

CLERK'S VOCABULARY

BOOK ONE

CRIMINAL ACTIONS

36416

CLERKS' VOCABULARY
Book One/Criminal Actions

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NCJRS

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PREFACE

The Clerk's Vocabulary, Book One/Criminal Actions, and Book Two/Civil Actions are designed to aid court support personnel in understanding the daily operation of the courts. These booklets are not a comprehensive study of all words used in our court system. Instead, the booklets are a guide to help explain the more commonly used words in a simplified form.

The purpose of these booklets is to provide a beginning from which a basic framework of court procedures can be quickly developed. In addition, the booklets should provide an easy reference guide to those persons who use the terminology covered in each booklet.

It is hoped that court support personnel will be able to perform their varied duties with greater confidence after completing each booklet.

INTRODUCTION

In the United States each state has its own court system, but common to each is the division of court proceedings into two distinct categories--criminal actions and civil actions. Book One of this program deals with criminal actions. Book Two focuses on civil actions. Criminal and civil actions involve a variety of procedures and processes. Thus, it is important to keep in mind that these booklets will emphasize processes and procedures only to the extent that they provide a framework for learning the vocabulary words.

The Clerks' Vocabulary, Book One/Criminal Actions and Book Two/Civil Actions are designed to maximize the usage of each word. The books present one new vocabulary word at a time. In the box on the left margin is a brief, legal definition of the new word. Following each definition is an example of the correct legal usage of the word which is underlined. For example:

A DEFINITION *is a word or phrase expressing the essential nature or meaning of a specific term.*

A definition is presented in the left-hand margin with the new word capitalized for easy recognition.

Before proceeding to the next word please make sure you grasp the new word and its proper usage.

You may recognize some of these words from their common usage. Hopefully, you will now learn what the words mean when used in relation to court proceedings. At the conclusion of each section, you will find a "Self-Review Paragraph" based on the words in that section. Also at

the end of each section is "Using Words in Context" which provides the opportunity to create your own sentence using each word from that section. If you cannot fill in the blank without checking back and write an original sentence using the word, PLEASE REREAD THE SECTION. These two exercises are important because they demonstrate that you have grasped the new words in that section.

Upon finishing the entire booklet, you will find a "Summary Matching Exercise." Hopefully you will be able to accurately match the correct word with its legal definition. If you cannot, please note those words you missed and review them. In order to use each book as a quick reference mini-dictionary, after you have completed this program, an "Index" is provided at the end.

REMEMBER: These are individualized and self-instructive booklets. They are designed to help you check how well you know the words included in each booklet. How well you know these words is directly related to how well you do your job.

SECTION ONE

CRIMINAL ACTION COMPLAINT MAGISTRATE

WARRANT OF ARREST CHARGE ARREST

A CRIMINAL ACTION is a legal procedure in which a controversy involving a public offense is settled in a court of law.

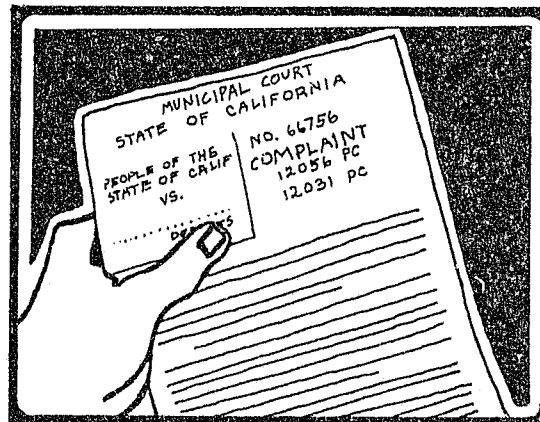


FOR EXAMPLE, A BURGLAR CAUGHT BY THE POLICE WILL HAVE A CRIMINAL ACTION BROUGHT AGAINST HIM BY THE

STATE TO PUNISH HIM FOR THAT OFFENSE. A PRIVATE CITIZEN ALSO HAS THE RIGHT TO BEGIN A CRIMINAL ACTION AGAINST ANOTHER PERSON, BUT WHETHER IT STARTS WITH THE STATE OR A CITIZEN, OUR LEGAL SYSTEM IS BASED ON THE IDEA THAT A SUSPECT IS INNOCENT UNTIL PROVEN GUILTY IN A COURT OF LAW.

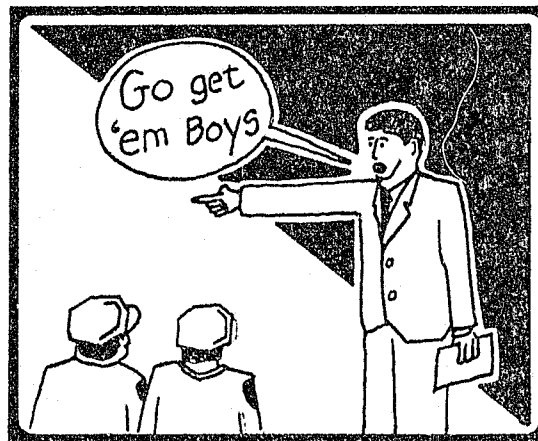
TO GUARANTEE THIS IMPORTANT INDIVIDUAL PROTECTION AND ALL OTHER CONSTITUTIONAL RIGHTS, SPECIFIC PROCEDURES MUST BE FOLLOWED IN EVERY CRIMINAL ACTION BEFORE THE COURTS. IN A CASE WHERE THE SUSPECT IS NOT CAUGHT IMMEDIATELY FOLLOWING THE COMMISSION OF A CRIME, THE FIRST STEP IN BEGINNING A CRIMINAL ACTION IS WRITING A COMPLAINT.

A COMPLAINT is an official accusation that a person has broken the law, with the specific intent of proving the accusation is true in a court of law.



A COMPLAINT MAY BE FILED BY A CITIZEN WITNESSING THE ACT OR BY THE DISTRICT ATTORNEY BASED ON FACTS GATHERED BY THE POLICE. FOR EXAMPLE, A COMPLAINT MAY BE FILED AGAINST A BURGLAR BY THE VICTIM OF THE CRIME. A COMPLAINT IS FILED IN A MUNICIPAL COURT. ONCE THE POLICE IDENTIFY A SUSPECT, THE DISTRICT ATTORNEY WILL TAKE THE COMPLAINT BEFORE A MAGISTRATE.

A MAGISTRATE is a public officer having the authority to issue warrants authorizing the capture of public offenders.



A MAGISTRATE IS NOT ALWAYS A JUDICIAL OFFICER BUT THE TERM IS GENERALLY APPLIED TO A JUSTICE OF THE PEACE OR A JUSTICE OF A POLICE COURT. A COMPLAINT MADE WITH A MAGISTRATE MUST SHOW A STRONG LIKELIHOOD THAT A SPECIFIC CRIMINAL OFFENSE HAPPENED AND ALSO THAT THE PERSON TO BE TAKEN INTO CUSTODY COMMITTED THAT CRIME. RETURNING TO THE PREVIOUS EXAMPLE, THE DISTRICT ATTORNEY MUST SHOW THE MAGISTRATE THAT A BURGLARY TOOK PLACE AND THAT A CERTAIN INDIVIDUAL DID IT. WHEN SUCH PROOF IS PRESENTED, THE MAGISTRATE WILL ISSUE A WARRANT OF ARREST.

A **WARRANT OF ARREST** is an order issued and signed by a magistrate directing a police officer to capture the person named by the warrant for the offense it indicates.

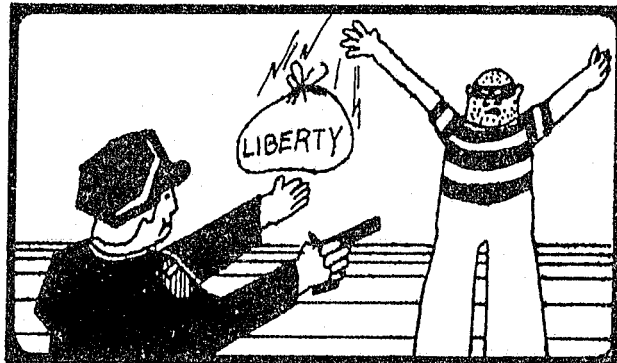
BY WAY OF EXAMPLE, THE DISTRICT ATTORNEY MAKES A COMPLAINT WITH A MAGISTRATE AGAINST HARRY BUNK. THE COMPLAINT SHOWS A DEFINITE PROBABILITY THAT A BURGLARY WAS COMMITTED BY BUNK. THEREFORE, THE MAGISTRATE ISSUES A WARRANT OF ARREST FOR BUNK ON A CHARGE OF BURGLARY.

A **CHARGE** tells what the person is accused of in legal form.

THUS THE ACCUSATION AGAINST BUNK IN THE WARRANT OF ARREST IS A CHARGE BECAUSE IT IS WRITTEN IN A LEGAL DOCUMENT. WHEN A POLICE OFFICER ENFORCES A WARRANT OF ARREST HE MUST TAKE A PERSON INTO CUSTODY FOR THE PURPOSE OF HOLDING HIM TO ANSWER THE CHARGE IT SPECIFIES. THIS IS AN ARREST.

An **ARREST** is the taking away of a person's liberty by legal authority.

IN OUR EXAMPLE, THE POLICE MUST ARREST BUNK ON A CHARGE OF BURGLARY. WHILE



EMERGENCY SITUATIONS REQUIRE PROMPT POLICE ACTION, ALL OTHER ARRESTS SHOULD BE MADE WITH A WARRANT. A WARRANT OF ARREST ORDERS THE OFFICER TO ACT BY THE AUTHORITY OF THE MAGISTRATE. IT SERVES TO PROTECT BOTH THE POLICE AGAINST CHARGES OF FALSE IMPRISONMENT AND THE PUBLIC FROM ABUSE OF THE POWER TO ARREST.

SELF-REVIEW

Suppose that an investigation by the police of an extortion scheme uncovers a suspect. The police department informs the district attorney and he registers a _____ with a court _____ against the suspect. The _____ contains a _____ of extortion against the suspect. If the district attorney has enough proof to support the _____, the _____ will issue a _____. Following the _____, a _____ will be started against the suspect by the state.

