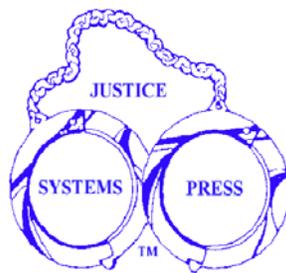


**PEACE OFFICER'S GUIDE  
TO  
LAW ENFORCEMENT TERMS AND PHRASES**

*2014 Edition*



by

**Steven T. Kernes**

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## ABOUT THE AUTHORS

**STEVEN T. KERNES** served as the Chief, State and Local Programs Division, National Center for State, Local, and International Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, Georgia, from 1990 until his retirement in 2001. From 1979 to 1990, he was Sheriff of Clallam County, Washington, and from 1975 to 1979, he served as a criminal investigator with the National Park Service, Olympic National Park. Mr. Kernes holds a B.A. degree in Sociology and instructed criminal justice classes at Peninsula College, Port Angeles, Washington and for the Washington State Criminal Justice Training Commission for nine years. In 1973, he graduated from the Federal Law Enforcement Training Academy, Washington, D.C. and in 1982 he graduated from the FBI National Academy, 128th Session.

Mr. Kernes served 29 years in the U.S. Army Reserve and the National Guard. He received his commission in 1971 after attending Officer Candidate School, Fort Benning, Georgia; he retired at the rank of major and is a graduate of the Command and General Staff College. During his military career he served short tours in Belgium; in the States of Idaho, Oregon, and Washington; and attended training and short tours at Fort Benning, GA; Fort Belvoir, VA; Fort Knox, KY; and Fort Lewis, WA.

In 2001, Mr. Kernes moved back to Port Angeles, Washington, while continuing his writing and publishing of books on law, police supervision, and management. Since 1986, he has authored eighteen books. During the winter he lives in Yuma, Arizona.

# **Peace Officer's Guide to Law Enforcement Terms and Phrases**

*2014 Edition*

## **Introduction**

In the course of the day a peace officer is confronted with many decisions. Some of those decisions will ultimately be tested in the courts. But where judges and juries may have weeks to consider the correct application of the law, peace officers have only seconds.

The electronic version of *Peace Officer's Guide to Law Enforcement Terms and Phrases* will help you make the best use of the seconds you have by providing concise, accurate references to the laws of this state. Within its pages are common law enforcement terms as described and defined by state and federal statutes. It cannot substitute for a well-read knowledge of pertinent portions of the state and federal codes, but it does provide, in the field, the information contained in the several volumes of laws back at the police station.

This electronic book is designed to be an interactive field or office reference. The book has been developed to provide a quick reference to legal terms frequently used in law. Each listing reflects the latest changes and additions from state and federal legislative sessions held in 2013. The effective date for this pocketbook is January 1, 2014.

## **Use in the Field**

This electronic book was created for the peace officer with access to computer resources. In the course of a shift many things can happen and the full range of good and bad human behavior is on exhibit. Work in the field is marked by hours of routine punctuated by minutes of intensity and stress.

The *Peace Officer's Guide to Law Enforcement Terms and Phrases* will help you in the field if you start to use it now. When the adrenalin is running and the events are highly charged it is hard to keep some of the details this book provides in mind. However, if you are familiar with its navigation you will find clear, accurate descriptions of the law when you most need them. The more you use the book, the more effective tool it will become and the better your understanding and application of the law will be.

We have written in the past about the care required to successfully investigate crimes and we want to underscore some of those points again.<sup>1</sup> Police work is dangerous and it is reactive. Survival may depend on one's instincts and reflexes. The handling of crime, however, calls for patience, planning, and logic.

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<sup>1</sup>*The Criminal Investigator's Guide* by Kernes and Kuehn, published by Charles C. Thomas, 1982; Springfield, Illinois and Justice Systems Press, 1987.

## Keys to Success

As keys to success we have identified some of the things you need to train yourself to do if you are going to tap your skills to the fullest.

1. **THINK.** Careful thought, not high levels of adrenalin, solves crimes (and usually prevents them, too). Being able to sort and recombine many facts, elements and pieces of evidence simultaneously requires a cool, rational mind.
2. **PLAN.** Be ready. In the absence of a plan we tend to react. Random uncontrolled activity rarely produces results. Preparing yourself now for what may happen later and then sticking to your plan is a road to success.
3. **PATIENCE.** If all the crimes you investigate are solved at the scene you will have had a fortunate career indeed. Once you have a plan, stay with it and give things time to happen.
4. **THOROUGH.** Your plan exists to make sure you do not overlook something. If you start revising the plan on the spot you will soon have no plan at all. Do what you promised yourself you would do, shortcuts are risky.
5. **FLEXIBLE.** Stay with your plan but be ready for opportunities and challenges your plan never anticipated. It is alright to add things to your plan, to take an opportunity when it appears. Just be careful about abandoning any part of your plan.
6. **KNOW YOUR LIMITS.** No one can do everything. Find what you do best and join those skills with others who can assist you by giving their best. A true team is built around everyone's strengths with back-up for everyone's weakness.
7. **KNOW RESOURCES.** The peace officer who knows where to get help and find expertise (be it a person or a book) is far richer than one who is jack of all trades, master of none.
8. **PERSEVERE.** No one ever promised that this would be an easy job. Remind yourself that law enforcement is, above all, hard work. The low points, when it seems that every possible option is closed, are a natural part of any investigation. Recognize that police work is a career of peaks and valleys and accept the valleys, when they come, as an inevitable part of the job.

## Important Notice

This book is prepared as a resource for peace officers and not intended as directives. Every factual situation is different and individual peace officers must exercise their own discretion and judgment in deciding upon the proper response.

In addition, we would caution that the offense elements listed herein may not be verbatim as listed in the various federal and state statutes. Specific elements have been condensed and simplified to facilitate interpretation by the peace officer. You should review the complete set of state laws to ensure that you are completely familiar with the offenses. A thorough review and comprehensive understanding of your authority must occur to properly enforce the criminal laws.

In no event shall Justice Systems Press or Mr. Kernes be liable for special, collateral, incidental or consequential damages in connection with or arising out of the use of this information.

### **Acknowledgments**

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- The National Park Service and the Clallam County Sheriff's Department for encouraging Kernes to succeed.
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- Dan Engelbertson, Undersheriff (retired), Clallam County Sheriff's Department, whose computer expertise brought us into the 21st century.
- Mr. Tim Scovill, Assistant Dean, University of Virginia, for encouraging us to develop this booklet.

A special thank you to our families Trevor and Brent Kernes, and Stephanie Doenges and Laura Bowen and Lisa Kenney.

## Law Enforcement Terms and Phrases

### - A -

**A/O** - abbreviation, often used in case reporting, for *arresting officer*.

**Abandon** - forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

**Abandoned vehicle** - vehicle that a registered tow truck operator has impounded and held in his possession for 120 consecutive hours.

**Abandoned vehicle report** - document prescribed by a state that the towing operator forwards to the department after a vehicle has become abandoned.

**Abandonment** - voluntary relinquishment of property with no intent to retain possession.

**Abduct** - to restrain a person by either (a) secreting or holding him in a place where he is not likely to be found; or (b) using, or threatening to use deadly force.

**Abuse** - any case in which a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and such condition is not justifiably explained or may not be the product of an accidental occurrence; and any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution.

**Abuse of an elderly person or disabled adult** - (a) intentional infliction of physical or psychological injury upon an elderly person or disabled adult; (b) an intentional act that could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult; or (c) active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult.

**Abuse of supervisory position** - direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

**Accelerant detection dog** - dog trained to detect hydrocarbon substances.

**Access** - (a) to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network; to make use of any resources of a computer, computer system, or computer network; (b) to make use of any resources of a computer, computer system, or computer network.

**Access card** - any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access card, to obtain money, goods, services, or any thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated by a paper instrument.

**Access device** - card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument.

**Accountability** - doctrine by which one is liable for the criminal conduct of another. *Example:* A agrees to help B rob a store, but only on condition that there be no violence. B assures A that no one will be hurt in the robbery. B nevertheless kills a clerk in the commission of the robbery. Both A and B may be criminally liable for the murder.

**Acknowledgment** - act of going before a qualified officer (e.g., Clerk) and declaring the validity of the document. The officer certifies same, whose certification is known as the acknowledgment

**Acquire** - gain ownership of.

**Acquirer** - business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by financial transaction card for money, goods, services, or anything else of value.

**Acquit** - act of freeing a person from the charge of an offense by means of a decision, verdict or other legal process; to discharge action: a civil judicial proceeding whereby one party prosecutes another for a wrong done or for protection of a right or prevention of a wrong; requires service of process on adversary party or potentially adversary party actual place of business: Any location that the defendant, through regular solicitation or advertisement, has held out as its place of business.

**Acquittal** - judgment of a court, based on a verdict of a jury or a judicial officer, that the defendant is not guilty of the offense(s) for which he or she has been tried.

**Acquittance** - release from an obligation.

**Act of prostitution** - sexual act or sexual contact on account of which anything of value is given to, or received by, any person.

**Act of war** - any act occurring in the course of declared war; armed conflict, whether or not war has been declared, between two or more nations; or armed conflict between military forces of any origin.

**Actor** - a person accused of sexual assault.

**Actual mileage driven** - mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

**Actual weight** - weight of a motor vehicle or motor vehicle combination plus the weight of the load carried on it, as determined at a fixed scale operated by the state or as determined by use of a portable scale operated by a law enforcement officer.

**Actus reus** - act in violation of the law; a guilty act.

**Ad damnum** - clause of a pleading alleging amount of loss or injury.

**Addict** - any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

**Adjournment** - temporary postponement of the proceedings of a case until a specified future time.

**Adjudicate** - to hear or try and determine judicially.

**Adjudication** - process by which a court arrives at a decision regarding a case; also the resultant decision.

**Administer** - direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal.

**Admission** - a person's acknowledgment of his/her involvement in criminal behavior, but not in itself sufficient to establish guilt. *Example:* a suspect acknowledges having been at the crime scene, but does not confess to having committed the crime.

**Adult** - person 18 years of age or older.

**Adult household member** - person who is 18 years of age or older and is a spouse, former spouse, or a person who has a child in common regardless of whether they have been married or have lived together at any time.

**Adulterated** - varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage.

**Adulterated mixture** or **admixture** - applies to all mixtures of two or more ingredients differing in their nature and quality, such as sugarcane syrup, sorghum syrup, maple syrup, molasses, or glucose.

**Advances prostitution** - if acting other than as a prostitute or a patron of a prostitute, a person knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons for prostitution purposes, permits premises to be regularly used for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

**Adversarial system** - two-sided structure under which American criminal trial courts operate and that pits the prosecution against the defense. In theory, justice is done when the most effective adversary is able to convince the judge or jury that their perspective on the case is the correct one.

**Adversary** - an opponent. The defendant is the plaintiff's adversary.

**Adversary system** - system of trial practice in the U.S. and some other countries in which each of the opposing, or adversary, parties has full opportunity to present and establish its opposing contentions before the court.

**Advertisement and advertising** - every form of communication which offers for sale, or attempts to induce the creation of obligations in exchange for, any item or rights therein.

**Advocacy** - direct incitement of others to cause the imminent wilful and unlawful killing or injuring of a peace officer, and not the mere abstract teaching of a doctrine.

**Aerial common fireworks** - any firework, classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G, which produces an audible or visible effect and which is designated to rise into the air and explode or detonate in the air or to fly about above the ground and which is prohibited for use by any person who does not have a display permit issued by a county; fireworks commonly known as bottle rockets, sky rockets, missile-type rockets, helicopters, torpedoes, daygo bombs, roman candles, jumping jacks which move about the ground farther than inside a circle with a radius of 12 feet as measured from the point where the item was placed and ignited, types of balloons which require fire underneath to propel the same, aerial shells, and mines.

**Affiant** - one who swears to an affidavit; deponent.

**Affidavit** - sworn or affirmed statement made in writing and signed; if sworn, it is notarized.

**Affidavit of service** - affidavit intended to certify the service of a writ, notice, or other document.

**Affinity** - related by marriage; family relation from one's spouse's family.

**Affirm** - act of declaring something to be true under the penalty of perjury by a person who conscientiously declines to take an oath for religious or other pertinent reasons.)

**Affirmation** - solemn and formal declaration under penalties of perjury that a statement is true, without an oath.

**Affirmed** - upheld, agreed with.

**Age verification records of sexually exploited individuals** - individually identifiable records pertaining to every sexually exploited individual provided to patrons or customers of a public establishment or in a private club or event. Such records shall include: (a) each sexually exploited individual's name and date of birth, as ascertained by an examination of the individual's valid driver's license, official state identification card, or passport; (a) a certified copy of each sexually exploited individual's driver's license, official state identification card, or passport; and (c) any name ever used by each sexually exploited individual including but not limited to maiden name, aliases, nicknames,

stage names, or professional names.

**Age verification records of sexual performers** - individually identifiable records pertaining to every sexual performer portrayed in a visual depiction of sexual conduct, which include: (a) each performer's name and date of birth, as ascertained by the producer's personal examination of a performer's valid driver's license, official state identification card, or passport; (b) a certified copy of each performer's valid driver's license, official state identification card, or passport; and (c) any name ever used by each performer including, but not limited to, maiden name, alias, nickname, stage name, or professional name.

**Agency** - includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

**Agent** - authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

**Aggravated assault** - (a) unlawful intentional causing of serious bodily injury with or without a deadly weapon, or unlawful intentional attempting or threatening of serious bodily injury or death with a deadly or dangerous weapon; (b) an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault unusually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

**Aggravated child abuse** - occurs when a person: (a) commits aggravated battery on a child; (b) willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or (c) knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.

**Aggravated (offense; e.g. aggravated assault, aggravated battery)** - condition which makes an offense more serious, and subjects the offender to greater punishment. *Example:* using a deadly weapon, or wearing clothing that conceals one's identity, in the commission of an assault constitutes aggravated assault.

**Aggravating circumstances** - circumstances relating to the commission of a crime which cause its gravity to be greater than that of the average instance of the given type of offense.

**Agricultural commodity** - any fruit, nut, or vegetable that is the food product of any tree, vine, or plant, or any aquacultural, horticultural, silvicultural, or floricultural product.

**Agricultural products** - any food product; any agricultural, horticultural, or livestock product; any raw material used in plant food formulation; and any plant food used to produce food and fiber.

**Aircraft** - device that is used or intended to be used for human flight in the air, including powerless flight.

**a.k.a.** - abbreviation for *also known as*; synonym for *alias*.

**Alcohol** - any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and isopropanol.

**Alcoholic beverage** - distilled spirits and any beverage containing 0.5 percent or more alcohol by volume.

**Alcohol concentration** - (a) number of grams of alcohol per 100 milliliters of blood; (b) number of grams of alcohol per 210 liters of breath; or (c) number of grams of alcohol per 67 milliliters of urine.

**Alias** - any name used for an official purpose that is different from a person's legal name.

**All-terrain vehicle** - (a) any motorized off-highway vehicle 50 inches (1270 mm) or less in width, having a dry weight of 600 pounds (273 kg) or less, traveling on three or more low-pressure tires, designed for operator use only with no passengers, having a seat or saddle designed to be straddled by the operator, and having handlebars for steering control; (b) any motorized vehicle designed for off-road use which is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control.

**Allegation** - assertion, declaration, or statement of a party to an action, made in a pleading, setting out what the party expects to prove.

**Allege** - to assert a fact in a pleading.

**Alley** - (a) public highway not designed for general travel and used primarily as a means of access to the rear of residences and business establishments; (b) street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

**Alternate juror** - juror selected as substitute in case another juror must leave the jury panel.

**Amend** - to change.

**American vessel** - any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporation organized under the laws of the United States or of any state.

**Analog** or **chemical analog** - structural derivative of a parent compound that is a controlled substance.

**Amicus curiae** - Friend of the Court. A non-party to a proceeding that the Court permits to present its views.

**Animal** - (a) every living creature, except a human being; (b) every living dumb creature.

**Animal control officer** - person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations.

**Animal enterprise** - (a) commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; (b) zoo, aquarium, circus, rodeo, or lawful competitive animal event; or (c) any fair or similar event intended to advance agricultural arts and sciences.

**Annul** - to make void, as to dissolve the bonds of marriage.

**Answer** - paper submitted by a defendant in which he/she responds to and/or denies the allegations of the plaintiff.

**Antique automobile** - motor vehicle for private use manufactured after 1945 and of the age of 30 years or more after the date of manufacture, equipped with an engine of the age of 30 years or more after the date of manufacture, and operated on the streets and highways.

**Antique firearm** - firearm manufactured in or before 1918 including any matchlock, flintlock, percussion cap, or similar early type of ignition system or replica thereof, whether actually manufactured before or after the year 1918, and also any firearm using fixed ammunition manufactured in or before 1918, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

**Antique slot machine** - coin operated, nonelectric mechanical gambling device that pays off according to the matching of symbols on wheels spun by a handle and was manufactured in its entirety, except for identical replacement parts, prior to January 1, 1950.

**Antishoplifting or inventory control device** - mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise.

**Antishoplifting or inventory control device countermeasure** - item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.

**Anything of pecuniary value** - anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage.

**Appeal** - request that a court with appellate jurisdiction review the judgment, decision, or order of a lower court and set it aside (reverse it) or modify it; also, the judicial proceedings or steps in judicial proceedings resulting from such a request.

**Appearance (court)** - act of coming into a court and submitting to the authority of that court.

**Appellant** - the person who contests the correctness of a court order, judgment, or other decision and who seeks review and relief in a court having appellate jurisdiction, or the person in whose behalf this is done.

**Appellant** - party who takes an appeal to a higher court.

**Appellate court** - court of which the primary function is to review the judgments of other courts and of administrative agencies.

**Appellate jurisdiction** - lawful authority of a court to review a decision made at a lower court.

**Appellee** - party against whom an appeal is taken.

**Apportionable vehicle** - any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles, which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and: (a) is a power unit having a gross vehicle weight in excess of 26,001 pounds; (b) is a power unit having three or more axles, regardless of weight; or (c) is used in combination, when the weight of such combination exceeds 26,001 pounds gross vehicle weight. Vehicles, or combinations thereof, having a gross vehicle weight of 26,001 pounds or less and two-axle vehicles may be proportionally registered.

**Apportioned motor vehicle** - any motor vehicle which is required to be registered, or with respect to which an election has been made to register it, under the International Registration Plan.

**Appraiser** - person who holds himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of commodities or services.

**Arbitration** - submission voluntarily or involuntarily of a disputed matter to selected persons and the substitution of their award or decision for the judgment of a court or its confirmation by the court as a judgment of the court.

**Arcade amusement center** - place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility.

**Archaeological resource** - (a) any material remains of past human life or activities which are of archaeological interest such as pottery, basketry, bottles, weapons, weapon projectiles, tools, graves, human skeletal materials or any portion or piece thereof; (b) material remains of past human life or activities that are of archaeological interest and are at least 50 years of age. This term includes, but shall not be limited to, objects made or used by humans, such as pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, or any portion or piece of the foregoing items, and the physical site, location or context in which they are found, or human skeletal materials or graves.

**Archaeologist** - person who is registered by the Society of Professional Archaeologists with an emphasis in field research or who, in the judgment of the state Archaeologist, meets the training and experience requirements necessary for such registration.

**Argument** - reason given in proof or rebuttal.

**Armor-piercing bullet** - bullet which has a steel inner core or core of equivalent hardness and a truncated cone and which is designed for use in a handgun as an armor-piercing or metal-piercing bullet.

**Arraignment** - (a) strictly the hearing before a court having jurisdiction in a criminal case, in which the identity of the defendant is established, the defendant is informed of the charges(s) and of his or her rights, and the defendant is required to enter a plea; (b) in some usages, any appearance in court prior to trial in criminal proceedings.

**Arrest** - seizure of a person by the use of some physical force or by the display of official authority, to which the person submits, with the result that he or she is taken into custody. Regardless of the officer's intent, a person is arrested in the constitutional sense if the person's freedom of movement is significantly restricted and he or she is not free to go.

**Arrest rate** - number of arrests reported for each unit of population.

**Arrest warrant** - a document issued by a judicial officer which directs a law enforcement officer to arrest an identified person who has been accused of a specific offense.

**Arson** - (a) the intentional damaging or destruction or attempted damaging or destruction, by means of fire or explosion of the property of another without the consent of the owner, or of one's own property or that of another with intent to defraud; (b) any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property.

**Arterial highway** - every public highway, or portion thereof, designated as such by proper authority.

**Arterial road** - route providing service which is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

**Arterial street** - U.S. or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdiction as part of a major arterial system of streets or highways.

**Article** - any object, material, device, substance, or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, microorganism, blueprint, or map.

**A.S.A.** - abbreviation for *assistant state's attorney*. An assistant state's attorney, acting on behalf of the state's attorney, represents the state in criminal proceedings.

**Assault** - (a) unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another; (b) an unlawful attack by one person upon another.

**Assault and battery** - two distinct offenses which can occur independently or together. Assault is placing someone in reasonable apprehension of a battery, e.g. by making threatening statements or raising a fist. Battery is causing bodily harm to a person by any means, or making physical contact with a person of an insulting or provocative nature.

**Assault on a law enforcement officer** - a simple or aggravated assault, where the victim is a law enforcement officer engaged in the performance of his or her duties.

**Assignment** - making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

**At issue** - whenever the parties to a suit come to a point in the pleadings which is affirmed on one side and denied on the other, they are said to be *at issue*.

**Attachment** - taking of property into legal custody by an enforcement officer.

**Attendant circumstances** - the facts surrounding an event.

**Attestation** - the act of witnessing an instrument in writing at the request of the party making the same, and subscribing it as a witness.

**Attorney** - person trained in the law, admitted before the bar of a given jurisdiction, and authorized to advise, represent, and act for other persons in legal proceedings.

**Attorney of record** - attorney whose name appears in the permanent records or files of a case.

**Audio Doppler** - a backup audible signal that translates the radar's Doppler shift into a tone which can be heard by the radar operator.

**Audiovisual recording function** - the capability of a device to record or transmit a motion picture or any part thereof by means of any technology.

**Audio warning tone** - auxiliary radar device which alerts the operator, by means of an audible tone, to the presence of a speed registration above a preset level.

**Authentication feature** - any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.

**Authorization** - empowerment, permission, or competence to act.

**Authorized emergency vehicle** - (a) any vehicle of any fire department, police department, sheriff's office, coroner, prosecuting attorney, state police, state patrol, ambulance service, public or private, which need not be classified, registered or authorized by a state commission on equipment, or any other vehicle authorized in writing by a state commission on equipment; a vehicle in official use for emergency purposes by a state or federal agency, private ambulances, and other vehicle authorized in writing by a state commission on equipment; (b) vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, and the Department of Transportation as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties; (c) a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. The term does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

**Authorized user** - with regards to a computer, the owner or lessee of a computer or a person authorized by the owner or lessee to use the computer.

**Autos** - sedans, station wagons, coupes, convertibles, sport utility vehicles, minivans, and other similar motor vehicles that serve the primary purpose of transporting people from one place to another.

**Automated banking device** - any machine which when properly activated by a financial transaction card and personal identification code may be used for any of the purposes for which a financial card may be used.

**Automated fingerprint identification system** - an automated system for searching fingerprint files and transmitting fingerprint images. Automated fingerprint identification system (AFIS) computer equipment can scan fingerprint impressions (or utilize electronically transmitted fingerprint images) and automatically extract and digitalize ridge details and other identifying characteristics in sufficient detail to enable the computer's searching and matching components to distinguish a single fingerprint from millions of fingerprints previously scanned and stored in digital form in the computer's memory. The process eliminates the manual searching of fingerprint files and increases the speed and accuracy of ten-point processing (arrest fingerprint cards and noncriminal justice applicant fingerprint cards. AFIS equipment also can be used to identify individuals from *latent* (crime scene) fingerprints, even fragmentary prints of single fingers in some cases. Digital fingerprint images generated by AFIS equipment can be transmitted electronically to remote sites, eliminating the necessity of mailing fingerprint cards and providing remote access to AFIS fingerprint files.

**Automatic speed lock** - auxiliary radar device which immediately holds any speed reading obtained above a preset level.

**Automatic weapon** - any firearm that shoots, is designed to shoot, or can be readily modified to shoot automatically more than one shot, without a manual reloading, by a single function of the trigger. This term shall also include the frame or receiver of any such firearm, any part designed and intended solely and exclusively, or any combination of parts designed and intended for use in converting a firearm into an automatic firearm, and any combination of parts from which an automatic firearm can be assembled if the parts are in the possession or under the control of a single person.

**Autopsy** - postmortem dissection of a dead human body in order to determine the cause, seat, or nature of disease or injury and includes the retention of tissues customarily removed during the course of autopsy for evidentiary, identification, diagnostic, scientific, or therapeutic purposes.

**Award** - decision of an Arbitrator.

- B -

**Bail** - (a) to effect the release of an accused person from custody, in return for a promise that he or she will appear at a place and time specified and submit to the jurisdiction and judgment of the court, guaranteed by a pledge to pay to the court a specified sum of money or property if the person does not appear; (b) the money or property pledged to the court or actually deposited with the court to effect the release of a person from legal custody.

**Bail bond** - document guaranteeing the appearance of the defendant in court as required and recording the pledge of money or property to be paid to the court if her or she does not appear, which is signed by the person to be released and any other persons acting in his or her behalf.

**Bail bondsman** - person, usually licensed, whose business it is to effect release on bail for persons charged with offenses and held in custody, by pledging to pay a sum of money if a defendant fails to appear in court as required.

**Bailiff** - court officer whose duties are to keep order in the courtroom and to maintain physical custody of the jury.

**Bail revocation** - court decision withdrawing the status of release on bail previously conferred upon a defendant.

**Bait dog** - live animal used to train or prepare dogs for a dogfight.

**Baiting** - attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals. In addition, *baiting* means the use of live animals in the training of racing greyhounds.

**Ballistics** - analysis of firearms, ammunition, projectiles, bombs, and explosions.

**Bank** - any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the

United States, including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

**Banking game** - game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.

**Bankruptcy petition preparer** - a person, other than the debtor's attorney or an employee of such an attorney, who, prepares for compensation a document for filing.

**Bar** - (a) prohibit - to bar the prosecution of an action; (b) the members of the legal profession.

**Basic necessities of life** - food, water, shelter, clothing, and health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

**Battery** - (a) any wilful and unlawful use of force or violence upon the person of another; (b) an assault in which the attempt or offer to do bodily harm is consummated by the infliction of that harm.

**Beat** - geographic area assigned to specific officers for patrol.

**Beat car** - police car assigned to patrol a specific beat.

**Beat community meeting** - forum held at least quarterly, and often monthly, on each beat. Police and community members jointly identify, prioritize, and develop strategies to address local crime and disorder problems.

**Beat integrity** - police department strategy to keep officers on their own beat as much as possible (rather than assisting in emergencies on other beats). This allows officers to get to know both residents and problems on their beat.

**Beat plan** - plan of action developed by the beat team, with input from the community, on significant problems on the beat and how to address them. The framework of analysis is the *crime triangle*, which views each problem in terms of three legs: victim, offender, and location.

**Beat team** - eight or nine officers from all three watches assigned to the same beat, and the sergeant who serves as team leader.

**Bench** - Judge's seat or the judge, himself/herself, (e.g., the attorney addressed the bench) bifurcated trial: a case in which the trial of the liability issue in a personal injury or wrongful death case is heard separate from and prior to trial of the damages in question.

**Bench warrant** - document issued by a court directing that a law enforcement officer bring the person named therein before the court, usually one who has failed to obey a court order or a notice to appear.

**Beneficial interest** - (a) the interest of a person as a beneficiary under a trust in which the trustee for the trust holds legal or record title to real property; (b) the interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or (c) the interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

**Benefit** - gain or advantage, or anything regarded by the person to be benefitted as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he or she is interested.

**Beverage crate** - plastic or metal box-like container used by the manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and fixed with language stating "property of . . . .," "owned by . . . .," or other markings or words identifying ownership.

**Bias crime** - criminal offense committed against a person, property, or society, that is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, or ethnicity/national origin; also known as a hate crime.

**Bicycle** - (a) every device propelled solely by human power upon which a person or persons may ride, having two tandem wheels either of which is 16 inches or more in diameter, or three wheels, any one of which is more than twenty inches in diameter; (b) every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device; (c) every device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 13 inches in diameter.

**Bicycle helmet** - piece of protective headgear which meets or exceeds the impact standards for bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation.

**Bicycle path** - (a) any road, path, or way that is open to bicycle travel, which road, path, or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way; (b) a right of way under the jurisdiction and control of this state or a local political subdivision thereof for use by bicycle riders.

**Bicycle trailer** - every device pulled by a bicycle and designed by the manufacturer of such device to carry human passengers.

**Bigamy** - (a) every person having a husband or wife living, who marries any other person, except

in special cases; (b) contracting another marriage by one who already has a living lawful spouse.

**Bill of costs** - written statement of the itemized taxable costs and disbursements.

**Bill of particulars** - factual detail submitted by a claimant after a request by the adverse party which details, clarifies or explains further the charges and/or facts alleged in a pleading.

**Bind over** - (a) to require by judicial authority that a person promise to appear for trial, appear in court as a witness, or keep the peace; (b) the decision by a court of limited jurisdiction requiring that a person charged with a felony appear for trial on that charge in a court of general jurisdiction, as the result of a finding of probable cause at a preliminary hearing held in the limited jurisdiction court.

**Bingo card** - flat piece of paper or thin pasteboard employed by players engaged in the game of bingo. The bingo card shall have not fewer than 24 playing numbers printed on it. These playing numbers shall range from 1 through 75, inclusive. More than one set of bingo numbers may be printed on any single piece of paper.

**Bingo game** - refers to the activity, commonly known as *bingo*, in which participants pay a sum of money for the use of one or more bingo cards. When the game commences, numbers are drawn by chance, one by one, and announced. The players cover or mark those numbers on the bingo cards which they have purchased until a player receives a given order of numbers in sequence that has been pronounced for that particular game. This player calls out *bingo* and is declared the winner of a predetermined prize. More than one game may be played upon a bingo card, and numbers called for one game may be used for a succeeding game or games.

**Biological agent** - any microorganism, virus, or infectious substance, capable of causing (a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism; (b) deterioration of food, water, equipment, supplies, or material of any kind; or (c) deleterious alteration of the environment.

**Blasting agent** - any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: Provided, that the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

**Blood alcohol concentration** - either grams of alcohol per 100 milliliters or cubic centimeters of blood or grams of alcohol per 210 liters of breath.

**Bodily harm** - (a) any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact; (b) any act, except one done in self-defense, that results in physical injury or sexual abuse.

**Bodily injury** - (a) a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; or any impairment of physical condition or any other injury to the body, no matter how temporary; (b) physical pain, illness, or any impairment of physical condition; (c) physical pain or injury, illness, or an impairment of a physical condition.

**Bolo shell** - shell that can be fired in a firearm and that expels as projectiles two or more metal balls connected by solid metal wire.

**Bomb detection dog** - dog trained to locate bombs or explosives by scent.

**Boobytrap** - any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.

**Bookmaking** - (a) act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever; (b) accepting bets, upon the outcome of future contingent events, as a business or in which the bettor is charged a fee or vigorish for the opportunity to place a bet.

**Booking** - law enforcement officer or correctional administrative process officially recording an entry into detention after arrest, and identifying the person, place, time, and reason for the arrest, and the arresting authority.

**Bowling center** - place of business having at least 12 bowling lanes on the premises which are operated for the entertainment of the general public for the purpose of engaging in the sport of bowling.

**Bowling tournament** - contest in which participants engage in the sport of bowling, wherein a heavy ball is bowled along a bowling lane in an attempt to knock over bowling pins, 10 in number, set upright at the far end of the lane, according to specified regulations and rules of the American Bowling Congress, the Womens International Bowling Congress, or the Bowling Proprietors Association of America.

**Brake horsepower** - actual unit of torque developed per unit of time at the output shaft of an engine, as measured by a dynamometer.

**Bribe** - signifies anything of value or advantage, present or prospective, or any promise or undertaking to give any, asked, given, or accepted, with a corrupt intent to influence, unlawfully, the person to whom it is given, in his or her action, vote, or opinion, in any public or official capacity.

**Bribery** - corruptly to give, offer, or promise to any public servant, or, if a public servant, corruptly to request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

**Bridge** - structure, including supports, erected over a depression or an obstruction, such as water

or a highway or railway, and having a track or passageway for carrying traffic or other moving loads.

**Brief** - written or printed document prepared by the lawyers on each side of a dispute and submitted to the court in support of their arguments - a brief includes the points of law which the lawyer wished to establish, the arguments the lawyer uses, and the legal authorities on which the lawyer rests his/her conclusions.

