Colorado's Justice System: Glossary of Frequently Used Terms

Adjudication: Refers to a juvenile case indicating that the charges have been proven or the juvenile has pled guilty to committing a delinquent act. The equivalent of a conviction for adult offenders.

Advisement: At the first appearance of the defendant in court, the judge is required to inform the defendant and make sure that the defendant understands his/her constitutional and legal rights.

Arraignment: The formal act of calling the defendant into open court, informing him or her of the offense with which he or she is charged, and the entry of a plea to the charge. The defendant may enter one of the following pleas: (1) guilty; (2) not guilty; (3) nolo contendere (no contest) with the consent of the court; or (4) not guilty by reason of insanity, in which event a not guilty plea may also be entered.

Arrest: To seize by legal authority and take into custody. A peace officer may arrest a person when there is a warrant commanding that the person be arrested, any crime has been or is being committed by such person in the peace officer's presence, or the peace officer has probable cause to believe that the offense was committed by the person to be arrested (or in the case of a juvenile, the person has committed a delinquent act).

Bail: When a person who has been arrested first appears in court, the judge determines whether to release the person from custody, and what conditions must be met to allow for such release. The court may require that a specified amount of money must be deposited with the court to assure that the defendant will appear before the court as required and comply with other conditions set forth in a bond.

Bond: When a person who has been arrested first appears in court, the judge determines whether to release the person from custody, and what conditions must be met to allow for such release. A bond is a contract entered into by a person in custody by which he binds himself to comply with certain conditions. The defendant may be required to secure the bond by providing a deposit of cash, stocks or bonds, or real estate equity.

Charge: A formal written statement presented to a court accusing a person of the commission of a crime. The charge may be made by complaint, information, or indictment.

Community corrections: A community corrections sentence typically includes both a residential and non-residential component with supervision from a case manager and also potentially a probation or parole officer. Community corrections programs serve individuals in a variety of circumstances, including:

- Offenders awaiting trial or those under a deferred judgement;
- Offenders directly sentenced to community corrections as an alternative to incarceration in a jail or prison (called "Diversion");
- Offenders referred to a community corrections program as a condition of a probation sentence:
- Inmates transferred by the Department of Corrections prior to their parole eligibility date (called "Transition"); and
- Inmates referred by the Parole Board as a condition of parole.

Any offender sentenced or referred to community corrections must be approved by the local community corrections board for acceptance into the program.

Complaint: A written statement charging the commission of a crime by an alleged offender, filed in the county court.

Conviction: A declaration that an individual is guilty of a criminal offense by the verdict of a jury or the decision of a judge in a court of law.

Court-appointed special advocate (CASA): A volunteer appointed by the court to assist in advocacy for children.

Deferred prosecution: Prior to trial or entry of a plea of guilty, the court may with the consent of the defendant and the district attorney order the prosecution of the offense to be deferred for a specified period of time. During that time, the court may place the defendant under the supervision of the probation department and may place various conditions on the defendant, such as participation in counseling or treatment, performance of community service, payment of restitution, or abstinence from drugs and alcohol. Upon the defendant's satisfactory completion of and discharge from supervision, the charges are dismissed with prejudice. Upon violation of the conditions of supervision, the defendant shall be tried for the offense for which he was charged.

Deferred sentencing (adult)/**adjudication** (juveniles): After a defendant has pled guilty, the court may with the consent of the defendant and the district attorney accept the plea and continue the case for a specified period of time. During that time, the court may place the defendant under the supervision of the probation department. Upon the defendant's full compliance with conditions of probation and stipulations agreed to by the defendant and the district attorney, the plea of guilty previously entered into is withdrawn and the charges are dismissed with prejudice. Upon a violation of a condition of probation or a breach of the stipulation, the court must enter judgment and impose a sentence on the guilty plea.

Dependency and neglect (D&N): A child or youth is dependent or neglected if a parent, guardian, or legal custodian has abandoned the child or has subjected the child to

mistreatment or abuse, whether the parent is or is not at fault. In addition, a child or youth is dependent or neglected if the child has run away from home or is beyond the control of his or her parents.

Detention: The temporary care of a child or juvenile who requires secure custody in a physically restricting facility pending court disposition or an execution of a court order for placement or commitment. The equivalent for adult offenders is jail. A juvenile may initially be held if, based on a detention screening, the intake screener determines that the juvenile's immediate welfare or the protection of the community requires physical restriction. A juvenile may also be admitted to a detention facility if a law enforcement agency requests that the juvenile be detained because he/she is alleged to have committed an act that would constitute a serious or violent felony if committed by an adult. The court must hold a detention hearing within 48 hours (excluding weekends or holidays) to determine whether the juvenile should be released or detained further. The court may order one of the following:

- Release to the custody of a parent or guardian without the posting of bail;
- Placement in a shelter facility;
- Release upon posting bail;
- Detention; or
- Release to a preadjudication service program.