PLEASE CHECK YOUR ANSWERS

NOTE: IF YOU HAVE MISSED ANY WORDS IN THIS SELF-REVIEW TEST, IT WOULD BE TO YOUR ADVANTAGE TO REREAD THIS SECTION TO INSURE THAT YOU UNDERSTAND THE WORDS COVERED.

USING WORDS IN CONTEXT: WRITE A SENTENCE THAT DEMONSTRATES YOU HAVE GRASPED THE MEANING OF EACH WORD.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

SECTION TWO

ACCUSED APPEARANCE PETITION

HABEAS CORPUS MISDEMEANOR FELONY

DISMISSAL PRELIMINARY HEARING

REMEMBER THAT A SUSPECT DOES NOT LOOSE HIS RIGHTS AS A CITIZEN WHILE UNDER ARREST, FOR THE ACCUSED IS PRESUMED INNOCENT UNTIL PROVEN GUILTY IN A COURT OF LAW.

ACCUSED is the proper name of a person against whom a charge has been made.

RETURNING TO THE EXAMPLE IN SECTION ONE, BUNK IS THE ACCUSED BEING CHARGED WITH BURGLARY.

TO PROTECT CITIZENS FROM BEING HELD IN JAIL UNJUSTLY, THE ACCUSED MUST BE GIVEN A COURT APPEARANCE AS SOON AS POSSIBLE FOLLOWING HIS ARREST.

APPEARANCE is the word used to indicate any time the accused comes before the court.

SINCE THE ACCUSED IS PRESUMED INNOCENT, IT IS VITAL THAT HE BE GIVEN AN APPEARANCE AS SOON AS POSSIBLE UNDER THE CONSTITUTIONAL GUARANTEE OF DUE PROCESS.



IF THE ACCUSED BELIEVES THAT HE IS BEING FALSELY HELD BY THE POLICE, HE MAY HAVE HIS LAWYER SUBMIT A PETITION TO THE COURT TO SECURE HIS RELEASE.

A PETITION is an application in writing to a court requesting the court to use its power to correct an injustice.

WHILE THERE ARE MANY TYPES OF PETITIONS, THERE IS A SPECIAL PETITION DESIGNED TO FREE THE ACCUSED FROM UNJUST ARREST CALLED

A WRIT OF HABEAS CORPUS.

A WRIT OF HABEAS CORPUS is an order bringing the accused before a court to determine whether he has been denied liberty by due process. The only function of this writ is to release from unlawful imprisonment.

A WRIT OF HABEAS CORPUS DOES NOT DETERMINE THE INNOCENCE OR GUILT OF THE ACCUSED. IT IS USED ONLY TO BRING THE ACCUSED BEFORE A MAGISTRATE WHEN THE PRISONER IS NOT GIVEN A PROMPT COURT APPEARANCE.

FOR EXAMPLE, FOLLOWING HIS ARREST BUNK FEELS THAT HE IS BEING UNJUSTLY DETAINED. HE HAS HIS ATTORNEY ENTER A PETITION FOR A WRIT OF HABEAS CORPUS. WHEN BUNK MAKES HIS APPEARANCE UNDER THE WRIT HE WILL BE GIVEN HIS FREEDOM IF HE HAS NOT BEEN PROPERLY CHARGED OR IF HE HAS BEEN DENIED SOME OTHER LEGAL RIGHT. BUNK'S INNOCENCE OR GUILT DOES NOT AFFECT HIS RIGHT TO DUE PROCESS. IF THE POLICE INFRINGE ON THESE RIGHTS, THE ACCUSED WILL BE RELEASED BY A WRIT OF HABEAS CORPUS.

USUALLY THE FIRST APPEARANCE OF THE ACCUSED IS TO EXAMINE THE ARREST PROCEDURES. REMEMBER THE ACCUSED MUST BE CHARGED WITH A SPECIFIC

CRIMINAL OFFENSE OR HE MAY GET RELEASED WITH A WRIT OF HABEAS CORPUS. FOLLOWING ARREST A MAGISTRATE (OR SOME OTHER JUDICIAL OFFICER) HAS THE SOLE AUTHORITY TO FREE THE ACCUSED FROM CUSTODY. IN CASES OF MINOR OFFENSES, THE MAGISTRATE HAS THE AUTHORITY TO DISPOSE OF THE ENTIRE MATTER AT THE FIRST APPEARANCE OF THE ACCUSED. THIS IS WHAT USUALLY HAPPENS IN MOST MISDEMEANOR VIOLATIONS.

A **MISDEMEANOR** is a minor offense generally punishable by payment of a penalty to the state or by imprisonment for a short time in a county jail.



OFFENSES SUCH AS DISTURBING THE PEACE, PUBLIC DRUNKENNESS, AND MALICIOUS MISCHIEF ARE EXAMPLES OF COMMON MISDEMEANORS IN WHICH SMALL SUMS OF MONEY AND RELATIVELY SHORT JAIL TERMS ARE THE PUNISHMENT.

WHILE A MAGISTRATE MAY DISPOSE OF THESE MINOR VIOLATIONS AT THE FIRST APPEARANCE OF THE ACCUSED, A MUCH MORE COMPLICATED PROCEDURE IS USED IN THE CASE OF A FELONY.

A **FELONY** is a crime of a more serious nature than a misdemeanor. It is generally punishable by imprisonment in a state penitentiary for a number of years.



MURDER, RAPE, TREASON, AND BURGLARY ARE EXAMPLES OF COMMON

FELONIES. IN THE CASE OF BUNK THE ACCUSED BURGLAR, HE HAS BEEN CHARGED WITH A SERIOUS FELONY.

IN CRIMINAL ACTIONS INVOLVING FELONIES OR SERIOUS MISDEMEANORS, THE ACCUSED MUST BE GIVEN A PRELIMINARY HEARING FOLLOWING HIS FIRST COURT APPEARANCE.

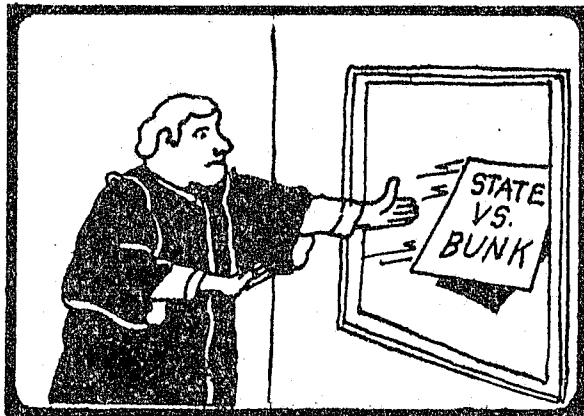
A PRELIMINARY HEARING is a court appearance at which the magistrate decides if there is enough proof against the accused to make it worth the time and expense of the state to continue the criminal action.

THE PRELIMINARY HEARING DOES NOT DETERMINE THE GUILT OR INNOCENCE OF THE ACCUSED. IT ONLY DETERMINES IF THERE IS A STRONG INDICATION THAT THE ACCUSED COMMITTED A CRIMINAL OFFENSE. IN OUR EXAMPLE, BUNK IS CHARGED WITH A FELONY. HE IS GIVEN

A PRELIMINARY HEARING IN WHICH THE MAGISTRATE DECIDES IF THERE IS REASON TO PURSUE THE CASE AGAINST BUNK ON THE BURGLARY CHARGE. IF THE MAGISTRATE DECIDES THE STATE DOES NOT HAVE A STRONG ENOUGH CASE AGAINST THE ACCUSED, HE DISMISSES THE CHARGE.

A DISMISSAL is a judicial decision disposing of a case by sending it out of court without settling the issues involved in the controversy.

WHEN A CRIMINAL ACTION IS DISMISSED AT A PRELIMINARY HEARING, THE GUILT OR INNOCENCE OF THE ACCUSED IS NOT DETERMINED. THE ACCUSED MUST BE SET FREE, BUT IF THE STATE FINDS NEW PROOF, THEN ANOTHER WARRANT OF ARREST IS ISSUED. THE SUSPECT MAY BE ARRESTED



AGAIN ON THE NEW WARRANT WITHOUT VIOLATING HIS RIGHTS, BECAUSE A DISMISSAL IS NOT A DETERMINATION OF INNOCENCE.

SELF-REVIEW

Following his arrest the extortion suspect is allowed to telephone his lawyer. When his attorney arrives, he immediately enters a _____ for a _____ to release his client. The _____ allows the accused an _____ before a magistrate to determine if he has been unjustly detained.

The _____ has been charged with a _____. Extortion is far more serious an offense than a simple _____, and so it carries a more severe punishment. The magistrate determines that the _____ has not been denied his rights under the law. However, the lawyer of the _____ assures his client that he will get a _____ at the _____.

PLEASE CHECK YOUR ANSWERS

NOTE: IF YOU HAVE MISSED ANY WORDS IN THIS SELF-REVIEW TEST, IT WOULD BE TO YOUR ADVANTAGE TO REREAD THIS SECTION TO INSURE THAT YOU UNDERSTAND THE WORDS COVERED.

USING WORDS IN CONTEXT: WRITE A SENTENCE THAT DEMONSTRATES YOU
HAVE GRASPED THE MEANING OF EACH WORD.

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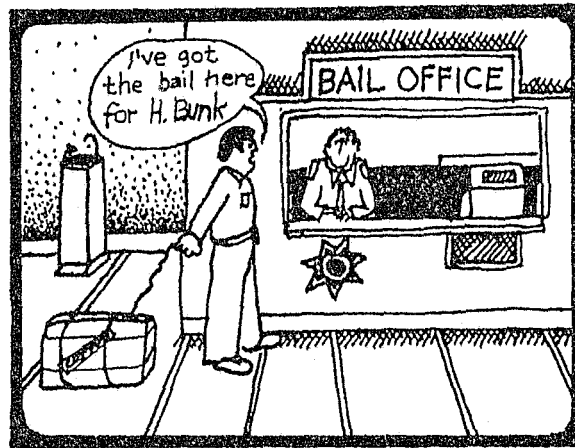
8. _____

SECTION THREE

BAIL BAIL BOND REMAND JURISDICTION
CODE VENUE INDICTMENT INFORMATION

IF THE MAGISTRATE DETERMINES AT THE PRELIMINARY HEARING THAT FURTHER COURT ATTENTION IS NEEDED, HE MUST THEN SETTLE THE QUESTION OF BAIL.