**Broadcast** - to electronically transmit a visual image with the intent that it be viewed by a person or persons.

**Building** - (a) any structure, and the term also includes any vehicle, railway car, aircraft, or watercraft used for lodging of persons therein; each unit of a building consisting of two or more units separately secured or occupied is a separate building; (b) in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building; (c) a room, shop, store, office, or apartment in a building; (d) in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building.

**Bulletin board system** - computer data and file service that is accessed by telephone line to store and transmit information.

**Burglar tool** - acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating a forcible entry into premises or theft by a physical taking.

**Burglary** - (a) entering or remaining in a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain; (b) the unlawful entry of a structure to commit a felony or a theft.

**Bus** - any motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

**Business district** - (a) territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway; (b) territory contiguous to, and including, a highway when 50 percent or more of the frontage thereon,

for a distance of 300 feet or more, is occupied by buildings in use for business.

**Business record** - any writing or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity.

**Business relationship** - relationship between two or more individuals or entities where there exists an oral or written contract or agreement for goods or services.

**Buyer** - individual who is solicited to purchase, or who purchases, the services of a credit service organization.

- C -

**Calendar** - schedule of matters to be heard in court.

**Calendar call** - calling of matters requiring parties, or their attorneys, to appear and be heard, usually done at the beginning of each court day.

**Camper** - structure designed to be mounted upon a motor vehicle which provides facilities for human habitation or for temporary outdoor or recreational lodging and which is five feet or more in overall length and five feet or more in height from its floor to its ceiling when fully extended, but shall not include motor homes.

**Camping** - erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel for the apparent purpose of overnight occupancy.

**Cancel** - invalidation indefinitely.

**Cancellation** - (a) cancellation means that a license which was issued through error or fraud is declared void and terminated. A new license may be obtained only as permitted; (b) act of declaring a driver's license void and terminated.

**Candidate** - individual who seeks nomination for election, or election, to federal, state, or local office, whether or not such individual is elected.

**Cannabis** - all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

**Capacity (legal)** - legal ability of a person to commit a criminal act; the mental and physical ability to act with purpose and to be aware of the certain, probable or possible results of one's conduct.

**Capital offense** - (a) criminal offense punishable by death; (b) in some penal codes, an offense which may be punishable by death or by life imprisonment.

**Capital punishment** - another term for the death penalty. Capital punishment is the most extreme of all sentencing options.

**CAPS** - acronym for Chicago's Alternative Policing Strategy. This is the Department's community policing strategy, based on a partnership between the police and the community. Although it is officially called an alternative policing strategy, it is the Department's principal strategy for addressing crime and disorder problems.

**Caption** - in a pleading, deposition or other paper connected with a case in court, it is the heading or introductory clause which shows the names of the parties, name of the court, number of the case on the docket or calendar, etc.

**Capture** - with respect to an image, means to videotape, photograph, film, record by any means, or broadcast.

**Cardholder** - (a) person or organization named on the face of a financial transaction card to whom or for whose benefit the financial transaction card is issued by an issuer; (b) person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

**Cardroom** - facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.

**Cardroom distributor** - business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.

**Cardroom management company** - individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.

**Cardroom operator** - licensed pari-mutuel permit-holder which holds a valid permit and license and which also holds a valid cardroom license which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.

**Caregiver** - person who has been entrusted with or has assumed responsibility for the care or the property of an elderly person or disabled adult. *Caregiver* includes, but is not limited to, relatives, court-appointed or voluntary guardians, adult household members, neighbors, health care providers, and employees and volunteers of facilities.

**Carjacking** - taking of a motor vehicle which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the motor vehicle, when in the course of the taking there is the use of force, violence, assault, or putting in fear.

**Carnal knowledge** - (a) sexual intercourse. It extends to the gratification of lusts upon the body of another. Penetration of female organ by the male organ, however slight; (b) sexual intercourse under circumstances not amounting to rape, with a person who is not the accused's spouse and who has not attained the age of 16 years. Any penetration, however slight, is sufficient to complete the offense. It is a defense, however, which the accused must prove by a preponderance of the evidence, that at the time of the act of sexual intercourse, the person with whom the accused committed the act of sexual intercourse was at least 12 years of age, and that the accused reasonably believed that this same person was at least 16 years of age; (c) the act of a man having sexual bodily connections with a woman; sexual intercourse. The slightest penetration of the sexual organ of the female (vagina) by the sexual organ of the male (penis).

**Carry** - to wear, bear, or have on or about the person.

**Case file** - court file containing papers submitted in a case cause of action: grounds on which a legal action may be brought (e.g., property damage, personal injury, goods sold and delivered, work labor and services).

**Case law** - that body of judicial precedent, historically built upon legal reasoning and past interpretations of statutory laws, which serves as a guide to decision making, especially in the courts.

**Cash or cash proceeds** - damages or penalties or any other monetary payment, the monetary proceeds from property forfeited to the state, or any payment made by any defendant by reason of any decree or settlement in any action filed pursuant to law.

**Cattle** - one or more bulls, steers, oxen, cows, heifers, or calves, or the carcass or carcasses thereof.

**Cave** - void, cavity, recess, or system of interconnecting passages which naturally occurs beneath the surface of the earth or within a cliff or ledge, including natural subsurface water and drainage systems but not including any mine, tunnel, aqueduct, or other manmade excavation, and which is large enough to permit a person to enter. The word *cave* includes any cavern, natural pit, or sinkhole which is an extension of an entrance to a cave.

**Cave life** - life form which is indigenous to a cave or to a cave ecosystem.

**CD-ROM** - compact disk with read only memory which has the capacity to store audio, video, and written materials and is used by computers to reveal the above-said material.

**Cellular telephone** - communication device containing a unique electronic serial number that is programmed into its computer chip by its manufacturer and whose operation is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

**Center line** - line, marked or unmarked, parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers.

**Central repository** - database (or the agency housing the database) that maintains criminal history records on all stet offenders. Records include fingerprint files containing identification segments and notations of arrests and dispositions. The central repository is generally responsible for state-level identification of arrestees, and commonly serves as the central control terminal for contact with Federal Bureau of Investigation (FBI) record systems. Inquiries from local agencies for a national record check (for criminal justice or firearm check purposes) are routed to the FBI via the central repository. Although usually housed inn the Department of Public Safety, the central repository is maintained in some states by the state police or other state agency.

**Certificate of readiness** - document attesting that the parties in a lawsuit are ready to go to trial.

**Certified copy** - copy of a document signed and certified as a true copy of an original by the Clerk of the Court or other authorized persons (e.g., lawyer).

**Certify** - to testify in writing.

**Certiorari** - proceeding to review the decisions or actions of a public official or body, as in a tax certiorari matter, a review of the tax assessed challenge an exception taken to a juror before he/she is sworn challenge for a challenge based on a legally specified reason.

**Change of venue** - movement of a case from the jurisdiction of one court to that of another court which has the same subject matter jurisdictional authority but is in a different geographic location.

**Charge** - allegation that a specified person(s) has committed a specific offense, recorded in a functional document such as a record of an arrest, a complaint, information or indictment, or a judgment of conviction.

**Charge to jury** - in trial practice, an address delivered by the court to the jury at the close of the case instructing the jury as to what principles of law they are to apply in reaching a decision.

**Charitable, nonprofit, or veterans' organization** - organization which has qualified for exemption from federal income tax as an exempt organization under the provisions of 501(c) of the Internal Revenue Code of 1954 or 528 of the Internal Revenue Code of 1986, as amended; which is engaged in charitable, civic, community, benevolent, religious, or scholastic works or other similar activities; and which has been in existence and active for a period of 3 years or more.

**Chattel** - article of personal property.

**Chief administrative officer** - the head, or his or her designee, of any law enforcement agency which is authorized to enforce traffic laws.

**Chemical weapon or device** - weapon of such nature, except a device known as a self-defense chemical spray. Self-defense chemical spray means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

**Chief administrative officer** - in the case of a public school, means the principal of the school or an officer designated by the superintendent or board of education having jurisdiction of the school to be the officer in charge of the public school. In the case of a unit of the university system, means the president of the unit of the university system or the officer designated by the Board of Regents of the University System to administer and be the officer in charge of a campus or other facility of a unit of the university system.

**Child** - (a) any individual who is under the age of 17 years or any individual who is under the age of 18 years who is alleged to be a deprived child, relating to juvenile proceedings; (b) a person under the age of 18 years; or (c) an individual who is not married, and has not attained 18 years of age.

**Child abuse** - (a) intentional infliction of physical or mental injury upon a child; (b) an intentional act that could reasonably be expected to result in physical or mental injury to a child; or (c) active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child.

**Child care facility** - child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included: (a) public schools and nonpublic schools and their integral programs; (b) summer camps having children in full-time residence; (c) summer day camps; (d) Bible schools normally conducted during vacation periods; and (e) operators of transient establishments, which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened.

**Child pornography** - any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where: (a) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; (b) such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct; (c) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct; or (d) such visual depiction is advertised, promoted, presented, described, or distributed in such a manner that conveys the impression that the material is or contains a visual depiction of a minor engaging in sexually explicit conduct; and identifiable minor.

**Child protective agency** - police or sheriff's department, a county probation department, or a county welfare department.

**Children** - plural and means individuals who have not attained the age of 18 years.

**Chop shop** - (a) area, building, storage lot, field, or other premises or place where one or more persons are engaged or have engaged in altering, dismantling, reassembling, or in any way concealing or disguising the identity of a stolen motor vehicle or of any major component part of a stolen motor vehicle; where there are two or more stolen motor vehicles present; or where there are major component parts from two or more stolen motor vehicles present; (b) any building, lot, or other premise where one or more persons knowingly engage in altering, destroying,

disassembling, dismantling, reassembling, or storing any motor vehicle or motor vehicle part known to be illegally obtained by theft, fraud, or conspiracy to defraud in order to either (1) alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identification, including the vehicle identification or useful number of such motor vehicle or motor vehicle part, in order to misrepresent the identification of such motor vehicle or motor vehicle part; (2) sell or dispose of such motor vehicle or motor vehicle part.

**Cipher** - cryptographic system; any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications.

**Circumstantial evidence** - evidence that requires interpretation, or that requires a judge or jury to reach a conclusion based upon what the evidence indicates. From the close proximity of a smoking gun to the defendant, for example, the jury might conclude that he or she pulled the trigger.

**Citation** - (a) any summons, ticket, or other official document issued by a police officer for a traffic violation, containing an order which requires the motorist to respond; (b) reference to authorities in support of an argument clerk's extract: a summary of a trial which is written by a clerk.

**Civil action** - lawsuit in which a private party, rather than the state, is plaintiff, and where the plaintiff's remedy is either money damages or an injunction. In some cases, the same conduct can give rise to both a civil or criminal action.

**Civil disorder** - any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

**Civil law** - that part of the law that governs relationships between parties.

**Classified information** - information which, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution; or, information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.

**Classifying** - determining the proper crime categories in which to report offenses in Uniform Crime Reporting. The offense's classification is based on the facts of an agency's investigation of crimes.

**Clearance (UCR)** - event where a known occurrence of a Part I offense is followed by an arrest or other decision which indicates a solved crime at the police level of reporting.

**Clearance rate** - traditional measure of investigative effectiveness that compares the number of crimes reported and/or discovered to the number of crimes solved through arrest or other means such as the death of a suspect.

**Cleared by arrest** - an offense is considered cleared when at least one person involved in the commission of the offense has been (a) arrested; (b) charged; and (c) turned over to the court for prosecution.

**Cleared by exceptional means** - clearance in which some element beyond law enforcement control prevents filing of formal charges against the offender. Agencies can clear an offense exceptionally if they can answer all of the following in the affirmative. (a) Has the investigation definitely established the identity of the offender? (b) Is there enough information to support an arrest, charge, and turning over to the court for prosecution? (c) Is the exact location of the offender known so that the subject could be taken into custody now? (d) Is there some reason outside law enforcement control that precludes arresting, charging, and prosecuting the offender (for example, suicide, deathbed confession, double murder, etc.)?

**Clerk's minutes** - notes, which are taken by a clerk, of events that occurred in court commissioner of jurors: a person in charge of summoning citizens for jury duty.

**Cloning paraphernalia** - materials that, when possessed in combination, are necessary and capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the microchip of the cloned cellular telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

**Closing argument** - oral summation of a case presented to a judge, or to a judge and jury, by the prosecution or by the defense in a criminal trial.

**Code** - cipher, cryptographic system; any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications.

**Code inspector** - authorized agent or employee of the county or municipality whose duty it is to assure code compliance.

**Coercion** - practice of domination, restraint, or inducement for the purpose of or with the reasonably foreseeable effect of causing another person to engage in or remain in prostitution or to relinquish earnings derived from prostitution, and includes, but is not limited to: (a) physical force or threats of physical force; (b) physical or mental torture; (c) kidnapping.

**Coin machine** - coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination or a token made for such purpose, and in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition or use of some property or service.

**Coin-operated vending machine or parking meter** - machine, contrivance, or device that is adapted for use in such a way that, as the result of the insertion of any piece of money, coin, or other

object, the machine, contrivance, parking meter, or device is caused to operate or may be operated and by reason of such operation the user may become entitled to receive any food, drink, telephone or telegraph service, insurance protection, parking privilege or any other personal property, service, protection, right or privilege of any kind or nature whatsoever.

**Collateral** - any cash or other security deposited to secure an appearance for trial following the issuance by a police officer of a citation for a traffic violation.

**Collector road** - route providing service which is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

**Commerce** - commerce (a) between any state or the District of Columbia and any place outside thereof; (b) between points within any state or the District of Columbia, but through any place outside thereof; or (c) wholly within the District of Columbia.

**Commercial driver's license** - Class A, Class B, or Class C driver's license.

**Commercial horticulture property** - property that is cleared of its natural vegetation and is planted in commercially cultivated horticulture products that are planted, grown, or harvested. The term also includes property that is used for the commercial sale, use, or distribution of horticulture products.

**Commercial motor vehicle** - any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle: (a) has a gross vehicle weight rating of 10,000 pounds or more; (b) is designed to transport more than 15 passengers, including the driver; or (c) is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 USC 1801); or (d) any vehicle which is not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight of 26,001 pounds or more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle weight.

**Commercial purposes** - manufacture of at least 10 of the same or different optical discs in a 180-day period by storing information on the disc for purposes of sale in this state by that person or other persons.

**Commercial stimulant** - activity is operated as a commercial stimulant, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on the premises.

**Committed person** - any child or other person whose custody is entrusted to another individual by authority of law.

**Commitment** - action of a judicial officer ordering that a person subject to judicial proceedings be placed in a particular kind of confinement or residential facility, for a specific reason authorized by

law; also, the result of the action, the admission to the facility.

**Common carrier** - locomotive, a rail carrier, a sleepingcar carrier, a bus transporting passengers in interstate commerce, a water common carrier, and an air common carrier.

**Common fireworks** - any firework designated for retail sale to the public during prescribed dates and which produces visible or audible effects through combustion and which is classified as common fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0336 1.4G.

**Common law** - body of unwritten judicial opinion that was based upon law originating from usage and custom rather than from written statutes. The term refers to a body of judicial opinion originally developed by English courts, and which is based upon non-statutory customs, traditions, and precedents.

**Communicate** - transmit or transfer or to cause another to transmit or transfer signs, signals, writing, images, sounds, data, or intelligence of any nature in whole or in part by mail, or by wire, radio, electromagnetic, photoelectronic, or photooptical system.

**Communicates false information** - communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.

**Communication facility** - any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

**Communication intelligence** - all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients.

**Communication service** - use of telephone, computer and cable television systems.

**Community adjustment** - disposition of a juvenile offense which involves releasing the offender to a parent or guardian, with follow-up assistance by either the police or a community agency. A community adjustment is an alternative to juvenile court, made in the discretion of the police, for less serious offenses. Also referred to as a *station adjustment*.

**Community policing** - collaborative effort between the police and the community that identifies problems of crime and disorder and involves all elements of the community in the search for solutions to these problems.

**Community standards** - standards of the state.

**Compensate** - to confer any benefit or pecuniary benefit.

**Compensatory damages** - reimbursement for actual loss or injury, as distinguished from exemplary or punitive damages complaint: the initial pleading in an action formally setting forth the facts and reasons on which the demand for relief is based.

**Complaint** - (a) any accusation that a person(s) has committed an offense(s), received by or originating from a law enforcement or prosecutorial agency, or received by a court; (b) in judicial process usage, a formal document submitted to the court by a prosecutor, law enforcement officer, or other person, alleging that a specified person(s) has committed a specified offense(s) and requesting prosecution.

**Complete written instrument** - one which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof.

**Computer** - (a) an internally programmed, general-purpose, digital device that automatically processes substantial data; (b) an electronic device which performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities which are connected or related to such a device in a computer system or computer network; (c) an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.

**Computer crime** - (a) cybercrime; (b) a popular name for crimes committed by use of a computer or crimes involving misuse or destruction of computer equipment or computerized information, sometimes specifically theft committed by means of manipulation of a computerized financial transaction system, or the use of computer services with intent to avoid payment.

**Computer network** - (a) two or more computer systems connected by telecommunication facilities; the interconnection of communication lines with a computer through remote terminals or a complex consisting of two or more computers and includes interconnected remote terminals; (b) a set of two or more computer systems that automatically transmit data over communication circuits connecting them; (c) the interconnection of communication lines with a computer through remote terminals or a complex consisting of two or more computers and includes interconnected remote terminals.

**Computer program** - an ordered set of data that are coded instructions or statements that when executed by a computer cause the computer to process data.

**Computer software** - set of computer programs, procedures, and associated documentation concerned with the operation of a computer system.

**Computer system** - (a) device or collection of devices, including support services, and excluding calculators which are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs, electronic instructions, input data, and output data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control; (b) set of connected devices including a computer and possibly other devices such as data input, output, or storage devices, data communication circuits,

and operating system programs that make the system capable of performing special-purpose data processing tasks for which it is specified.

**Computer system services** - providing a computer system or computer network to perform useful work.

**Computer virus** - computer program that is designed to secretly invade and modify either the way in which they operate or alter the information they store. Viruses are destructive software which may effectively vandalize computers of all sizes.

**Concealed firearm** - firearm, which is carried on or about a person in such a manner as to conceal the firearm from the ordinary sight of another person.

**Concealed handcuff key** - handcuff key carried by a person in a manner that indicates an intent to prevent discovery of the key by a law enforcement officer, including, but not limited to, a handcuff key carried: (a) in a pocket of a piece of clothing of a person, and unconnected to any key ring; (b) on a necklace of a person; (c) on the body part of a person or on any item of clothing of such person, when the handcuff key is secured on the body part or item of clothing by use of tape, glue, line, or other material; (d) in or within any compartment, seam, fold, or other encasement within any item of clothing, belt, shoe, or jewelry of a person; (e) in or within any sock, hose, shoe, belt, undergarment, glove, hat, or similar item of clothing or accessory of a person; (f) by a person and disguised as jewelry or other object; or (g) in or within any body cavity of a person.

**Concealed weapon** - dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other deadly or dangerous weapon.

**Concurrent sentence** - sentence that is one or two or more sentences imposed at the same time after conviction for more than one offense and to be served at the same time, or a new sentence imposed upon a person already under sentence(s) for a previous offense(s), to be served at the same time as one or more of the previous sentences.

**Condemnation** - see eminent domain.

**Conducts** - initiating, concluding, or participating in initiating or concluding a transaction.

**Confession** - a person's admissions of enough facts to establish his or her guilt of a particular crime.

**Confidential communication** - any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

**Consanguinity** - of the same blood, descended from the same ancestor, or a close relation or connection.

**Consecutive sentence** - sentence that is one or two or more sentences imposed at the same time. After conviction for more than one offense, and which is served in sequence with the other sentences, or a new sentence for a new conviction, imposed upon a person already under sentence(s) for previous offense(s), which is added to a previous sentence(s), thus increasing the maximum time the offender may be confined or under supervision.

**Consent** - (a) that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact; (b) intelligent, knowing, and voluntary consent and does not include coerced submission. Consent shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender; (c) intelligent, knowing, and voluntary consent, and does not include submission by coercion.

**Conservator** - one who is appointed by a court to manage the affairs of a protected person.

**Consolidate** - a joining of two or more actions to be tried together.

**Consolidated action** - two or more actions involving a common question of law or fact may be consolidated by the court. The actions then are merged, becoming one action with one title, and they result in one verdict and one judgment contempt of court: an act or omission tending to obstruct or interfere with the orderly administration of justice or to impair the dignity of the court or respect for its authority.

**Consolidated metropolitan statistical area** - two or more metropolitan statistical areas that are socially and economically interrelated as defined by the United States Bureau of the Census.

**Conspiracy** - agreement with another, or others, to commit a crime, and an act by any party to the agreement in furtherance of the agreement.

**Constructive possession** - condition in which a person does not have physical custody or possession, but is in a position to exercise dominion or control over a thing.

**Contempt of court** - intentionally obstructing a court in the administration of justice, or acting in a way calculated to lessen its authority or dignity, or failing to obey its lawful orders.

**Contest of chance** - any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

**Contested action** - an action which involves disputed issue(s) of fact or law.

**Continuing criminal enterprise** - person is engaged in a continuing criminal enterprise if: (a) he violates any provision of 21 USC 841 through 904 the punishment for which is a felony; and (b) such violation is a part of 21 USC 841 through 904: (1) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and (2) from which such

person obtains substantial income or resources.

**Contraband** - (a) any article or thing which a person confined in a correctional or detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order; (b) any property of which is illegal; (c) any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule regulation, or order of a court.

**Contract** - legally enforceable agreement between two or more persons or parties (oral or written).

**Control** - (a) regulation of the possession, ownership, care, and custody of animals; (b) authority or ability to regulate, direct, or dominate.

**Controlled access facility** - street or highway to which the right of access is highly regulated by the governmental entity having jurisdiction over the facility in order to maximize the operational efficiency and safety of the high-volume through traffic utilizing the facility. Owners or occupants of abutting lands and other persons have a right of access to or from such facility at such points only and in such manner as may be determined by the governmental entity.

**Controlled-access highway** - every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except only at such points and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

**Controlled substance** - (a) a drug or other substance, or immediate precursor, included in schedules I, II, III, IV, or V of Part B of the Controlled Substance Act (21 USC 812) or a drug or substance added to these schedules pursuant to the terms of the Act; (b) a specifically defines bioactive or psychoactive chemical substance which is proscribed by law.

**Convenience business** - place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between the hours of 11 p.m. and 5 a.m. The term *convenience business* does not include: (a) a business that is solely or primarily a restaurant. (b) a business that always has at least five employees on the premises after 11 p.m. and before 5 a.m. (c) A business that has at least 10,000 square feet of retail floor space. The term *convenience business* does not include any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.

**Conversion** - unauthorized assumption and exercise of right of ownership over goods or personal chattels belonging to another to the alteration of their condition or the exclusion of the owner's right.

**Conveyance** - (a) any object, including aircraft, vehicle, or vessel, but not including a person, which may be used to carry or transport a substance or object; (b) motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car.

**Conviction** - conviction of an offense relating to the operation of motor vehicles on highways which is a violation of this chapter or any other such law of this state or any other state, including an admission or determination of a noncriminal traffic infraction, or a judicial disposition of an offense

committed under any federal law substantially conforming to the aforesaid state statutory provisions.

**Copy** - any facsimile, replica, photograph, or other reproduction of an article and any note, drawing, or sketch made of or from an article.

**Corpus delicti** - (a) the *body of crime*; (b) facts which show that a crime has occurred.

**Correctional institution** - any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including state prisons, county and local jails, and other facilities operated by the Department of Corrections or local government units primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

**Correctional officer** - superintendents, wardens, deputy wardens, guards, and correctional officers of state, county, and municipal penal institutions.

**Corrections** - generic term that includes all government agencies, facilities, programs, procedures, personnel, and techniques concerned with the intake, custody, confinement, supervision, or treatment, or presentencing or predisposition investigation of alleged or adjudicated adult offenders, delinquents, or status offenders.

**Corroborate** - to strengthen; to add weight by additional evidence.

**Corruption** - behavior deviation from an accepted ethical standard.

**Corruptly** - (a) import a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to, or to some other person; (b) done with a wrongful intent and for the purpose of obtaining or compensating or receiving compensation for any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

**Corruptly persuades** - does not include conduct which would be misleading conduct but for a lack of a state of mind.

**Costs** - statutory sum awarded to the successful party when a judgment is entered.

**Counsel** - lawyer or attorney.

**Counterclaim** - (a) in civil actions, a claim brought by a defendant against the plaintiff for an unlimited amount of money; (b) in small claims/commercial claims, a claim brought by a defendant against the plaintiff for an amount not to exceed the maximum monetary jurisdiction allowed in the small claims/commercial claims court.

**Counterfeit controlled substance** - (a) controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, or number, or any likeness thereof, of a manufacturer other than the person who in fact manufactured

the controlled substance; or (b) any substance which is falsely identified as a controlled substance.

**Counterfeit credit card** - credit card which is fictitious, altered, or forged; any facsimile or false representation, depiction, or component of a credit card; or any credit card which is stolen, obtained as part of a scheme to defraud, or otherwise unlawfully obtained, and which may or may not be embossed with account information or a company logo.

**Counterfeit label** - identifying label or container that appears to be genuine, but is not.

**Counterfeit military good or service** - good or service that uses a counterfeit mark on or in connection with such good or service and that: (a) is falsely identified or labeled as meeting military specifications; or (b) is intended for use in a military or national security application.

**Counterfeit police badge** - an item that so resembles a police badge that it would deceive an ordinary individual into believing it was a genuine police badge.

**Counterfeit substance** - controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade-name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

**Counterfeited** - document that purports to be genuine but is not, because it has been falsely made or manufactured in its entirety.

**County road** - every public highway or part thereof, outside the limits of cities and towns and which has not been designated as a state highway.

**Course of conduct** - (a) pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of course of conduct. Such constitutionally protected activity includes picketing or other organized protests; (b) a series of acts over a period of time, however short, indicating a continuity of purpose.

**Court** - (a) court having jurisdiction over traffic offenses; (b) any tribunal in this state or any other state, or any federal tribunal, which has jurisdiction over any civil, criminal, traffic, or administrative action.

**Court advocacy** - program in which community volunteers identify and track court cases and attend court proceedings that are of concern to the community. Attendance at court shows support for victims and lets the judge and defendants know that the community is concerned about the outcome of the case.

**Court of limited jurisdiction** - City Court, District Court or other court that has jurisdiction only over actions authorized by law.

**Court order** - a mandate, command, or direction issued by a judicial officer in the exercise of his

or her judicial authority.

**Court reporter** - person who transcribes by shorthand or stenographically takes down testimony during court proceedings.

**Covered ship** - ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

**Cowardice** - misbehavior motivated by fear.

**Cracker** - small metal or plastic device that contains an interior pin that may be used to expel nitrous oxide from a cartridge or container.

**Craft** - every boat, ship, vessel, barge, hulk, or other thing capable of floating.

**Credible threat** - (a) threat made with the intent and the apparent ability to carry out the threat so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family; (b) threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.

**Credit** - an arrangement or understanding, express or implied, with the bank or other depository for the payment of a check, draft, or order.

**Credit card** - (a) any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, on credit; b) instrument or device, whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, electronic benefits transfer (EBT) card, or debit card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

**Credit repair services organization** - any person who, with respect to the extension of credit to a buyer by others, sells, provides, or performs, or represents that he can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following services: (a) improving a buyer's credit record, history, or rating; (b) obtaining an extension of credit for a buyer; (c) providing advice or assistance to a buyer with regard to either division (a) or (b) of this paragraph.

**Credit-card-making equipment** - equipment, machine, plate, mechanism, impression, or any other device designed, used, or capable of being used to produce a credit card, a counterfeit credit card, or any aspect or component of a credit card.

**Credit repair services organization** - any person who, with respect to the extension of credit to a buyer by others, sells, provides, or performs, or represents that he can or will sell, provide, or perform, in return for the payment of money or other valuable consideration any of the following

services: (a) improving a buyer's credit record, history, or rating; (b) obtaining an extension of credit for a buyer; (c) providing advice or assistance to a buyer with regard to either division (a) or (b) of this paragraph.

**Credit service organization** - person who, with respect to the extension of credit by others, sells, provides, performs, or represents that he or she can or will sell, provide, or perform, in return for the payment of money or other valuable consideration, any of the following services: (a) improving a buyer's credit record, history, or rating; (b) obtaining an extension of credit for a buyer; or (c) providing advice or assistance to a buyer with regard to the services described in either subparagraph (a) or subparagraph (b).

**Credit union** - any federal credit union and any state-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any *federal credit union* as defined in section 2 of the Federal Credit Union Act. The term *state-chartered credit union* includes a credit union chartered under the laws of a state of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

**Creditor** - with reference to any given extension of credit, refers to any person making that extension of credit or to any person claiming by, under, or through any person making that extension of credit.

**Crime** - (a) act committed or omitted in violation of a law forbidding or commanding it and to which is annexed; (b) felony or misdemeanor; (c) act committed or omitted in violation of a law forbidding or commanding it for which the possible penalties for an adult upon conviction include incarceration, for which a corporation can be penalized by fine or forfeiture, or for which a juveniles can be adjudged delinquent or transferred to criminal court for prosecution.

**Crime control model** - criminal justice perspective that emphasizes the efficient arrest and conviction of criminal offenders.

**Crime of violence** - offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

**Crime rate** - number of index offenses reported for each unit of population.

**Crime watch vehicle** - motor vehicle used by any person participating in a citizen crime watch or neighborhood watch program when such program and use are approved in writing by the appropriate sheriff or chief of police where the vehicle will be used and the vehicle is assigned the use of frequencies assigned to the county or city. Such approval shall be renewed annually.

**Crimes against property** - offenses in the category include robbery, burglary, larceny-theft, motor vehicle theft, and arson.

**Crimes against the person** - offenses in this category include homicide, forcible rape, and aggravated assault.

**Criminal action** - lawsuit in which the state or the public, rather than a private party, is plaintiff, and the defendant faces punishment such as a fine or incarceration if convicted.

**Criminal history record information** - record (or the system maintaining such records) that includes individual identifiers and describes an individual's arrests and subsequent dispositions. Criminal history records do not include intelligence or investigative data or sociological data such as drug use history. Criminal history record information (CHRI) systems usually include information on juveniles if they are tried as adults in criminal courts. Most, however, do not include data describing involvement of an individual in the juvenile justice system. Data in CHRI systems are usually backed by fingerprints of the record subjects to provide positive identification. State legislation varies concerning disclosure of criminal history records for noncriminal justice purposes.

**Criminal homicide** - (a) murder, manslaughter or criminally negligent homicide; (b) willful killing of one human being by another.

**Criminal incident** - criminal event involving one or more victims and one or more offenders.

**Criminal investigator** - any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States.

**Criminal justice** - (a) those aspects of social justice which concern violations of the criminal law; (b) the criminal (penal) law, the law of criminal procedure, and that array of procedures and activities having to do with the enforcement of this body of law.

**Criminal justice agency** - (a) court; (b) the department; (c) Department of Juvenile Justice, (d) protective investigations component of the Department of Children and Family Services, which investigates the crimes of abuse and neglect; (e) any other governmental agency or subunit thereof which performs the administration of criminal justice pursuant to a statute or rule of court and which allocates a substantial part of its annual budget to the administration of criminal justice.

**Criminal justice systems** - aggregate of all operating and administrative or technical support agencies that perform criminal justice functions. The basic divisions of the operational aspect of criminal justice are law enforcement, courts, and corrections.

**Criminal law** - (a) that branch of modern law that concerns itself with offenses committed against society, members thereof, their property, and the social order; (b) penal law.

**Criminal negligence** - (a) a person is criminally negligent, or acts with criminal negligence, when he fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable man would exercise in the same situation; (b) behavior in which a person fails to reasonably perceive substantial and unjustifiable risks of dangerous consequences.

**Criminal proceedings** - regular and orderly steps, as directed or authorized by statute or a court of law, taken to determine whether an adult accused of a crime is guilty or not guilty.

**Criminal quarantine community control** - intensive supervision, by officers with restricted caseloads, with a condition of 24-hour-per-day electronic monitoring, and a condition of confinement to a designated residence during designated hours.

**Criminal sabotage** - with intent that his or her act shall, or with reason to believe that it may injure, interfere with, interrupt, supplant, nullify, impair, or obstruct the owner's or operator's management, operation, or control of any agricultural, stockraising, lumbering, mining, quarrying, fishing, manufacturing, transportation, mercantile, or building enterprise, or any other public or private business or commercial enterprise, wherein any person is employed for wage, shall willfully damage or destroy, or attempt or threaten to damage or destroy, any property whatsoever, or shall unlawfully take or retain, or attempt or threaten unlawfully to take or retain, possession or control of any property, instrumentality, machine, mechanism, or appliance used in such business or enterprise.

