction) the conviction may be used to enhance the defendant's sentence on the current felony conviction. Separate transaction means the defendant committed and was convicted of the felony offense prior to having committed the current felony. The prior felony is usable when less than ten years have passed prior to the current felony conviction since the defendant completed serving his sentence for the prior felony. An enhancement for one prior felony will add 1 year, two prior felonies will add 4 years, and three or more prior felonies will add 8 years to the defendant's sentence. A judge may enhance every felony charge the defendant is convicted of in the current felony case.

Hearing A formal legal proceeding before a judge addressing one or more legal issues.

Hung Jury A jury that cannot agree on a verdict by the necessary number of votes.

Hearing for Imposition of Sentence A Hearing for Imposition of Sentence is a hearing in which a higher court has remanded a case back to a lower court for resentencing. This type of hearing is held on cases that were appealed.

Indictment A formal, written accusation that charges a defendant with a particular crime and is brought by the grand jury, rather than by the prosecutor.

Information A formal, written accusation that charges a defendant with a particular crime and is brought by the prosecutor, rather than by the grand jury.

Join/Joinder 1. Of offenses: The combining of two or more charges against a single defendant into one trial. 2. Of defendants: The combining of charges against two or more defendants into one trial.

Jury A panel of citizens who hear evidence, testimony, and arguments of counsel at trial and decide whether the defendant is guilty of the crime(s) charged.

Jury Trial A Jury Trial is a trial in which a jury will determine the verdict.

Misdemeanor A crime that is usually punishable by imprisonment for not more than one year, a fine, or both.

Mistrial A trial that ends before a verdict is given because of a hung jury, violation of a legal procedure, or due to serious misconduct occurring during the proceedings.

Motion A formal written or oral request made to a judge for a specific order or ruling.

Motion to Dismiss A motion asking the judge to end the prosecution without further hearings or trial.

Motion to Suppress A motion asking the judge not to allow certain testimony, documents, or objects into evidence.

Motion Hearings Motion hearings are scheduled within cases based on both the prosecution and defense filing motions in the court.

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

No-Bill A No-bill is filed when a grand jury does not find probable cause to prosecute a charge or case.

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

Not Guilty Plea The formal plea of defendant denying that he or she committed the crime charged.

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

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

Order A written or oral command from the court.

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

Perjury The act of telling a deliberate lie while under oath.

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

Plea A defendant's formal answer to charges denying or admitting guilt.

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

Plea Hearing This hearing is set for when a plea agreement has been reached. The judge will formally enter the plea and the plea agreement will be read aloud. The defendant will either enter a plea of guilty or no-contest.

Preliminary Hearing In felony cases, in order for the District Attorney to prosecute the case, there must be an initial hearing to determine that there is sufficient evidence to establish probable cause. When a felony case begins in magistrate court, the judge will make this decision. If the judge finds that there is sufficient evidence, a Bind-over Order will be filed, the District Attorney will file a Criminal Information in district court, and prosecution will commence. If the judge finds that there is insufficient evidence, the case is closed.

Pre-Sentence Report A report ordered by the judge, usually prepared by the Adult Probation and Parole Office (APPO), which explains the defendant's criminal, social, and sometimes mental health history. The judge uses this report to assist in determining an appropriate sentence.

Pre-Trial Conference/ Docket Call This hearing serves one of two purposes. The first is that this is the last opportunity for the defendant to take a plea agreement. If no agreement can be reached then the case is set for Jury Trial.

Pre-Trial Detention Hearing A Detention Hearing is a hearing in a Children's Court case in which the court will review the need for the defendant's detention. If criteria for the child's detention does not exist, conditions of release will be set and the child will be released from custody. If criteria for the child's detention does exist, the child will remain in detention. (Results from this hearing will determine time limits to adjudicate the child.)