To **BAIL** a prisoner is to gain his release from custody by assuring his appearance at a time and place designated by the court to resume the criminal action against him.



THUS THE ACCUSED IS FREED FROM JAIL BY AGREEING TO RETURN LATER TO ANSWER THE CHARGE AGAINST HIM. BUT HOW CAN THE COURT BE SURE THAT ONCE BAILED THE ACCUSED WILL NOT FLEE FROM PROSECUTION? THE COURT GAINS ASSURANCE BY MEANS OF A BAIL BOND.

The **BAIL BOND** is an obligation signed by the accused (and those helping to pay the deposit) that this deposit will be lost to the state if the accused does not meet the conditions established by the court.

THE AMOUNT OF THE DEPOSIT FOR THE BAIL BOND IS USUALLY DETERMINED BY THE SERIOUSNESS OF THE CRIME AND ANY PREVIOUS CRIMINAL RECORD OF THE ACCUSED.

RETURNING TO OUR EXAMPLE, BUNK HAS

NO PREVIOUS RECORD, SO THE MAGISTRATE SETS THE BAIL BOND AT \$5,000 ENTIRELY ON THE BASIS OF THE CRIMINAL CHARGE AGAINST BUNK. WHILE BUNK DOES NOT HAVE THAT MUCH CASH AVAILABLE, HE USES PROPERTY OF THAT VALUE AS THE DEPOSIT. IN THE MORE SERIOUS FELONIES, BAIL MAY BE DENIED THE ACCUSED. IN SUCH CASES THE COURT ORDERS THE ACCUSED REMANDED TO THE SHERIFF FOLLOWING THE PRELIMINARY HEARING.

REMAND is the legal term for returning the accused to custody to await further action.

IN ANOTHER EXAMPLE, IF THE ACCUSED IS BROUGHT BEFORE A MAGISTRATE ON A WRIT OF HABEAS CORPUS, THE MAGISTRATE

HEARS THE CASE AND EITHER FREES THE PRISONER OR REMANDS HIM.

ONCE THE ISSUE OF BAIL IS SETTLED, THE ACCUSED MUST AWAIT ACTION BY A COURT OF GENERAL JURISDICTION.

JURISDICTION is the legal right by which a judicial officer exercises authority. It is the authority, capacity, and power to act in a legal action.

IN THE MORE SERIOUS CRIMES A MAGISTRATE DOES NOT HAVE THE JURISDICTION TO IMMEDIATELY DISPOSE OF A CASE UNLESS THE ACCUSED ADMITS GUILT. WHEN THE ACCUSED DOES NOT ADMIT GUILT, THE CASE MUST GO

TO A COURT OF UNLIMITED JURISDICTION WHICH HAS THE AUTHORITY TO ACT ON SUCH MATTERS. COURTS OF LIMITED JURISDICTION ARE THE JUSTICE AND MUNICIPAL COURTS. THE SUPERIOR COURT HAS UNLIMITED JURISDICTION AND ALSO SERVES AS AN APPELLATE COURT FOR THE JUSTICE AND MUNICIPAL COURTS. ANOTHER EXAMPLE, A TRIAL COURT AND AN APPELLATE COURT ARE COURTS HAVING DIFFERENT JURISDICTIONS. THE TRIAL COURT HAS ORIGINAL JURISDICTION IN A CRIMINAL ACTION, WHILE THE APPELLATE COURT HAS

JURISDICTION ONLY IN CASES ALREADY HEARD BY A TRIAL COURT. BUT WHERE DOES A COURT GET ITS JURISDICTION?

BECAUSE OF OUR COMMON LAW HERITAGE, COURT DECISIONS MAKE UP MUCH OF OUR LAW. BUT THESE DECISIONS MUST BE SUPPLEMENTED BY STATUTES AND CODES PASSED BY THE LEGISLATURE.

A CODE is a collection and classification of laws in a system which makes them available in a usable form by citizens, lawyers, and the courts.

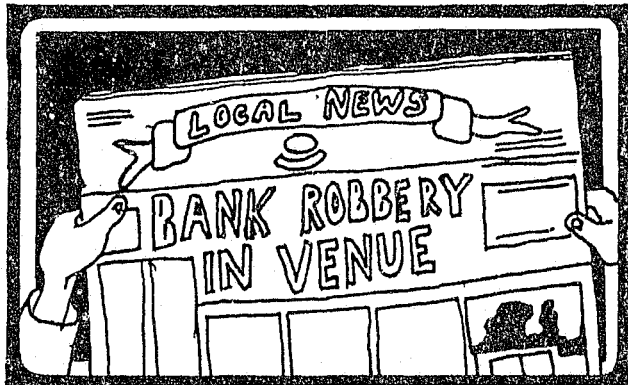
THE MOTOR VEHICLE CODE IS A GOOD EXAMPLE OF A COLLECTION OF STATUTES IN A FORM FOR BETTER USE BY CITIZENS AND COURTS. IT IS THE RESPONSIBILITY OF THE LEGISLATURE OF THE STATE TO

MAKE THESE CODES WHICH GIVE THE COURTS JURISDICTION.

JURISDICTION IS OFTEN CONFUSED WITH THE WORD VENUE.

VENUE is the place where an act is said to be committed.

VENUE DOES NOT REFER TO JURISDICTION AT ALL. REMEMBER JURISDICTION IS THE COURT'S AUTHORITY TO



DECIDE A CASE; VENUE DESIGNATES THE PARTICULAR COUNTY OR CITY IN WHICH A COURT WITH JURISDICTION MAY HEAR AND DECIDE A PARTICULAR CASE.

LET'S LOOK AT AN EXAMPLE TO CLARIFY THIS DISTINCTION. BUNK IS ACCUSED OF A BURGLARY WHICH HAPPENED IN KING CITY. THEREFORE, THE GENERAL COURT IN KING CITY IS THE PLACE WITH THE AUTHORITY TO DECIDE THE CRIMINAL ACTION AGAINST BUNK. THE STATE CRIMINAL CODE PROVIDES THE

GENERAL COURTS WITH JURISDICTION IN FELONY CASES. AND THE KING CITY GENERAL COURT HAS VENUE BECAUSE THE CRIME OCCURED IN THAT CITY. TO SUM UP, BUNK IS FREE ON BAIL AWAITING AN APPEARANCE IN THE DESIGNATED VENUE IN A COURT WITH JURISDICTION IN HIS FELONY CASE.

RECALL THAT THE ACCUSED MUST BE CHARGED WITH AN OFFENSE SOON AFTER HIS ARREST OR HE MAY GAIN RELEASE BY A WRIT OF HABEAS CORPUS. BUT BEFORE THE ACCUSED APPEARS IN A COURT OF GENERAL JURISDICTION HE IS FORMALLY CHARGED WITH A SPECIFIC CRIMINAL OFFENSE. THIS CHARGE LIMITS THE LEGAL ISSUES OF THE CASE AND SERVES AS THE FORMAL NOTIFICATION OF THE EXACT CHARGE AGAINST THE ACCUSED. THIS FORMAL CHARGE CAN BE MADE IN EITHER OF TWO DIFFERENT WAYS.

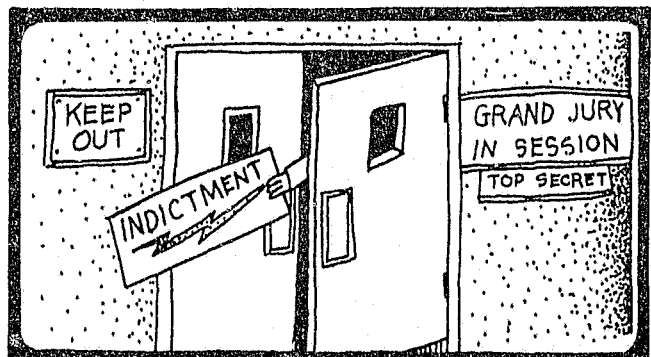
IN THE MAJORITY OF CASES, INFORMATION IS DRAWN BY THE PROSECUTING ATTORNEY FOLLOWING THE PRELIMINARY HEARING.

INFORMATION is an accusation serving formal notification to the accused of the exact charge against him. This document is prepared by the district attorney without a grand jury investigation.



THE SECOND METHOD OF A FORMAL CHARGE IS BY INDICTMENT.

An INDICTMENT is a written accusation charging a person with a specific crime made by a grand jury investigation.



BECAUSE THE GRAND JURY FUNCTIONS MAINLY AS AN

INVESTIGATIVE BODY INTO CASES OF PUBLIC CORRUPTION, INFORMATION WRITTEN BY THE DISTRICT ATTORNEY IS THE USUAL METHOD OF PRESENTING A FORMAL CHARGE. BUT IF THE GRAND JURY DISCOVERS ANY ILLEGAL ACTIVITY, IT ISSUES AN INDICTMENT HAVING THE SAME FUNCTION AS INFORMATION DRAWN BY THE DISTRICT ATTORNEY.

IN CRIMINAL ACTIONS AN INFORMATION OR INDICTMENT IS FILED IN A SUPERIOR COURT AND A COMPLAINT IS FILED IN A JUSTICE COURT OR MUNICIPAL COURT.

IN THE BUNK CASE THE ORIGINAL COMPLAINT IS ISSUED BY THE DISTRICT ATTORNEY. SINCE HIS OFFICE INVESTIGATES AND PURSUES THE CASE, THE INFORMATION IS WRITTEN FOLLOWING THE PRELIMINARY HEARING WITHOUT ANY REFERENCE TO A GRAND JURY PROCEEDING.