**Criminal street gang** - (a) an ongoing group, club, organization, or association of five or more persons (1) that has as one of its primary purposes the commission of one or more of the criminal offenses involving controlled substances, a federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another, or a conspiracy to commit one or both of these offenses; and (2) the activities of which affect interstate or foreign commerce; (b) formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols and have two or more members who, individually or collectively, engage in or have engaged in a pattern of criminal street gang activity.

**Criminal street gang associate** - person who: (a) admits to criminal street gang association; or (b) meets any single defining criterion for criminal street gang membership.

**Criminal street gang member** - person who is a member of a criminal street gang and who meets two or more of the following criteria: (a) admits to criminal street gang membership; (b) is identified as a criminal street gang member by a parent or guardian; (c) is identified as a criminal street gang member by a documented reliable informant; (d) resides in or frequents a particular criminal street gang's area and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal street gang members; (e) is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information; (f) has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity; (g) is identified as a criminal street gang member by physical evidence such as photographs or other documentation; (h) has been stopped in the company of known criminal street gang members four or more times.

**Criminalist** - police crime scene analysts and laboratory personnel versed in criminalistics.

**Criminalistics** - (a) use of technology in the service of criminal investigation; (b) application of scientific techniques to the detection and evaluation of criminal evidence.

**Criminally derived property** - any property constituting, or derived from, proceeds obtained from a criminal offense.

**Criminology** - scientific study of crime causation, prevention, and the rehabilitation and punishment of offenders.

**Crossclaim** - claim litigated by co-defendants or co-plaintiffs against each other and not against a party on the opposite side of the litigation.

**Cross-examination** - questioning by a party or his attorney of an adverse party or a witness called by an adverse party.

**Crosswalk** - (a) portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line ten feet therefrom, except as modified by a marked crosswalk; (b) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway, measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; (c) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

**Cruelty** - (a) every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; (b) act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

**Cryptographic system** - cipher, cryptographic system; any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications.

**Culpability** - (a) blameworthiness; responsibility in some sense for an event or situation deserving of moral blame; (b) in Model Penal Code (MPC) usage, a state of mind on the part of one who is committing an act, which makes him or her potentially subject to prosecution for that act.

**Cultivated land** - land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture, or trees or is fallow land as part of a crop rotation.

**Cultural resource** - material remains of past human life or activities that are of significant cultural interest and are less than 50 years of age. This term includes, but shall not be limited to, objects made or used by humans, such as pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, or any portion or piece of the foregoing items, and the physical site, location, or context in which they are found, or human skeletal materials or graves.

**Curfew and loitering (persons under age 18)** - violations by juveniles of local curfew or loitering ordinances.

**Curtilage** - area surrounding a residence which can reasonably be said to be a part of the residence for Fourth Amendment purposes.

**Custody** - (a) restraint pursuant to a lawful arrest or an order of a court; (b) the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, juvenile facility or a state hospital; (c) restraint of free

locomotion imposed by lawful apprehension; (d) legal or physical control of a person or thing; (e) legal, supervisory, or physical responsibility for a person or thing.

**Cybercrime** - (a) computer crime; (b) a popular name for crimes committed by use of a computer or crimes involving misuse or destruction of computer equipment or computerized information, sometimes specifically theft committed by means of manipulation of a computerized financial transaction system, or the use of computer services with intent to avoid payment.

- D -

**Damages** - (a) in, addition to its ordinary meaning, includes any charring, scorching, burning, or breaking, or agricultural or industrial sabotage and shall include any diminution in the value of any property as a consequence of an act; (b) monetary compensation or indemnity for wrong or injury caused by the violation of a legal right.

**Dangerous instrument** - any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury.

**Dangerous weapon** - (a) any weapon commonly known as a rocket launcher, bazooka, or recoilless rifle which fires explosive or nonexplosive rockets designed to injure or kill personnel or destroy heavy armor, or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a mortar which fires from a high explosive metallic cylinder and which is commonly used by the armed forces as an antipersonnel weapon or similar weapon used for such purpose. The term shall also mean a weapon commonly known as a hand grenade or other similar weapon which is designed to explode and injure personnel or similar weapon used for such purpose; (b) a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length.

**Data** - representation of information, knowledge, facts, concepts, computer software, computer programs or instructions.

**Date rape** - unlawful forced sexual intercourse with a female against her will which occurs within the context of a dating relationship.

**Date-stamp** - stamping on a document of the date it is received.

**Daytime** - period from a half hour before sunrise to a half hour after sunset. Nighttime means at any other hour.

**De novo** - from the beginning, a new trial.

**Deadly force** - force which the actor uses with the intent of causing or which he knows to create a substantial risk of causing death or serious bodily harm.

**Deadly physical force** - physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

**Deadly weapon** - any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a vehicle, which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury.

**Dealer** - (a) person in the business of buying and selling goods; (b) any person engaged in the business of distributing explosive materials at wholesale or retail.

**Dealer in property** - person in the business of buying and selling property.

**Debit card** - card, code, or other device, other than a check, draft, or similar paper instrument, by the use of which a person may order, instruct, or authorize a financial institution to debit a demand deposit, savings deposit, or other asset account.

**Debtor** - with reference to any given extension of credit, refers to any person to whom that extension of credit is made, or to any person who guarantees the repayment of that extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom that extension of credit is made to repay the same.

**Deceitful means** - does not, however, include falsity as to matters having no pecuniary significance, or exaggeration by statements unlikely to deceive ordinary persons.

**Decision** - determination reached by a court in any judicial proceeding, which is the basis of the judgment.

**Declaratory judgment** - one fixing rights of parties without ordering anything to be done.

**Declared weight** - the maximum loaded weight declared for purposes of registration.

**Decree** - decision or order of the court - a final decree is one which fully and finally disposes of the litigation; an interlocutory decree is a provisional or preliminary decree which is not final.

**Default** - *default* in an action of law occurs when a defendant omits to plead or otherwise defend within the time allowed, or fails to appear at the trial

**Defendant** - person formally accused of an offense(s) by the filing in court of a charging document.

**Defense counsel** - licensed trial lawyer, hired or appointed to conduct the legal defense of an individual accused of a crime and to represent him or her before a court of law.

**Defenses** - evidence and arguments offered by a defendant and his or her attorney(s) to show why that person should not be held liable for a criminal charge.

**Defile** - narrow passage or gorge.

**Degree** - credential awarded which is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the level of a specialized associate degree or any honorary credential conferred for meritorious recognition.

**Deliberation** - process by which a panel of jurors comes to a decision on a verdict.

**Delinquency** - juvenile actions or conduct in violation of criminal law, juvenile status offenses, and other juvenile misbehavior.

**Delinquent** - juvenile who has been adjudged by a judicial officer of a juvenile court to have committed a delinquent act.

**Delinquent act** - (a) act committed by a juvenile for which an adult could be prosecuted in a criminal court, but for which a juvenile can be adjudicated in a juvenile court, or prosecuted in a court, having criminal jurisdiction if the juvenile court transfers jurisdiction; (b) *felony* or *misdemeanor-level* offense in states employing those terms.

**Deliver** - (a) actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship; (b) actual, constructive, or attempted transfer of a controlled substance.

**Department** - one of the executive departments, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

**Dependent person** - (a) person who because of either age or a physical or mental disability is dependent upon another to provide for the person's physical needs; (b) person who, because of physical or mental disability, or because of extreme advanced age, is dependent upon another person to provide the basic necessities of life.

**Deponent** - one who testifies under oath to the truth of facts.

**Deposition** - sworn testimony of a witness.

**Deprive** - without justification: (a) to withhold property of another permanently or temporarily; (b) to dispose of the property so as to make it unlikely that the owner will recover it; or (c) to make unauthorized use of an unauthorized copy of records, information, data, trade secrets, or computer programs, provided that the aforementioned are of a private proprietary nature.

**Deprive another of property** - withhold property of another or cause property of another to be withheld from that person permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to that person; or dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

**Derelict** - willfully or negligently fails to perform that person's duties or when that person performs them in a culpably inefficient manner.

**Desecrate** - defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover his action.

**Design** - on purpose, intentionally, or according to plan and requires specific intent.

**Destructive device** - bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an explosive, incendiary, or poison gas and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms; any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and which has a barrel with a bore of one-half inch or more in diameter; and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. *Destructive device* does not include: (a) a device which is not designed, redesigned, used, or intended for use as a weapon; (b) any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device; (c) any shotgun other than a short-barreled shotgun; or (d) any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

**Destructive substance** - any explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

**Detainee** - person held in local, very short term confinement while awaiting consideration for pretrial release of first appearance for arraignment.

**Detective** - a sworn member of a department responsible for the follow-up investigation of crime.

**Detention** - legally authorized confinement of a person subject to criminal or juvenile court proceedings, until the point of commitment to a correctional facility or until release.

**Detention center or facility** - facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

**Detention hearing** - a hearing by a judicial officer of a juvenile court to determine whether a juvenile is to be detained, continue to be detained, or to be released, while juvenile proceedings in the case are pending.

**Determinate sentencing** - (a) fixed sentencing; (b) a model of criminal punishment in which an offender is given a fixed term that may be reduced by good time or earned time. Under the model, for example, all offenders convicted of the same degree of burglary would be sentenced to the same length of time behind bars.

**Deterrence** - goal of criminal sentencing that seeks to prevent others from committing crimes similar to the one for which an offender is being sentenced.

**Detonator** - any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

**Developed area** - roads, parking areas, picnic areas, campgrounds, or other structures, facilities or lands located within development and historic zones depicted on the park area land management and use map.

**Developmental disability** - severe, chronic disability of a person which: (a) is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) Is manifested before the person attains age 22; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, economic sufficiency; and (e) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized support, or other forms of assistance that are lifelong or extended duration and are individually planned and coordinated. An individual from birth to age nine, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three or more of the criteria described above, if the individual, without services and support, has a high probability of meeting those criteria later in life.

**Deviance** - (a) deviant behavior; (b) a violation of social norms defining appropriate or proper behavior under a particular set of circumstances. Deviance often includes acts which are criminal.

**Deviate sexual intercourse** - (a) any act of sexual gratification between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other; (b) sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

**Device** - (a) instrument or apparatus used for overhearing, recording, intercepting, or transmitting sounds or for observing, photographing, recording, or transmitting visual images and which involves in its operation electricity, electronics, infrared, laser or similar beams, but not including merely focusing, lighting, illuminating equipment, optical magnifying equipment, or device commonly referred to as an individual hearing aid; (b) both animate and inanimate objects and includes live animals used as bait dogs.

**Diminished capacity** - (a) diminished responsibility; (b) a defense based upon claims of a mental condition which may be insufficient to exonerate a defendant of guilt, but that may be relevant to specific mental elements of certain crimes or degrees of crime.

**Direct evidence** - evidence that, if believed, directly proves a fact. Eyewitness testimony and videotaped documentation account for the majority of all direct evidence heard in the criminal courtroom.

**Direct examination** - first interrogation of a witness by the party on whose behalf the witness is called.

**Directed patrol** - police management strategy designed to increase the productivity of patrol officers through the application of scientific analysis and evaluation to patrol techniques.

**Directed verdict** - an instruction by the judge to the jury to return a specific verdict.

**Disabled adult** - person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.

**Disabled motor vehicle** - any motor vehicle which is not operable under its own motive power, excluding a nondisabled trailer or semitrailer, or any motor vehicle that is unsafe for operation upon the highways of this state.

**Discharge** - to release from confinement or supervision or to release from a legal status imposing an obligation upon the subject person.

**Discovery (or disclosure)** - proceeding whereby one party to an action may be informed as to facts known by other parties or witnesses.

**Discretion** - opportunity that individual law enforcement officers have for the exercise of choice in their daily activities. The decision whether to effect an arrest or release a suspect is a primary example of discretion in law enforcement activity.

**Dismissal** - termination of a proceeding for a procedurally prescribed reason.

**Dismissal with prejudice** - action dismissed on the merits which prevents renewal of the same claim or cause of action.

**Dismissal without prejudice** - action dismissed, not on the merits, which may be re-instituted.

**Disorderly conduct** - (a) conduct of such nature as to affect the peace and quiet of persons who may witness it and who may be disturbed or provoked to resentment thereby; (b) any behavior that tends to disturb the public peace or decorum, scandalize the community, or shock the public sense of morality.

**Disparagement** - willful or malicious dissemination to the public in any manner of any false information that a perishable agricultural food product is not safe for human consumption. False information is that information which is not based on reliable, scientific facts and reliable, scientific data which the disseminator knows or should have known to be false.

**Dispense** - (a) to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery; (b) transfer of possession of

one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user.

**Dispenser** - practitioner who dispenses.

**Dispose** - act of terminating a judicial proceeding.

**Dispose of** - (a) an unauthorized transfer, relinquishment, getting rid of, or abandonment of use of, control over, or ostensible title to the property; (b) give, give away, loan, offer, offer for sale, sell, or transfer.

**Disposition** - action by a criminal or juvenile justice agency which signifies that a portion of the justice process is complete and jurisdiction is terminated or transferred to another agency, or which signifies that decision has been reached on one aspect of a case and a different aspect under consideration, requiring a different kind of decision.

**Disposition hearing** - hearing in juvenile court, conducted after an adjudicatory hearing and subsequent receipt of the report of any predisposition investigation, to determine the most appropriate form of custody and/or treatment for a juvenile who has been adjudged a delinquent, status offender, or a dependent.

**Disqualification** - a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle.

**Disseminate** - to manufacture, issue, publish, sell, lend, distribute, transmit, exhibit, or present material or to offer or agree to do the same.

**Dissolution of marriage** - effect of a judgment of dissolution of marriage is to restore the parties to the state of unmarried persons.

**Distinctive counterfeit deterrent** - any ink, watermark, seal, security thread, optically variable device, or other feature or device; (a) in which the United States has an exclusive property interest; or (b) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.

**Distinctive paper** - any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials.

**Distribute** - (a) to transfer possession of, whether with or without consideration; (b) to sell, transfer, prescribe, give, or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same; (c) deliver, other than by administering or dispensing, a controlled substance; (d) to deliver to the possession of another.

**Distributor** - person who distributes.

**Distributorship** - (a) franchise; (b) contract or agreement, either expressed or implied, whether oral or written, between two or more persons wherein: (a) a commercial relationship of definite duration or continuing indefinite duration is involved; (b) one party, hereinafter called the *franchisee*, is granted the right to offer, sell, and distribute goods or services manufactured, processed, distributed or, in the case of services, organized and directed by another party; (c) the franchisee as an independent business constitutes a component of franchisor's distribution system; and (d) the operation of the franchisee's business franchise is substantially reliant on franchisors for the basic supply of goods.

**District attorney** - (a) attorney who is elected or appointed chief of a prosecution agency, and whose official duty is to conduct criminal proceedings on behalf of the people against persons accused of committing criminal offenses; (b) also called, *DA*, *state's attorney*, *county attorney*, *prosecuting attorney*, and *U.S. attorney* and any attorney deputized to assist the chief prosecutor.

**Diversión** - official suspension of criminal or juvenile proceedings against an alleged offender at any point after a recorded justice system intake but before the entering of a judgment and referral of that person to a treatment or care program administered by a non-justice or private agency, or no referral.

**Divided highway** - highway divided into two or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic.

**DNA profiling** - use of biological residue found at the scene of a crime for genetic comparisons in aiding the identification of criminal suspects.

**D.O.A.** - abbreviation for *dead on arrival*, as applied to a person who expires before reaching a medical facility.

**D.O.B.** - abbreviation for *date of birth*.

**Docket** - a document which summarizes a case.

**Document-making implement** - any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement.

**Document for filing** - petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court.

**Documentary material** - (a) any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item; (b) book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

**Dogfight** - dog or dogs pitted against another dog or dogs with the intent that the encounter will result in injury to one or more of the dogs.

**Domestic animal** - equine or bovine animal, goat, sheep, swine, dog, cat, poultry, or other domesticated beast or bird.

**Domestic assault** - an assault committed by a current or former spouse, parent, child, or guardian of the victim, by a person who is cohabitating with the victim as a spouse, parent, child, guardian, or by a person similarly situated to a spouse, parent, child or guardian of the victim.

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

**Double jeopardy** - common law and constitutional prohibition against a second trial for the same offense.

**Drag race** - operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

**Dragon's breath shotgun shell** - shotgun shell contains exothermic pyrophoric misch metal as the projectile and that is designed for the sole purpose of throwing or spewing a flame or fireball to simulate a flamethrower.

**Drawing by chance or drawing** - enterprise in which, from the entries submitted by the public to the organization conducting the drawing, one or more entries are selected by chance to win a prize. The term *drawing* does not include those enterprises, commonly known as *matching*, *instant winner*, or *preselected sweepstakes*, which involve the distribution of winning numbers, previously designated as such, to the public.

**Drive** - operate or be in actual physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic.

**Driver** - (a) any person who drives or is in actual physical control of a vehicle on a highway or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle; (b) any person who drives, operates, or is in actual physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic or who is required to hold a commercial driver's license.

**Driver's license** - certificate which, subject to all other requirements of law, authorizes an individual to drive a motor vehicle.

**Driving privilege withheld** - Department of Licensing has revoked, suspended, or denied a person's state driver's license, permit to drive, driving privilege, or nonresident driving privilege.

**Driving under the influence** - driving or operating a motor vehicle or common carrier while mentally or physically impaired as the result of consuming an alcoholic beverage or using a drug or narcotic.

**Drug** - (a) any controlled substance; (b) any chemical substance defined by social convention as bio- or psychoactive.

**Drug abuse** - illicit drug use that results in social, economic, psychological, or legal problems for the user.

**Drug abuse violations** - violations of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance.

**Drug law violation** - unlawful sale, purchase, distribution, manufacture, cultivation, transport, possession, or use of a controlled or prohibited drug, or attempt to commit these acts.

**Drug paraphernalia** - (a) all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance; (b) any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under 21 USC 841 - 904. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body such as: (1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; (2) water pipes; (3) carburetion tubes and devices; (4) smoking and carburetion masks; (5) roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; (6) miniature spoons with level capacities of one-tenth centimeter or less; (7) chamber pipes; (8) carburetor pipes; (9) electric pipes; (10) air-driven pipes; (11) chillums; (12) bongs; (13) ice pipes or chillers; (14) wired cigarette papers; or (15) cocaine freebase kits.

**Drug related object** - any machine, instrument, tool, equipment, contrivance, or device which an average person would reasonably conclude is intended to be used for one or more of the following purposes: (a) to introduce into the human body any dangerous drug or controlled substance under circumstances in violation of the laws of a state; (b) to enhance the effect on the human body of any dangerous drug or controlled substance under circumstances in violation of the laws of a state; (c) to conceal any quantity of any dangerous drug or controlled substance under circumstances in violation of the laws of a state; or (d) to test the strength, effectiveness, or purity of any dangerous drug or controlled substance under circumstances in violation of the laws of a state.

**Drunk** - impaired; any intoxication which is sufficient sensibly to impair the rational and full exercise of the mental or physical faculties.

**Drunkenness** - to drink alcoholic beverages to the extent that one's mental faculties and physical coordination are substantially impaired.

**Due process of law** - right guaranteed by the Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution, and generally understood, in legal contexts, to mean the due process of legal proceedings according to the rules and forms which have been established for the protection of private rights.

**Due process model** - criminal justice perspective that emphasizes individual rights at all stages justice system processing.

**Dump** - dump, throw, discard, place, deposit, or dispose of any litter.

**Dwelling** - (a) any building or structure, though movable or temporary, or a portion thereof, which is for the time being a house or place of lodging; (b) building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging together therein at night, together with the curtilage thereof.

- E -

**Easement** - right held by one person to use the land of another for a special purpose.

**Eavesdropping device** - any instrument or apparatus which by virtue of its size, design, and method of operation has no normal or customary function or purpose other than to permit the user thereof secretly to intercept, transmit, listen to, or record private conversations of others.

**Economic damage** - replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits.

**Elderly person** - person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.

**Election** - (a) general, special primary, or runoff election; (b) convention or caucus of a political party held to nominate a candidate; (c) primary election held for the selection of delegates to a nominating convention of a political party; (d) primary election held for the expression of a preference for the nomination of persons for election to the office of President; and (e) election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any state.

**Electric assisted bicycle** - a device with two or three wheels which have a saddle and fully operative pedals for human propulsion and also has an electric motor. For such device to be considered an electric assisted bicycle, it shall meet the requirements of the Federal Motor Vehicle Safety Standards, as set forth in 49 CFR Section 571, et seq., and shall operate in such a manner that the electric motor disengages or ceases to function when the brakes are applied. The electric motor

in an electric assisted bicycle shall: (a) have a power output of not more than 1,000 watts; (b) be incapable of propelling the device at a speed of more than 20 miles per hour on level ground; and (c) be capable of further increasing the speed of the device when human power alone is used to propel the device at or more than 20 miles per hour.

**Electric gun** - any portable device that is electrically operated to project a missile or electromotive force. It does not include any electric livestock prod used in animal husbandry.

**Electric utility** - any municipality, authority, commission, or other public body, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electrical energy generation, transmission, or distribution system.

**Electric vehicle** - motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.

**Electric weapon or device** - device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

**Electronic communication** - any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.

**Electronic communication system** - any wire, radio, electromagnetic, photo-optical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications, including e-mail, web hosting, multimedia messaging services, and remote storage services offered by an electronic communication service provider.

**Electronic serial number** - unique numerical algorithm that is programmed into the microchip of each cellular telephone by the manufacturer and is vital to the successful operation and billing of the telephone.

**Element of a crime** - (a) any conduct, circumstance, condition, or state of mind which in combination with other conduct, circumstances, conditions, or states of mind constitutes an unlawful act; (b) the basic components of crime; (c) in a specific crime, the essential features of that crime as specified by law or statute.

**Embezzlement** - (a) misappropriation, or illegal disposal of legally entrusted property, by the person(s) to whom it was entrusted, with intent to defraud the legal owner or intended beneficiary; (b) unlawful misappropriation or misapplication by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control.

**Emergency** - unforeseen combination of circumstances which results in a situation that requires immediate attention to care for or prevent serious bodily injury, loss of life, or significant property loss. The term includes, but is not limited to, a fire, a natural disaster, or an automobile accident.

**Emergency vehicle** - (a) any motor vehicle used by any law enforcement officer or employee of any city, any county, the state, the Federal Bureau of Investigation, or the Armed Forces of the United States while on official business; (b) any fire department vehicle of any city or county of the state or any state fire department vehicle; (c) any motor vehicle designated as an emergency vehicle by the Department of Highway Safety and Motor Vehicles when said vehicle is to be assigned the use of frequencies assigned to the state; (d) any motor vehicle designated as an emergency vehicle by the sheriff of any county in the state when said vehicle is to be assigned the use of frequencies assigned to the said county; (e) any motor vehicle designated as an emergency vehicle by the chief of police of any city in the state when said vehicle is to be assigned the use of frequencies assigned to the said city.

**Eminent domain** - power to take private property for public use by condemnation, i.e., the legal process by which real estate of a private owner is taken for public use without the owner's consent, but upon the award and payment of just compensation.

**Enclosed container** - a rigidly constructed receptacle, or a commercially manufactured gun case, or the equivalent thereof that completely encloses the firearm.

**Endeavor** - attempt or try.

**Endless chain** - any scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one or more additional persons into participation in the scheme or for the chance to receive compensation when a person introduced by the participant introduces a new participant.

**Endorsement** - special authorization which permits a driver to drive certain types of vehicles or to transport certain types of property or a certain number of passengers.

**Enemy** - organized forces of the enemy in time of war, any hostile body that US forces may be opposing, such as a rebellious mob or a band of renegades, and includes civilians as well as members of military organizations.

**Enjoin** - to require a person, by writ of injunction from a court of equity, to perform or to abstain or desist from some act.

**Enter** - (a) when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property; (b) to enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when the entrant is not otherwise licensed or privileged to do so; or to fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge.

**Enterprise** - (a) any person, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of a state, or other legal entity; or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental as well as other entities; (b) any sole proprietorship, partnership,

corporation, association, and any union or group of individuals associated for a particular purpose although not a legal entity.

**Enters** - going upon or over real property either in person or by causing object, substance or force to go upon or over real property.

**Enters or remains unlawfully** - a person *enters or remains unlawfully* in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

**Entrapment** - (a) an improper or illegal inducement to crime by agents of enforcement; (b) a defense that may be raised when such inducements occur.

**Equitable action (equity matter)** - an action which may be brought for the purpose of restraining the threatened infliction of wrongs or injuries, and the prevention of threatened illegal action; case in which payment of money damages will not be adequate compensation.

**Equitable distribution** - power to distribute equitably upon divorce all property legally and beneficially acquired during marriage by husband and wife or either of them, whether legal title lies in their joint or individual names.

**Erotic fondling** - touching a person's clothed or unclothed genitals or pubic area, developing or undeveloped genitals or pubic area (if the person is a child), buttocks, breasts (if the person is a female) or developing or undeveloped breast area (if the person is a female child), for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved. It shall not be construed to include physical contact, even if affectionate, which is not for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

**Erotic material** - live performance, printed material, photographs, pictures, motion pictures, sound recordings, and other material the dominant theme of which, taken as a whole, appeals to the prurient interest of minors in sex; which is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters or sado-masochistic abuse; and is utterly without redeeming social value.

**Erotic nudity** - display of the human male or female genitals or pubic area, the undeveloped or developing genitals or pubic area of the human male or female child, the human female breasts, or the undeveloped or developing breast area of the human female child, for the purpose of real or simulated overt sexual gratification or stimulation of one or more of the persons involved.

**Escape** - unlawful departure, including failure to return to custody after temporary leave granted for a specific purpose or limited period, of a person from custody or a correctional facility.

**Espionage** - gathering, transmitting, or losing of information related to the national defense in such a manner that the information becomes available to enemies of the United States and may be used to their advantage.

**Established date of operation** - date the farm operation commenced. If the farm operation is

subsequently expanded within the original boundaries of the farm land, the established date of operation of the expansion shall also be considered as the date the original farm operation commenced. If the land boundaries of the farm are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent established date of operation. The expanded operation shall not divest the farm operation of a previous established date of operation.

**Established place of business** - building or enclosure which the vehicle wrecker occupies either continuously or at regular periods and where his books and records are kept and business is transacted and which must conform with zoning regulations.

**Establishment** - (a) any building or part thereof, including, without being limited to, public inns, hotels, motels, apartment hotels, any structure, enclosure, tract of land, and all improvements, appurtenances, and additions, bodies of water whether natural or artificial, and any other place of whatsoever nature to which the general public is or will be admitted, allowed, or invited on payment of a fee, free of charge, or otherwise; (b) privately owned place of business to which the public is invited, including, but not limited to, a place of amusement or a place of entertainment.

**Estop** - to stop, bar, or impede.

**Estoppel** - rule of law which prevents a person from alleging or denying a fact, because of his/her own previous act.

**Et al** - abbreviation of et alia meaning *and others*.

**Et ano** - and another.

**Ethnic group** - set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage.

**Eviction warrant** - legal mandate authorizing an enforcement officer to remove persons and their personal property from their premises.

**Evidence** - (a) anything useful to a judge or jury in deciding the facts of a case. Evidence may take the form of witness testimony, written documents, videotapes, magnetic media, photographs, and physical objects; (b) a form of proof or probative matter legally presented at the trial of an issue by the acts of the parties and through witnesses, records, documents, concrete objects, etc., for the purpose of inducing belief in the minds of the court or the jury.

**Ex parte** - proceeding, order, motion, application, request, submission etc., made by or granted for the benefit of one party only; done for, in behalf of, or on application of one party only.

**Ex post facto** - (a) Latin for *after the fact*; (b) the constitution prohibits the enactment of ex post facto laws, that make acts punishable as crimes which were committed before the laws in question were passed.

**Examination before trial (EBT)** - formal interrogation of parties and witnesses before trial.

**Exclusionary rule** - the understanding, based on U.S. Supreme Court precedent, that incriminating information must be seized according to constitutional specifications of due process, or it will not be allowed as evidence in criminal trials.

**Execution** - (a) performance of all acts necessary to render a written instrument complete, such as signing, sealing, acknowledging, and delivering the instruments; (b) supplementary proceedings to enforce a judgment, which, if monetary, involves a direction to the sheriff to take the necessary steps to collect the judgment.

**Exemplary damages** - monetary award by way of punishment for injury caused by aggravated circumstances or malice, in addition to compensation for the injury.

**Exemplification** - an official transcript of a document from public records, made in a form to be used as evidence and authenticated or certified as a true copy, (e.g. exemplification of a judgment).

**Exempt staff** - senior-level executive staff who serve at the pleasure of the police chief or sheriff.

**Exhibit** - (a) to show or display; (b) a paper, document or other article produced and exhibited to a court during a trial or hearing and, on being accepted, is marked for identification or admitted in evidence.

**Exhibiting the effects of having consumed liquor** - a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either: (a) is in possession of or in close proximity to a container that has or recently has liquor in it; or (b) is shown by other evidence to have recently consumed liquor.

**Expert witness** - person who has special knowledge recognized by the court as relevant to the determination of guilt or innocence. Expert witnesses may express opinions or draw conclusions in their testimony, unlike lay witnesses.

**Expired credit card** - credit card which is no longer valid because the term shown on it has elapsed.

**Explicit sexual conduct** - sexual intercourse, erotic fondling, erotic nudity, masturbation, sadomasochism, sexual excitement, or bestiality.

**Exploding bullet** - bullet that can be fired from any firearm, if such bullet is designed or altered so as to detonate or forcibly break up through the use of an explosive or deflagrant contained wholly or partially within or attached to such bullet. The term does not include any bullet designed to expand or break up through the mechanical forces of impact alone or any signaling device or pest control device not designed to impact on any target.

**Explosive** - any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of

producing destructive effect on contiguous objects or of destroying life or limb.

**Explosive compound** - chemical compound, mixture, or device the primary or common purpose of which is to function by the substantially instantaneous release of gas and heat.

**Explosive or incendiary** - (a) dynamite and all other forms of high device explosives; (b) any explosive bomb, grenade, missile, or similar device; and (c) any incendiary bomb or grenade, fire bomb, or similar device, including any device which (1) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound, and (2) can be carried or thrown by one individual acting alone.

**Explosives** - any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing or combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonation of any part of the compound mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructible effects on contiguous objects or of destroying life or limb.

**Expunge** - authorized act of physically destroying information, in files, computers or other depositories.

**Extension of credit** - right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

**Extortion** - (a) obtaining of property from another, without his or her consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right; or (b) knowingly to obtain or attempt to obtain by threat property or services of the owner; (c) knowingly to obtain or attempt to obtain by threat property or services of the owner, and specifically includes sexual favors.

**Extortionate means** - any means which involves the use, or an express or implicit threat of the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

**Extradition** - surrender by one state to another of an individual accused or convicted of an offense in the second state.

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**Facility** - location providing day or residential care or treatment for elderly persons or disabled adults. The term *facility* may include, but is not limited to, any hospital, training center, state institution, nursing home, assisted living facility, adult family-care home, adult day care center, group home, mental health treatment center, or continuing care community.

**Facsimile** - any document produced by a receiver of signals transmitted over telecommunication

lines, after translating the signals, to produce a duplicate of an original document.

**Fair preponderance** - level of proof in a civil action; more than half; more convincing.

**False authentication feature** - an authentication feature that: (a) is genuine in origin, but, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit; (b) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which such authentication feature is intended to be affixed or embedded by the respective issuing authority; or (c) appears to be genuine, but is not.

**False imprisonment** - (a) unlawful violation of the personal liberty of another; (b) forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against her or his will.

**Falsely alter a written instrument** - to change, without authorization by anyone entitled to grant it, a written instrument, complete or incomplete, by means of erasure, obliteration, deletion, insertion or a new matter, transposition of matter, or in any other manner.

**Falsely complete a written instrument** - to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it.

**Falsely make a written instrument** - to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, he did not authorize the making or drawing thereof.

**Family or household member** - spouses or former spouses, parents, children, and persons jointly residing or formerly residing in the same dwelling unit.

**Family violence** - occurrence of one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household: (a) any felony; or (b) commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass. It does not include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.

**Farm** - land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

**Farm operation** - conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

**Farm produce** - livestock or any item grown, produced, or manufactured by a person owning, renting, or leasing land for the purpose of growing, producing, or manufacturing items for sale or personal use, either part time or full time.

**Farm product** - plant, or animal useful to humans and includes, but is not limited to, any product derived therefrom.

**Farm theft** - unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person.

**Farm tractor** - any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

**Farm vehicle** - any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on farms for the purpose of transporting machinery, equipment, implements, farm products, supplies and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another.

**Farmer** - person who is engaging in the growing or producing of farm produce, milk products, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as her or his agent.

**Fear** - the fear of unlawful physical injury or death to the person or to any relative of the person or member of the person's family.

**Federal court facility** - courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

**Federal court system** - three-tiered structure of federal courts, involving U.S. district court, U.S. courts of appeal, and U.S. Supreme Court.