Pre-Trial Interview (PTI) is a formal interview of a witness conducted by the defense attorney and prosecutor to better understand that witness's account of the incident in question. Witnesses can help the attorneys better understand technical or very detailed evidence and timing of events. This helps the prosecutor to decide whether or not cases should go to trial and the strength of the evidence provided. Without the completion of a PTI, defense can ask for suppression of the witness.

Preventative Detention The state has to show clear and convincing evidence that the defendant is a danger to society, a flight risk, and assess their criminal behavior. If it is granted the defendant will be held in custody while the case is pending. If it is denied then the defendant is released with conditions. This hearing is usually set within 5 days of the felony first appearance.

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

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

Probation Revocation Hearing A Probation Revocation Hearing is a hearing in which the judge will determine whether or not the defendant violated their probation. (If the defendant is found to have violated their probation, the defendant may or may not be sentenced at that time.)

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

Prosecution The act of trying a defendant for a crime.

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

Reparations Compensation for an injury or wrong to make amends.

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

Scheduling Conference: In essence this hearing serves as a timeline for the case. The judge will give dates and deadlines for the case. A scheduling order will be provided to the district attorney.

Sentence The punishment imposed on an offender.

Sentencing Hearing This hearing is post-conviction either through a plea agreement or a conviction from trial. The judge will impose a sentence that is either agreed upon based on the plea agreement or will

have discretion based on how much time the defendant may be looking at based on the charges they were convicted on.

Serious Youthful Offender An individual 15-18 years of age who is charged with, indicted on, or bound-over for trial for first degree murder.

Severance An order to separate charges or defendants previously joined.

Speedy Trial The right of a defendant to have a case proceed to trial within a specified time, unless the defendant agrees to a continuance and waives the right to a speedy trial.

Statute A law enacted by a legislative body.

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

Status Conference Is a meeting of the Judge and attorneys, to determine how the case is progressing. The Judge may ask about what discovery has been collected, pre-trial matters, evaluations of competency, etc.

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

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

Suspect A person thought to have committed a crime.

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

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

Trial De Novo A Trial De Novo is a case heard in District Court in order to resolve an appeal filed on a Magistrate Court Case. This case may consist of a determination on an issue, such as sentencing, or it may be a re-trial of the original case.

Verdict The decision of a jury or a judge whether the defendant is guilty.

Victim Generally a person harmed by a crime, or the family or close friend of that person when he or she is incapacitated or was killed.

Warrant An order based upon probable cause authorizing either the arrest of a person or the search of a person or place.

Witness A person who testifies at a hearing or trial.

Common Abbreviations

AOC	Administrative Office of the Courts
ADA	Assistant District Attorney
AODA	Administrative Office of the District Attorney's
APPO	Adult Probation and Parole
CC	Criminal Complaint
CI	Criminal Information
COMP	Competency
COR	Conditions of Release
CVRC	Crime Victims Reparation Commission
CYFD	Children, Youth, and Families
DOC or NMCD	Department of Corrections or New Mexico Corrections Department
DSVO	Discretionary Serious Violent Offence
J&D	Judgement and Disposition (Juvenile cases)
J&S	Judgement and Sentence
J&O	Judgment and Order (usually in probation violation, motion after sentencing, sex offender review cases, etc.)
JPPO	Juvenile Probation and Parole Office
LEA or LEO	Law Enforcement Agency or Law Enforcement Officer
Mag	Magistrate Court
MSVO	Mandatory Serious Violent Offense
NCIC	National Crime Information Center
nmcourts	New Mexico courts website: nmcourts.gov
NMSC	New Mexico Sentencing Commission
NMSP	New Mexico State Police
P&D	Plea and Disposition
PD	Public Defender
PDM	Preventative Detention Motion

PTI	Pre-Trial Interview
PTC	Pre-Trial Conference
PV	Probation Violation
PVR	Probation Violation Report
SI	Supplemental Information
BCSO or SO	Bernalillo County Sherriff's Office or Sheriff's Office
SVO	Serious Violent Offender
YO	Youthful Offender
CCA	Children's Court Attorney's
SYO	Serious Youthful Offender
JDC	Juvenile Detention Center