SELF-REVIEW

The accused does not get a dismissal at the preliminary hearing and is _____ to the sheriff. However, his attorney arranges to _____ his client by posting the \$10,000 deposit set by the court as the _____ in this case. From the _____ code the district attorney draws the _____ used to notify the accused of the exact charge against him. In most criminal actions, _____ is used because the grand jury does not have the time or resources to bring _____ for all felony cases. While the accused awaits prosecution in a court of general _____, his lawyer tries to get a change of _____ because of all the publicity. PLEASE CHECK YOUR ANSWERS

NOTE: IF YOU HAVE MISSED ANY WORDS IN THIS SELF-REVIEW TEST, IT WOULD BE TO YOUR ADVANTAGE TO REREAD THIS SECTION TO INSURE THAT YOU UNDERSTAND THE WORDS COVERED.

USING WORDS IN CONTEXT: WRITE A SENTENCE THAT DEMONSTRATES YOU
HAVE GRASPED THE MEANING OF EACH WORD.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

SECTION FOUR

PROCESS BENCH WARRANT CALENDAR ACTION
DOCKET ARRAIGNMENT ALLEGATION PLEA DEMURRER

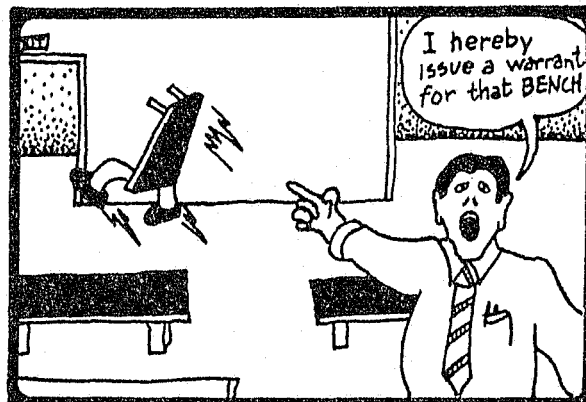
IN CRIMINAL ACTIONS WHICH DO INVOLVE A GRAND JURY INDICTMENT, THE ACCUSED IS BROUGHT TO COURT BY MEANS OF A PROCESS.

A PROCESS is generally used to force a person to comply with the will of the court.

A PROCESS IS GENERALLY USED TO FORCE THE ACCUSED TO APPEAR IN COURT. IF THE ACCUSED IS NOT UNDER ARREST AT

THE TIME OF THE INDICTMENT, THE COURT ISSUES A SPECIAL PROCESS CALLED A BENCH WARRANT.

A BENCH WARRANT is a process issued by a court from the bench for the arrest of a person named in an indictment.



IN AN INSTANCE WHERE A BENCH WARRANT IS USED TO ARREST A SUSPECT, THE INDICTMENT PRECEDES THE PRELIMINARY HEARING. HOWEVER, FURTHER PROSECUTION IS THE SAME AS WHEN INFORMATION IS USED AS THE FORMAL NOTIFICATION TO THE ACCUSED OF THE CHARGE AGAINST HIM.

AFTER THE INDICTMENT IS DELIVERED OR THE INFORMATION IS PREPARED,
THE CASE IS NOTED ON THE COURT CALENDAR.

The **CALENDAR** is a chronological listing of cases setting out the order in which they will be brought before the court.

JUNE						
SUN	MON	TUE	WED	THUR	FRI	SAT
1 BUNK vs STATE	2	3 MEDLY vs LARRR	4	5 HAAP vs. BILK	6	
7 SMITH vs STATE	8	9	10	11 JONES vs COKE	12 KENS vs. ALEX	13
14	15	16	17 BILLS vs YOU	18 STATE vs BUCK	19	20
21 SENT vs.	22	23	24 OLGA vs.	25	26 OLIVER vs.	27

IT IS THE DUTY OF THE
COURT CLERK TO MAINTAIN

THE CALENDAR ESTABLISHING THE ORDER IN WHICH ACTIONS WILL BE
BROUGHT BEFORE THE COURT.

An **ACTION** is an ordinary proceeding in a court of justice in which the accused is prosecuted for punishment of a public offense.

FOR EXAMPLE, THE BUNK CASE IS PUT
ON THE CALENDAR BY THE COURT CLERK
AFTER THE INFORMATION IS DRAWN BY
THE DISTRICT ATTORNEY. THE DISTRICT
ATTORNEY AWAITS PROSECUTION OF BUNK

UNTIL THE ACTION COMES UP ON THE CALENDAR. THE NUMBER OF ACTIONS
BEFORE A COURT DETERMINES HOW LONG THIS WAIT IS.

THE COURT CALENDAR IS SOMETIMES REFERRED TO AS THE TRIAL DOCKET,
BUT IT IS ONLY ONE KIND OF DOCKET.

A **DOCKET** is a book containing brief entries of all the important parts of each action before a court.

THE DOCKET ASSISTS THE FUNCTIONING
OF THE COURT BY PROVIDING A SUMMARY
OF EVENTS. THE DOCKET IS A SOURCE
OF EASY REFERENCE FOR COURT OFFICIALS

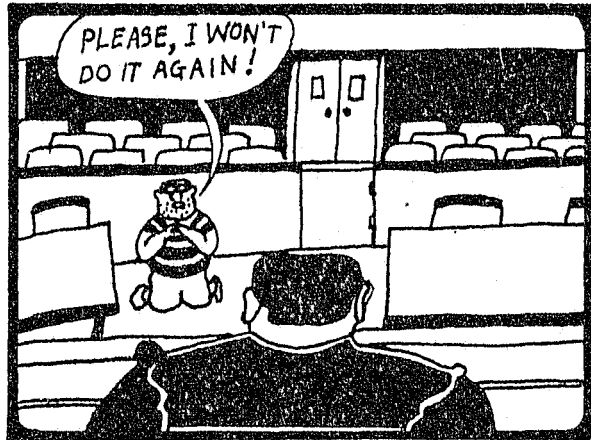
BOTH DURING AND FOLLOWING AN ACTION.

THE FIRST APPEARANCE OF THE ACCUSED FOLLOWING NOTIFICATION OF THE FORMAL CHARGE AGAINST HIM IS FOR ARRAIGNMENT.

ARRAIGNMENT consists of a magistrate calling the accused before the court, reading him the indictment or information, asking him if he is guilty or innocent of the charge, and advising him of his legal rights.

IT IS AT THE ARRAIGNMENT THAT BUNK HAS THE FIRST OPPORTUNITY TO ANSWER THE FORMAL CHARGE AGAINST HIM. HE DOES THIS BY ENTERING A PLEA.

A **PLEA** is the response of the accused to the formal charge against him at the arraignment.



BUNK ENTERS A PLEA OF NOT GUILTY TO THE BURGLARY CHARGE SPECIFIED IN THE INFORMATION READ TO HIM AT THE ARRAIGNMENT BY THE MAGISTRATE. THE PLEA IS THE ACCUSED PERSON'S OPPORTUNITY TO CHALLENGE THE ALLEGATIONS OF THE PROSECUTING ATTORNEY AS DRAWN UP IN THE INFORMATION.

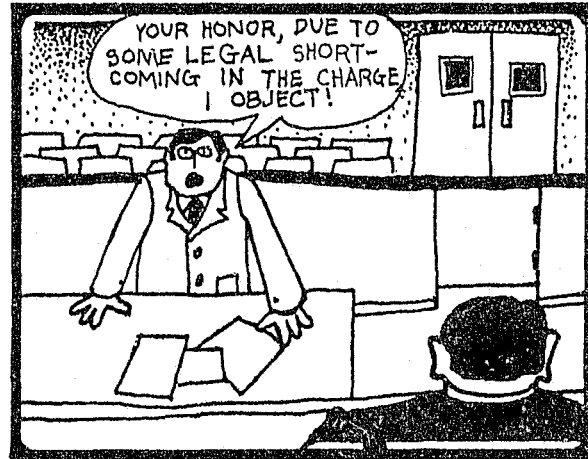
An **ALLEGATION** is a statement accusing the suspect of breaking the law and setting out what the state expects to prove.

THE DISTRICT ATTORNEY ALLEGES THAT BUNK COMMITTED BURGLARY. THIS ALLEGATION IS PRESENTED IN THE INFORMATION GIVEN AT THE ARRAIGNMENT.

BY PLEADING NOT GUILTY, BUNK DENIES THE ALLEGATIONS MADE BY THE STATE.

BUT THE ACCUSED HAS MORE OPTIONS IN PLEADING THAN SIMPLY GUILTY OR NOT GUILTY. THE ACCUSED MAY SAY NOTHING AT ALL, PLEAD NOLO CONTENDERE, NOT GUILTY BY REASON OF INSANITY, FORMER JUDGMENT OF CONVICTION OR ACQUITAL, ONCE IN JEOPARDY OR HE MAY PLEAD A DEMURRER.

A DEMURRER is an objection to proceeding further (even if the state's allegations be true) due to some legal shortcoming in the charge as presented before the court.



A DEMURRER MAINTAINS

THAT EVEN IF THE ALLEGATIONS ARE CORRECT, NO SPECIFIC CRIMINAL OFFENSE HAS BEEN COMMITTED ON WHICH THE ACCUSED MAY BE PROPERLY CHARGED. FOR EXAMPLE, A PERSON MAY BE INVOLVED IN QUESTIONABLE BUSINESS DEALINGS WHICH SEEM TO VIOLATE THE PRINCIPLE OF THE LAW. BUT AT THE ARRAIGNMENT THE ACCUSED PLEADS A DEMURRER AND THE MAGISTRATE DISMISSES THE CASE BECAUSE THERE IS NO SPECIFIC OFFENSE IN THE CRIMINAL CODE ON WHICH HE CAN BE CHARGED. WHILE HE MAY HAVE ACTED IMPROPERLY, HE MUST BE RELEASED BECAUSE THERE IS NO STATUTE OR CODE COVERING HIS SPECIFIC BEHAVIOR.

SELF-REVIEW

If a grand jury delivers an indictment on a person not yet in custody, a magistrate must issue a _____ called a _____ for the arrest of the suspect. The _____ against the accused will be scheduled on a special _____ called the court _____. At his _____ the accused has the opportunity to answer the _____ of the state. The accused will respond with a _____ to the charge against him. If the accused believes that there is no specific charge in the penal code covering his offense he may plead a _____.