**Federal facility** - building or part thereof owned or leased by the federal government, where Federal employees are regularly present for the purpose of performing their official duties.

**Federal law enforcement officer** - any officer, agent, or employee of the United States authorized by law by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of federal criminal law.

**Federally protected** - any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof; and such term shall specifically include, but not be limited to, the collection and distribution of the United States mails.

**Fee** - a fixed charge for service rendered on behalf of court.

**Felony** - (a) any offense punishable by imprisonment for a term of one year or more and includes conviction by a court-martial under the Uniform Code of Military Justice for an offense which would constitute a felony under the laws of the United States; (b) any offense punishable by death or imprisonment for a term exceeding one year; (c) criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or imprisonment in a state penitentiary; (d) any offense under state or federal law that is punishable by death or by a term of imprisonment exceeding 1 year.

**Felony or serious misdemeanor** - category of offenses for which fingerprint and criminal history information are accepted by the FBI and entered in the Bureau's files, including Interstate Identification Index system. Serious misdemeanor is defined to exclude certain minor offenses, such as drunkenness or minor traffic offenses.

**Female breast** - any portion of the female breast below the top of the areola.

**Fenced land** - land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, other wire, or other material, which stands at least 3 feet in height.

**Fiduciary** - (a) trustee, guardian, personal representative, receiver, or any other person acting in a fiduciary capacity, or any person carrying on fiduciary functions on behalf of a corporation or other organization which is a fiduciary; (b) person or institution who manages money or property for another, and who must exercise a standard of care in such management activity imposed by law or contract.

**Financial information repository** - any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person.

**Financial institution** - (a) bank, insurance company, credit union, building and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of saving or collective investment; (b) financial institution as defined in 31 USC 5312; (c) any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

**Financial instrument** - any draft, warrant, money order, certificate of deposit, note, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any other computer system representation.

**Financial transaction** - (a) purchase, sale, loan, pledge, gift, transfer, transmission, delivery, trade, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, or any other acquisition or disposition of property, by whatever means effected; (b) transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce, or a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, commerce in any way or degree.

**Financial transaction card** - any instrument or device, whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder.

**Finding** - court's or jury's decision on issues of fact.

**Fine** - (a) penalty imposed upon a convicted person by a court, requiring that he or she pay a specified sum of money to the court; (b) a sum imposed as punishment for an offense.

**Fire bomb** - any device, by whatever name called, made of a breakable container containing a flammable liquid or compound with a flash point of 150 degrees Fahrenheit or less which has a wick or any similar material which, when ignited, is capable of igniting the flammable liquid or compound when the device is thrown or dropped. These terms do not include a device which is manufactured or produced for the primary purpose of illumination or for marking detours, obstructions, defective paving, or other hazards on streets, roads, highways, and bridges.

**Fire dog** - dog that is owned, or the service of which is employed, by a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of flammable materials or the investigation of fires.

**Fire service** - any person duly elected, appointed, or employed to engage in fire fighting.

**Firearm** - (a) any handgun, rifle, stun gun, taser, shotgun, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge; (b) any weapon, for which the operating force is an explosive, noxious gas projector, mortar, bomb, and cannon; (c) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device. Such term shall include any handgun, rifle or shotgun; (d) includes any handgun, rifle, shotgun, or other weapon which will or can be converted to expel a projectile by the action of an explosive or electrical charge; (e) include stun guns and tasers. A stun gun or taser is any device that is powered by electrical charging units such as batteries and emits an electrical charge in excess of 20,000 volts or is otherwise capable of incapacitating a person by an electrical charge; (f) a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

**Firearms detection dog** - a dog trained to detect firearms by scent.

**Firefighter** - any person who is employed as a professional firefighter on a full-time basis for at least 40 hours per week by any county, municipal, or state fire department when such person has responsibility for preventing and suppressing fires, protecting life and property, enforcing municipal, county, or state fire prevention codes, or enforcing any law or ordinance pertaining to the prevention or control of fires.

**Fireman** - any member of a fire department (including a volunteer fire department) of any state, any political subdivision of a state, or the District of Columbia.

**Fireworks** - (a) any combustible or explosive composition, or any substance or combination of

substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosive, deflagration or detonation and classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G or UN 0336 1.4G; the term shall not include automotive safety flares, nor shall the term be construed to include toy pistols, toy cannons, toy guns, party poppers, pop-its or other devices which contain 25 hundredth of a grain or less of explosives substance; the term shall not include any explosives and pyrotechnics; (b) combustible or explosive composition or substance or combination of substances or, except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation. The term includes blank cartridges and toy cannons in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.

**First paper** - paper instituting the action (e.g., Summons, Motion, Infants's Compromise).

**Fishing** - taking or attempting to take fish.

**Fixed platform** - artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

**Flag of the United States** - any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

**Flambeau** - flaming torch.

**Flammable liquid** - (a) any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a Tagliabue or equivalent closed cup test device; (b) any liquid which has a flash point of 80 degrees Fahrenheit, or less, as determined by a Tagliabue or equivalent closed-cup device.

**Flash message** - an informal broadcast message transmitted via police radios, sent by an officer at the scene of a crime/incident, to alert other officers in the vicinity. It is not a distress call. *Example:* following a hit-and-run traffic accident, the first officer at the scene may send out a flash message regarding the offender's vehicle, description, and direction of flight. Other officers in the area can watch for the offender.

**Flashing or rotating blue light** - all forms of lights which display a blue light source or which were designed with the intent of displaying a blue light source whether or not such light is actually in use.

**Flechette shell** - shell that can be fired in a firearm and that expels two or more pieces of fin-stabilized solid metal wire or two or more solid dart-type projectiles.

**For profit** - obtaining of anything of value in exchange for a controlled substance.

**For-hire vehicle** - (a) any motor vehicle, when used for transporting persons or goods for

compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a *share-expense* basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is *for hire*. The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation *for hire*; (b) the following are not included in the term *for-hire vehicle*: a motor vehicle used for transporting school children to and from school under contract with school officials; a hearse or ambulance when operated by a licensed embalmer or mortician or his or her agent or employee in this state; a motor vehicle used in the transportation of agricultural or horticultural products or in transporting agricultural or horticultural supplies direct to growers or the consumers of such supplies or to associations of such growers or consumers; a motor vehicle temporarily used by a farmer for the transportation of agricultural or horticultural products from any farm or grove to a packinghouse or to a point of shipment by a transportation company; or a motor vehicle not exceeding 1½ tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes.

**Force** - any bodily impact, restraint, or confinement, or the threat thereof.

**Forcible compulsion** - (a) use of or attempt to use one or more of the following to overcome a person: a threat, express or implied, that places a person in fear of bodily injury to the individual or another person, or in fear that the person or another person will be kidnapped; a dangerous weapon; or physical force; (b) physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnaped.

**Forcible felony** - treason and any felony which involves the use or threat of physical force or violence against a person. If a felony is classified as forcible, it may have significance for other aspects of the criminal law. *Examples*: a homicide committed in the course of another forcible felony is classified as first-degree murder. On the other hand, a homicide may be justified if committed to prevent a forcible felony.

**Forcible rape** - carnal knowledge of a female forcibly and against her will.

**Foreclosure** - legal proceeding that bars or extinguishes right.

**Foreclosure fraud** - knowingly or willfully representing that moneys provided to or on behalf of a debtor, in connection with property used as a dwelling place by said debtor, are a loan if in fact they are used to purchase said property or such debtor's interest therein; or knowingly or willfully making fraudulent representation to a debtor in connection with said property.

**Foreign government** - (a) any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States; (b) any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any

person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States; (c) government of any country, nation, or group of nations other than the Government of the United States or of one of the states thereof.

**Foreign subversive organization** - organization directed, dominated, or controlled, directly or indirectly, by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy, or to assist in the overthrow or destruction of the constitutional form of the Government of the United States, or of this state, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual.

**Forensic anthropology** - application of anthropological principles and techniques in the service of criminal investigation.

**Foreperson** - member of a jury, usually the first juror called and sworn, or a juror elected by fellow jurors, who delivers the verdict to the court.

**Forfeiture** - (a) asset forfeiture; (b) the authorized seizure of money, negotiable instruments, securities, or other things of value. In federal anti-drug laws, the authorization of judicial representatives to seize all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, and all proceeds traceable to such an exchange.

**Forged** - document that purports to be genuine but is not because it has been falsely altered, completed, signed, or endorsed, or contains a false addition thereto or insertion therein, or is a combination of parts of two or more genuine documents.

**Forged instrument** - a written instrument which has been falsely made, completed, endorsed, or altered.

**Forged or counterfeit trademark or service mark** - a mark: (a) that is identical with or an imitation of a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office or the trademark register for the State of Florida or any other state, or protected by the Amateur Sports Act of 1978, 36 USC 380 [use of Olympic symbols, emblems, trademarks and names], whether or not the offender knew such mark was so registered or protected; and (b) the use of which is unauthorized by the owner of the registered mark.

**Forgery** - (a) creation or alteration of a written or printed document, which if validly executed would constitute a record of a legally binding transaction, with the intent to defraud by affirming it to be the act of an unknowing second person; (b) creation of an art object with intent to misrepresent the identity of the creator; (c) altering, copying, or imitating of something without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine, or the selling, buying, or possession of an altered, copied, or imitated thin with the intent to deceive or defraud.

**Forum** - judicial tribunal or a place of jurisdiction. A meeting for discussion.

**Franchise** - (a) distributorship; (b) contract or agreement, either expressed or implied, whether oral or written, between two or more persons wherein: (1) a commercial relationship of definite duration or continuing indefinite duration is involved; (2) one party, hereinafter called the *franchisee*, is granted the right to offer, sell, and distribute goods or services manufactured, processed, distributed or, in the case of services, organized and directed by another party; (3) the franchisee as an independent business constitutes a component of franchisor's distribution system; and (4) the operation of the franchisee's business franchise is substantially reliant on franchisors for the basic supply of goods.

**Fraud** - intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right. Fraudulent conversion and obtaining of money or property by false pretenses.

**Free** - use of terms such as *awarded*, *prize*, *absolutely without charge*, *free of charge*, and words or groups of words of similar intent which reasonably lead a person to believe that he or she may receive, or has been selected to receive, something of value, entirely or in part without a requirement of compensation in any form from the recipient.

**Freehold** - tenure of land without obligation of service or rent.

**Fruit of the poison tree doctrine** - legal principle that excludes from introduction at trial any evidence eventually developed as a result of an originally illegal search or seizure.

**Fugitive from justice** - any person who has fled from any (a) state, territory, the District of Columbia, or possession of the United States, to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding; or (b) country other than the United States and is avoiding lawful extradition back to that country.

**Full faith and credit** - requirement of the U.S. Constitution that the records and judicial proceedings of one state shall have the same effect in courts of other states with the same jurisdiction.

**Funeral procession** - an array of motor vehicles in which the lead vehicle displays a sign, pennant, flag, or other insignia furnished by a funeral home indicating a funeral procession unless led by a state or local law enforcement vehicle and each vehicle participating in the funeral procession is operating its headlights.

**Fur-bearing animals** - muskrat, mink, raccoon, otter, civet cat, skunk, red and gray fox, and opossum.

- G -

**Gambling** - (a) that a person stakes or risks something of value upon the outcome of a contest of

chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome; (b) to unlawfully bet or wager money or something else of value; assist promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices or goods; or tamper with the outcome of a sporting event or contest to gain a gambling advantage.

**Gambling device** - any contrivance which for consideration affords the player an opportunity to obtain money or other thing of value, the award of which is determined by chance even though accompanied by some skill, whether or not the prize is automatically by contrivance.

**Gambling establishment** - any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

**Gambling place** - any real estate, building, room, tent, vehicle, boat, or other property whatsoever, one of the principal uses of which is the making or settling of bets; the receiving, holding, recording, or forwarding of bets or offers to be bet; or the conducting of a lottery or the playing of gambling devices.

**Gambling record** - any record, receipt, ticket, certificate, token, slip, or notation given, made, used or intended to be used in connection with professional gambling.

**Gambling ship** - any craft kept, operated or maintained for the purpose of gambling, whether within or without the waters of a state, and whether it is anchored, moored, lying to, or navigating.

**Game** - deer, bear, squirrel, rabbits, and, where designated by commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.

**Game promotion** - contest, game of chance, or gift enterprise, conducted within or throughout the state and other states in connection with the sale of consumer products or services, and in which the elements of chance and prize are present. However, *game promotion* shall not be construed to apply to bingo games.

**Gang** - group which (a) consists of three or more persons; (b) has identifiable leadership; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

**Gang-related incident** - incident that, upon investigation, meets any of the following conditions: (a) the participants are identified as criminal street gang members or criminal street gang associates, acting, individually or collectively, to further any criminal purpose of the gang; (b) a reliable informant identifies an incident as criminal street gang activity; or (c) an informant of previously untested reliability identifies an incident as criminal street gang activity and it is corroborated by independent information.

**Garnish** - to attach a portion of the wages or other property of a debtor to secure repayment of the debt.

**Garnishee** - person who owes a debt to a judgment debtor, or a person other than the judgment debtor who has property in his/her possession or custody in which a judgment debtor has an interest.

**Gate** - structure or device located to limit or prohibit access or entry to a cave.

**Gender identity** - actual or perceived gender-related characteristics.

**Gentleman** - both male and female commissioned officers, cadets, and midshipmen.

**Genuine police badge** - official badge issued by public authority to identify an individual as a law enforcement officer having police powers.

**Golf cart** - (a) motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes; (b) motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

**Good faith** - possible legal basis for an exception to the exclusionary rule. Law enforcement officers conduct a search, or seize evidence, on the basis of a good faith (they believe they are operating according to the dictates of the law) and who later discover that a mistake was made (perhaps in the format of the application for a search warrant) may still use evidence seized as the result of such activities in court.

**Goods** - article or thing without limitation, or any part of such article or thing, including any article or thing used or consumed by a franchisee in rendering a service established, organized, directed, or approved by a franchisor.

**Gore** - area of convergence between two lanes of traffic.

**Government** - state government and any city or county government or any branch, political subdivision, or agency of the state, county, or city government.

**Graffiti** - any unauthorized drawing, inscription, figure, or marking created by paint, ink, chalk, dye, or similar substances.

**Gram** - .0353 ounce.

**Grand jury** - body of persons who have been selected according to law and sworn to hear the evidence against accused persons and determine whether there is sufficient evidence to bring those persons to trial, to investigate criminal activity generally, and to investigate the conduct of public agencies and officials.

**Great bodily harm** - (a) serious injury; grievous bodily harm; it does not include injuries such as a black eye or a bloody nose, but it does include fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other serious bodily injuries; (b) bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily part or

organ.

**Grievous bodily harm** - serious bodily injury. It includes fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.

**Gross vehicle weight** - (a) for heavy trucks with a net weight of more than 5,000 pounds, but less than 8,000 pounds, the gross weight of the heavy truck. The gross vehicle weight is calculated by adding to the net weight of the heavy truck the weight of the load carried by it, which is the maximum gross weight as declared by the owner or person applying for registration; (b) for heavy trucks with a net weight of 8,000 pounds or more, the gross weight of the heavy truck, including the gross weight of any trailer coupled thereto. The gross vehicle weight is calculated by adding to the gross weight of the heavy truck the gross weight of the trailer, which is the maximum gross weight as declared by the owner or person applying for registration; (c) the gross weight of a truck tractor and semitrailer combination is calculated by adding to the net weight of the truck tractor the gross weight of the semitrailer, which is the maximum gross weight as declared by the owner or person applying for registration; such vehicles are together by means of a fifth-wheel arrangement whereby part of the weight of the semitrailer and load rests upon the truck tractor.

**Gross vehicle weight rating** - value specified by the manufacturer as the maximum loaded weight of a single, combination, or articulated vehicle.

**Gross weight** - weight of a vehicle without load plus the weight of any load thereon.

**Guardian ad litem** - person appointed by a court to represent a minor or incompetent for purpose of some litigation.

**Guest** - a person who is registered at a hotel and is assigned to transient lodging, and includes any individual accompanying the person.

**Guilty but mentally ill** - equivalent to a finding of guilty, a verdict establishes that the defendant, although mentally ill, was in sufficient possession of his or her faculties to be morally blameworthy for his or her actions.

**Guilty plea** - defendant's formal answer to court to the charge(s) contained in a complaint, information, or indictment, claiming that he or she did commit the offense(s) listed.

- H -

**Habeas corpus** - (a) in criminal proceedings, the writ that directs the person detaining a prisoner to bring him or her before a judicial officer to determine the lawfulness of the imprisonment; (b) *You have the body*. - the name given a variety of writs whose object is to bring a person before a court or judge - in most common usage, it is directed to the official or person detaining another, commanding him/her to produce the body of a person detained so the court may determine if such person has been denied his/her liberty without due process of law.

**Habitual offender** - person sentenced under the provisions of a statute declaring that persons convicted of a given offense, and shown to have previously been convicted of another specified offense(s), shall receive a more severe penalty than that for the current offense alone.

**Half of the roadway** - all traffic lanes carrying traffic in one direction of travel, and includes the entire width of a one-way roadway.

**Handcuff key** - key, tool, device, implement, or other thing used, designed, or intended to aid in unlocking or removing handcuffs.

**Handgun** - (a) firearm which has a short stock and is designed to be held and fired by the use of a single hand; (b) any combination of parts from which a firearm described in paragraph (a) can be assembled.

**Harass** - engage in a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose.

**Harassing and intimidating** - knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear of death or bodily harm to himself or herself or to a member of his or her immediate family, and which serves no legitimate purpose.

**Harassment** - course of conduct directed at a specific person that causes substantial emotional distress in such person; and serves no legitimate purpose.

**Hard-surfaced public roads or parts of roads** - brick, concrete, asphaltic, sand clay, sand, or bituminous surfaced roads which are maintained by county or state funds.

**Harm** - loss, disadvantage, or injury to the person affected, including loss, disadvantage, or injury to any other person in whose welfare he or she is interested.

**Harmful matter** - matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, or political, or scientific value for minors.

**Harmful to minors** - that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, or sexual excitement when it: (a) predominantly appeals to the prurient, shameful, or morbid interest of minors; (b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and (c) taken as a whole, is without serious literary, artistic, political, or scientific value for minors. A mother's breastfeeding of her baby is not under any circumstance *harmful to minors*.

**Hate crime** - (a) criminal offense in which the defendant's conduct was motivated by hatred, bias, or prejudice, based on the actual or perceived race, color, religion, national origin, ethnicity, gender, or sexual orientation of another individual or group of individuals; (b) criminal offense committed

against a person, property, or society which is motivated, in whole or part, by the offender's bias against race, religion, disability, sexual orientation, or ethnicity/nation origin; also known as a bias crime.

**Hazard** - to put in danger of loss or injury.

**Hazardous duty** - (a) service such as duty in a combat or other dangerous area; (b) embarkation for certain foreign or sea duty; (c) movement to a port of embarkation for that purpose; (d) entrainment for duty on the border or coast in time of war or threatened invasion or other disturbances; (e) strike or riot duty; or (f) employment in aid of civil power, in, for example, protecting, or quelling or preventing disorder in times of great disaster.

**Hazardous material** - any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property.

**Hazards to safe cycling** - include, but is not limited to, surface debris, rough pavement, drain grates which are parallel to the side of the roadway, parked or stopped vehicles, potentially opening car doors, or any other objects which threaten the safety of a person operating a bicycle.

**Haze** - to subject a student to an activity which endangers or is likely to endanger the physical health of a student, regardless of a student's willingness to participate in such activity.

**Hazing** - any method of initiation into a student organization or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending a public or private institution of higher education or other postsecondary educational institution.

**Health care facility** - facility that provides health care services directly to patients, including but not limited to, a hospital, clinic, health care provider's office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.

**Health care provider or health care facility** - person or entity licensed, certified, or registered with the Agency for Health Care Administration; any person or entity that has contracted with the Agency for Health Care Administration to provide goods or services to Medicaid recipients; a county health department; any community service provider contracting with the Department of Children and Family Services to furnish alcohol, drug abuse, or mental health services; any licensed substance abuse service provider; or any federally supported primary care program such as a migrant or community health center authorized under 329 and 330 of the United States Public Health Services Act.

**Health care provider network entity** - corporation, partnership, or limited liability company owned or operated by two or more health care providers and organized for the purpose of entering into agreements with health insurers, health care purchasing groups, or the Medicare or Medicaid program.

**Health insurer** - insurance company authorized to transact health insurance in the state, any insurance company authorized to transact health insurance or casualty insurance in the state that is offering a minimum premium plan or stop-loss coverage for any person or entity providing health care benefits, any self-insurance plan, any health maintenance organization authorized to transact business in the state, any prepaid health clinic authorized to transact business in the state, any prepaid limited health service organization authorized to transact business in this state, any multiple-employer welfare arrangement authorized to transact business in the state, or any fraternal benefit society providing health benefits to its members as authorized.

**Health services** - preventive, diagnostic, curative, or rehabilitative services and includes alcohol treatment, drug abuse treatment, and mental health services.

**Hearing** - (a) proceeding in which arguments, witnesses, or evidence are heard by a judicial officer or administrative body; (b) preliminary examination where evidence is taken for the purpose of determining an issue of fact and reaching a decision on the basis of that evidence.

**Hearsay** - (a) something that is not based upon the personal knowledge of a witness. Witnesses who testify, for example, about something they have heard, are offering hearsay by repeating information about a matter of which they have no direct knowledge; (b) type of testimony given by a witness who relates not what he/she knows personally, but what others have told the witness, or what the witness has heard said by others; may be admissible or inadmissible in court depending upon rules of evidence.

**Hearsay rule** - long-standing courtroom precedent that hearsay cannot be used in court. Rather than accepting testimony based upon hearsay, the trial process asks that the person who was the original source of the hearsay information be brought into court to be questioned and cross-examined. Exceptions to the hearsay rule may occur when the person with direct knowledge is dead or is otherwise unable to testify.

**Hierarchy rule** - when more than one Part I offense is classified, the law enforcement agency must locate the offense that is highest on the hierarchy list and score that offense and not the other offense in the multiple-offense situation. There is a significance to the order in which the Part I offense are presented, with murder being the highest in the hierarchy and arson being the lowest. The offenses of justifiable homicide, motor vehicle theft, and arson are exceptions to the Hierarchy Rule.

**High occupancy vehicle lane** or **HOV lane** - lane of a public roadway designated for use by vehicles in which there is more than one occupant unless otherwise authorized by federal law.

**High-capacity detachable box magazine** - detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

**Highly intoxicated driver** - person whose measurable amount of alcohol is 0.15 or more grams of alcohol per 100 milliliters or cubic centimeters of the person's blood, or 0.15 or more grams of alcohol per 210 liters of the person's breath, as measured at the time of the offense, or within 3 hours of the time of the offense.

**Highway** - (a) the entire width between the boundary lines of every way publicly maintained when

any part thereof is open to the use of the public for purposes of vehicular travel; (b) private or public street, way, or other place used for travel to or from property.

**Highway commissioners** - individual, board, or other body having authority under then-existing law to discontinue the use of the highway which it is desired to restrict or close to public use and travel.

**Hoax bomb** - device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive, or contains no destructive device or explosive as was represented.

**Home-invasion robbery** - robbery that occurs when the offender enters a dwelling with the intent to commit a robbery, and does commit a robbery of the occupants therein.

**Homemade explosive device** - non-commercially manufactured device composed of a single ingredient, or mixture of ingredients, capable of instantaneously releasing a sufficient amount of energy to inflict substantial damage to persons or property.

**Homicide** - murder, manslaughter or criminally negligent homicide.

**Horse** - animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof.

**Horseless carriage** - motor vehicle for private use manufactured in 1945 or earlier, equipped with an engine manufactured in 1945 or earlier or manufactured to the specifications of the original engine.

**Hotel Rule** - burglaries of hotels, motels, Lodging houses, and other places where lodging of transients is the main purpose are scored under provisions of the Hotel Rule. This principle of scoring dictates that if a number of dwelling units under a single manager are burglarized and the offenses are most likely to be reported to the police by the manager rather than the individual tenants, the burglary must be scored as one offense.

**Hours of darkness** - hours from one-half hour after sunset to one-half hour before sunrise, and any other time when persons or objects may not be clearly discernible at a distance of 500 feet.

**House** - cardroom operator and all employees of the cardroom operator.

**House of prostitution** - place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management or supervision of another.

**House trailer** - (a) trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or (b) trailer or a semitrailer the chassis and exterior shell of which is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead, permanently or temporarily, for the advertising, sales, display, or promotion of merchandise or services or for any other commercial purpose except the transportation of property

for hire or the transportation of property for distribution by a private carrier.

**Human being** - a person who has been born and was alive at the time of the criminal act.

**Human skeletal analyst** - person who possesses a postgraduate degree in human skeletal biology, human forensic osteology, or other related area of physical anthropology and who has a minimum of 1 year of laboratory experience in human skeletal analysis and reconstruction.

**Humane method** - (a) method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical, or other means that are rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or (b) method in accordance with ritual requirements of any religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

**Hung jury** - jury that after long deliberation is so irreconcilably divided in opinion that it is unable to reach any verdict.

**Hunting** - taking or attempting to take wildlife, except trapping.

- I -

**ICAM** - acronym for Information Collection for Automated Mapping. An award-winning computer program developed by the Chicago Police Department, which allows officers to do their own crime mapping and analysis. Maps generated by ICAM are also shared with the community at beat community meetings.

**Identifiable minor** - person who was a minor at the time the visual depiction was created, adapted, or modified; or whose image as a minor was used in creating, adapting, or modifying the visual depiction; and who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and shall not be construed to require proof of the actual identity of the identifiable minor.

**Identification document** - (a) any document issued by a government agency containing a description of the person or such person's photograph, or both, and includes without being limited to a passport, military identification card, driver's license, or an identification card; (b) document made or issued by or under authority of the United States Government, a state, political subdivision of a state, a foreign government, political subdivision of a foreign government, an international government or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

**Identification mark** - name of the manufacturer and the state in which the disc was manufactured, or a unique identifier that identifies the place where an optical disc was manufactured.

**Identification number** - (a) number or symbol that is inscribed or affixed for purposes of identification under the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor

Vehicle Information and Cost Savings Act; (b) identifying number, serial number, engine number, or other distinguishing number or mark placed on a vehicle or engine by its manufacturer or by authority of the commissioner or in accordance with the laws of another state or country.

**Illegal gambling business** - gambling business which (a) is a violation of a state or political subdivision in which it is conducted; (b) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and (c) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross revenue of \$2,000 in any single day.

**Illegal money transmitting business** - money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a state.

**Illegal search and seizure** - an act in violation of the Fourth Amendment of the U.S. Constitution: "The right of people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

**Illegal telecommunications equipment** - any instrument, apparatus, equipment, or device which is designed or adapted, and otherwise used or intended to be used for the theft of any telecommunication service.

**Illegally seized evidence** - evidence seized in opposition to the principles of due process as described by the Bill of Rights. Most illegally seized evidence is the result of police searches conducted without a proper warrant, or of improperly conducted interrogations.

**Imitation controlled substance** - pill, capsule, tablet, or substance in any form whatsoever which is not a controlled substance, which is subject to abuse, and which: (a) by overall dosage unit appearance, including color, shape, size, markings, and packaging, or by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance will be mistaken for a controlled substance unless such substance was introduced into commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate; or (b) by express or implied representations, purports to act like a controlled substance as a stimulant or depressant of the central nervous system and which is not commonly used or recognized for use in that particular formulation for any purpose other than for such stimulant or depressant effect, unless marketed, promoted, or sold as permitted by the United States Food and Drug Administration.

**Imitation device** - a device or substance that is not an explosive or improvised device, but which by appearance or representation would lead a reasonable person to believe that the device or substance is an explosive or improvised device.

**Immediate family** - (a) any spouse, whether by marriage or not, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household; (b) spouse, parent, brother or sister, child or person living in his (her) household and related to him (her) by

blood or marriage; (c) his spouse, parent, brother or sister, child or person to whom he stands in loco parentis; any other person living in his household and related to him by blood or marriage.

**Immediate precursor** - substance which, has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

**Impair** - to weaken, to lessen in power, to diminish, to damage, or to make worse by diminishing in some material respect or otherwise affecting in an injurious manner.

**Impaneling** - process by which jurors are selected and sworn to their task.

**Impleader** - addition of a third party to an action by the defendant.

**Implement of husbandry** - any vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

**Impound** - to take and hold a vehicle in legal custody. There are two types of impounds - public and private.

**In camera** - in the judge's chamber out of the presence of the jury and the public.

**In custody** - time while a person has been placed in handcuffs by a law enforcement officer, regardless of whether such person is under formal arrest.

**In flight** - any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.

**In re** - in the matter of; concerning.

**In rem** - regarding the right or title to property.

**In rem jurisdiction** - the jurisdiction granted a court over property that allows the court to issue binding judgments (as an order for partition) affecting a person's interests in the property (compare personal jurisdiction in this entry).

**In service** - any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.

**Incapacitated person** - individual who, for reasons other than being a minor, is unable to receive and evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.

**Incapacity to consent** - person is considered incapable of consenting to a sexual act if the person is under 18 years of age; mentally defective; mentally incapacitated; or physically helpless.

**Incendiary device** - any material, substance, device, or combination thereof which is capable of supplying the initial ignition and/or fuel for a fire and is designed to be used as an instrument of wilful destruction. However, no device commercially manufactured primarily for the purpose of illumination shall be deemed to be an incendiary device.

**Incident-based reporting** - less restrictive and more expansive method of collecting crime data (as opposed to summary data) in which all the analytical elements associated with an offense or arrest are compiled by a central collection agency on an incident by incident basis.

**Incite** - urges another to engage imminently in conduct or circumstances under which there is a substantial likelihood of imminently causing such conduct.

**Included offense** - an offense that is made up of elements that are a subset of the elements of another offense having a greater statutory penalty, and the occurrence of which is established by the same evidence or by some portion of the evidence that has been offered to establish the occurrence of the greater offense.

**Incompetency** - lack of legal qualification or fitness (physical, intellectual or moral fitness) to discharge a legally required duty or to handle one's own affairs; also relates to matters not admissible in evidence.

**Incompetent to stand trial** - in criminal proceedings, the finding by a court that a defendant is mentally incapable of understanding the nature of the charges and proceedings against him or her, of consulting with an attorney, and of aiding in his or her own defense.

**Incomplete written instrument** - one which contains some matter by way of content or authentication, but which requires additional matter in order to render it a complete written instrument.

**Indecent** - that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations.

**Indecent language** - language that is grossly offensive to modesty, decency, or propriety, or shocks the moral sense, because of its vulgar, filthy, or disgusting nature, or its tendency to incite lustful thought. Language is indecent if it tends reasonably to corrupt morals or incite libidinous thought. The language must violate community standards.

**Indecent manner** - conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

**Indemnity** - security against loss or damages, exemption from penalty or liability, amount paid as compensation under an indemnity agreement.

**Indeterminate sentence** - type of sentence to imprisonment where the commitment, instead of being for a specified single time quantity, such as three years, is for a range of time, such as two to five years or five years maximum and zero minimum.

**Indeterminate sentencing** - model of criminal punishment which encourages rehabilitation via the use of general and relatively unspecified sentences (such as a term of imprisonment of “from one to ten years”).

**Index crimes** - serious crimes used to measure the increase or decrease of crime by law enforcement through the Uniform Crime Reporting system.

**Index number** - number issued by the county clerk, which is used to identify a case - in civil matters there is usually a charge.

**Indian** - any individual who is a member of an Indian tribe.

**Indictment** - accusatory document presented by a grand jury to the court, charging a named individual with a crime.

**Indian country** - (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

**Indian tribe** - (a) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; (b) any Indian group that has been formally recognized as an Indian tribe by a state legislature or by a state commission or similar organization legislatively vested with state tribal recognition authority.

**Indictment** - (a) indictment or an information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted; (b) formal, written accusation submitted to the court by a grand jury, alleging that a specified person(s) has committed a specified offense(s), usually a felony.

**Individual** - single human being and does not mean a firm, association of individuals, corporation, partnership, joint venture, sole proprietorship, or any other entity.

**Individual assignment system (IAS)** - system, established for all civil actions and proceedings heard in Supreme and County Court, which provides for the continuous supervision of each action and proceeding by a single judge.

**Individual rights** - those rights guaranteed to all members of our society by the U.S. Constitution (especially as found in the first ten amendments to the Constitution, known as the Bill of Rights). These rights are especially relevant to criminal defendants facing formal processing by the criminal

justice system.

**Indorsed complaint** - a statement of the nature and substance of the cause of action, for money only, which indicates the amount of the claim. It may be set forth upon the summons or attached to it.

**Infant sling** - every device which is designed by the manufacturer to be worn by a person for the purpose of carrying an infant either on the chest or back of the wearer.

**Infant's compromise** - civil proceeding or motion for obtaining court approval of the settlement of an infant's claim.