PLEASE CHECK YOUR ANSWERS

USING WORDS IN CONTEXT: WRITE A SENTENCE THAT DEMONSTRATES YOU HAVE GRASPED THE MEANING OF EACH WORD.

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SECTION FIVE

TRIAL JURY EVIDENCE DEFENDANT

WAIVER HEARING PARTIES

IF THE ACCUSED PLEADS NOT GUILTY OR IF HE SAYS NOTHING AT HIS ARRAIGNMENT, THEN THE STATE MUST PROVE ITS ALLEGATIONS IN A TRIAL.

The TRIAL is that portion of a criminal action in which the examination of the facts before the court allows it to determine the guilt or innocence of the accused.

IN A MORE TECHNICAL SENSE, A TRIAL IN A CRIMINAL ACTION BEGINS WITH THE PLEADING OF THE ACCUSED AND DOES NOT END UNTIL A DECISION IS REACHED BY THE JURY.

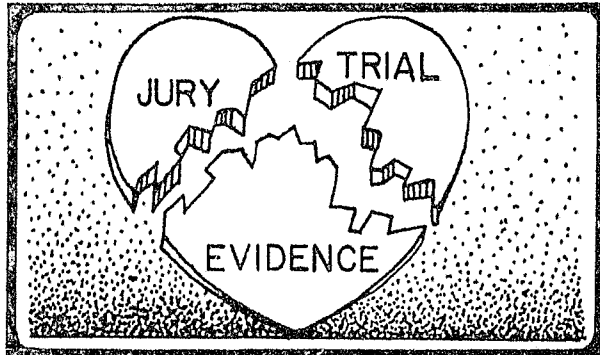
A JURY is a group of twelve men and women temporarily selected from the district having venue in the action. It is the job of this group of citizens to decide the guilt or innocence of the accused.

THE MEMBERS OF THE JURY ARE SWORN TO RENDER A TRUE AND UNANIMOUS DECISION ON THE CRIMINAL ACTION BEFORE THEM ACCORDING TO THE LAW AND THE EVIDENCE GIVEN AT THE TRIAL.

EVIDENCE is the collection of witnesses, documents, and objects legally presented to the court to establish the guilt or the innocence of the accused.

FOR EXAMPLE, A WITNESS CALLED BY THE STATE MAY GIVE EVIDENCE TO SHOW THAT THE ACCUSED WAS PRESENT AT THE SCENE OF THE CRIME.

THE THREE PRECEDING ELEMENTS OF A CRIMINAL ACTION ARE THE HEART OF OUR LEGAL SYSTEM. EVERY INDIVIDUAL IS GUARANTEED THE RIGHT



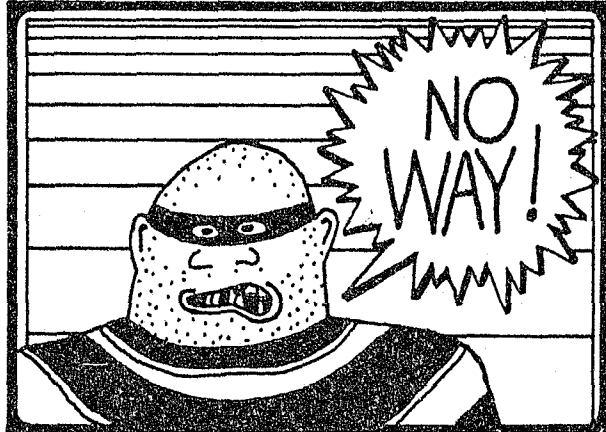
TO TRIAL BEFORE A JURY OF HIS PEERS WHEN CHARGED WITH A SERIOUS CRIMINAL OFFENSE. BECAUSE OF THE PRESUMED INNOCENCE OF THE ACCUSED AT THE TRIAL, IT IS THE BURDEN OF THE STATE TO PROVIDE EVIDENCE SUPPORTING ITS ALLEGATIONS BEYOND ANY REASONABLE DOUBT. TO PROVE GUILT THE STATE MUST FIRST SHOW THAT THE OFFENSE CHARGED IN THE INFORMATION ACTUALLY HAPPENED. SECONDLY, THE STATE MUST ESTABLISH THE INVOLVEMENT OF THE ACCUSED IN THAT OFFENSE. FAILURE TO ACCOMPLISH EITHER OF THESE REQUIREMENTS IS GROUNDS FOR A DISMISSAL OF THE CHARGE.

RETURNING TO OUR EXAMPLE, BUNK PREPARES HIS DEFENSE AGAINST THE ALLEGATIONS MADE BY THE STATE IN THE INFORMATION READ AT HIS ARRAIGNMENT. WHEN THE ACTION AGAINST HIM COMES UP ON THE CALENDAR, HE MUST RETURN TO COURT TO STAND TRIAL ON THE BURGLARY CHARGE OR FORFEIT THE BAIL BOND. FOLLOWING THE SELECTION OF A JURY, THE ACTUAL TRIAL OF THE ISSUES BEGINS. THE STATE MUST SHOW THAT A

BURGLARY WAS COMMITTED AND THAT BUNK DID IT. TO ACCOMPLISH THIS END, THE STATE MUST INTRODUCE EVIDENCE TO PROVE ITS ALLEGATIONS SO THAT THERE IS NO DOUBT IN ANY JUROR'S MIND THAT THE DEFENDANT IS GUILTY AS CHARGED.

The DEFENDANT is the person denying the charge in a criminal action.

THIS SIMPLY MEANS THAT THE ACCUSED IN A TRIAL IS PROPERLY REFERRED TO AS THE DEFENDANT. THUS



BUNK IS THE DEFENDANT DENYING THE ALLEGATIONS IN THE BURGLARY CHARGE. WHILE THE DEFENDANT IS GUARANTEED THE RIGHT TO A TRIAL BY JURY, HE MAY WAIVE THAT RIGHT IF HE SO DESIRES.

A WAIVER is the surrendering of a known legal right by the defendant of his own free will.

FOR EXAMPLE, BUNK MAY PRESENT A WAIVER ON HIS RIGHT TO A JURY TRIAL. THIS MEANS THAT HE GIVES UP HIS RIGHT TO A JURY DURING HIS TRIAL.

NORMALLY THE JUDGE AT A TRIAL RULES ON LEGAL QUESTIONS, SUPERVISES THE TRIAL, AND SENTENCES THE ACCUSED IF HE IS FOUND GUILTY. HOWEVER, THE RESPONSIBILITIES OF THE JUDGE CHANGE IF A DEFENDANT WAIVES A JURY TRIAL IN FAVOR OF A HEARING.

A HEARING is a formal public proceeding much the same as a trial but with no jury present.

IN A HEARING THE JUDGE ALONE RULES ON THE EVIDENCE. RECALL THAT WHEN THE ACCUSED IS BROUGHT BEFORE A

MAGISTRATE ON A WRIT OF HABEAS CORPUS, THE MAGISTRATE LISTENS TO THE EVIDENCE AT THE HEARING TO DETERMINE IF THE ACCUSED SHOULD BE FREED OR REMANDED. THUS AT A HEARING A FINAL ORDER MAY BE GIVEN ON THE EVIDENCE PRESENTED BY THE PARTIES, BUT WITHOUT THE AID OF A JURY.

PARTIES are the persons who take part in the prosecution or defense of a legal proceeding.

THE DEFENDANT IS ONE PARTY IN AN ACTION; THE STATE IS THE OTHER PARTY, PROSECUTING THE CASE AGAINST THE ACCUSED.

IN THE BURGLARY CASE, BUNK WAIVED HIS RIGHT TO A JURY TRIAL IN FAVOR OF A HEARING. AT THE HEARING THE JUDGE DETERMINES THE GUILT OR INNOCENCE OF BUNK BASED ON THE EVIDENCE PROVIDED BY BOTH PARTIES. THE PROSECUTING ATTORNEY HAS THE BURDEN OF PROOF AND MUST ESTABLISH HIS ALLEGATIONS BEYOND A REASONABLE DOUBT, JUST AS IN A JURY TRIAL. THE DEFENDANT IS ALLOWED TO TESTIFY IN HIS OWN BEHALF, BUT IF HE DOES HE IS SUBJECT TO CROSS EXAMINATION BY THE DISTRICT ATTORNEY.

SELF-REVIEW

If the accused is granted a _____ on a writ of habeas corpus, he may get a dismissal of the charge before the case goes to _____. However, if the accused is denied release at the _____, he is remanded to the sheriff.

If the _____ makes a _____ on his right to a preliminary hearing, the case will go straight to _____. At the _____ the _____ hears the _____ presented by both _____, and then it decides on the guilt or innocence of the _____.

PLEASE CHECK YOUR ANSWERS

NOTE: IF YOU HAVE MISSED ANY WORDS IN THIS SELF-REVIEW TEST, IT WOULD BE TO YOUR ADVANTAGE TO REREAD THIS SECTION TO INSURE THAT YOU UNDERSTAND THE WORDS COVERED.

USING WORDS IN CONTEXT: WRITE A SENTENCE THAT DEMONSTRATES YOU HAVE GRASPED THE MEANING OF EACH WORD.

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SECTION SIX

SUBPOENA SUBPOENA DUCES TECUM CONTEMPT MOTION

ADJOURNMENT EXHIBIT PRIMA FACIE EVIDENCE DEPOSITION

BECAUSE OF THE IMPORTANCE OF EVIDENCE IN ESTABLISHING THE GUILT OR INNOCENCE OF THE DEFENDANT, THE COURT PROVIDES BOTH PARTIES WITH THE ABILITY TO SECURE WITNESSES AND OBJECTS AS EVIDENCE FOR THE COURT. TO ASSIST EITHER PARTY IN BRINGING A WITNESS TO THE TRIAL, THE COURT WILL ISSUE A SUBPOENA.

A SUBPOENA is a process used to cause a witness to appear and give testimony at a specified time and place under the threat of punishment by law for failure to do so.

BY WAY OF EXAMPLE, BUNK HAS THE RIGHT TO SUBPOENA WITNESSES IN HIS DEFENSE, AND THE STATE HAS THE AUTHORITY TO SUBPOENA WITNESSES TO SUPPORT ITS ALLEGATIONS.

SIMILARLY, IF A PERSON HAS A DOCUMENT OR OBJECT WHICH MAY HAVE A DIRECT BEARING ON AN ACTION, HE MAY BE FORCED TO BRING THIS EVIDENCE TO COURT BY MEANS OF A SUBPOENA DUCES TECUM.

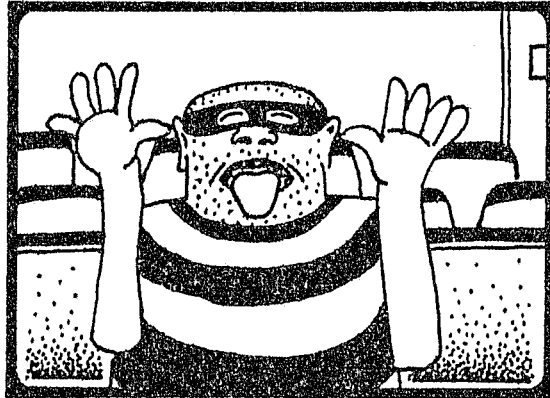
A SUBPOENA DUCES TECUM is a process by which the court commands a person in control of a necessary document or paper to bring it to the trial or hearing so that it may be placed in evidence.

AGAIN, EITHER PARTY IN AN ACTION HAS THE RIGHT TO USE A SUBPOENA DUCES TECUM TO SECURE EVIDENCE IN THE SAME MANNER AS A WITNESS IS BROUGHT TO COURT BY A SUBPOENA.

IF A WITNESS FAILS TO COMPLY WITH A

SUBPOENA, THE COURT MAY HOLD THAT PERSON IN CONTEMPT.

CONTEMPT is a willful disregard of the authority of a court or disobedience of a lawful order made by a court.



AS SUPERVISOR OF THE TRIAL,
A JUDGE MAY FIND A PERSON
IN CONTEMPT WHEN THAT

INDIVIDUAL HINDERS THE COURT IN ITS NORMAL FUNCTIONING. A CALCULATED ACT DONE TO EMBARRASS THE COURT OR WEAKEN ITS AUTHORITY OR DIGNITY IS ALSO GROUNDS FOR CONTEMPT CHARGES.

RETURNING TO THE BURGLARY CASE, THE STATE SUBPOENAED A WITNESS TO TESTIFY AGAINST BUNK AT THE HEARING. BUT THE WITNESS IS A FRIEND OF BUNK AND HE REFUSES TO APPEAR AS ORDERED. THE DISTRICT ATTORNEY INFORMS THE PRESIDING JUDGE OF THE SITUATION AND THE WITNESS MAY BE FOUND IN CONTEMPT FOR FAILURE TO OBEY THE SUBPOENA. WHEN SOMETHING UNEXPECTED OCCURS DURING A TRIAL, SUCH AS THE FAILURE OF AN IMPORTANT WITNESS TO APPEAR, A PARTY MAY ENTER A MOTION ON THE MATTER.

A MOTION is a request to the court by a party for a ruling or an order on a particular point.

IN THE BUNK HEARING THE DISTRICT ATTORNEY SEEKS A RULING ON THE FAILURE OF THE WITNESS TO COMPLY WITH THE SUBPOENA. THE STATE MAY

ASK FOR MORE TIME TO BRING THE WITNESS TO COURT AND THEREFORE, MAKE A MOTION FOR ADJOURNMENT.

ADJOURNMENT is the act of a court to postpone a session until another time or place.

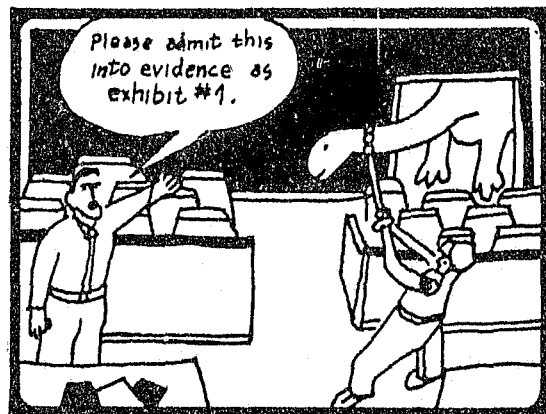
IN THE EXAMPLE, IF THE JUDGE GRANTS THE MOTION FOR ADJOURNMENT, HE



MUST INDICATE THE TIME AT WHICH THE HEARING WILL BE RESUMED. AT THE CONCLUSION OF EACH DAY THE COURT WILL ROUTINELY ADJOURN UNTIL THE FOLLOWING CALENDAR DAY.

SUPPOSE THAT A WITNESS FAILED TO ANSWER A SUBPOENA DUCES TECUM. IN THAT INSTANCE HE MUST BRING THE OBJECT SUBPOENAED WITH HIM WHEN THE COURT RESUMES FOLLOWING THE ADJOURNMENT OR FACE CONTEMPT CHARGES. ONCE THE OBJECT IS BROUGHT INTO COURT, IT WILL BE INTRODUCED INTO EVIDENCE AS AN EXHIBIT.

An **EXHIBIT** is a paper, document, or object produced and displayed to a court during a trial or hearing. It will be marked for identification and becomes an exhibit when admitted into evidence by the judge.



IN BUNK'S HEARING THE STATE

MAY WISH TO INTRODUCE THE STOLEN PROPERTY AS EVIDENCE. IF THE JUDGE DETERMINES THAT IT IS RELEVANT AND ADMISSABLE, IT WILL BE MARKED FOR IDENTIFICATION AS AN EXHIBIT.

THE STATE MAY CONTEND THAT THIS STOLEN PROPERTY IS PRIMA FACIE EVIDENCE.

PRIMA FACIE EVIDENCE is a type of evidence which clearly establishes a claim as fact unless it is disputed by the opposing party.

THE DEFENSE MAY NOT ARGUE THE STATE'S CLAIM THAT THE PROPERTY IN EVIDENCE WAS STOLEN. THE EXHIBIT THEN BECOMES PRIMA FACIE EVIDENCE ESTABLISHING

THAT A CRIME WAS INDEED COMMITTED. THE DISTRICT ATTORNEY MUST THEN PROVE THAT BUNK WAS THE PERSON WHO STOLE THE PROPERTY.

SOMETIMES IT IS NECESSARY TO INTRODUCE TESTIMONY OF A WITNESS WHO CANNOT BE PRESENT AT THE TRIAL OR HEARING. THIS MAY BE DONE WITH A DEPOSITION.

A DEPOSITION is the testimony of a witness not in court which is written down and certified for use in a trial. Before taking this written statement under oath, the opposing party must be told so that he may attend to cross examine the witness.

FOR EXAMPLE, THE DISTRICT ATTORNEY CANNOT BRING A WITNESS TO COURT BECAUSE THE MAN IS VERY ILL. IN ORDER TO USE HIS TESTIMONY THE DISTRICT ATTORNEY WILL HAVE HIM MAKE A DEPOSITION. BUNK IS PROPERLY NOTIFIED AND HIS ATTORNEY IS PRESENT DURING THE WRITING OF THE

DEPOSITION TO CROSS EXAMINE THE WITNESS WHILE HE IS STILL UNDER OATH.

SELF-REVIEW

During a trial it will be necessary to _____ witnesses to give evidence. A witness controlling an important paper will be forced to bring it to court by a _____. If the witness does not bring the document to court as ordered, he may be charged with _____. The state needs this _____

to clearly establish the fact of the crime. Therefore, the state makes a _____ to _____ until the following day when the paper can be brought to court. When finally produced in court the paper will be entered in evidence as an _____. A _____ sworn to by a witness not in court may also be entered in evidence as an _____ if it is ruled admissable by the judge.

PLEASE CHECK YOUR ANSWERS

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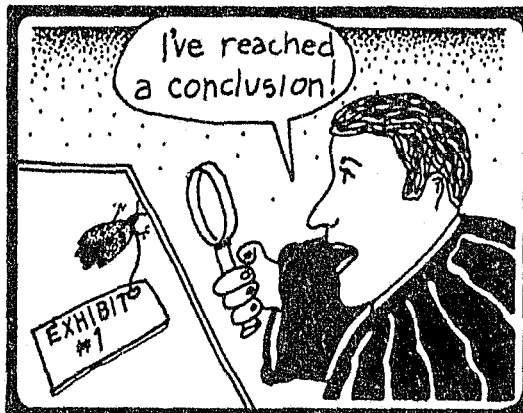
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FINDING VERDICT ACQUITTAL EXONERATE

CONVICTION JUDGMENT FINE PENALTY ASSESSMENT

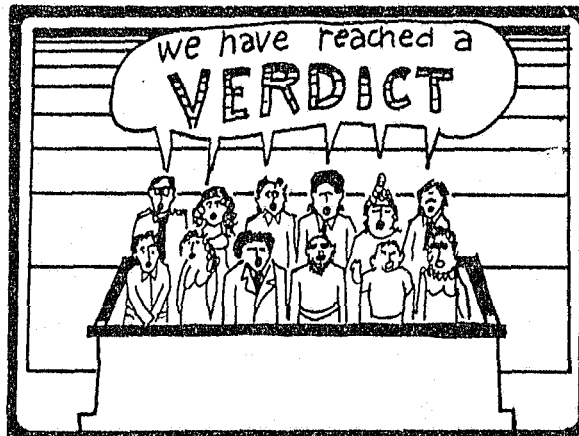
WHEN BOTH PARTIES TO AN ACTION FINISH PRESENTING THEIR EVIDENCE AND ARGUMENTS TO THE COURT, THE JURY MUST FIND THE DEFENDANT EITHER INNOCENT OR GUILTY.

A **FINDING** is the result reached by a jury or judge after studying the evidence given at the trial.