**Information** - accusatory document filed in court by a prosecutor, without indictment, charging a named individual with a crime. The term derives from the prosecutor's statement that he makes his charges based on his *information and belief* rather than firsthand knowledge.

**Infraction** - (a) civil public offense, not constituting a crime, which is punishable only by a penalty not exceeding \$100 and for which no period of incarceration may be imposed; (b) noncriminal violation that may require community service hours, but is not punishable by incarceration and for which there is no right to a trial by jury or a right to court-appointed counsel; (c) minor violation of state statute or local ordinance punishable by a fine or other penalty, but not incarceration, or by a specified, usually limited term of incarceration.

**Injunction** - court order for a party to stop doing or to start doing a specific act.

**Injury** - any physical injury which requires professional medical treatment.

**Inquest** - proceeding which usually is a limited non-jury trial for the purpose of fixing the amount of damages where the plaintiff or defendant alone introduces testimony.

**Insanity defense** - defense which claims that the person charged with a crime did not know what they were doing, or that they did not know what they were doing was wrong.

**Insurer** - insurer, health maintenance organization, self-insurer, self-insurance fund, or other similar entity or person.

**Intellectual property** - data, including programs.

**Intent** - (a) a person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a crime; (b) the state of mind or attitude with which an act is carried out; (c) the design, resolve, or determination with which a person acts to achieve a certain result.

**Intent to deceive** - an intent to mislead, cheat, or trick another by means of a misrepresentation made for the purpose of gaining an advantage for oneself or for a third person, or of bringing about a disadvantage to the interest of the person to whom the representation was made or to interests represented by that person.

**Inter alia** - among other things.

**Intercept** - (a) the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device; (b) electronically capture, record, reveal, or otherwise access, the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver thereof, by means of any instrument, device, or equipment.

**Interdiction** - interception of drug traffic at the nations's borders. Interdiction is one of the many strategies used to stem the flow of illegal drugs into the United States.

**Interfere with** - to restrict a person's freedom of movement.

**Interlocutory** - provisional; temporary; not final - refers to orders and decrees of a court.

**International Registration Plan** - registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of fleet miles operated in various jurisdictions.

**International terrorism** - activities that: (a) involve violent acts dangerous to human life that are a violation of the criminal laws of the United States or of any state, or that would be a criminal violation if committed within the jurisdiction of the United States or of any state; (b) appear to be intended (1) to intimidate or coerce a civilian population; (2) to influence the policy of a government by intimidation or coercion; or (3) to affect the conduct of a government by assassination or kidnapping; and (c) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

**Interpleader** - action by which one having possession of an article or fund claimed by two parties may compel them to litigate the title between themselves, instead of with him/her.

**INTERPOL** - acronym for the International Police Association, INTERPOL began operations in 1946, and today has 178 members.

**Interpreter** - person sworn at a judicial proceeding to translate oral or written language.

**Interrogation** - information gathering activities of police officers that involve the direct questioning of suspects. The actions of officers during interrogation are constrained by a number of U.S. Supreme Court decisions, the first of which was *Brown v. Mississippi* (1936).

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

**Intersection** - (a) area embraced within the prolongation or connection of the lateral curblines; or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different

highways joining at any other angle may come in conflict; (b) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

**Interstate commerce** - commerce between one state, territory, possession, or the District of Columbia and another state, possession, or the District of Columbia.

**Interstate Identification Index** - *index-pointer* system for the interstate exchange of criminal history records. Under Interstate Identification Index (III), the FBI maintains an identification index to persons arrested for felonies or serious misdemeanors under state or federal law. The index includes identification information, (such as name, date of birth, race, and sex). FBI Numbers and State Identification Numbers (SID) from each state holding information about an individual. Search inquiries from criminal justice agencies nationwide are transmitted automatically via state telecommunications networks and the FBI's National Crime Information Center (NCIC) telecommunications lines. Searches are made on the basis of name and other identifiers. The process is entirely automated and takes approximately five seconds to complete. If a hit is made against the III, record requests are made using the SID or FBI Number, and data are automatically retrieved from each repository holding records on the individual and forwarded to the requesting agency.

**Intestate** - a person who dies without a will.

**Intimate partner** - (a) spouse, a former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and (b) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the state in which the injury occurred or where the victim resides.

**Intimate parts** - genital area, groin, inner thighs, buttocks of a male or female and the breasts of a female.

**Intimidate** - to place a person in reasonable apprehension of bodily harm to him or herself or to another.

**Intimidation** - (a) communication by word or act to an elderly person or disabled adult that the elderly person or disabled adult will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services, money, or financial support or will suffer physical violence; (b) to threaten another in order to influence his behavior. The threat may include physical harm, restraint, confinement, or accusations of crime (even if true).

**Intoxicating compounds** - any compound, liquid or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis or irrational behavior, or in any manner changing, distorting or disturbing the auditory, visual or mental processes.

**Inveigles** - lure or seduce; to lead on with deception; entice or trick into doing or giving something, going somewhere.

**I. R. number** - abbreviation for Individual Record Number. The number assigned to an individual upon his or her arrest. This number is used in any subsequent arrests of the same individual.

**Issuer** - (a) business organization or financial institution or its duly authorized agent which issues a financial transaction card; (b) business organization, state or federal government, or financial institution, or its duly authorized agent, which issues a credit card.

**Issuing authority** - (a) any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features; and (b) includes the US Government, a State, a political subdivision of a State, a sponsoring entity of an event designated by the President as a special event of national significance, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization.

**Item** - (a) goods, services, or any tangible or intangible thing of value and the rights therein; (b) an instrument or a promise or order to pay money handled by a bank for collection or payment.

- J -

**Jail** - confinement facility administered by an agency of local government, typically a law enforcement agency, intended for adults but sometimes also containing juveniles, which holds persons detained pending adjudication and/or person committed after adjudication, usually those committed on sentences of a year or less.

**Joint trial** - two or more actions involving a common question of law or fact may be joined by court order for trial - the actions are not merged but remain separate and distinct and may result in one or more verdicts and judgments.

**Judicial branch** - Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Claims Court, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch.

**Judge** - an elected or appointed public official who presides over a court of law, and who is authorized to hear and sometimes to decide cases, and to conduct trials.

**Judgment** - (a) statement of the decisions of a court, that the defendant is acquitted or convicted of the offense(s) charged; (b) a determination of the rights of the parties in an action or special proceeding. A judgment shall refer to and state the result of a verdict or decision, or recite the circumstances on which it is based.

**Judgment roll** - record of the judgment with the supporting papers.

**Judicial hearing officer (JHO)** - a person who has served as a judge or justice of a court of record of the Unified Court System, and who no longer is serving in such capacity, except a person who was removed from a judicial position.

**Judicial officer** - any person authorized by statute, constitutional provision, or court rule to exercise those powers reserved to the judicial branch of government.

**Jurisdiction** - (a) territory, subject matter, or persons over which lawful authority may be exercised by a court or other justice agency, as determined by statute or constitution; (b) geographical, subject matter, and monetary limitations of a court.

**Jurisprudence** - (a) philosophy of law; (b) science and study of the law.

**Juror** - a member of a trial or grand jury, selected for jury duty, and required to serve as an arbiter of the facts in a court of law.

**Jury** - prescribed number of persons selected according to law and sworn to make findings of fact.

**Jury (advisory)** - a body of jurors impaneled to hear a case in which the parties have no right to a jury trial - the judge remains solely responsible for the findings and may accept or reject the jury's verdict.

**Jury instructions** - directions given by the judge to the jury.

**Jury panel** - group of persons summoned to appear in court as potential jurors for a particular trial, or the persons selected from the group of potential jurors to sit in the jury box, from which second group those acceptable to the prosecution and the defense are finally chosen as the jury.

**Jury selection** - process whereby, according to law and precedent, members of a particular trial jury are chosen.

**Justice** - (a) principle of fairness; (b) ideal of moral equity.

**Justifiable homicide** - (a) homicide based on the perpetrator's reasonable belief that he had no alternative but to use deadly or substantial force to protect himself from imminent death or great bodily harm, or to prevent a forcible felony; (b) killing of a felon by a peace officer in the line of duty or the killing of a felon, during the commission of a felony, by a private citizen.

**Justifications** - category of legal defenses in which the defendant admits committing the act in question, but claims it was necessary in order to avoid some greater evil.

**Juvenile** - (a) any person under 18 years of age; (b) person subject to juvenile court proceedings because a statutorily defined event or condition by or affecting that person was alleged to have occurred while his or her age was below the statutorily specified age limit of original jurisdiction of a juvenile court.

**Juvenile court** - name for the class of courts that have, as all or part of their authority, original jurisdiction over matters concerning persons statutorily defined as juveniles.

**Juvenile justice records** - official records of juvenile justice adjudications. Most adult criminal history record systems do not accept such records, which are frequently not supported by fingerprints and which usually are confidential under state law. Pursuant to an order dated July 15, 1992, the FBI now accepts, and will disseminate, juvenile records on the same basis as adult records. States, however, are not required to submit such records to the FBI.

**Juvenile justice system** - government agencies that function to investigate, supervise, adjudicate, care for, or confine youthful offenders and other children subject to the jurisdiction of the juvenile court.

**Juvenile probation officer** - (a) authorized agent of the department who performs and directs intake, assessment, probation, or conditional release, and other related services; (b) authorized agent of the Department of Juvenile Justice who performs the intake or case management function for a child alleged to be delinquent.

- K -

**Key** - any key, keyblank, or keyway adopted by any part of the Department of Defense, including all Department of Defense agencies, military departments, and agencies thereof, for use in protecting conventional arms, ammunition or explosives, special weapons, and classified information or classified equipment.

**Kidnaping** - transportation or confinement of a person without authority of law and without his or her consent, or without the consent of his or her guardian, if a minor.

**Kilogram** - 2.2046 pounds.

**Knowing** - either actual or constructive knowledge of the obscene contents of the subject matter; and a person has constructive knowledge of the obscene contents if he has knowledge of facts which would put a reasonable and prudent person on notice as to the suspect nature of material; provided, however, that the character and reputation of the individual charged with an offense, and, if a commercial dissemination of obscene material is involved, the character and reputation of the business establishment involved may be placed in evidence by the defendant on the question of intent to violate the law. Undeveloped photographs, molds, printing plates, and the like shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

**Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity** - that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law.

**Knowingly** - knowledge that the facts exist which bring the act or omission. It does not require any

knowledge of the willingness of such act or omission.

**Knowledge** - a person knows or acts knowingly or with knowledge when: (a) he is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or (b) he has information which would lead a reasonable man in the same situation to believe that facts exist which are described by a statute defining an offense.

- L -

**Laches** - failure to diligently assert a right, which results in a refusal to allow relief.

**Lacks capacity to consent** - impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause, that causes an elderly person or disabled adult to lack sufficient understanding or capacity to make or communicate reasonable decisions concerning the elderly person's or disabled adult's person or property.

**Laned highway** - highway the roadway of which is divided into clearly marked lanes for vehicular traffic.

**Larceny** - (a) unlawful taking or attempted taking of property other than a motor vehicle from the possession of another, by stealth, without force and without deceit, with intent to deprive the owner of the property permanently; (b) unlawful taking, carrying, leading, or riding away of property from the possession of another.

**Lascivious** - tending to excite lust, to deprave the morals in respect to sexual relations, or to produce voluptuous or lewd emotions in the average person, applying contemporary community standards.

**Laser** - device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum, and when discharged exceeds one milliwatt continuous wave.

**Laser pointing device** - any hand-held laser device, which is not designed as a sighting device for a weapon nor for use in a medical procedure. This term includes the commercially-available device, which commonly known as a *laser pen* or *laser pointer*.

**Law** - rule of conduct, generally found enacted in the form of a statute, which proscribes and/or mandates certain forms of behavior. Statutory law is often the result of moral enterprise by interest groups that, through the exercise of political power, are successful in seeing their valuative perspectives enacted into law.

**Law enforcement** - generic name for the activities of the agencies responsible for maintaining public order and enforcing the law, particularly the activities of prevention, detection, and investigation of crime and the apprehension of criminals.

**Law enforcement agency** - (a) governmental unit of one or more persons employed full time or part

time by a state or a political subdivision of a state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority; (b) federal, state, or local criminal justice agency or identifiable subunit of which the principle functions are the prevention, detection, and investigation of crime, and the apprehension of alleged offenders.

**Law enforcement officer** - (a) any public servant, whether employed by a state or subdivisions thereof or by the United States, vested by law with a duty to maintain public order, to make arrests for offenses, or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses. The attorney general, deputy prosecuting attorneys engaged in the enforcement of criminal laws are included in the definition of the term law enforcement officer; (b) any officer or employee of the United States, any state, any political subdivision of a state, or the District of Columbia, while engaged in the enforcement or prosecution of any of the criminal laws of the United States, a state, any political subdivision of a state, or the District of Columbia; and such term shall specifically include, but shall not be limited to, members of the National Guard, as defined in section 101(9) of title 10, United States Code, members of the organized militia of any state, or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, not included within the definition of National Guard as defined by such section 101(9), and members of the Armed Forces of the United States, while engaged in suppressing acts of violence or restoring law and order during a civil disorder.

**Law enforcement official** - any district attorney, deputy district attorney, city attorney, deputy city attorney, the Attorney General or any deputy attorney general, or any peace officer.

**Lawful custody** - that custody inherent in the natural parents, that custody awarded by proper authority, or that custody awarded to a parent, guardian, or other person by a court of competent jurisdiction.

**Lawyer** - person trained in the law, admitted before the bar of a given jurisdiction, and authorized to advise, represent, and act for other persons in legal proceedings.

**Lay witness** - eyewitness, character witness, or any other person called upon to testify who is not considered an expert. Lay witnesses must testify to facts alone and may not draw conclusions or express opinions.

**Legal age** - eighteen (18) years of age.

**Legal aid** - system by which legal services are rendered to those in financial need who cannot afford private counsel.

**Legal cause** - legally-recognizable cause. The type that is required to be demonstrated in court in order to hold an individual criminally liable for causing harm.

**Legal owner** - person having a security interest in a vehicle or the registered owner of a vehicle unencumbered by a security interest or the lessor of a vehicle unencumbered by a security interest.

**Legal process** - document or order issued by a court or filed or recorded for the purpose of

exercising jurisdiction or representing a claim against a person or property, or for the purpose of directing a person to appear before a court or tribunal, or to perform or refrain from performing a specified act. *Legal process* includes, but is not limited to, a summons, lien, complaint, warrant, injunction, writ, notice, pleading, subpoena, or order.

**Legend drugs** - any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

**Legislative branch** - (a) Congress; and (b) Office of the Architect of the Capitol, United States Botanic Gardens, General Accounting Office, Government Printing Office, the Library of Congress, Office of Technology Assessment, Congressional Budget Office, United States Capital Police, and any other agency, entity office, or commission established in the legislative branch.

**Legislative jurisdiction** - lands and waters under the exclusive or concurrent jurisdiction of the United States.

**Lewd act** - (a) any sexual contact with a child; (b) intentionally exposing one's genitalia, anus, buttocks, or female areola or nipple to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; (c) intentionally communicating indecent language to a child by any means, including via any communication technology, with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person; or (d) any indecent conduct, intentionally done with or in the presence of a child, including via any communication technology, that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.

**Lewd or lascivious battery upon an elderly person or disabled adult** - occurs when a person encourages, forces, or entices an elderly person or disabled adult to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled adult either lacks the capacity to consent or fails to give consent.

**Lewdness** - indecent or obscene act.

**Liability** - an obligation to do, to eventually do, or to refrain from doing something; money owed; or according to law one's responsibility for his/her conduct; or one's responsibility for causing an injury.

**Liber** - book used for keeping a record of specific documents or events having legal effect.

**Lien** - claim upon the property of another as security for some debt.

**Light reflectance** - ratio of the amount of total light that is reflected outward by a product or material to the amount of total light falling on the product or material.

**Light transmission** - ratio of the amount of total light, expressed in percentages, which is allowed

to pass through a surface to the amount of light falling on the surface.

**Liquor laws** - violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

**Listed essential chemical** - chemical that may be used as a solvent, reagent, or catalyst in manufacturing a controlled substance.

**Listed precursor chemical** - chemical that may be used in manufacturing a controlled substance in violation of this chapter and is critical to the creation of the controlled substance, and such term includes any salt, optical isomer, or salt of an optical isomer, whenever the existence of such salt, optical isomer, or salt of optical isomer is possible within the specific chemical designation.

**Litigant** - party to a legal action.

**Litter** - (a) rubbish, refuse, waste material, garbage, trash, offal, or debris of whatever kind or description, and whether or not it is of value, and includes improperly discarded paper, metal, plastic, glass, or solid waste; (b) garbage, rubbish, trash, refuse, debris, can, bottle, box, container, paper, tobacco product, tire, domestic or commercial appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, or farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations; (c) all discarded sand, gravel, slag, brickbats, rubbish, waste material, tin cans, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description which are not waste.

**Live performance** - any play, show, skit, dance, or other exhibition performed or presented to, or before an audience of one or more, with or without consideration.

**Livestock** - (a) horses, cattle, swine, sheep, goats, rabbits, and any domestic animal produced as food for human consumption; (b) any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof.

**L.K.A.** - abbreviation for *last known address*.

**Local** - of or pertaining to a political subdivision within a state.

**Local authorities** - every county, municipal, or other local public board or body having authority to adopt local police regulations under the Constitution and laws of a state.

**Lockup** - temporary detention facility.

**Loiter** - to stand around, to move about slowly, to linger, or to lay behind when that conduct is in violation of known instructions or accompanied by a failure to give complete attention to duty.

**Long form order** - order prepared by counsel for signature of the court (usually based on a

memorandum decision).

**Lottery** - pooling of proceeds derived from the sale of tickets or chances to one or more chance takers or ticket purchasers. Lottery does not include the placing or accepting of bets or wagers on sporting events or contests.

- M -

**M'Naughton rule** - rule for determining insanity which asks whether the defendant knew what he or she was doing, or whether he or she knew what he or she was doing was wrong.

**Machine gun** - (a) any firearm or weapon known as a machine gun, mechanical rifle, submachine gun, or any other weapon, mechanism, or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second; (b) firearm, which shoots, or is designed to shoot, automatically more than one shot, without manually reloading, by a single function of the trigger.

**Maintenance** - furnishing by one person to another the means of living, or food, clothing, shelter, etc., particularly where the legal relations of the parties is such that one is bound to support the other, as between parent and child or between spouses.

**Major component part** - (a) includes at least the following vehicle parts: engines and short blocks; frame; transmission and/or transfer case; cab; door; front or rear differential; front or rear clip; quarter panel; truck bed or box; seat; hood; bumper; fender; and airbag; (b) one of the following subassemblies of a motor vehicle, regardless of its actual market value: front-end assembly, including fenders, grills, hood, bumper, and related parts; frame and frame assembly; engine; transmission; T-tops; rear clip assembly, including quarter panels and floor panel assembly; doors; and tires, tire wheels, and continuous treads and other devices.

**Malice** - (a) import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law; (b) state of mind which accompanies the intentional doing of a wrongful act without justification or excuse. Malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty; (c) deliberate intention unlawfully to take the life of another human being which is manifested by external circumstances capable of proof. Malice shall be implied where no considerable provocation appears and where all the circumstances of the killing show an abandoned and malignant heart; (d) import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

**Mandatory sentence** - a statutory requirement that a certain penalty shall be set and carried out in all cases upon conviction for a specified offense or series of offenses.

**Manslaughter** - (a) unintentional killing of another through a reckless act; (b) killing of another person through gross negligence.

**Manufacture** - production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of a natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance: (a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or (b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as incident to, research, teaching, or chemical analysis and not for delivery.

**Manufacturer** - (a) any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use; (b) a person engaged in the manufacture of vehicles and who has an established place of business.

**Marked crosswalk** - any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface thereof.

**Marijuana** - (a) all parts of the plant (genus) Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; (b) any part of the plant (genus) cannabis, whether growing or not, including the seeds and the resin, and every alkaloid, salt, derivative, preparation, compound, or mixture of the plant, its seeds or resin, except that, as used herein, marijuana does not include hashish, tetrahydrocannabinol, and any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized of tetrahydrocannabinol.

**Marijuana concentrate** - hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydro-cannabinol.

**Married** - (a) persons legally married, and a male and female living together as man and wife regardless of their legal status, but does not include spouses living apart under a judicial decree; (b) one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

**Mass transit vehicle** - buses, rail cars, or fixed-guideway mover systems operated by, or under contract to, state agencies, political subdivisions of the state, or municipalities for the transportation of fare-paying passengers.

**Masseur** - male who practices massage or physiotherapy, or both.

**Masseuse** - female who practices massage or physiotherapy, or both.

**Master Name Index** - subject identification maintained by criminal history record repositories that includes names and other identifiers for each person about whom a record is held in the systems. An automated name index is the key to rapidly identifying persons who have criminal records for such purposes as presale firearm checks, criminal investigations or bailsetting. Master name indexes may include *felony flags*, which indicate whether record subjects have arrests or convictions for felony offenses.

**Master recording** - master disk, master tape, master film or other device used for reproducing recorded sound from which a sound recording is directly or indirectly derived.

**Material** - any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

**Material matter** - any subject, regardless of its admissibility under the rules of evidence, which could affect the course or outcome of the proceeding. Whether a matter is material in a given factual situation is a question of law.

**Material witness** - person whose testimony on some issue has been judicially determined as relevant and substantial memorandum decision: a written opinion or decision of a court on a litigated question, giving the court's conclusion on factual and legal issues (this may constitute the order of the court if so stated).

**Matter** - any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines, or materials.

**Maximum sentence** - (a) maximum penalty provided by law for a given criminal offense, usually stated as a maximum term of imprisonment or a maximum fine; (b) any of several quantities (expressed in days, months, or years) which vary according to whether calculated at the point of sentencing or at a later point in the correctional process, and according to whether the time period referred to is the term of confinement of the total period under correctional jurisdiction.

**Means of identification** - any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any: (a) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number; (b) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; (c) unique electronic identification number, address, or routing code; or (d) telecommunication identifying information or access device.

**Medical care provider** - person who gains the trust and confidence of a patient or client for the examination and/or treatment of a medical or psychological condition, and thereby gains the ability to treat, examine and physically touch the patient or client.

**Memorandum opinion** - memorandum in writing, which is a very brief statement of the reasons for a decision, without detailed explanation.

**Mental incapacity** - (a) that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause; (b) temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

**Mentally defective** - (a) a person suffering from a disease, disorder, or defect which renders him incapable of appraising the nature of his conduct; (b) mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

**Mentally incapacitated** - person rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a substance administered to him without his consent.

**Mercantile pallet** - wood or plastic carrier designed and manufactured as an item on which products can be placed before or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . . . .," "owned by . . . . .," or other markings or words identifying ownership.

**Merchandise** - personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.

**Merchant** - owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.

**Metal tire** - every tire of which the surface in contact with the highway is wholly or partly of metal or other hard, nonresilient material. A vehicle shall be considered equipped with metal tires when metal tires are used on two or more wheels.

**Military or naval forces of the United States** - Army of the United States, the Navy, Air Force, Marine Corps, Coast Guard, Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve of the United States; and when any merchant vessel is commissioned in the Navy or is in the service of the Army or the Navy, includes the master, officers, and crew of such vessel.

**Military calendar** - to hold in suspense an action that cannot reasonably be tried because a party or witness is in the military service.

**Military property** - real or personal property owned, held, or used by one of the armed forces of the United States which either has a uniquely military nature or is used by an armed force in furtherance of its mission.

**Minor** - (a) any natural person under 18 years of age; for alcohol offenses, any person below the age of 21 years old; (b) any individual who is under the age of 17 years or any individual under the age of 18 years who is alleged to be a deprived child; (c) any person less than 16 years old. For alcohol

offenses, any person below the age of 21 years old; (d) any person under the age of eighteen years.

**Minute book** - Court Clerk's Journal of Courtroom proceedings.

**Minutes** - record of court proceedings kept by noting significant events.

**Miranda rights** - set of rights that a person accused or suspected of having committed a specific offense had during interrogation, and of which he or she must be informed prior to questioning, as states by the U.S. Supreme Court in deciding *Miranda v. Arizona* and related cases.

**Miranda triggers** - dual principles of custody and interrogation, both of which are necessary before an advisement of rights is required.

**Miranda warnings** - advisement of rights due criminal suspects by the police prior to the beginning of questioning. Miranda warnings were first set forth by the U.S. Supreme Court in the 1966 case of *Miranda v. Arizona*.

**Misapply property** - to deal with the property contrary to law or governmental regulation relating to the custody of disposition of that property.

**Misdemeanor** - (a) any offense not punishable by death or imprisonment for a term exceeding one year. Generally, the sentence for a misdemeanor is up to one year, a \$1,000 fine, or both; (b) criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility, except an extended term, not in excess of 1 year. The term misdemeanor shall not mean a conviction for any noncriminal traffic violation or any municipal or county ordinance; (c) an offense punishable by incarceration, usually in a local confinement facility, for a period of which the upper limit is prescribed by statute in a given jurisdiction, typically limited to a year or less.

**Misleading** - direct or indirect misrepresentation or omission of any material fact or circumstance.

**Misleading advertising** - statements made, or disseminated, in oral, written, or printed form or otherwise, to or before the public, or any portion thereof, which are known, or through the exercise of reasonable care or investigation could or might have been ascertained, to be untrue or misleading, and which are or were so made or disseminated with the intent or purpose, either directly or indirectly, of selling or disposing of real or personal property, services of any nature whatever, professional or otherwise, or to induce the public to enter into any obligation relating to such property or services.

**Mistrial** - trial that has been terminated and declared invalid by the court because of some circumstances which create a substantial and uncorrectable prejudice to the conduct of a fair trial, or which makes it impossible to continue the trial in accordance with prescribed procedures.

**Mitigating circumstances** - (a) opposite of aggravating circumstances; (b) circumstances surrounding the commission of a crime which do not in law justify or excuse the act, but which in fairness may be considered as reducing the blameworthiness of the defendant.

**Mixture** - physical combination of two or more substances.

**M.O.** - abbreviation for *modus operandi*, Latin for method of operation. The pattern of behavior which is typical of how a particular offender commits a specific type of crime. *Example:* An offender who always wears dark glasses in the commission of a bank robbery.

**Mobile home** - structure, transportable in one or more sections, which is 32 body feet or more in length and is 8 body feet or more in width, and which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except as hereinafter specifically excluded, and excluding modular homes.

**Mobile identification number** - cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

**Monetary instrument** - (a) coin or currency of the United States or of any other country, travelers checks, personal checks, bank checks, and money orders; (b) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery; (c) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

**Money** - legal tender of the United States or of any foreign country, or any counterfeit thereof.

**Money laundering** - process of converting illegally earned assets, originating as cash, to one or more alternative forms to conceal such incriminating factors as illegal origin and true ownership.

**Moot** - unsettled, undecided, not necessary to be decided.

**Moped** - (a) any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power and a motor with a cylinder displacement not exceeding 50 cubic centimeters which produces no more than two gross brake horsepower (developed by a prime mover, as measured by a brake applied to the driving shaft) and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground, and the wheels of which are at least 16 inches in diameter; (b) a motor driven cycle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.

**Motion** - oral or written request to the court made by a party for a ruling or order.

**Motion picture** - any motion picture, regardless of length or content, which is exhibited in a motion

picture theater to paying customers, exhibited on television to paying customers or under the sponsorship of a paying advertiser or produced and exhibited for scientific, research or educational purposes. The term does not include motion pictures exhibited as home movies, or amateur films, which are shown free or at cost to friends, neighbors or civic groups.

**Motion picture theater** - movie theater, screening room, or other venue in use primarily for the exhibition of a motion picture at the time of the offense.

**Motive** - a person's reason for committing a crime.

**Motor cart** - every motor vehicle having no less than three wheels and an unladen weight of 1,300 pounds which cannot operate at more than 20 miles per hour and which is designed to carry not more than two persons, including the driver.

**Motor driven cycle** - every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, every bicycle with a motor attached, and every moped.

**Motor home** - (a) motor vehicles originally designed, reconstructed, or permanently altered to provide facilities for human habitation; (b) every motor vehicle designed, used, or maintained primarily as a mobile dwelling, office, or commercial space.

**Motor truck** - any motor vehicle having a gross weight of 18,000 pounds or over which is designated and used for the transportation of merchandise or freight.

**Motor vehicle** - (a) motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying 10 passengers or less; (b) every vehicle that is self-propelled and every vehicle that is propelled by electric power, but not operated upon rails, or upon water, except a snowmobile; (c) device in, upon, or by which any person or property is or may be transported or drawn upon a highway, which device is self-propelled or may be connected to and towed by a self-propelled device, and also includes any and all other land-based devices which are self-propelled but which are not designed for use upon a highway, including but not limited to farm machinery and steam shovels; (d) an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designated for running on land but not on rails; (e) a self-propelled vehicle that runs on land surface and not on rails.

**Motor vehicle theft** - (a) unlawful taking or attempted taking, of a self-propelled road vehicle owned by another, with the intent to deprive him or her of it permanently or temporarily; (b) the theft or attempted theft of a motor vehicle.

**Motorcycle** - (a) every motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor and a moped; (b) any motor vehicle traveling on public streets or highways having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor and a moped.

**Motor-driven cycle** - every motorcycle, including every motor scooter, with a motor which

produces not to exceed five brake horsepower (developed by a prime mover, as measured by a brake applied to the driving shaft), a motor-driven cycle does not include a moped.

**Movant** - party who initiates the motion.

**Movement** - move, transfer, or shift of a ship, aircraft, or unit involving a substantial distance and period of time.

**Muffler** - device consisting of a series of chambers, or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing noise resulting therefrom.

**Multiple lane highway** - any highway the roadway of which is of sufficient width to reasonably accommodate two or more separate lanes of vehicular traffic in the same direction, each lane of which shall be not less than the maximum legal vehicle width and whether or not such lanes are marked.

**Multipurpose passenger vehicle** - motor vehicle designed to carry ten persons or less which is constructed on a truck chassis or with special features for occasional off-road operation.

**Murder and non-negligent manslaughter** - (a) intentionally causing the death of another without legal justification or excuse, or causing the death of another while committing or attempting to commit another crime; (b) willful (nonnegligent) killing of one human being by another.

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**Narcoterrorism** - political alliance between terrorist organizations and drug supplying cartels. The cartels provide financing for the terrorists, who in turn provide quasi-military protection to the drug dealers.

**Narcotic detection dog** - dog trained to detect narcotics by scent.

**Narcotic drug** - any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) opium and opiate, any salt, compound, derivative, or preparation of opium or opiate; (b) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in (a) or (b), but not including the isoquinoline alkaloids of opium; (c) opium poppy and poppy straw; (d) coca leaves and any salt, compound, derivative, stereoisomers of cocaine, or preparation of coca leaves, and any salt, compound derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leave or extractions of cocoa leaves which do not contain cocaine or ecgonine.

**National Crime Information Center** - automated database of criminal justice and justice-related records maintained by the FBI. The database includes *hot files* of wanted and missing persons, stolen vehicles and identifiable stolen property, including firearms. Access to the National Crime

Information Center (NCIC) files is through central control terminal operators in each state that are connected to NCIC via dedicated telecommunications lines maintained by the FBI. Local agencies and officers on the beat can access the state control terminal via the state law enforcement network. Inquiries are based on name and other nonfingerprint identification. Most criminal history inquiries are made via the NCIC telecommunications system. NCIC data may be provided only for criminal justice and other specifically authorized purposes. For criminal history searches, this includes criminal justice employment, employment by federally chartered or insured banking institutions or securities firms, and use by state and local governments for purposes of employment and licensing pursuant to a state statute approved by the U.S. Attorney General. Inquiries regarding presale firearm checks are included as criminal justice uses.

**National group** - set of individuals whose identity as such is distinctive in terms of nationality or national origins.

**Natural person** - individual (does not include corporate entities).

**NCIC** - National Crime Information Center.

**Neglect** - (a) import a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concerns; (b) the omission to take such measures as are appropriate under the circumstances to assure presence with a ship, aircraft, or unit at the time of a scheduled movement, or doing some act without giving attention to its probable consequences in connection with the prospective movement, such as a departure from the vicinity of the prospective movement to such a distance as would make it likely that one could not return in time for the movement; the absence of conduct which would have been taken by a reasonably careful person in the same or similar circumstances.

**Neglect of a child** - (a) caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or (b) caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

**Neglect of an elderly person or disabled adult** - (a) caregiver's failure or omission to provide an elderly person or disabled adult with the care, supervision, and services necessary to maintain the elderly person's or disabled adult's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly person or disabled adult; or (b) caregiver's failure to make a reasonable effort to protect an elderly person or disabled adult from abuse, neglect, or exploitation by another person.