THE **FINDING** REACHED BY THE JURY IN A CRIMINAL ACTION MUST BE MADE BY A UNANIMOUS VOTE OF THE JURORS. THE JURY MAY REACH A **FINDING** IN A SHORT TIME, OR IT MAY TAKE DAYS TO REACH A VERDICT FOLLOWING THE TRIAL.

A **VERDICT** is the formal and unanimous finding made by the jury and reported to the court upon the matters submitted to them in the trial.



IF THE JURY FINDS THE DEFENDANT INNOCENT, IT

PRESENTS A VERDICT OF ACQUITTAL.

ACQUITTAL is the formal finding of the innocence of a person charged with a crime.

IF THE DEFENDANT IS ACQUITTED, HE IS EXONERATED OF THE CHARGE AGAINST HIM.



EXONERATE means to clear from blame.

THUS A PERSON ACQUITTED OF A CRIMINAL CHARGE IS EXONERATED FROM THE ALLEGATIONS MADE IN THAT CHARGE. ONCE ACQUITTED, A PERSON CANNOT BE TRIED AGAIN FOR THE OFFENSE OF WHICH HE WAS EXONERATED. IF THE JURY IS TOTALLY INCAPABLE OF REACHING A UNANIMOUS VERDICT, THE JUDGE ORDERS A MISTRIAL. A MISTRIAL MEANS THAT THE STATE MUST PRESENT ITS ENTIRE CASE AT A NEW TRIAL TO A NEW JURY, IF IT IS TO GET A CONVICTION.

A **CONVICTION** is a verdict in which the accused is found guilty as charged.

WHERE A VERDICT IS REACHED BY THE JURY, IT WILL BE EITHER FOR ACQUITTAL OR CONVICTION.

AN ACQUITTAL EXONERATES THE DEFENDANT, BUT A CONVICTION IS A JUDGMENT FINDING THE ACCUSED GUILTY AS CHARGED.

A **JUDGMENT** is the final decision of the court about what is to happen to the parties in an action.

IF IN THE JUDGMENT OF THE COURT THE DEFENDANT IS GUILTY, HE IS SENT TO JAIL OR GIVEN A FINE, DEPENDING ON

THE NATURE OF THE OFFENSE OF WHICH HE IS CONVICTED.

A FINE is a sum of money paid to the state as a penalty by a defendant convicted of an offense.

THUS A FINE IS A PUNISHMENT INVOLVING A LOSS OF MONEY WHICH IS IMPOSED BY LAW ON

A PERSON CONVICTED OF A FELONY OR MISDEMEANOR.

AS A MEASURE OF ASSISTANCE TO THE PEACE OFFICER'S TRAINING FUND AND THE DRIVER'S TRAINING FUND, A PORTION OF EACH FINE CONSISTS OF A PENALTY ASSESSMENT.



A PENALTY ASSESSMENT is a tax contained in all fines, penalties, and bail forfeitures collected by the courts for penal and vehicle code offenses.

FOR EXAMPLE, EACH TRAFFIC TICKET HAS A PENALTY ASSESSMENT IN THE FINE WHICH GOES INTO THE DRIVER'S TRAINING FUND.

RETURNING AGAIN TO THE BURGLARY CASE, SINCE BUNK WAIVED A JURY TRIAL, THE FINDING IS MADE BY THE JUDGE AT THE HEARING. WHEN THE JUDGE HAS HEARD ALL THE EVIDENCE AND THE ARGUMENTS OF THE PARTIES, HE PASSES JUDGMENT ON THE ACCUSED. IF THE JUDGE FINDS BUNK INNOCENT, HE IS EXONERATED OF THE CHARGE AND RELEASED FROM CUSTODY. BUT UNFORTUNATELY FOR BUNK THE JUDGE FINDS THE DEFENDANT GUILTY AS CHARGED. CONVICTED OF BURGLARY, BUNK IS ORDERED TO PAY A FINE OF \$5,000 AND HE IS SENTENCED TO TEN YEARS IN THE STATE PENITENTIARY.

SELF-REVIEW

At the conclusion of a trial, the jury must reach a _____ on the matter before it. If the jury delivers a _____ of _____, then the defendant is _____. But if in the _____ of the jury the defendant is guilty, he will be _____. A _____ felon must serve a prison term and/or pay a _____. Part of the _____ consists of a _____ used to financially aid the Peace Officer's Training Fund.

PLEASE CHECK YOUR ANSWERS

NOTE: IF YOU HAVE MISSED ANY WORDS IN THIS SELF-REVIEW TEST, IT WOULD BE TO YOUR ADVANTAGE TO REREAD THIS SECTION TO INSURE THAT YOU UNDERSTAND THE WORDS COVERED.

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SECTION EIGHT

APPEAL PARDON PAROLE SUSPEND

PROBATION JUVENILE SUMMARY PROBATION

ALTHOUGH CONVICTED OF BURGLARY, BUNK MAINTAINS HIS INNOCENCE AND SEEKS EXONERATION THROUGH APPEAL.

An APPEAL is a request to a higher court for a new trial because of an injustice or an error committed during the original trial.

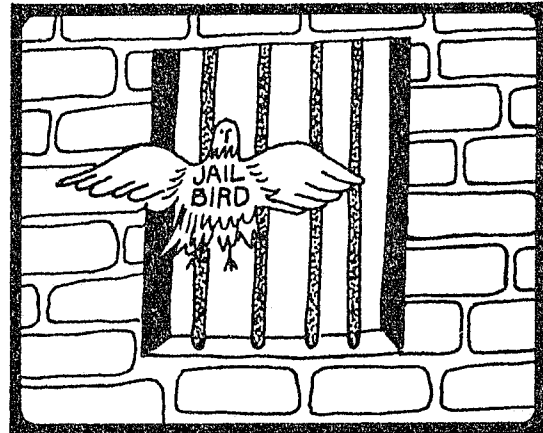
BUNK HAS THE RIGHT TO APPEAL THE CONVICTION TO A COURT HAVING APPELLATE JURISDICTION. FOLLOWING JUDGMENT SUCH APPEAL MAY BE

MADE TO CORRECT OR REVERSE THE FINDING OF THE COURT HAVING ORIGINAL JURISDICTION.

IN HIS APPEAL BUNK CLAIMS THAT THE VENUE SHOULD HAVE BEEN CHANGED BECAUSE OF ALL THE PRETRIAL PUBLICITY BY THE KING CITY NEWS MEDIA. IF THE COURT AGREES WITH BUNK, IT WILL GRANT A NEW HEARING AT WHICH HE MAY WIN ACQUITTAL. BUT IF THE APPEAL IS LOST OR DENIED, THE CONVICTION STANDS.

EVEN IF AN APPEAL FAILS TO REVERSE A CONVICTION, THERE ARE OTHER LEGAL MEANS FOR A CONVICTED PERSON TO GAIN FREEDOM BEFORE THE END OF THE FULL SENTENCE IMPOSED BY THE COURT. ONE METHOD OF EARLY RELEASE IS THE PARDON.

A PARDON is an act of the state which ends the punishment of a convicted person. It frees the prisoner and exonerates him of the charge on which he was convicted.

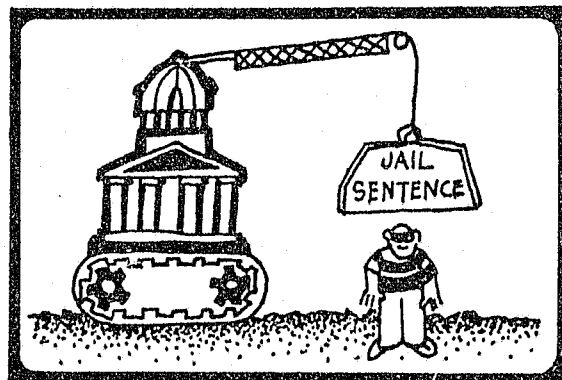


A PARDON IS SELDOM ISSUED UNLESS A REAL QUESTION OF ACTUAL GUILT OCCURS AFTER JUDGMENT HAS BEEN PASSED. IT IS UNLIKELY THAT A CONVICTED BURGLAR SUCH AS BUNK COULD GET A PARDON FROM THE GOVERNOR, UNLESS HIS LAWYER IS ABLE TO DISCOVER SOME NEW EVIDENCE CLEARLY PROVING THE INNOCENCE OF THE PRISONER. IT IS MUCH MORE LIKELY THAT A CONVICTED FELON SUCH AS BUNK SECURES AN EARLY RELEASE BY MEANS OF A PAROLE.

A PAROLE is a conditional release from punishment following a return to good behavior by the convicted person.

WHEN A PAROLE IS GRANTED, THE SENTENCE IS SUSPENDED ON CONDITION THAT THE PERSON PAROLED REMAINS A GOOD CITIZEN WHILE OUT OF PRISON.

SUSPEND means to withhold for a period of time on certain conditions or to cause a process to cease for a period of time.



A PAROLE SUSPENDS THE JAIL SENTENCE BEFORE THE EXPIRATION OF ITS TERM. THE PERSON ON PAROLE REMAINS SUBJECT TO SUPERVISION BY PUBLIC AUTHORITY SO THAT VIOLATION OF THE CONDITIONS IN THE PAROLE MEANS AN END OF THE SUSPENSION AND A RETURN

TO PRISON. THUS WHILE A PARDON FREES AN OFFENDER COMPLETELY FROM FURTHER PUNISHMENT, A PAROLE MERELY SUSPENDS PUNISHMENT.

SUPPOSE BUNK EARNS A PAROLE FOR GOOD BEHAVIOR WHILE SERVING HIS TERM FOR BURGLARY. WHILE ON PAROLE THE PUNISHMENT IS SUSPENDED, BUT IF HE DOES NOT FOLLOW THE CONDITIONS SPECIFIED IN HIS PAROLE THE SUSPENSION WILL BE REVOKED. IF THE SUSPENSION IS REVOKED, BUNK MUST RETURN TO THE PENITENTIARY TO SERVE THE REMAINDER OF HIS PRISON SENTENCE.