**Negligence** - (a) failure to exercise the care, prudence, or attention to duties, which the interests of the government require a prudent and reasonable person to exercise under the circumstances; (b) a state of mind accompanying a person's conduct such that he or she is not aware, though a reasonable person should be aware, that there is a risk that the conduct might cause a particular harmful result. (c) conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm.

**Negligent** - failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

**Net** - a seine, weir, net wire, fish trap, or other implement designed to entrap fish, except a hand-held landing net used to retrieve fish taken by hook and line.

**No true bill** - decision by a grand jury that it will not return an indictment against the person(s) accused of a crime(s) on the basis of the allegations and evidence presented by the prosecutor.

**Nolo contendere** - plea of *no contest*. A no contest plea may be used where the defendant does not wish to contest conviction. Because the plea does not admit guilt, however, it cannot provide the basis for later civil suits that might follow upon the heels of a criminal conviction.

**Non seq. (Non sequitur)** - it does not follow.

**Nonconsensual contact** - any contact that occurs without that individual's consent or in disregard of that person's express desire that the contact be avoided or discontinued. Nonconsensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or any form of electronic communication, including electronic mail transmission.

**Noncriminal violation** - offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense. The term noncriminal violation shall not mean any conviction for any violation of any municipal or county ordinance.

**Nondeveloped area** - all lands and waters within park areas other than developed areas.

**Nonresident** - (a) any person whose residence is outside a state and who is temporarily sojourning within another state; (b) every person who is not a resident of the state.

**Not guilty by reason of insanity** - plea of a defendant or the verdict of a jury in a criminal proceeding, that the defendant is not guilty of the offense(s) charged because at the time the crime(s) was committed the defendant did not have the mental capacity to be held criminally responsible for his or her actions.

**Note of issue** - document filed with the court placing a cause on the trial calendar.

**Notice of entry** - notice with an affidavit of service stating that the attached copy of an entered order or judgment has been served by a party on another party.

**Notice of petition** - written notice of a petitioner that a hearing will be held in a court to determine the relief requested in an annexed petition.

**Nuclear material** - material containing any (a) plutonium with an isotopic concentration not in

excess of 80% plutonium 238; (b) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature; (c) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or (d) uranium 233.

**Nudity** - (a) showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering or the depiction of covered male genitals in a discernibly turgid state; (b) showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute *nudity*, irrespective of whether or not the nipple is covered during or incidental to feeding.

**Nuisance** - anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, steam, canal, or basin, or any public park, square, street, or highway.

**Numbers scheme or enterprise** - a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event otherwise unrelated to the particular scheme.

**Nunc pro tunc** - (now for then) presently considered as if occurring at an earlier date; effective retroactively.

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**Oath** - (a) an affirmation, and every other mode authorized by law of attesting the truth of that which is stated; (b) affirmation or any other form of attestation required or authorized by law by which a person acknowledges that he or she is bound in conscience or law to testify truthfully in an official proceeding or other official matter; (c) a swearing to the truth of a statement which, if made by one who knows it to be false, may subject one to a prosecution for perjury or other legal proceedings.

**Obligation or security of any foreign government** - includes, but is not limited to, uncanceled stamps, whether or not demonetized.

**Obligation or other security of the United States** - all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any Act of Congress, and canceled United States stamps.

**Obscene** - status of material which: (a) the average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest; (b) depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and (c) taken as a whole, lacks serious literary, artistic, political, or scientific value. A mother's breastfeeding of her baby is not under any circumstance *obscene*.

**Obscene material** - obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing paper, card, picture, drawing, photograph, motion picture film, figure, image, videotape, videocassette, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose.

**Obscene matter** - matter taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct; and which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

**Obscene performance** - a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

**Obscenities** - those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

**Obstructs** - renders impassable without unreasonable inconvenience or hazard.

**Obtain** - (a) includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another; (b) temporarily or permanently to deprive any person of the right to property or a benefit therefrom, or to appropriate the property to one's own use or to the use of any other person not entitled thereto.

**Obtain control over** - (a) in relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or (b) in relation to labor or service, to secure performance thereof for the benefits of the obtainer or another.

**Obtains or uses** - any manner of: (a) taking or exercising control over property; (b) making any unauthorized use, disposition, or transfer of property; (c) obtaining property by fraud, willful misrepresentation of a future act, or false promise.

**Off-road vehicle** - any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain and not intended for use predominantly on public roads. It includes, but is not limited to, four-wheel drive or low

pressure tire vehicles, two-wheel vehicles, amphibious machines, ground effect or air cushion vehicles, and any other means of transportation deriving power from any source other than muscle or wind, except that such term shall exclude any motorboat; any military, fire, or law enforcement vehicle; any vehicles used exclusively on airports; all farm machinery, farm tractors, an other self-propelled equipment for harvesting and transportation of forest products, for clearing land for planting, for utility services and maintenance, for earth moving, construction, or mining, and self-propelled lawnmowers, snowblowers, garden or lawn tractors, or golf carts, while such vehicles are being used exclusively for their designed purposes.

**Offender** - adult who has been convicted of a criminal offense.

**Offense** - conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of a state or by any law or ordinance of a political subdivision of a state. An offense is either a crime or a violation or an infraction.

**Offenses against the family and children** - unlawful nonviolent acts by a family member (or legal guardian) which threaten the physical, mental, or economic well-being or morals of another family member and which are not classifiable as other offenses, such as assault or sex offenses.

**Offer to sell** - inducement, solicitation, attempt, or printed or media advertisement to encourage a person to purchase an identification card.

**Officer** - person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer.

**Official act** - any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

**Official misconduct** - commission of the following act by a public servant, with corrupt intent to obtain a benefit for himself or herself or another or to cause unlawful harm to another: knowingly falsifying, or causing another to falsify, any official record or official document.

**Official proceeding** - (a) a proceeding heard or which may be heard before any legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, including any referee, hearing examiner, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding; (b) proceeding heard, or which may be or is required to be heard, before any legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, including any referee, master in chancery, administrative law judge, hearing officer, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with any such proceeding.

**Official rating** - official rating of the Motion Picture Association of America, and the Film Advisory Board, Inc., or any other official rating organization.

**Official representation** - any representation made by a federal law enforcement officer or by another person at the direction or with the approval of such an officer.

**Official traffic-control devices** - all signs, signals, marking, and devices which are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

**Omission** - failure to act.

**Opacity** - the degree to which an emission reduces the transmission of light and obscures the view of an object in the background.

**Open container** - any container which is immediately capable of being consumed from or the seal of which has been broken.

**Open house party** - social gathering at a residence.

**Open to the public** - premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

**Opening statement** - (a) initial statement of an attorney or of a defendant representing himself or herself made in a court of law to a judge, or to a judge and jury, describing the facts that he or she intends to present during trial in order to prove his or her case; (b) first address of counsel prior to offering of evidence.

**Operate in a negligent manner** - operation of a vehicle in such a manner as to endanger or be likely to endanger any persons or property.

**Operates** - operating a vehicle, aircraft, or vessel includes not only driving or guiding a vehicle, aircraft or vessel while it is in motion, either in person or through the agency of another, but also by the manipulation of its controls so as to cause the particular vehicles, aircraft, or vessel to move.

**Operator** - (a) person who operates, drives, controls, or otherwise has charge of a mechanical mode of transportation or any other mechanical equipment; (b) every person who drives or is in actual physical control of a vehicle; (c) person, firm, corporation, or association or agent or employee thereof who promotes, operates, or conducts a game promotion, except any charitable nonprofit organization; (d) any person who drives or is in actual control of a motor vehicle.

**Opiate** - (a) any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled, the dextrorotatory isomer of 3-methoxyn-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms; (b) any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates.

**Opinion** - official announcement of a decision of a court together with the reasons for that decision.

**Opium poppy** - plant of the species *Papaver somniferum* L., except its seeds.

**Opprobrious** - public disgrace or ill fame that follows from conduct considered grossly wrong or vicious.

**Optical disc** - disc capable of being read by a laser or other light source on which data is stored in digital form, including, but not limited to, discs known as compact discs, recordable compact discs, and digital video discs.

**Oral communication** - any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication.

**Oral copulation** - act of copulating the mouth of one person with the sexual organ or anus of another person.

**Oral proof** - evidence given by word of mouth; the oral testimony of a witness.

**Order** - oral or written direction of a court or judge.

**Ordinance** - ordinance relating to the control of or cruelty to animals enacted by the governing body of a county or municipality the violation of which is a civil infraction.

**Organization** - a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association of persons which operates in or the activities of which affect interstate or foreign commerce.

**Organized crime** - unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loansharking, narcotics, labor racketeering, and other unlawful activities of members if such organizations.

**Original jurisdiction** - lawful authority of a court to hear or act upon a case from its beginning and to pass judgment on the law and the facts.

**Owner** - (a) a person, other than the defendant, who has possession of or any other interest in, the property involved, even though that possession or interest is unlawful; however, a secured party is not an owner in relation to a defendant who is a debtor with respect to property in which the secured party has only a security interest; (b) a person who has a lawful right of possession of a vehicle by reason of obtaining it by purchase, exchange, gift, lease, inheritance or legal action whether or not the vehicle is subject to a security interest and means registered owner where the reference to owner may be construed as either to registered or legal owner; (c) person, other than a lienholder or security interest holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in or lien by another

person but excludes a lessee under a lease not intended as security except as otherwise specifically provided; (d) a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services.

**Owner of said land** - beneficial owner, lessee, occupant, or other person having any interest in said land under and by virtue of which that person is entitled to possession thereof, and shall also include the agents or authorized employees of such owner.

- P -

**Pack animal** - horses, burros, mules or other hoofed mammals when designed as pack animals by the superintendent.

**Packer** - person engaged in the business of slaughtering, or of manufacturing or preparing meat or meat products for sale, either by such person or others; or of manufacturing or preparing livestock products for sale by such person or others.

**Palimony** - term has meaning similar to *alimony* except that award, settlement or agreement arises out of non-marital relationship of parties (i.e., non-marital partners).

**Parcel** - tract or a plot of land.

**Parent** - person who has legal custody of a minor as a: (a) natural or adoptive parent; (b) legal guardian; (c) person who stands in loco parentis to the minor; (d) person who has legal custody of the minor by order of the court.

**Parole** - status of an offender conditionally released from a prison by discretion of a paroling authority prior to expiration of sentence, required to observe conditions of parole, and placed under the supervision of a parole agency.

**Parolee** - person who has been conditionally released by a paroling authority from a prison prior to the expiration of his or her sentence, and placed under the supervision of a parole agency, and who is required to observe conditions of parole.

**Parole violation** - an act or a failure to act by a parolee that does not conform to the conditions of parole.

**Parolee** - a person who has been conditionally released by a paroling authority from a person prior to the expiration of his or her sentence, and placed under the supervision of a parole agency, and who is required to observe conditions of parole.

**Part I offenses** - (a) in Uniform Crime Reports (UCR) terminology, the group of offenses, also called *major offenses*, for which UCR publishes counts of reported instances, and which consist of those that meet the following five-part criterion: (1) are most likely to be reported to police, (2) police investigation can easily establish whether a crime has occurred, (3) occur in all geographical

areas, (4) occur with sufficient frequency to provide an adequate basis for comparison, (5) are serious crimes by nature and/or volume; (b) the first of two main groupings of UCR crime classifications consisting of eight offenses (criminal homicide, forcible rape, aggravated assault, robbery, burglary, larceny-theft, motor vehicle theft, and arson).

**Part II offenses** - (a) in Uniform Crime Reports (UCR) terminology, a set of offense categories used in UCR data concerning arrests; (b) the second of two main UCR groupings of crime classifications not already designated in Part I. Agencies are limited to reporting arrest information only for Part I offenses with the exception of simple assault.

**Party** - person having a direct interest in a legal matter, transaction or proceeding.

**Party official** - person who holds an elective or appointive post in a political party in the United States by virtue of which he directs or conducts, or participates in directing or conducting party affairs at any level of responsibility.

**Passenger car** - every motor vehicle except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons.

**Passenger vehicle** - every motor vehicle designed to carry ten passengers or less and used for the transportation of persons but shall not mean pickup trucks, motorcycles, motor driven cycles, or vehicles equipped for off-road use, provided that the term passenger vehicle includes pickup trucks for any occupant who is under 18 years of age.

**Patient** - (a) any person who has received health care services from a provider; (b) individual to whom a controlled substance is lawfully dispensed or administered.

**Patrol dog** - dog trained to protect a peace officer and to apprehend or hold without excessive force a person in violation of the criminal statutes of a state.

**Pattern of criminal street gang activity** - commission or attempted commission of, or solicitation or conspiracy to commit, two or more felony or three or more misdemeanor offenses, or one felony and two misdemeanor offenses, or the comparable number of delinquent acts or violations of law which would be felonies or misdemeanors if committed by an adult, on separate occasions within a 3-year period.

**Pattern of racketeering activity** - (a) engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after July 1, 1980, and that the last of such incidents occurred within four years, excluding any periods of imprisonment, after the commission of a prior incident of racketeering activity; (b) engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within 5 years after a prior incident of racketeering conduct.

**Pawn account** - total accumulation of unpaid pawn finance charges for any single customer.

**Pawnbroker** - any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any property as security for the payment or repayment of money.

**Peace officer** - (a) any person designated as a reserve or auxiliary sheriff or city police officer, or a deputy sheriff; (b) any person duly elected, appointed, or employed to engage in public law enforcement work; (c) a duly appointed city, county, or state law enforcement officer.

**Pecuniary benefit** - (a) benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain; (b) benefit in the form of any commission, gift, gratuity, property, commercial interest, or any other thing of economic value; (c) any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain.

**Pecuniary value** - (a) anything of value in the form of money, a negotiable instrument, or a commercial interest or anything else the primary significance of which is economic advantage; or (b) any other property or service that has a value in excess of \$100.

**Pedestrian** - any person afoot.

**Peeping Tom** - person who peeps through windows or doors, or other like places, on or about the premises of another for the purpose of spying upon or invading the privacy of the persons spied upon and the doing of any other acts of a similar nature which invade the privacy of such persons.

**Pen register** - instrument or apparatus which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any instrument or apparatus used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider of any instrument or apparatus used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business.

**Penal code** - written, organized, and compiled form of the criminal laws of a jurisdiction.

**Penal law** - (a) that branch of modern law that concerns itself with offenses committed against society, members thereof, their property, and the social order; (b) penal law.

**Penny-ante game** - game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value.

**Peremptory challenge** - (a) right to challenge a juror without assigning a reason for the challenge. In most jurisdictions each party to an action, both civil and criminal, has a specified number of such challenges and after using all his peremptory challenges he or she is required to furnish a reason for subsequent challenges; (b) challenge which may be used to reject a certain number of prospective jurors without assigning any reason.

**Performance** - (a) any play, motion picture film, dance, or other exhibition performed before an audience; (b) play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

**Performer** - any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

**Perishable agricultural food product** - agricultural or aquacultural food product or commodity grown or produced within the State of Florida which is sold or distributed in a form that will perish or decay within a reasonable period of time.

**Perjury** - (a) any person who, having taken an oath that he will testify, declare, depose, or certify truly, before any competent tribunal, officer, or person in any of the cases in which such an oath may by law be administered, wilfully and contrary to such oath, state as true any material matter which he or she knows to be false; (b) act of lying or stating falsely under oath.

**Permanent residence** - in the context of a sexual predator, a place where the person abides, lodges, or resides for 14 or more consecutive days.

**Permit** - written authorization to engage in uses or activities that are otherwise prohibited, restricted, or regulated.

**Perpetrator** - chief actor in the commission of a crime, that is, the person who directly commits the criminal act.

**Persistent offender** - offender who has been convicted in a state of any felony considered a most serious offense; and has been convicted as an offender on at least two separate occasions, whether in a state or elsewhere, of felonies that under the laws of a state would be considered most serious offenses; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted.

**Person** - (a) any individual, partnership, firm, association, corporation, society, partnership or other legal entity whether private or public; (b) human being who has been born and is alive; (c) any individual, partnership, company, association, or corporation; (d) individual, corporation, business trust, estate, trust, partnership or association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

**Person authorized** - owner or lessee, or his or her agent, or any law enforcement officer whose department has received written authorization from the owner or lessee, or his or her agent, to communicate an order to depart the property in the case of a threat to public safety or welfare.

**Person in charge** - a person, a representative or employee of the person who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes, but is not limited to the person, or holder of a position, designated as the person, or position-holder in charge by a Governor, board, commission or governing body of any political subdivision of the state.

**Personal identification card** - identification document issued by a state or local government solely for the purpose of identification.

**Personal identification code** - any numerical and/or alphabetical code assigned to the card holder of a financial transaction card by the issuer to permit the authorized electronic use of that FTC.

**Personal identification information** - name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any: (a) name, social security number, date of birth, official state-issued or United States-issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food stamp account number; (b) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; (c) unique electronic identification number, address, or routing code; or (d) telecommunication identifying information or access device.

**Personal jurisdiction** - directed to a specific person to impose a personal liability on him (usually the defendant).

**Personal property** - personal property having a replacement cost value greater than \$100 including any late fees and penalties, and includes heavy equipment.

**Pet** - dog, cat or any animal that has been domesticated.

**Petit jury** - ordinary jury for the trial of a civil case (so called to distinguish it from the grand jury).

**Petition** - formal written request to a court, which initiates a special proceeding.

**Petitioner** - (a) local, county, state, or federal law enforcement agency; the Attorney General; any state attorney; or the statewide prosecutor; (b) in a special proceeding, one who commences a formal written application, requesting some action or relief, addressed to a court for determination. Also known as a plaintiff in a civil action.

**Petty offense** - any misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$5,000 or both.

**Pharmacist** - person who is licensed to practice the profession of pharmacy in this state.

**Pharmacy** - community pharmacy, an institutional pharmacy, a nuclear pharmacy, and a special pharmacy.

**Photograph** - to make a print, negative, slide, motion picture, or videotape. A photograph means any tangible item produced by photographing.

**Physical control and actual physical control** - present capability and power to dominate, direct or regulate the vehicle, vessel, or aircraft, either in person or through the agency of another, regardless of whether such vehicle, aircraft, or vessel is operated.

**Physical damage** - in addition to its ordinary meaning, shall include the alteration, damage, or erasure of records, information, data, or computer programs which are electronically recorded for use in computers.

**Physical force** - physical action against another, and includes confinement.

**Physical injury** - impairment of physical condition or substantial pain.

**Physically helpless** - (a) person who is unconscious or for any other reason physically unable to communicate unwillingness to an act; (b) unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

**Physically incapacitated** - bodily impaired or handicapped and substantially limited in ability to resist or flee.

**Picture tube** - cathode ray tube, commonly known as a television picture tube, designed primarily for use in a home-type television receiver alone or in combination with any electronic device or appliance.

**Pistol** - (a) any firearm of any shape with a barrel less than 16 inches in length and capable of discharging loaded ammunition or any noxious gas; (b) any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

**Place of work** - all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch.

**Placement** - giving or transferring of possession or custody of a child by any person to another person for adoption or with the intent or purpose of surrendering the control of the child.

**Plaintiff** - person who initiates a court action.

**Plain view** - ready visibility of objects that might be seized as evidence during a search by police in the absence of a search warrant specifying the seizure of those objects. In order for evidence in plain view to be lawfully seized, officers must have a legal right to be in the viewing area, and must have cause to believe that the evidence is somehow associated with criminal activity.

**Plea** - defendant's formal answer in court to the charge contained in a complaint, information, or indictment, that he or she is guilty or not guilty of the offense charged, or does not contest the charge.

**Plea bargaining** - negotiated agreement between defendant, prosecutor, and the court as to what an appropriate plea and associated sentence should be in a given case. Plea bargaining circumvents the trial process and dramatically reduces the time required for the resolution of a criminal case.

**Pleadings** - complaint or petition, answer, and reply.

**Plunder** - to seize or appropriate public or private property unlawfully.

**Pneumatic tire** - every tire in which compressed air is designed to support the load. A vehicle shall be considered equipped with pneumatic tires when pneumatic tires are used on all wheels.

**Pole trailer** - every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long and irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

**Police animal** - dog or horse used in police work under the control of a peace officer who has successfully completed at least 360 hours of training in the care and use of a police animal, or who has passed the demonstration of minimum standards established by a state, Canine Association, or other accredited and recognized animal handling organization.

**Police dog** - (a) bomb detection dog, a firearms detection dog, a narcotic detection dog, a patrol dog, or a tracking dog used by a law enforcement agency; (b) dog that is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

**Police ethics** - special responsibility for adherence to moral duty and obligation inherent in police work.

**Police horse** - horse trained to transport, carry, or be ridden by a law enforcement officer and used by a law enforcement agency.

**Police officer** - (a) every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations; (b) any person duly elected, appointed, or employed to engage in public law enforcement work.

**Polling the jury** - practice whereby the jurors are asked individually whether they assented, and still assent, to the verdict.

**Poppy straw** - all parts, except the seeds, of the opium poppy after mowing.

**Pornographic** - any material or performance is pornographic if all the following coalesce: (a) the average person, applying contemporary community standards would find that, taken as a whole, it appeals to the prurient interest; (b) it depicts or describes sexual conduct in a patently offensive way; and (c) taken as a whole, it lacks serious literary, artistic, political, or scientific merit.

**Pornographic for minors** - any material or performance is *pornographic for minors* if: (a) it is primarily devoted to explicit and detailed narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse; and: (1) it is presented in such a manner that the average person applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and (2) taken as a whole, it lacks serious literary, artistic, political, or scientific value; or (b) it contains any photograph, drawing, or similar visual representation of any person of the age of puberty or older revealing such person with less than a fully opaque covering of his or her genitals and pubic area, or depicting such person in a state of sexual excitement or engaged in acts

of sexual conduct or sadomasochistic abuse; and: (1) it is presented in such a manner that the average person, applying contemporary community standards, would find that, taken as a whole, it appeals to a minor's prurient interest; and (2) taken as a whole, it lacks serious literary, artistic, political, or scientific value.

**Position of trust and confidence** - with respect to an elderly person or a disabled adult means the position of a person who: (a) is a parent, spouse, adult child, or other relative by blood or marriage of the elderly person or disabled adult; (b) is a joint tenant or tenant in common with the elderly person or disabled adult; (c) has a legal or fiduciary relationship with the elderly person or disabled adult, including, but not limited to, a court-appointed or voluntary guardian, trustee, attorney, or conservator; or (d) is a caregiver of the elderly person or disabled adult or is any other person who has been entrusted with or has assumed responsibility for the use or management of the elderly person's or disabled adult's funds, assets, or property.

**Positive identification** - identification of an individual using biometric characteristics that are unique and not subject to alteration. In present usage, the term refers to identification by fingerprints but may also include identification by retinal images, DNA, voiceprints or other techniques. Positive identification is to be distinguished from identification using name, sex, date of birth, or other personal identifiers as shown on a document subject to alteration or counterfeit such as a birth certificate, Social Security card or driver's license. Because individuals can have identical or similar names, ages and other information, identifications based on such characteristics are not reliable.

**Possess** - (a) to have physical possession or otherwise to exercise dominion or control over property; (b) exercise control of something.

**Possessing stolen property** - knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

**Possession** - (a) exercising direct physical control or dominion, with or without ownership, over property, or archaeological, cultural or natural resources; care, custody, management, or control; (b) temporary possession for the purpose of verification or testing, irrespective of dominion or control.

**Post** - area where the sentinel or lookout is required to be for the performance of duties.

**Posted land** - land upon which signs are placed not more than 500 feet apart along, and at each corner of, the boundaries of the land, upon which signs there appears prominently, in letters of not less than 2 inches in height, the words *no trespassing* and in addition thereto the name of the owner, lessee, or occupant of said land. Said signs shall be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line.

**Potential for abuse** - that a substance has properties of a central nervous system stimulant or depressant or an hallucinogen that create a substantial likelihood of its being: (a) used in amounts that create a hazard to the user's health or the safety of the community; (b) diverted from legal channels and distributed through illegal channels; or (c) taken on the user's own initiative rather than on the basis of professional medical advice.

**Potentially lethal projectile** - projectile launched from any firearm, bow, crossbow, or similar tensile device.

**Power of attorney** - instrument authorizing one to act legally for another either generally or in a specified matter.

**P.P.O.** - abbreviation for *probationary police officer*. A sworn member who has been employed as a police officer or deputy sheriff for less than one year. Informally referred to as a *rookie*.

**Practitioner** - (a) physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of his professional practice or research in a state; (b) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of their professional practice or research in a state; (c) physician, dentist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by the United States or the jurisdiction in which such person practices to distribute or possess a controlled substance in the course of professional practice.

**Precedent** - (a) legal principle that operates to ensure that previous judicial decisions are authoritatively considered and incorporated into future cases; (b) previously adjudged action or decision on same or similar point, serving as a rule or example for present guidance.

**Preclude** - to prevent or stop.

**Preliminary hearing** - proceeding before a judicial officer in which three matters must be decided: (a) whether a crime was committed; (b) whether the crime occurred within the territorial jurisdiction of the court; and whether there are reasonable grounds to believe that the defendant committed the crime.

**Premises** - any building and any real property.

**Prescription** - order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so. The term also includes an order for drugs or medicinal supplies so transmitted or written by a physician, dentist, veterinarian, or other practitioner licensed to practice in a state, but only if the pharmacist called upon to fill such an order determines, in the exercise of his or her professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies so ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness. However, if the physician writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of said prescription. A prescription order for a controlled substance shall not be issued on the same prescription blank with another prescription order for a controlled substance which is named or described in a different schedule, nor shall any prescription order for a controlled substance be issued on the same

prescription blank as a prescription order for a medicinal drug, which does not fall within the definition of a controlled substance as defined in this act.

**Presentence investigation** - examination of a convicted offender's background prior to sentencing. Presentence examinations are generally conducted by probation/parole officers and submitted to sentencing authorities.

**Presentment** - (a) written notice of an offense taken by a grand jury from their own knowledge or observation; (b) any of several presentations of alleged facts and charges to a court or a grand jury by a prosecutor.

**Pretrial discovery** - disclosure by the prosecution or the defense prior to trial of evidence or other information which is intended to be used in the trial.

**Price** - anything of value.

**Prison** - (a) correctional, detention or penal facility; (b) any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail.

**Prison riot** - whenever two or more inmates of a correctional institution assemble for any purpose, and act in such a manner as to disturb the good order of the institution and contrary to the commands of the officers of the institution, by the use of force or violence, or the threat thereof, and whenever acting in concert or not.

**Prisoner** - any person in physical custody in a confinement facility, or in the personal physical custody of a criminal justice official while being transported to or between confinement facilities. A person in physical custody in a state or federal confinement facility.

**Private area of the individual** - naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual.

**Private impound** - that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

**Private place** - place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access.

**Private road or driveway** - every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons.

**Pro se** - for oneself; in one's own behalf; in person; a pro se party is one who, without representation, acts as his/her own attorney.

**Probable cause** - (a) set of facts and circumstances such as to warrant a person of prudence and

caution to believe; or good reason, which is a reasonable person in the officer's position would understand and accept, to believe; (b) solid grounds, sufficient, current (not dated or stale) facts, that would cause a reasonable person to believe, the fact in question.

**Probation** - (a) sentence of imprisonment that is suspended; (b) conditional freedom granted by a judicial officer to an adjudicated or adjudged adult or juvenile offender, as long as the person meets certain conditions if behavior.

**Probationer** - person who is placed on probation status and required by a court or probation agency to meet certain conditions of behavior, who may or may not be placed under the supervision of a probation agency.

**Problem** - in the CAPS model, a problem suitable for police/community resolution has the following characteristics: it is a group of related incidents; it affects a number of people; it is unlikely to disappear without intervention; a number of people agree to work on it; and it can be impacted with available resources.

**Problem-solving policing** - style of policing which assumes that many crimes are caused by existing social condition within the community, and that crimes can be controlled by uncovering and effectively addressing underlying social problems. Problem-solving policing makes use of other community resources such as counseling centers, welfare programs, and job training facilities. It also attempts to involve citizens in the job of crime prevention through education, negotiation, and conflict management.

**Procedural defense** - defense which claims that the defendant was in some significant way discriminated against in the justice process, or that some important aspect of official procedure was not properly followed in the investigation or prosecution.

**Proceeding** - succession of events constituting the process by which judicial action is invoked and utilized pursuant to procedure.

**Proceeds** - property of any kind acquired or derived indirectly from, produced through, realized through, or caused by an act or omission.

**Process** - a legal means, such as a summons, used to subject a defendant in a lawsuit to the jurisdiction of the court; broadly, refers to all writs issued in the course of a legal proceeding.

**Produce** - alter, authenticate, or assemble.

**Production** - manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

**Profits from prostitution** - if, acting other than as a prostitute receiving compensation for personally-rendered prostitution services, a person accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of prostitution activity.

**Promote** - (a) to manufacture, issue, sell, give, provide, deliver, publish, distribute, circulate,

disseminate, present, exhibit or advertise, or to offer or agree to do the same; (b) procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

**Proof of insurance document** - any card, paper, or other document issued by, on behalf of, or purportedly on behalf of an insurer to a motor vehicle policyholder or applicant for motor vehicle coverage, which document is designed to constitute proof or evidence of the minimum motor vehicle liability insurance.

**Property** - (a) any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind; or, anything of value, including any interest, benefit, privilege, claim, or right with respect to anything of value, whether real or personal, tangible, or intangible; (b) anything of value, whether tangible or intangible, real or personal.

**Property crime** - includes burglary, larceny, auto theft, and arson. Since citizen reports of criminal incidents figure heavily in the compilation of *official statistics*, the same critiques apply to tallies of these crimes as to the category of violent crime.

**Property of another** - (a) property in which any person other than the accused has an interest but does not include property belonging to the spouse of an accused or to them jointly; (b) property in which a person has an interest upon which another person is not privileged to infringe without consent, whether or not the other person also has an interest in the property.

**Prosecutor** - (a) attorney who is elected or appointed chief of a prosecution agency, and whose official duty is to conduct criminal proceedings on behalf of the people against persons accused of committing criminal offenses; (b) also called, *district attorney, DA, state's attorney, county attorney, and U.S. attorney* and any attorney deputized to assist the chief prosecutor.

**Prosecutorial discretion** - decision-making power of prosecutors based upon the wide range of choices available to them in the handling of criminal defendants, the scheduling of cases for trial, the acceptance of bargained pleas, and so on. The most important form of prosecutorial discretion lies in the power to charge, or not to charge, a person with an offense.

**Prostitution** - (a) giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses; (b) offering or agreeing to engage in, or engaging in, a sex act with another in return for a fee; the unlawful promotion of or participation in sexual activities for profit.

**Protection order** - any injunction or other order issued for the purpose of preventing violence or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child support orders) whether obtained by filing an independent action or as a *pendente lite* order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.

**Provider** - physician, hospital, or other institution, organization, or person that furnishes health care services and is licensed or otherwise authorized to practice in the state.

**Provoking** - words or gestures which are used in the presence of the person to whom they are directed and which a reasonable person would expect to induce a breach of the peace under the circumstances.

**Prurient interest** - shameful or morbid interest in nudity, sex, or excretion, which goes substantially beyond customary limits of candor in description or representation of such matters. If it appears from the character of the material or the circumstances of its dissemination that the subject matter is designed for a specially susceptible audience or clearly defined deviant sexual group, the appeal of the subject matter shall be judged with reference to such audience or group.

**Psychopath** - (a) sociopath; (b) person with a personality disorder, especially one manifested in aggressively antisocial behavior, which is often said to be the result of a poorly developed superego.

**Psychotherapy** - professional treatment or counseling of a mental or emotional illness, symptom, or condition.

**Public** - affecting or likely to affect a substantial number of persons.

**Public building** - hospital, capitol building, a public or private school, college or university, a county courthouse, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation.

**Public defender** - attorney employed by a government agency or subagency, or by a private organization under contract to a unit of government, for the purpose of providing defense services to indigents or an attorney who has volunteered such service. The head of a government agency or subunit whose function is the representation in court of persons accused or convicted of a crime who are unable to hire private counsel, and any attorney employed by such an agency or subunit whose official duty is the performance of the indigent defense function.

**Public gathering** - shall include, but shall not be limited to, athletic or sporting events, churches or church functions, political rallies or functions, publicly owned or operated buildings, or establishments at which alcoholic beverages are sold for consumption on the premises.

**Public housing** - housing which is constructed, operated, maintained, financed, or subsidized by a state, a county, a municipal corporation, residential finance authority, a housing authority, or by any other political subdivision or public corporation of a state or its subdivision.

**Public impound** - that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

**Public money** - proceeds derived from the sale of bonds or other evidence of indebtedness authorized by the legislative body of any city, county, district, or public money.

**Public official** - person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another.

**Public park or recreational ground** - any park, park roadway, playground, athletic field, beach, shore, beach or shore right-of-way, tennis court, golf course, swimming pool, or other recreational area or facility under control, maintenance, and management of the State or any of the counties.

**Public place** - (a) place to which the public or a substantial group of persons has access and includes highways, transportation facilities, schools, places of amusement or business, parks, playgrounds, prisons, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. For the purposes of *loitering for prostitution*, the definition of public place is: any street, sidewalk, bridge, alley, or alleyway, plaza, driveway, parking lot or transportation facility or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such places; (b) all walks, alleys, streets, boulevards, avenues, lanes, roads, highways, or other ways or thoroughfares dedicated to public use or owned or maintained by public authority; and all grounds and buildings owned, leased by, operated, or maintained by public authority; (c) place to which the public has access, including, but not limited to, streets, highways, public parks, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, and shops.

**Public records** - records, reports, statements, or data compilations, in any form, public offices or agencies, setting forth the activities of the office or agency, or matters observed pursuant to duty imposed by law as to which matters there was a duty to report; classified matters.

**Public safety agency** - any federal, state, or county police, fire, emergency medical service, or civil defense relief agency.

**Public safety department** - an agency organized at the state or local level of government unincorporating at a minimum various law enforcement and emergency service functions.

**Public school** - any school under the control and management of a county, independent, or area board of education supported by public funds and any school under the control and management of a State Board of Education or department or agency thereof supported by public funds.

**Public servant** - (a) any officer or employee of government, including legislators and judges, and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function; but the term does not include witness; (b) any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function; (c) public officer, agent, or employee of government, whether elected or appointed, including, but not limited to, any executive, legislative, or judicial officer; any person who holds an office or position in a political party or political party committee, whether elected or appointed; and any person participating as a special master, receiver, auditor, juror, arbitrator, umpire, referee, consultant, administrative law judge, hearing officer, or hearing examiner, or person acting on behalf of any of these, in performing a governmental function; but the term does not include witnesses. Such term shall include a candidate for election or appointment to any such office, including any individual who seeks or intends to occupy any such office. It shall include any person appointed to any of the foregoing offices or employments before and after he or she qualifies.

**Public transit vehicle** - (a) bus, van, or rail car used for the transportation of passengers within a system which receives a subsidy from tax revenues or is operated under a franchise contract with a county or municipality; (b) public paratransit vehicle providing service to the disabled, any transit vehicle used for the transportation of passengers in return for legally charged fees or fares, any school bus, or any taxi.

**Public utility** - pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, railroad, airplane, transportation, communication, or other system, by whomsoever owned or operated for public use.

**Publish** - communication or dissemination of information to any one or more persons either orally, in person, by telephone, radio or television, or in writing of any kind, including without limitation a letter, memorandum, circular, handbill, newspaper or magazine article, or book.

**Punitive damages** - monetary compensation awarded in excess of ordinary damages, as punishment for a gross wrong.

**Purge** - to atone for an offense, to submit to a court's mandate (i.e., to purge oneself of contempt of court).

**Pyrotechnic composition** - pyrotechnic contents; the combustible or explosive component of fireworks.

**- Q -**

**Quits** - goes absent without authority.

**- R -**

**Racial group** - set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent.

**Racing** - use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes.

**Rack** - container in which the objects are placed after being drawn and announced.

**Racketeering activity** - any act or threat involving, but not limited to murder, kidnapping, gambling, arson, robbery, bribery, extortion, larceny or prostitution, or any dealing in narcotic or other dangerous drugs which is chargeable as a crime under state law and punishable by imprisonment for more than one year.

**Radar** - law enforcement speed radar, any laser-based or microwave-based speed-measurement system employed by a law enforcement agency to detect the speed of motorists.

**Radioactive materials** - any materials or combination of materials which emit ionizing radiation spontaneously in which the radioactivity per gram of material, in any form, is greater than 0.002 microcuries.

**Railroad** - carrier of persons or property upon cars operated upon stationary rails.

**Railroad sign or signal** - any sign, signal, or device erected by authority of a public body or official, or by a railroad, and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

**Railroad train** - steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar.

**Rake** - set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

**Rape** - (a) sexual intercourse by a person, executed by force and without consent of the victim. It may be committed on a victim of any age. Any penetration, however slight, is sufficient to complete the offense (USC); (b) the carnal knowledge of a female forcibly and against her will.

**Rapid response car** - squad car assigned to patrol a sector within a district and respond to in-progress (emergency) calls. Instituted as part of the CAPS strategy, rapid response cars allow beat officers greater opportunity to deal with chronic problems on their own beat.

**Readily accessible for immediate use** - firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.

**Real property** - (a) any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property; (b) all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens; (c) coextensive with lands, tenements, and hereditaments.

**Reasonable doubt** - actual and substantial doubt arising from the evidence, from the facts or circumstances shown by the evidence, or from the lack of evidence. That state of the case which after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction of the truth of the charge.

**Reasonable doubt standard** - standard of proof necessary for conviction in criminal trials.

**Reasonable force** - degree of force that is appropriate in a given situation and is not excessive. The minimum degree of force necessary to protect oneself, one's property, a third party, or the property of another in the face of a substantial threat.

**Reasonable suspicion** - (a) level of suspicion which would justify an officer in making further

inquiry or in conducting further investigation. Reasonable suspicion may permit a simple *stop and frisk*; (b) belief, based upon a consideration of the facts at hand and upon reasonable inferences drawn from those facts, which would induce an ordinarily prudent and cautious person under the same circumstances to generally conclude that criminal activity is taking place, or that criminal activity has recently occurred.

**Receive** - (a) includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property; (b) acquire possession or control or accept as security for a loan a credit card.

**Receives** - acquiring possession of, control of, or accepts a financial transaction card as security for a loan.

**Receptacle** - container from which the objects are drawn or ejected.

**Recidivism** - repetition of criminal behavior.

**Recidivist** - person who has been convicted of one or more crimes and who is alleged or found to have subsequently committed another crime or series of crimes.

**Reckless** - conduct that exhibits a culpable disregard of foreseeable consequences to others from the act or omission involved. The accused need not intentionally cause a resulting harm or know that his conduct is substantially certain to cause that result. The ultimate question is whether, under the circumstances, the accused's conduct was of the heedless nature that made it actually or imminently dangerous to the rights or safety of others.

**Reckless conduct** - conduct which consciously disregards a substantial and unjustifiable risk that matter may be obscene. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that an average law-abiding person would observe in the actor's situation under like circumstances.

**Recklessness** - a person is reckless or acts recklessly when he knows of and disregards a substantial risk that a wrongful act may occur and his disregard of such substantial risk is a gross deviation from conduct that a reasonable man would exercise in the same situation.

**Recuse** - to disqualify oneself as a judge.

**Redact** - to edit, revise.

**Reduction** - sale of a tube at a price that is less than the manufacturer's list price for that tube.

**Referee** - person to whom a cause pending in a court is referred by the court to take testimony, hear the parties, and report thereon to the court, or to make a judicial determination - the referee is an officer exercising judicial powers and is an arm of the court for a specific purpose.

**Registered owner** - person whose lawful right of possession of a vehicle has most recently been

recorded with the department of motor vehicles.

**Registrant** - person in whose name or names a vehicle is properly registered.

**Registration period** - period of 12 months during which a motor vehicle or mobile home registration is valid.

**Rehabilitation** - (a) attempt to reform a criminal offender; (b) state in which a reformed offender is said to be.

**Relative** - (a) parent, ancestor, brother, sister, uncle, aunt, or legal guardian; (b) an ancestor, descendant, or sibling, including a relative of the same degree through marriage or adoption, or a spouse.

**Relief** - legal remedy.

**Religious group** - set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals.

**Remain** - stay unnecessarily in a particular place.

**Remand** - to send a case back from an appellate court to the lower court from which it came, for further proceedings.

**Remittitur** - legal process by which an appellate court transmits to the court below the proceedings before it, together with its decision, for such further action and entry of judgment as is required by the decision of the appellate court.

**Remote storage service** - provision to the public of computer storage or processing services by means of an electronic communication system.

**Remote stun gun** - nonlethal device with a tethered range not to exceed 16 feet and which shall utilize an identification and tracking system which, upon use, disperses coded material traceable to the purchaser through records kept by the manufacturer on all remote stun guns and all individual cartridges sold which information shall be made available to any law enforcement agency upon request.

**Renders criminal assistance** - person renders criminal assistance if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who he knows has committed a crime or juvenile offense or is being sought by law enforcement officials for the commission of a crime or juvenile offense or has escaped from a detention facility he: (a) harbors or conceals such person; or (b) warns such person of impending discovery or apprehension; or (c) provides such person with money, transportation, disguise, or other means of avoiding discovery or apprehension; or (d) prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or (e) conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of such person; or (f) provides such person with a weapon.

**Renewal period** - period during which renewal of a motor vehicle registration or mobile home registration is required.

**Replacement motor vehicle** - any motor vehicle under tow by a wrecker to the location of a disabled motor vehicle for the purpose of replacing the disabled motor vehicle, thereby permitting the transfer of the disabled motor vehicle's operator, passengers, and load to an operable motor vehicle.

**Replevin** - action brought for the owner of items to recover possession of those items when those items were wrongfully taken or are being wrongfully kept.

**Reply** - plaintiff's response to a defendant's answer when the answer contains a counterclaim.

**Representing** - (a) describing, depicting, containing, constituting, reflecting, or recording; (b) completely or partially describing, depicting, embodying, containing, constituting, reflecting, or recording.

**Res** - subject matter.

**Res judicata** - a thing judicially acted upon or decided.

**Residence** - home, apartment, condominium, or other dwelling unit.

**Residence district** - territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of 300 feet or more, is, in the main, improved with residences or residences and buildings in use for business.

**Resident** - (a) for the purposes of vehicle license registration, a resident is a person who manifests an intent to live or be located in a state on more than a temporary or transient basis. Evidence of residency includes but is not limited to: (1) becoming a registered voter in a state; or (2) receiving benefits under a state public assistance programs; or (3) declaring that he or she is a resident for the purposes of obtaining a state license or tuition fees at resident rates; (b) a person who has his or her principal place of domicile in this state for a period of more than 6 consecutive months, who has registered to vote in this state, who has made a statement of domicile, or who has filed for homestead tax exemption on property in this state.

**Resists** - use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer.

**Respondent** - one who formally answers the allegations stated in a petition which has been filed with the court. Also known as a defendant in a civil action.

**Restitution** - court requirement that an alleged or convicted offender pay money or provide services to the victim of the crime or provide services to the community.

**Restore/ reinstate to calendar** - to reinstate the action to active inventory.

**Restrain** - to restrict a person's movement in such a manner as to interfere substantially with his liberty by means of force, threat, or deception; or if the person is under the age of 18 or incompetent.

**Restraint** - to restrict a person's movements without consent and without legal authority in a manner which interferes substantially with his liberty. Restraint is without consent if it is accomplished by (a) physical force, intimidation, or deception; or (b) any means including acquiescence of the victim, if the child is less than 16 years old or an incompetent person and if the parent, guardian, or other person or institution leaving lawful control or custody of him has not acquiesced.

**Restricted personal information** - with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual.

**Restriction** - prohibition against operating certain types of motor vehicles or a requirement that a driver comply with certain conditions when driving a motor vehicle.

**Retail** - sale or offering for sale of individual items of merchandise to the ultimate consumer.

**Retail theft** - taking possession of or carrying away of merchandise, money, or negotiable documents; altering or removing a label or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

**Retailer** - one who acquires for the purpose of sale, keeps for sale, offers or exposes for sale, or sells individual units of merchandise to the ultimate consumer and not for resale.

**Retaliation** - includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.

**Revocation** - revocation means that a licensee's privilege to drive a motor vehicle is terminated. A new license may be obtained only as permitted by law.

**Revoke** - invalidation for a period of one calendar year and thereafter until reissue.

**Revoked credit card** - credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

**RICO** - Racketeer Influenced and Corrupt Organizations Act.

**Right of access** - right of ingress to a highway from abutting land and egress from a highway to abutting land.

**Right-of-way** - right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

**Rights of defendant** - those powers and privileges which are constitutionally guaranteed to every defendant.

**Ringelmann chart** - Ringelmann smoke chart with instructions for use as published by the United States bureau of mines in May 1967 and as thereafter amended, information circular 7718.

**Riot** - (a) any use of force or violence, disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law; (b) a tumultuous disturbance of the peace by three or more persons assembled together in furtherance of a common purpose to execute some enterprise of a private nature by concerted action against anyone who might oppose them, committed in such a violent and turbulent manner as to cause or be calculated to cause public terror.

**R/O** - abbreviation for *responding officer*, a term used in police case reporting.

**Road** - (a) the entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic; (b) a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel and all ferries used in connection therewith.

**Road tractor** - any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon, either independently or as any part of the weight of a vehicle or load so drawn.

**Roadway** - (a) that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles; (b) in the event a highway includes two or more separated roadways, the term shall refer to any such roadway separately but shall not refer to all such roadways collectively; (c) that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term *roadway* as used herein refers to any such roadway separately, but not to all such roadways collectively.

**Robbery** - (a) felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear; (b) unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining; (c) taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear; (d) "in the course of committing a theft." An act shall be deemed "in the course of committing a theft" if it occurs in an attempt to commit theft, in the commission of theft, or in the flight after the attempt or commission.

**Robbery by sudden snatching** - taking of money or other property from the victim's person, with intent to permanently or temporarily deprive the victim or the owner of the money or other property, when, in the course of the taking, the victim was or became aware of the taking.

**Roll call** - first half hour of a watch, reserved for attendance, inspection, briefings, and training.

**Rout** - whenever two or more persons, assembled and acting together, make any attempt or advance toward the commission of an act which would be a riot if actually committed.

**Rules of evidence** - rules of court which govern the admissibility of evidence at a criminal hearing and trial.

**Runaway child** - an individual who is less than 18 years of age who is reported to any law enforcement agency as a runaway.

- S -

**Saddle mount** - arrangement whereby the front wheels of one vehicle rest in a secured position upon another vehicle. All of the wheels of the towing vehicle are upon the ground and only the rear wheels of the towed vehicle rest upon the ground.

**Sadomasochistic abuse** - (a) flagellation or torture by or upon a person as an act of sexual stimulation or gratification; (b) flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed; (c) flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself; (d) actual or simulated flagellation or torture by or upon a person who is nude, clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained by one so clothed or nude.

**Safety chains** - flexible tension members connected from the front portion of the towed vehicle to the rear portion of the towing vehicle for the purpose of retaining connection between towed and towing vehicle in event of failure of the connection provided by the primary connecting system; chains, cables, or wire ropes, or an equivalent flexible member meeting the strength requirements prescribed by administrative rules or law.

**Safety glazing materials** - glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

**Safety zone** - area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or so marked by adequate signs or authorized pavement markings as to be plainly visible at all times while set apart as a safety zone.

**Sanction** - penalty or punishment provided as a means of enforcing obedience to a law, rule or code; also, an authorization.

**SAR dog** - search and rescue dog that is owned, or the service of which is utilized, by a fire department, a law enforcement agency, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of missing persons, including, but not limited to, persons who are lost, who are trapped under debris as the result of a natural, manmade, or technological disaster, or who are drowning victims.

**Satisfaction** - discharge of a legal obligation, as in a *Satisfaction of Judgment*.

**Savings** - sale of a tube at a price that is less than the list price for a tube by the same or another manufacturer when the tubes are identical.

**Sawed-off rifle** - weapon designed or redesigned, made or remade, and intended to be fired from the shoulder; and designed or redesigned, made or remade, to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifle bore for each single pull of the trigger; and which has a barrel or barrels of less than 16 inches in length or has an overall length of less than 26 inches.

**Sawed-off shotgun** - shotgun or any weapon made from a shotgun whether by alteration, modification, or otherwise having one or more barrels less than 18 inches in length or if such weapon as modified has an overall length of less than 26 inches.

**Scheme to defraud** - systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, or promises or willful misrepresentations of a future act.

**Schizophrenics** - mentally ill individuals who suffer from disjointed thinking and, possibly, delusions and hallucinations.

**School** - (a) any elementary school, junior high school, four-year high school, senior high school, adult school or branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college; (b) preschool, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic; (c) any school, college, or university.

**School bus** - (a) any motor vehicle that complies with the color and identification requirements of and is used to transport children to or from public or private school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children. The term *school* includes all preelementary, elementary, secondary, and postsecondary schools; (b) motor vehicle that is designed to transport more than 15 persons, including the driver, and that is used to transport students to and from a public or private school or in connection with school activities, but does not include a bus operated by a common carrier in the urban transportation of school children. The term *school* includes all preelementary, elementary, secondary, and postsecondary schools.

**School organization** - any club, society, fraternity, sorority, or a group living together which has students as its principal members.

**School property** - grounds or facility of any kindergarten, elementary school, middle school, junior high school, secondary school, vocational school, or postsecondary school, whether public or nonpublic.

**School safety zone** - in, on, or within 1,000 feet of any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in, on, or within 1,000 feet of the campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.

**School vehicle** - any publicly or privately owned motor vehicle used to transport pupils to and from a school or school functions or school related events, except: (a) motor vehicle used for transportation of pupils attending schools above the 12th grade or pupils over 18 years of age; (b) privately owned passenger vehicle when the transportation is provided without compensation of any kind; (c) motor vehicle used for transportation of pupils together with other passengers as a part of the regularly scheduled operation of a mass transit system; or (d) privately owned motor vehicle when the transportation is provided by a community association or a nonprofit corporation, duly incorporated with the department of commerce and consumer affairs, which operates for the purpose of promoting recreation, health, safety, ridesharing, or social group functions.

**School zone** - (a) in, or on the grounds of, a public, parochial or private school; or (b) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

**Scientific police management** - application of social scientific techniques to the study of police administration for the purpose of increasing effectiveness, reducing the frequency of citizen complaints, and enhancing the efficient use of available resources.

**Seal** - to close a case file from public scrutiny - in instances of youthful offenders and acquittal, sealing orders are issued by the court to prevent the public from obtaining information on the cases.

**Search warrant** - document issued by a judicial officer which directs a law enforcement officer to conduct a search at a specific location, for specified property or persons relating to a crime(s), to seize the property or persons if found, and to account for the results of the search to the issuing judicial officer.

**Searches incident to an arrest** - warrantless searches of arrested individuals which are conducted in order to insure the safety of the arresting officer(s). Because individuals placed under arrest may be in the possession of weapons, courts have recognized the need for arresting officers to protect themselves by conducting an immediate and warrantless search of arrested individuals without the need of a warrant.

**Sector** - one of three geographic divisions within a police district, comprising three to five beats.

**Secure area** - area access to which is restricted by the airport authority, captain of seaport, or a public agency.

**Securely encased** - in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container which requires a lid or cover to be opened for access.

**Security for costs** - undertaking required by a court to cover the payment of costs if the judgment is against the depositor.

**Self-defense** - (a) protection of oneself or one's property from unlawful injury or the immediate risk of unlawful injury; (b) justification for an act which would otherwise constitute an offense, that the person who committed it reasonably believed that the act was necessary to protect self or property from immediate danger.

**Semiautomatic** - mode of operation by which a firearm uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger.

**Semiautomatic assault weapon** - (a) any of the firearms, or copies or duplicates of the firearms in any caliber, known as: Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models); Action Arms Israeli Military Industries UZI and Galil; Beretta Ar70 (SC-70); Colt AR-15; Fabrique National FN/FAL, FN/LAR, and FNC; SWD M-10, M-11, M-11/9, and M-12; Steyr AUG; INTRATEC TEC-9, TEC-DC9 and TEC-22; and revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12; (b) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of: a folding or telescoping stock; a pistol grip that protrudes conspicuously beneath the action of the weapon; a bayonet mount; a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and a grenade launcher; (c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of: an ammunition magazine that attaches to the pistol outside of the pistol grip; a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned; a manufactured weight of 50 ounces or more when the pistol is unloaded; and a semiautomatic version of an automatic firearm; and (d) a semiautomatic shotgun that has at least 2 of: a folding or telescoping stock; a pistol grip that protrudes conspicuously beneath the action of the weapon; a fixed magazine capacity in excess of 5 rounds; and an ability to accept a detachable magazine.

**Semiautomatic firearm** - firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

**Semiautomatic rifle** - any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

**Semitrailer** - any vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon, or is carried by, another vehicle.

**Sentence** - penalty imposed by a court upon a person convicted of a crime. The court judgment

specifying the penalty imposed upon a person convicted of a crime. Any disposition of a defendant resulting from a conviction, including the court decision to suspend execution of a sentence.

**Sentencing** - imposition of a criminal; sanction by a sentencing authority.

**Sentencing hearing** - hearing during which the court or jury considers relevant information, such as evidence concerning aggravating or mitigating circumstances, for the purpose of determining a sentencing disposition for a person convicted of an offense(s).

**Separation** - in matrimonial law, a cessation of cohabitation of husband and wife by mutual agreement, or in the case of *judicial separation*, under the decree of a court.

**Sequester** - to separate, set apart, hold aside for safekeeping or awaiting some determination; jurors are sequestered when not permitted to return home until the case is closed.

**Sequestered jury** - jury that is isolated from the public during the course of a trial and throughout the deliberation process.

**Serious bodily injury** - (a) serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member organ; a wound requiring extensive suturing; and serious disfigurement; bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; (b) physical condition which creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ; (c) bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty; (d) bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.

**Serious personal injury** - great bodily harm or pain, permanent disability, or permanent disfigurement.

**Serious physical injury** - physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

**Serious traffic violation** - speeding 15 or more miles per hour above the posted speed limit; reckless driving, as defined under state or local law; following another vehicle too closely, as defined under state or local law; improper or erratic lane change which presents a risk to any other vehicle, but not including failure to signal a lane change; or a violation, arising in connection with a fatal accident, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations.

**Service** - (a) exhibition or delivery of a writ, notice; (b) officially notifying a person of some action or proceeding in which that person is concerned.

**Service dog** - any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, intellectual, or other mental disability. A companion or comfort animal is not a service dog unless it meets the requirements of this definition and it accompanies a person for the purpose of performing the work or tasks for which it has been trained.

**Service style** - style of policing that is marked by a concern with helping rather than strict enforcement. Service-oriented agencies are more likely to take advantage of community resources, such as drug treatment programs, than are other types of departments.

**Services** - (a) includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water; (b) anything of value resulting from a person's physical or mental labor or skill, or from the use, possession, or presence of property, and includes: (1) repairs or improvements to property, (2) professional services, (3) private, public, or government communication, transportation, power, water, or sanitation services, (4) lodging accommodations, (5) admissions to places of exhibition or entertainment.

**Session** - designated set of games played in a day or part of a day.

**Severe mental pain or suffering** - prolonged mental harm caused by or resulting from the: (a) intentional infliction or threatened infliction of severe physical pain or suffering; (b) administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) threat of imminent death; or (d) threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality.

**Sex offenses** - (a) name of a broad category of varying content, usually consisting of all offenses having a sexual element except forcible rape and commercial sex offenses. All unlawful intercourse, unlawful sexual contact, and other unlawful behavior intended to result in sexual gratification or profit from sexual activity; (b) offenses against chastity, common decency, morals and the like.

**Sexual act** - (a) contact between the penis and the vulva or the penis and the anus, and contact involving the penis occurs upon penetration, however slight; (b) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or (c) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

**Sexual activity** - (a) oral, anal, or vaginal penetration by, or union with, the sexual organ of another; however, sexual activity does not include an act done for a bona fide medical purpose; (b) oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

**Sexual battery** - oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

**Sexual bestiality** - sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

**Sexual conduct** - (a) acts of masturbation, homosexuality, sodomy, lesbianism, bestiality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breast; (b) sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion; (c) actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed; (d) actual or simulated acts of masturbation, homosexuality, sodomy, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breast; (e) acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.

**Sexual contact** - (a) any contact for the purpose of sexual gratification of the actor with the intimate parts of a person not married to the actor; any touching of the sexual or other intimate parts of a person not married to the actor done with the intent of gratifying the sexual desire of either party; (b) any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party; (c) intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

**Sexual excitement** - condition of human male or female genitals when in a state of sexual stimulation or arousal.

**Sexual performer** - any person portrayed in a pornographic visual depiction engaging in, or assisting another person to engage in, sexual conduct.

**Sexually explicit conduct** - actual or simulated sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between person of the same or opposite sex; bestiality; masturbation; sadistic or masochistic abuse; or lascivious exhibition of the genitals or pubic area of any person.

**Sexually explicit nudity** - state of undress so as to expose the human male or female genitals, public area, or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

**Sexual intercourse** - (a) any penetration, however slight, and also means any penetration of the

vagina or anus, however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex; (b) any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person; (c) penetration of the female sex organ by the male sex organ, however slight; emission of semen is not required; (d) sexual intercourse in its ordinary meaning or any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person; (e) has its ordinary meaning and occurs upon any penetration, however slight, and also means any penetration of the vagina or anus, however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

**Sexual penetration** - vaginal intercourse, anal intercourse, fellatio, cunnilingus, anilingus, deviate sexual intercourse, or any intrusion of any part of a person's body or of any object into the genital or anal opening of another person's body.

**Sexual performance** - performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

**Sexually explicit conduct** - actual or simulated: (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals; (b) penetration of the vagina or rectum by any object; (c) masturbation, for the purpose of sexual stimulation of the viewer; (d) sado-masochistic abuse for the purpose of sexual stimulation of the viewer; (e) exhibition of the genitals or unclothed pubic or rectal areas of any minor for the purpose of sexual stimulation of the viewer; (f) defecation or urination for the purposes of sexual stimulation of the viewer; and (g) touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

**Sexually explicit material** - any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy, (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult genitals: provided however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

**Sexually exploitative material** - any photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material which depicts a child engaged in, participating in, observing, or being used for explicit sexual conduct.

**Sexually exploited individuals** - erotic or nude massagers and exotic or nude dancers.

**Sexually transmissible disease** - bacterial, viral, fungal, or parasitic disease, determined by rule of the Department of Health to be sexually transmissible, a threat to the public health and welfare, and

a disease for which a legitimate public interest is served by providing for regulation and treatment.

**Sheriff** - elected chief officer of a county law enforcement agency, usually responsible for law enforcement in unincorporated areas and for the operation of the county jail.

**Sheriff's department** - local law enforcement agency organized at the county level, directed by a sheriff, which exercises its law enforcement functions at the county level, usually within unincorporated areas, and operates the county jail in most jurisdictions.

**Ship** - vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

**Shopping cart** - (a) pushcarts of the type which are commonly provided by grocery stores, drugstores, or other merchant stores or markets for the use of the public in transporting commodities in stores and markets and incidentally from the store to a place outside the store; (b) a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

**Short-barreled rifle** - (a) rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length less than 26 inches; (b) rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

**Short-barreled shotgun** - (a) shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches; (b) shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

**Short form order** - order prepared by the court.

**Show cause** - order, decree, execution, etc., to appear as directed, and present to the court such reasons and considerations as one has to offer why it should not be confirmed, take effect, be executed, or as the case may be.

**Sidewalk** - property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public highway and dedicated to use by pedestrians.

**Signature** - any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto.

**Significant relationship** - situation in which the perpetrator is: (a) a person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized

recreational activities principally for minors; or (b) a person who in the course of his or her employment supervises minors.

**Silencer** - any device for silencing or diminishing the report of any portable weapon such as a rifle, carbine, pistol, revolver, machine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive.

**Simple assault** - unlawful threatening, attempted inflicting, or inflicting of less than serious bodily injury, in the absence of a deadly weapon.

**Simple negligence** - a person acts with simple negligence with respect to: (a) the person's conduct when the person should be aware of a risk that the person engages in that conduct; (b) attendant circumstances when the person should be aware of a risk that those circumstances exist; or (c) a result of the person's conduct when the person should be aware of a risk that the person's conduct will cause that result.

**Simulated controlled substance** - substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature: (a) statements made by the owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect; (b) statements made to the recipient that the substance may be resold for inordinate profit; or (c) whether the substance is packaged in a manner normally used for illicit controlled substances.

**Sine die** - without a date, as in an action being adjourned sine die. Legal process which commands a witness to appear and testify.

**Sinkhole** - closed topographic depression or basin, generally draining underground, including, but not restricted to, a doline, limesink, or sink.

**Slaughterer** - person regularly engaged in the commercial slaughtering of livestock.

**Slug** - object, article or device which, by virtue of its size, shape or any other quality is capable of being inserted, deposited, or otherwise used in a coin machine as a fraudulent substitute for a genuine coin, bill or token.

**Slungshot** - small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon.

**Small claims assessment review (SCAR)** - filing by any person aggrieved by an assessment of a one, two or three family, owner occupied residential structure used for residential purposes (including condominiums).

**Smuggling** - unlawful movement of goods across a national frontier or state boundary or into or out of a correctional facility.

**Snowmobile** - self-propelled vehicle intended for travel primarily on snow, having a curb weight of not more than 1000 pounds (454 kg), driven by a track or tracks in contact with the snow, and steered by ski or skis in contact with the snow.

**Sociopath** - (a) psychopath; (b) a person with a personality disorder, especially one manifested in aggressively antisocial behavior, which is often said to be the result of a poorly developed superego.

**Solid tires** - tire of rubber or similarly elastic material that do not depend on confined air for the support of the load. A vehicle shall be considered equipped with solid tires when solid tires are used on two or more wheels.

**Sound recording** - any production of a master recording.

**Sparkler** - device which emits showers of sparks upon burning, does not contain any explosive compounds, does not detonate or explode, is hand held or ground based, cannot propel itself through the air, and contains not more than 100 grams of the chemical compound which produces sparks upon burning. Any sparkler that is not approved by the division is classified as fireworks.

**Special fireworks** - any firework designed primarily for exhibition display by producing visible or audible effects and classified as special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G and which are prohibited for use by any person who does not have a display permit issued by a county.

**Special highway construction equipment** - any vehicle designed and used primarily for equipment grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery including dump trucks and tractor-dump trailer combinations which either (a) are in excess of the legal width; or (b) which, because of their length, height or unladen weight, any not be moved on a public highway without a permit and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment; or (c) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed 500 feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

**Special fireworks** - any firework designed primarily for exhibition display by producing visible or audible effects and classified as special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G and which are prohibited for use by any person who does not have a display permit issued by a county.

**Special maritime and territorial jurisdiction of the United States** - includes: (a) the high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any state, territory, district, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state; (b) any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line; (c) any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the state in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building; (d) any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States; (e) any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any state, territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state; (f) any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of states in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard; (g) any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States; or (h) to the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

**Special master** - special master is an attorney appointed on an ad hoc basis to assist the court in hearing motions.

**Special mobile equipment** - any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

**Special proceedings** - general term for remedies or proceedings which are not ordinary actions, e.g., condemnation.

**Special referee (or referee)** - special referee has the authority to exercise judicial functions when

assigned duties by the court to determine the following (a) to determine an issue (binding); (b) to perform an act (disclosure); (c) to hear and report - matrimonial actions may be included.

**Special term** - court part set aside to hear specific types of cases.

**Special verdict** - special finding of the facts of a case by a jury leaving to the court the application of the law to the facts thus found.

**Specified unlawful activity** - any act, or series of acts, that: (a) constitutes a felony under the laws of a state; (b) if occurring outside a state, may be punishable by confinement for more than one year under the laws of the state in which the act occurred; (c) involves an act(s) constituting the offenses of gambling, criminal property damage, extortion, theft, prostitution, a drug offense, or any firearm offense; or (d) if occurring outside a state, would constitute the offenses of gambling, criminal property damage, extortion, theft, prostitution, a drug offense, or any firearm offense under the laws of a state.

**Speedy trial** - trial which is held in a timely manner. The right of a defendant to have a prompt trial is guaranteed by the Sixth Amendment of the U.S. Constitution which reads, "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. . ."

**Speleogen** - erosional feature of a cave boundary, including, but not restricted to, anastomoses, scallops, rills, flutes, spongework, or pendants.

**Speleothem** - natural mineral formation or deposit occurring in a cave, including, but not restricted to, a stalagmite, stalactite, helictite, anthodite, gypsum flower, gypsum needle, angel hair, soda straw, drapery, bacon, cave pearl, popcorn (coral), rimstone dam, column, or flowstone. Speleothems are commonly composed of calcite, epsomite, gypsum, aragonite, celestite, or other similar minerals.

**Sport shooting range or range** - area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar type of sport shooting.

**Sporting contest** - any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence.

**Spouse** - spouse, former spouse, person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the state in which the injury occurred or where the victim resides.

**Stand or standing** - halting of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers, as may be permitted by law under this chapter.

**State** - when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States

of America.

**State highway** - every highway or part thereof, which has been designated as a state highway or branch thereof, by legislative enactment.

**State highway patrol** - state law enforcement agency of which the principle functions consist of prevention, detection, and investigation of motor vehicle offenses, and the apprehension of traffic offenders.

**State or government facility** - any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

**State police** - state law enforcement agency whose principal functions usually include maintaining statewide police communications, aiding local police investigation, police training, and guarding state property, and may include highway patrol.