AN ALTERNATIVE TO MAKING A PERSON CONVICTED OF AN OFFENSE GO TO JAIL IS PROBATION.

PROBATION is an action of the court allowing a person convicted of a minor offense to be free from serving any prison term at all, provided he remains on good behavior while under the official supervision of the court.



A PERSON PLEADING GUILTY ON A DISORDERLY CONDUCT CHARGE WOULD PROBABLY BE PUT ON PROBATION IF HE HAD NO PREVIOUS CRIMINAL RECORD. PROBATION GIVES THE CONVICTED OFFENDER THE OPPORTUNITY TO STRAIGHTEN HIMSELF OUT. THE PERSON ON PROBATION MUST REGULARLY CHECK WITH HIS COURT APPOINTED SUPERVISOR TO ASSURE THE COURT THAT HE IS REMAINING ON GOOD BEHAVIOR.

PROBATION IS OFTEN USED IN CASES OF FIRST-TIME LESSER MISDEMEANORS AND FOR JUVENILE OFFENDERS.

A JUVENILE is a youth under eighteen years of age, still under the supervision of his parents.

A SIXTEEN YEAR OLD ARRESTED FOR A TRAFFIC VIOLATION IS AN EXAMPLE OF A JUVENILE OFFENDER WHO WOULD PROBABLY NOT GO TO JAIL ON A FIRST

OFFENSE. IN SUCH AN INSTANCE OF A MINOR OFFENSE COMMITTED BY A JUVENILE, THE COURT MAY DECIDE ON SUMMARY PROBATION.

SUMMARY PROBATION is a suspension of the entire sentence, and there is no direct supervision by a court official during the probation period.

IN MOST CASES OF JUVENILE OFFENSES, THE COURT EXPECTS THE PARENTS OF THE OFFENDER TO MORE CLOSELY SUPERVISE THE BEHAVIOR OF THE YOUTH.

SUMMARY PROBATION ALLOWS PARENTS TO DISCIPLINE AND GUIDE THE BEHAVIOR OF A JUVENILE WHO HAS BROKEN THE LAW.

SELF-REVIEW

Following a conviction the defendant has the right to _____. If an _____ is not granted, the guilty party must take his punishment. However, a convicted person may eventually have his sentence _____ if given a _____. Or if the person is proven innocent while completing his term, he will be given a _____. For lesser misdemeanors a person is not usually sent to jail, but he is put on _____. In the case of _____ offenders, the judgment of the court is often for _____, releasing the youth to the care of his parents.

PLEASE CHECK YOUR ANSWERS

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LAST CHANCE

SUMMARY MATCHING EXERCISE

Instructions: This exercise is intended to provide you with information about how well you have mastered all the words in this booklet. Read the legal definition and select the proper word at the top of the page which applies to that definition. If you cannot fill in the blank or if you have filled it in inaccurately, refer back to the section number given in parentheses after each definition and review that section.

* * * * *

[ACQUITTAL, TRIAL, ALLEGATION, DISMISSAL, WARRANT OF ARREST, ACTION]

A _____ is a judicial decision disposing of a case by sending it out of court without settling the issues involved in the controversy. (2)

An _____ is a statement accusing the suspect of breaking the law and setting out what the state expects to prove. (4)

The _____ is that portion of a criminal action in which the examination of the facts before the court allows it to determine the guilt or innocence of the accused. (5)

An _____ is an ordinary proceeding in a court of justice in which the accused is prosecuted for punishment of a public offense. (4)

A _____ is an order issued and signed by a magistrate directing a police officer to capture the person named by the warrant for the offense it indicates. (1)

_____ is the formal finding of the innocence of a person charged with a crime. (7)

VERDICT, DEMURRER, BAIL, PROBATION, WRIT OF HABEAS CORPUS, PARDON,
MAGISTRATE, ACCUSED, SUSPEND, CODE, EVIDENCE, CODE, EXONERATE

To _____ a prisoner is to gain his release from custody by assuring his appearance at a time and place designated by the court to resume the criminal action against him. (3)

_____ means to withhold for a period of time on certain conditions or to cause a process to cease for a period of time. (8)

_____ is a willful disregard of the authority of a court or disobedience of a lawful order made by a court. (6)

_____ is an action of the court allowing a person convicted of a minor offense to be free from serving any prison term at all, provided he remains on good behavior while under the official supervision of the court. (8)

_____ is the collection of witnesses, documents, and objects legally presented to the court to establish the guilt or the innocence of the accused. (5)

A _____ is a collection and classification of laws in a system which makes them available in a usable form by citizens, lawyers, and the courts. (3)

A _____ is a public officer having the authority to issue warrants authorizing the capture of public offenders. (1)

A _____ is an order bringing the accused before a court to determine whether he has been denied liberty by due process. The only function of this writ is to release from unlawful imprisonment. (2)

A _____ is an objection to proceeding further (even if the state's allegations be true) due to some legal shortcoming in the charge as presented before the court. (4)

_____ is the proper name of a person against whom a charge has been made. (2)

A _____ is the formal and unanimous finding made by the jury and reported to the court upon the matters submitted to them in the trial. (7)

A _____ is an act of the state which ends the punishment of a convicted person. It frees the prisoner and exonerates him of the charge on which he was convicted. (8)

_____ means to clear from blame. (7)

MISDEMEANOR, BAIL BOND, ARRAIGNMENT, JURY, ARREST, JURISDICTION,
CALENDAR, ADJOURNMENT, WAIVER, PRIMA FACIE EVIDENCE, EXHIBIT,
SUMMARY PROBATION, CRIMINAL ACTION

An _____ is a paper, document, or object produced and displayed to a court during a trial or hearing. It will be marked for identification by the clerk and may be admitted into evidence by the judge. (6)

A _____ is a group of twelve men and women temporarily selected from the district having venue in the action. It is the job of this group of citizens to decide the guilt or innocence of the accused. (5)

The _____ is an obligation signed by the accused (and those helping to pay the deposit) that this deposit will be lost to the state if the accused does not meet the conditions established by the court. (3)

_____ is a type of evidence which clearly establishes a claim as fact unless it is disputed by the opposing party. (6)

The _____ is a chronological listing of cases setting out the order in which they will be brought before the court. (4)

An _____ is the taking away of a person's liberty by legal authority. (1)

A _____ is a minor offense generally punishable by payment of a penalty to the state or by imprisonment for a short time in a county jail. (2)

_____ consists of a magistrate calling the accused before the court, reading him the indictment or information, asking him if he is guilty or innocent of the charge, and advising him of his legal rights. (4)

_____ is a suspension of the entire sentence, and there is no direct supervision by a court official during the probation period. (8)

A _____ is a legal procedure in which a controversy involving a public offense is settled in a court of law. (1)

_____ is the act of a court to postpone a session until another time or place. (6)

_____ is the legal right by which a judicial officer exercises authority. It is the authority, capacity, and power to act in a legal action. (3)

A _____ is the surrendering of a known legal right by the defendant of his own free will. (5)

APPEARANCE, BENCH WARRANT, REMAND, INFORMATION, FELONY, APPEAL,
PENALTY ASSESSMENT, VENUE, COMPLAINT, SUBPOENA DUCES TECUM, PROCESS,
PRELIMINARY HEARING, EXONERATE, PLEA

A _____ is a crime of a more serious nature than a misdemeanor. It is generally punishable by imprisonment in a state penitentiary for a number of years. (2)

A _____ is the response of the accused to the formal charge against him at the arraignment. (4)

_____ is the place where an act is said to be committed. (3)

A _____ is a process by which the court commands a person in control of a necessary document or paper to bring it to trial or hearing so that it may be placed in evidence. (6)

An _____ is a request to a higher court for a new trial because of an injustice or an error committed during the original trial. (8)

_____ means to clear from blame.

_____ is the word used to indicate any time the accused comes before the court.

_____ is the legal term for returning the accused to custody to await further court action. (3)

A _____ is a legal order used to force a person to comply with the will of the court. (4)

A _____ is a process issued by a court from the bench for the arrest of a person named in an indictment. (4)

A _____ is a court appearance at which the magistrate decides if there is enough proof against the accused to make it worth the time and expense of the state to continue the criminal action.

_____ is an accusation serving formal notification to the accused of the exact charge against him. This document is prepared by the district attorney without a grand jury investigation. (3)

A _____ is an official accusation that a person has broken the law, with the specific intent of proving the accusation is true in a court of law. (1)

A _____ is a tax contained in all fines, penalties, and bail forfeitures collected by the courts for penal and vehicle code offenses. (7)

JUVENILE, DOCKET, SUBPOENA, PETITION, PAROLE, DEFENDANT, HEARING,
CHARGE, FINDING, CONVICTION, DEPOSITION, FINE, INDICTMENT, PARTIES,
JUDGMENT, MOTION

A _____ tells what the person is accused of in legal form. (1)

A _____ is the testimony of a witness not in court which is written down and certified for use in a trial. Before taking this written statement under oath, the opposing party must be told so that he may attend to cross examine the witness. (6)

A _____ is a process used to cause a witness to appear and give testimony at a specified time and place under the threat of punishment by law for failure to do so. (6)

A _____ is a youth under eighteen years of age, still under the supervision of his parents. (8)

A _____ is a request to the court by a party for a ruling or an order on a particular point. (6)

The _____ is the person denying the charge in a criminal action.

A _____ is a verdict in which the accused is found guilty as charged.

A _____ is the final decision of the court about what is to happen to the parties in an action. (7)

A _____ is a formal public proceeding much the same as a trial but with no jury present. (5)

A _____ is a book containing brief entries of all the important parts of each action before a court. (4)

A _____ is the result reached by a jury or judge after studying the evidence given at the trial. (7)

A _____ is a conditional release from punishment following a return to good behavior by the convicted person. (8)

An _____ is a written accusation charging a person with a specific crime made by a grand jury investigation. (3)

A _____ is a sum of money paid to the state as a penalty by a defendant convicted of an offense. (7)

A _____ is an application in writing to a court requesting the court to use its power to correct an injustice. (2)

_____ are the persons who take part in the prosecution or defense of a legal proceeding. (5)

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