**State roadway** - highway designated as a state-maintained road by the Department of Transportation.

**Statement** - includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X ray, test result, or other evidence of loss, injury, or expense.

**Statute** - Constitution or an act of the legislature or initiative or referendum of a state or the federal government.

**Statute of limitations** - (a) period of time within which a lawsuit must be brought, after which it is barred for lapse of time. For example, In some states, a prosecution must be commenced within three years of the commission of a felony, or within one and one half years of the commission of a misdemeanor. There is no limitation on when a prosecution can be brought for murder, involuntary manslaughter, reckless homicide, treason, arson, or forgery; (b) statute that declares that no actions of a specified kind be commenced after a specified period of time after the cause of action arose.

**Stay** - stopping or suspension of procedure or execution by judicial or executive order.

**Stay of execution** - stopping by a court of the carrying out or implementation of a judgment, that is, of a court order previously issued.

**Sterile area** - area of an airport to which access is controlled by the inspection of persons and property in accordance with federally approved airport security programs.

**Stipulation** - agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial - most stipulations must be in writing.

**Stipulation of settlement** - formal agreement between litigants and/or their attorneys resolving their

dispute.

**Stockyard** - place, establishment, or facility commonly known as a stockyard, conducted or operated for compensation or profit as a public market, consisting of pens, or other enclosures, and their appurtenances, for the handling, keeping, and holding of livestock for the purpose of sale or shipment.

**Stolen** - obtained by theft, robbery, or extortion.

**Stolen property** - (a) property over which control has been obtained by theft; (b) property that has been the subject of any criminally wrongful taking.

**Stop** - when required, complete cessation from movement.

**Stop and frisk** - detaining of a person by a law enforcement officer for the purpose of investigation, accompanied by a superficial examination by the officer of the person's body surface or clothing to discover weapons, contraband, or other objects relating to criminal activity.

**Stop or stopping** - when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or to comply with the directions of a law enforcement officer or traffic control sign or signal.

**Straggle** - to wander away, to stray, to become separated from, or to lag or linger behind.

**Strategic policing** - style of policing which retains the traditional police goal of professional crime fighting, but enlarges the enforcement target to include nontraditional kinds of criminals such as serial offenders, gangs and criminal associations, drug distribution networks, and sophisticated white-collar and computer criminals. Strategic policing generally makes use of innovative enforcement techniques, including intelligence operations, undercover stings, electronic surveillance, and sophisticated forensic methods.

**Straight truck** - any truck on which the cargo unit and the motive power unit are located on the same frame so as to form a single, rigid unit.

**Straight truck** - any truck on which the cargo unit and the motive power unit are located on the same frame so as to form a single, rigid unit.

**Street crime** - class of offenses, sometimes defined with some degree of formality as those which occur in public locations, are visible and assaultive, and thus constitute a group of crimes which are a special risk to the public and a special target of law enforcement preventive efforts and prosecutorial attention.

**Street or highway** - (a) entire width between the boundary lines of every way or place of whatever nature when any part thereof is open to the use of the public for purposes of vehicular traffic; (b) entire width between the boundary lines of any privately owned way or place used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons, or any limited access road owned or controlled by a special district, whenever, by written

agreement entered into or, a county or municipality exercises traffic control jurisdiction over said way or place; (c) any area, such as a runway, taxiway, ramp, clear zone, or parking lot, within the boundary of any airport owned by the state, a county, a municipality, or a political subdivision, which area is used for vehicular traffic but which is not open for vehicular operation by the general public; or (d) any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district which has been created and the recreational facilities of which district are open to the general public.

**Street rod** - modified motor vehicle manufactured before 1949 which is maintained primarily for use in exhibitions, club activities, parades, and other functions of public interest but not for general transportation. For the purposes of this section, the word *modified* means that an engine, a driveline, a suspension, brakes, or other component parts manufactured after 1949 are installed.

**Strikes** - intentional blow, and includes any offensive touching of the person of an officer, however slight.

**Structure** - (a) building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof; (b) any building of any kind, any enclosed area with a roof over it, any real property and appurtenances thereto, any tent or other portable building, and any vehicle, vessel, watercraft, or aircraft; (c) any building of any kind, including fixtures and appurtenances attached thereto, any coliseum, bridge or carport, any tent or other portable building, or any vehicle, vessel, watercraft, or aircraft; (d) only those structures that are in the nature of a building or dwelling; (e) includes but is not limited to, apartments, barns, cabins, churches, condominiums, dwelling houses, factories, garages, house trailers or houseboats (used as a permanent dwelling), mills, offices, other buildings, outbuildings, public buildings, railroad cars, rooms, schools, stables, vessels (ships), and warehouses.

**Student** - any person enrolled in a school.

**Stun gun** - any item, except a taser, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge; any device that is powered by electrical charging units such as batteries and emits an electrical charge in excess of 20,000 volts or is otherwise capable of incapacitating a person by an electrical charge.

**Sua sponte** - upon its own motion, initiation or will; without a prior request.

**Subject matter jurisdiction** - topic of consideration, thing in dispute, right claimed by one party against another.

**Subpoena** - (a) written order by a judicial officer, prosecutor, defense attorney or grand jury, requiring a specific person to appear in a designated court at a specified time in order to testify in a case under the jurisdiction of that court or to bring material to be used as evidence to that court; (b) legal process which commands a witness to appear and testify.

**Subpoena duces tecum** - subpoena requiring a person to produce specified documents or records in a trial.

**Subscription television services** - cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission.

**Subsequent proceedings** - any proceeding or action taken with respect to a specific case after it has been filed with the court.

**Substance containing a solvent having the property of releasing toxic vapors or fumes** - any substance containing one or more of the following chemical compounds: Acetone; Amylacetate; Benzol or benzene; Butyl acetate; Butyl alcohol; Carbon tetrachloride; Chloroform; Cyclohexanone; Ethanol or ethyl alcohol; Ethyl acetate; Hexane; Isopropanol or isopropyl alcohol; Isopropyl acetate; Methyl cellosolve acetate; Methyl ethyl ketone; Toluol or toluene; Trichlorethylene; Tricresyl phosphate; Xylol or xylene; or any other solvent, material, substance, chemical or combination thereof, having the property of, or releasing, toxic vapor.

**Substandard-width lane** - lane that is too narrow for a moped and another vehicle to travel safely side by side within the lane.

**Substantial bodily harm** - bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part.

**Substantial bodily injury** - (a) bodily injury which involves a temporary but substantial disfigurement; or (b) temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty.

**Substantial part** - a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.

**Subversive organization** - organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy, or to assist in the overthrow or destruction of the constitutional form of the Government of the United States, the constitution or government of the state, or of any political subdivision of either of them, by revolution, force, violence, or other unlawful means.

**Subversive person** - person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises, or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy, or to assist in the overthrow or destruction of the constitutional form of the Government of the United States, or of this state, or any political subdivision of either of them, by revolution, force, violence, or other unlawful means; or who is a member of a subversive organization or a foreign subversive organization.

**Suffer** - to allow; not to forbid or hinder.

**Suit** - legal action or proceeding.

**Sum certain** - liquidated damages pursuant to contract, promissory note, or law.

**Summary judgment** - determination in an action on the grounds that there is no genuine issue of fact.

**Summons** - form used to commence a civil action and acquire jurisdiction over a party.

**Supplementary proceedings** - further inquiry, under court jurisdiction, after entry of judgment, to determine means for enforcing the judgment against judgment debtor.

**Surety** - one who is legally liable for the debt, default, or failure to carry out a duty of another.

**Surrender** - give up to the enemy.

**Suspect** - adult or juvenile considered by a criminal justice agency to be one who may have committed a specific criminal offense, but who has not been arrested or charged.

**Suspend** - invalidation for any period less than one calendar year and thereafter until reinstatement.

**Suspension** - temporary withdrawal of a licensee's privilege to drive a motor vehicle.

**Suspicion** - arrested for no specific offense and released without formal charges being placed.

**Suspicionless searches** - those searches conducted by law enforcement personnel without a warrant and without suspicion. Suspicionless searches are permissible only if base upon an overriding concern for public safety.

**Sworn member** - member of a police department or sheriff's department who takes an oath to support the constitution of the United States and their respective state. A sworn member has the authority to make arrests and carry firearms.

- T -

**Tactical officer** - police officer who works in plain clothes and concentrates on vice and narcotics arrests.

**Tandem axle** - any two axles whose centers are more than 40 inches but not more than 96 inches apart and are individually attached to or articulated from, or both, a common attachment to the vehicle, including a connecting mechanism designed to equalize the load between axles.

**Tandem trailer truck** - any combination of a truck tractor, semitrailer, and trailer coupled together so as to operate as a complete unit.

**Tandem trailer truck highway network** - highway network consisting primarily of four or more

lanes, including all interstate highways; highways designated by the United States Department of Transportation as elements of the National Network; and any street or highway designated by the Department of Transportation for use by tandem trailer trucks.

**Tank vehicle** - vehicle that is designed to transport any liquid or gaseous material within a tank either permanently or temporarily attached to the vehicle, if such tank has a designed capacity of 1,000 gallons or more.

**Tattoo** - any permanent marking or coloring of the skin with any pigment, ink, or dye, or any procedure that leaves a visible scar on the skin.

**Tax stamp** - any tax stamp, tax token, tax meter imprint, or any other form or evidence of an obligation running to a state, or evidence of the discharge thereof.

**Taxicab** - motor vehicle used to transport passengers for a fare and which is fitted with a taximeter to compute such fare.

**Team policing** - reorganization of a conventional patrol strategies into an integrated and versatile police team assigned to a fixed district.

**Tear gas gun** - weapon of such nature, except a device known as a self-defense chemical spray. Self-defense chemical spray means a device carried solely for purposes of lawful self-defense that is compact in size, designed to be carried on or about the person, and contains not more than two ounces of chemical.

**Telecommunication device** - (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communication.

**Telecommunication service** - (a) service which, in exchange for a pecuniary consideration, provides or offers to provide transmission of messages, signals, facsimiles, video images or other communication between persons who are physically separated from each other by means of telephone, telegraph, cable, wire, or the projection of energy without physical connection; (b) any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication; (c) offering of transmission between or among points specified by the user, of information of the user's choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarity capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service.

**Telemarketing** - plan, program, promotion, or campaign that is conducted to induce: (a) purchases of goods or services; (b) participation in a contest or sweepstakes, by use of one or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant; but does not include

the solicitation of sales through the mailing of a catalog that: contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustration; and has been issued not less frequently than once a year.

**Temporary residence** - in the context of a sexual predator, a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address; for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state; or a place where the person routinely abides, lodges, or resides for a period of 4 or more consecutive or non-consecutive days in any month and which is not the person's permanent residence, including any out-of-state address.

**Tender age youth/juvenile** - person under the age of 13.

**Terminal** - any location where: (a) freight either originates, terminates, or is handled in the transportation process; or (b) commercial motor carriers maintain operating facilities.

**Territorial sea of the United States** - all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

**Terrorism** - violent act or an act dangerous to human life in violation of the criminal laws of the United States or of any state to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.

**Terrorist act** - (a) intimidate or coerce a civilian population, (b) influence the policy of a branch or level of government by intimidation or coercion; (c) affect the conduct of a branch or level of government by intimidation or coercion; or (d) retaliate against a branch or level of government for a policy or conduct of the government.

**Testimony** - (a) oral testimony offered by a sworn witness on the witness stand during a criminal trial. (b) an oral declaration made by a witness or party under oath.

**Theft** - (a) to wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or (b) by color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or (c) to appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services.

**Theme park or entertainment complex** - complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

**Thing of value** - any money, coin, currency, check, chip, allowance, token, credit, merchandise, property, or any representative of value.

**Third-party action** - claim asserted by a defendant, styled a third-party plaintiff, against a person, styled a third-party defendant.

**Threat** - an express present determination or intent to kill, injure, or intimidate a person or to damage or destroy certain property presently or in the future.

**Threat to retaliate** - threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

**Threatening or placing that child in fear** - communication or action that is of sufficient consequence to cause the child to fear that non-compliance will result in the child or another person being subjected to the action contemplated by the communication or action.

**Threatening or placing that other person in fear** - communication or action that is of sufficient consequence to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action.

**Through highway** - any highway or portion thereof on which vehicular traffic is given the right-of-way and at the entrances to which vehicular traffic from intersecting highways is required to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or yield sign, or otherwise in obedience to law.

**Tire width** - tire width is that width stated on the surface of the tire by the manufacturer of the tire, if the width stated does not exceed 2 inches more than the width of the tire contacting the surface.

**To incite a riot** - (a) to organize, promote, encourage, participate in, or carry on a riot; (b) includes, but not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

**To sell** - passing of title and possession of a controlled substance from the seller to the buyer for the price whether or not the price is paid immediately or at a future date.

**Tobacco product sample** - a tobacco product distributed to members of the general public at no cost for purposes of promoting the product.

**Tomb** - mausoleum, columbarium, or belowground crypt.

**Took** - any actual or constructive moving, carrying, leading, riding, or driving away of another's personal property.

**Tort** - (a) private or civil wrong or injury. The unlawful violation of a private legal right other than a mere breach of contract, express, or implied; (b) an injury or wrong committed, either with or without force, and either intentionally or negligently, to the person or property of another.

**Torture** - (a) an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful

sanctions) upon another person within his custody or physical control; (b) act, omission, or neglect whereby unnecessary or unjustifiable pain or suffering is caused, except when done in the interest of medical science, permitted, or allowed to continue when there is reasonable remedy or relief.

**Touching** - physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

**Tow** - to pull or draw any motor vehicle with a power unit by means of a direct attachment, drawbar, or other connection or to carry a motor vehicle on a power unit designed to transport such vehicle from one location to another.

**Toxin** - whatever its origin or method of production (a) any poisonous substance produced by a living organism; or (b) any poisonous isomer, homolog, or derivative of such a substance.

**Tracking dog** - dog trained to track and find a missing person, escaped inmate, or fleeing felon.

**Tractor** - any self-propelled vehicle designed for use as a traveling power plant or for drawing other vehicles but having no provisions for carrying loads independently.

**Trade negotiation** - negotiations which the president determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken that determination is made.

**Trade secret** - (a) whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, or improvement which is secret and of value; and a trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes; (b) whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. *Trade secret* includes any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be: (1) secret, (2) of value, (3) for use or in use by the business, and (4) of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

**Traffic** - (a) to sell, transfer, distribute, dispense, or otherwise dispose of property; (b) to buy, receive, possess, obtain control of, or use property with the intent to sell, transfer, distribute, dispense, or otherwise dispose of such property; (c) pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly or together, while using any public highway for purposes of travel; (d) pedestrians, ridden or herded animals, and vehicles, streetcars, and other conveyances either singly or together while using any street or highway for purposes of travel; (e) transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of.

**Traffic officer** - any person employed by a county or city to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

**Traffic-control signal** - any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to go.

**Trailer** - (a) every vehicle without motor power designed for being drawn by or used in conjunction with a motor vehicle constructed so that no appreciable part of its weight rests upon or is carried by such motor vehicle, but does not include a municipal transit vehicle, or any portion thereof; (b) any vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle; (c) every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

**Transaction** - purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, transfer between accounts, exchange of currency, extension of credit, purchase, sale, or exchange of any monetary instrument, use of a safe deposit box, or any other acquisition or disposition of property by whatever means effected.

**Transcript** - official record of proceedings in a trial or hearing.

**Transfer** - removal of a cause from the jurisdiction of one court or judge to another by lawful authority.

**Transient establishment** - public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

**Transit fare evasion** - unlawful refusal to pay the appropriate fare for transportation upon a mass transit vehicle, or to evade the payment of such fare, or to enter any mass transit vehicle or facility by any door, passageway, or gate, except as provided for the entry of fare-paying passengers.

**Transportation** - conveyance or movement of goods, materials, livestock, or persons from one location to another on any road, street, or highway open to travel by the public.

**Transportation corridor** - any land area designated by the state, a county, or a municipality which is between two geographic points and which area is used or suitable for the movement of people and goods by one or more modes of transportation, including areas necessary for management of access and securing applicable approvals and permits. Transportation corridors shall contain, but are not limited to, the following: (a) existing publicly owned rights-of-way; (b) all property or property interests necessary for future transportation facilities, including rights of access, air, view, and light, whether public or private, for the purpose of securing and utilizing future transportation rights-of-way, including, but not limited to, any lands reasonably necessary now or in the future for securing applicable approvals and permits, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access could be impaired due to the construction of a future facility, and replacement rights-of-way for relocation of rail and utility facilities.

**Transportation facility** - any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.

**Trap and trap device** - instrument or apparatus which captures the incoming electronic or other impulses which identify the originating number of an instrument or apparatus from which a wire or electronic communication was transmitted.

**Treason** - (a) United States citizen's actions to help a foreign government overthrow, make war against, or seriously injure the United States; (b) attempt to overthrow the government of the society of which one is a member.

**Treaty** - international agreement made by the President that requires the advice and consent of the Senate.

**Trial** - (a) examination in a court of the issues of fact and law in a case, for the purpose of reaching a judgment; (b) examination in a court of the issues of fact and law in a case, for the purpose of reaching a judgment of conviction or acquittal of the defendant(s); (c) formal examination of a legal controversy in court so as to determine the issue.

**Trial assignment part (TAP)** - that part of the court which assigns cases for trial.

**Trial de novo** - new trial.

**Trial judge** - judicial officer who is authorized to conduct jury and non-jury trials, and who may not be authorized to hear appellate cases, or the judicial officer who conducts a particular trial.

**Trial jury** - statutorily defined number of persons selected according to law and sworn to determine, in accordance with the law as instructed by the court, certain matters of fact based on evidence presented in a trial and to render a verdict.

**Trip** - act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance.

**Trippler service** - regularly scheduled mass transportation service which is open to the fare-paying public but which is also designed or modified to accommodate the needs of elementary or secondary school students and school personnel.

**Trolley** - any bus which resembles a streetcar, which is powered by overhead electric wires or is self-propelled, and which is used primarily as a public conveyance.

**Truck** - (a) every motor vehicle designed, used, or maintained primarily for the transportation of property; (b) any vehicle equipped with more than six wheels; (c) any motor vehicle designed, used, or maintained primarily for the transportation of property.

**Truck camper** - any structure designed, used, or maintained primarily to be loaded on or affixed

to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space.

**Truck tractor** - (a) any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn; (b) a motor vehicle which has four or more wheels and is designed and equipped with a fifth wheel for the primary purpose of drawing a semitrailer that is attached or coupled thereto by means of such fifth wheel and which has no provision for carrying loads independently.

**Trustee** - (a) any person acting as trustee pursuant to a trust in which the trustee holds legal or record title to real property; (b) any person who holds legal or record title to real property in which any other person has a beneficial interest; (c) any successor trustee or trustees to any or all of the foregoing persons.

**Truth in sentencing** - close correspondence between the sentence imposed upon those sent to prison and the time actually served prior to prison release.

**Tube** - electron receiving tube or cathode ray tube (commonly known as a picture tube) designed primarily for use in a home-type television or radio receiver, phonograph, tape recorder, or any combination thereof, or other home type electronic device or appliance.

- U -

**UCR** - abbreviation for the Federal Bureau of Investigation's Uniform Crime Reporting.

**Ultimate user** - person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

**Under circumstances in which that other person has a reasonable expectation of privacy** - (a) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the person was being captured; or (b) circumstances in which a reasonable person would believe that a private area of the person would not be visible to the public.

**Undertaking** - deposit of a sum of money or filing of a bond in court.

**Unfounded** - false or baseless complaint.

**Unit of local government** - unit of local government created or established by law, including, but not limited to, a city, consolidated government, county, metropolitan government, municipality, town, or village.

**United States** - all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone.

**United States judge** - any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate.

**United States official** - President, President-elect, Vice President, Vice-President-elect, a Member of Congress, a member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 USC 101, or the Director of the Central Intelligence Agency.

**Unlawful activity** - any act that is chargeable or indictable as an offense of any degree or class under the laws of a state or under federal law.

**Unlawful assembly** - whenever two or more persons assemble together to do an unlawful act, or do a lawful act in violent, boisterous, or tumultuous manner.

**Unlawful debt** - debt (a) incurred or contracted in gambling activity which was in violation of the law of the United States, a state, or political subdivision thereof, or which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury, and (b) which was incurred in connection with the business of gambling in violation of the law of the United States, a state or political subdivision thereof, or the business of lending money or thing of value at a rate usurious under state or federal law, where the usurious rate is at least twice the enforceable rate.

**Unlawful force** - force which is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or would constitute an offense except for a defense not amounting to a justification to use the force.

**Unlawful harassment** - knowing and wilful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or when the course of conduct is contact by a person over 18 that would cause a reasonable parent to fear for the well-being of their child.

**Unmarked human burial** - human skeletal remains or associated burial artifacts or any location, including any burial mound or earthen or shell monument, where human skeletal remains or associated burial artifacts are discovered or believed to exist on the basis of archaeological or historical evidence, excluding any burial marked or previously marked by a tomb, monument, gravestone, or other structure or thing placed or designed as a memorial of the dead.

**Unreasonable noise** - considering the nature and purpose of the person's conduct and the circumstances known to him, including the nature of the location and the time of the day or night, his conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation; or the failure to heed the admonition of a police officer that the noise is unreasonable and should be stopped or reduced. The renter, resident, or owner-occupant of the premises who knowingly or negligently consents to unreasonable noise on his premises shall be guilty of a noise violation.

**Urban area** - geographic region comprising as a minimum the area inside the United States Bureau

of the Census boundary of an urban place with a population of 5,000 or more persons, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations.

**Urban district** - territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

**Urban minor arterial road** - route that generally interconnects with and augments an urban principal arterial road and provides service to trips of shorter length and a lower level of travel mobility. The term includes all arterials not classified as *principal* and contain facilities that place more emphasis on land access than the higher system.

**Urban place** - geographic region composed of one or more contiguous census tracts that have been found by the United States Bureau of the Census to contain a population density of at least 1,000 persons per square mile.

**Urbanized area** - geographic region comprising as a minimum the area inside an urban place of 50,000 or more persons, as designated by the United States Bureau of the Census, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations. Urban areas with a population of fewer than 50,000 persons which are located within the expanded boundary of an urbanized area are not separately recognized.

**Use** - administration, ingestion, or physical assimilation of a drug into one's body or system; includes such acts as smoking, sniffing, eating, drinking, or injecting.

**Used component** - part or material salvaged from a used or secondhand tube.

**Used for commercial purpose** - carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

**Used picture tube** - picture tube which has been sold to and used by a consumer.

**Used tube or secondhand tube** - tube which has been sold to and used by a consumer.

**Utility** - person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of gas, electricity, heat, water, oil, sewer service, telephone service, telegraph service, radio service, or telecommunication service.

**Utility vehicle** - motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle.

**Utter** - issue, deliver, publish, circulate, disseminate, transfer or tender a written instrument or other object to another.

- V -

**Vacate** - set aside a previous action.

**Vagrancy** - being a suspicious character or person, including begging, loitering and vagabonage.

**Value** - (a) face, par, or market value, or cost price, either wholesale or retail, whichever is greater; (b) the market value of the property or services at the time and in the approximate area of the criminal act.

**Value of merchandise** - sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

**Vandalism** - (a) offenses of destroying or damaging, or attempting to destroy or damage, the property of another without his consent, or public property, except by burning; (b) to willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

**Vector** - living organism capable of carrying a biological agent or toxin to a host. (NPS)

**Vehicle** - (a) every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks; (b) motor vehicle as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail, or every device capable of being moved upon a public highway and in, upon, or by which any persons or property are or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks; (c) every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks; (d) every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway or operated upon rails or guideway, except a bicycle, motorized wheelchair, or motorized bicycle.

**Vehicle identification number** - includes, but not limited to, a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof, used by the manufacturer or the Department of Revenue for the purpose of uniquely identifying a motor vehicle or motor vehicle part.

**Vehicle wrecker** - every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be licensed under the laws of a state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or who buys or sells integral second-hand parts of component material thereof, in whole or in part, or who deals in second-hand vehicle parts.

**Vehicular homicide** - killing of a human being, or the killing of a viable fetus by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

**Venire** - technically, a writ summoning persons to court to act as jurors; popularly used as meaning the body of names thus summoned.

**Venue** - (a) particular geographical area in which a court may hear or try a case; (b) the locality within which a particular crime was committed; (c) geographical place where some legal matter occurs or may be determined; (d) geographical area within which a court has jurisdiction. It relates only to a place or territory within which either party may require a case to be tried. A defect in venue may be waived by the parties.

**Verdict** - (a) decision of the jury in a jury trial or of a judicial officer in a non-jury trial; (b) determination of a jury on the facts.

**Verification** - confirmation of the correctness, truth or authenticity of pleading, account or other paper by an affidavit or oath.

**Verity** - quality or state of being true or real.

**Vessel** - (a) every type or description of craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water, including a buoyant device permitting or capable of free floatation; (b) all description of watercraft that are used or are capable of being used as a means of transportation on or in the water.

**Vessel homicide** - killing of a human being by the operation of a vessel by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

**Vessel of the United States** - a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any state, territory, district, or possession thereof.

**Victim** - individual harmed as a result of a commission of a crime.

**Video movie** - videotape or video disc copy of a motion picture film.

**Videotape** - reel of tape upon which a motion picture is electronically or magnetically imprinted by means of an electronic video recorder and which may be used in video playback equipment to project or display the motion picture on a television screen.

**VIN** - abbreviation for *vehicle identification number*.

**Violation** - (a) performance of an act forbidden by a statute or the failure to perform an act commanded by a statute; (b) an act contrary to a local government ordinance; (c) an offense punishable by a fine or other penalty but not by incarceration; (c) an act prohibited by the terms and conditions of probation or parole.

**Violence** - assault, battery, sexual battery, or stalking by a person against any other person.

**Violent act** - includes murder, rape, aggravated assault, and robbery.

**Visual or printed matter** - any photograph or other material that contains a reproduction of a photograph.

**Visual depiction** - undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.

**Voir dire** - questioning of prospective jurors by the attorneys, and, on application of any party, by the judge, to see if any of them should be disqualified or removed by challenge or examination.

**Voluntary act** - bodily movement performed consciously or habitually as the result of the effort or determination of the defendant.

**Vulnerable adult** - person 18 years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

**Vulnerable user**- (a) a pedestrian legally within a street or public highway; (b) a roadway worker actually engaged in work upon a street or public highway, or in work upon utility facilities along a street or public highway, or engaged in the provision of emergency services within a street or public highway, including but not limited to: (1) construction and maintenance workers; and (2) police, fire, and other emergency responders; or (3) a person legally operating any of the following within the street or public highway: (A) a bicycle; (B) an electric assist bicycle; (C) a moped; (D) an electric personal assistive mobility device; or (E) a wheelchair conveyance or other personal mobility device.

- W -

**Wager** - staking or risking something of value on the outcome of a dogfight.

**Waiver** - intentional and voluntary relinquishment of some known right.

**Wanton** - reckless; it may, in a proper case, connote willfulness, or a disregard of probable consequences.

**Wanton disregard of human life** - intentionally engaging in an act inherently dangerous to another - although without an intent to cause the death of or great bodily harm to any particular person, or even with a wish that death will not be caused - may also constitute murder if the act shows wanton disregard of human life. Such disregard is characterized by heedlessness of the probable consequences of the act or omission, or indifference to the likelihood of death or great bodily harm.

**Warrant** - (a) any of a number of writs issued by a judicial officer, which direct a law enforcement officer to perform a specified act and afford him or her protection from damage if he or she performs it; (b) written order directing the arrest of a person issued by an authority - warrants are *issued*, *executed* or *canceled*.

**Waste** - all discarded substances and materials whatsoever exceeding 10 pounds in weight or 15 cubic feet in volume, or any such substance in any weight or volume if biomedical waste, hazardous waste, a hazardous substance, or any such substance or material dumped for commercial purposes. Such term includes, without limitation, sand; gravel; slag; brickbats; rubbish; waste material; tin cans; refuse; garbage; trash; debris; dead animals; bottles; boxes; containers; papers; tobacco products; tires; appliances; mechanical equipment or parts; building or construction materials; tools; machinery; wood; motor vehicles and motor vehicle parts; vessels; aircraft equipment; waste oil; batteries; antifreeze; sludge from a waste-water treatment facility; water treatment plant, or air pollution control facility; air contaminants from any source or facility; and any other discarded material or substance of every kind and description resulting from domestic, industrial, commercial, mining, or governmental operations.

**Watch** - police shift. The police workday is divided into three watches. The first watch begins at 11 pm or midnight; the second, at 7 or 8 am; and the third, at 3 or 4 pm.

**Watch commander** - lieutenant or captain who directs all police activities within a district during a specific watch. Examples of the watch commander's duties include deploying patrol officers within the district, approving arrests, and checking the status of the lockup.

**Water-treatment device** - product, device, or system designed for personal, family, or household use and for which any claim is made that it will improve the quality of water by reducing one or more contaminants through mechanical, physical, chemical, or biological processes or a combination thereof.

**Weapon** - (a) firearm, compressed gas or spring-powered pistol or rifle, bow and arrow, crossbow, blowgun, speargun, hand-thrown spear, slingshot, irritant gas device, explosive device, or any other implement designed to discharge missiles, and includes a weapon the possession of which is prohibited under the laws of a state; (b) dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife.

**Weapons offense** - unlawful sale, distribution, manufacture, alteration, transportation, possession, or use or attempted sale, distribution, manufacture, alteration, transportation, possession, or use of a deadly or dangerous weapon or accessory.

**White-collar crime** - (a) nonviolent crime for financial gain committed by means of deception by persons whose occupational status is entrepreneurial, professional, or semiprofessional and utilizing their special occupations skills and opportunities; (b) nonviolent crime for financial gain utilizing deception and committed by anyone having special technical and professional knowledge of business and government, irrespective of the person's occupation,.

**Wholesale or wholesale sale** - extends to and include an *at-cost sale*, *below-cost sale*, and terms of similar purport, and embraces all sales purporting to be made at or below the seller's net delivered

cost price, or below the average wholesale cost of the items sold or to be sold, but which are in fact made for a price in excess of the average wholesale of like items.

**Wholesale promote** - manufacture, issue, sell, provide, deliver, transfer, transmit, publish, distribute, circulate, or disseminate, or offer or agree to do the same, with or without consideration, for purposes of resale or redistribution.

**Wholesaler** - person who acts as a jobber, wholesale merchant, or broker, or an agent thereof, who sells or distributes for resale any drug. However, this definition does not apply to persons who sell only patent or proprietary preparations as defined in the Pharmacy Act. Pharmacies, and pharmacists employed thereby, are specifically excluded from this definition.

**Width of a mobile home** - distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

**Willfully** - intentionally or on purpose.

**Wire communication** - any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce and such term includes any electronic storage of such communication.

**Wire communication facility** - any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.

**With prejudice** - the term, as applied to judgment of dismissal, is as conclusive of rights of parties as if action had been prosecuted to final adjudication adverse to the plaintiff.

**Without consent** - taking or confinement is accomplished by force, threat or deception, or, in the case of a person under 16 years of age or who is otherwise incapable of giving consent, that the taking or confinement is accomplished without the consent of the lawful custodian of the person.

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

**Witness** - (a) person who has knowledge of the circumstances of a case; (b) one who testifies as to what he or she has seen, heard, otherwise observed, or has expert knowledge of.

**Work zone area** - area and its approaches on any state-maintained highway, county-maintained highway, or municipal street where construction, repair, maintenance, or other street-related or highway-related work is being performed or where one or more lanes is closed to traffic.

**Wrecked vehicle** - vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of a state.

**Wrecker** - any motor vehicle that is used to tow, carry, or otherwise transport motor vehicles and that is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

**Writ** - (a) document issued by a judicial officer ordering or forbidding the performance of a specified act; (b) an order issuing from a court of justice and requiring the performance of a specified act, or giving authority and commission to have it done.

**Writ of certiorari** - writ issued from an appellate court for the purpose of obtaining from a lower court the record of its proceedings in a particular case. In some states this writ is the mechanism for discretionary reviews. A request for review is made by petitioning for a writ of certiorari and granting of review is indicated by issuance of writ.

**Writ of habeas corpus** - in criminal proceedings, the writ that directs the person detaining a prisoner to bring him or her before a judicial officer to determine the lawfulness of the imprisonment.

**Writing** - includes, but not limited to, printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

**Written instrument** - (a) any paper, document, or other instrument containing written or printed matter or its equivalent; or (b) any credit card, token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification.

**Wrongfully** - without justification or excuse.

**Wrongfully obtains** - (a) to take the property or services of another; (b) having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or (c) having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where the use is unauthorized by the partnership agreement.

**Wrongfulness** - conduct is wrongful when it is without legal justification or excuse.

- Y -

**Youth** - person under the age of 17, also referred to as a juvenile.