Direct file: The district attorney files a juvenile case adult court.

Disposition: The final settlement of a matter. With reference to decisions announced by a court, a judge's ruling is commonly referred to as a disposition.

Diversion (adults): The court may directly sentence an offender to community corrections as an alternative to incarceration, thus "diverting" an offender from jail or prison. The court may also refer an offender to a community corrections program as a condition of a probation sentence. Any offender sentenced or referred to community corrections must be approved by the local community corrections board for acceptance into the program.

Diversion (juveniles): Diversion is intended to prevent further involvement of a juvenile or child in the formal legal system. A district attorney may agree to allow a juvenile to participate in a diversion program as an alternative to filing a petition. If the juvenile successfully meets the contract conditions and does not re-offend during the contract period, charges are dropped. Diversion may also occur at the post-adjudication level as an adjunct to probation services.

Felony: Criminal offenses are classified according to how they are handled by the criminal justice system. Most jurisdictions recognize two primary classes of offenses: felonies and

misdemeanors. A felony is defined by the Colorado Constitution as any criminal offense punishable by death or imprisonment in a penitentiary.

Felony complaint: A written statement of the essential facts constituting the offense charged.

Grand jury: The court or a district attorney may convene a grand jury to investigate a crime and to return an indictment. Colorado statutes allow grand juries to be convened at the county, judicial district, and state levels. The state grand jury is intended to be a law enforcement tool with statewide jurisdiction to investigate and prosecute cases involving organized crime, criminal activity in more than one judicial district, or cases in which the Attorney General has the authority to prosecute. The Attorney General or his/her designee presents evidence to a state grand jury.

Guardian ad litem ("GAL"): A person (usually an attorney) appointed by the court to act in the best interests of a child or youth. The court must appoint a GAL for a child in a dependency & neglect case, and the court may appoint a GAL for a child or youth in a delinquency case. The GAL role in a delinquency case is different than that of defense counsel.

Habeas corpus: An independent civil action to determine not the guilt or innocence of the person held in custody, but whether the person has been illegally confined.

Home detention: An alternative sentence in which a defendant is allowed to serve the sentence or term of probation at home or another approved residence. Home detention programs require the offender to stay at the residence at all times except for approved employment, court-ordered activities, and medical appointments.

Indictment: A written statement, presented by a grand jury to the district court, which charges the commission of a crime by an alleged offender.

Information: A written statement signed by the district attorney presented to the district court, which charges the commission of a crime by an alleged offender.

Jail: Each county in Colorado that has a population of 2,000 or more is required to maintain, at county expense, a county jail. County jails house defendants awaiting trial, inmates waiting to be transferred to the department of corrections after a conviction, and inmates convicted of misdemeanor offenses.

Misdemeanor: Criminal offenses are classified according to how they are handled by the criminal justice system. Most jurisdictions recognize two primary classes of offenses: felonies and misdemeanors. Misdemeanors are often less serious crimes resulting in a fine, a sentence to the county jail, or probation supervision.

Parole: Adults convicted of certain offenses and have served time in prison may be released from prison to the community and supervised by parole officers. The Parole Board has the authority to grant, deny, defer, suspend, or revoke the parole of an adult. Juveniles adjudicated of certain offenses and have been committed to the Department of Human Services' Division of Youth Corrections (DYC) may be released to the community and supervised by juvenile parole officers. The Juvenile Parole Board has the authority to grant, deny, defer, suspend, or revoke the parole of a juvenile.

Peace officer: Generally this term is the same as "law enforcement officer". An individuals who is certified as a peace officer is authorized to enforce all state laws while acting within the scope of his/her authority and in the performance of his/her duties, and is authorized to carry firearms at all times, concealed or otherwise. Peace officers include a variety of state and local officials and employees, such as: police officers, sheriffs, state patrol officers, wildlife officers, higher education security officers, liquor enforcement investigators, medical marijuana enforcement investigators, racing events investigators, attorney general criminal investigators, district attorney investigators, correctional officers, and community parole officers.

Personal recognizance: A bond secured only by the personal obligation of the person giving the bond.

Petitions in certiorari: The process that the Colorado Supreme Court uses to select most of the cases it hears.

Plea bargain: The district attorney may engage in discussions with a defendant and defense counsel to reach a plea agreement in those instances where it appears that the effective administration of criminal justice will be served. The district attorney may agree, through such an agreement, to:

- Make or not oppose favorable recommendations concerning sentencing if the defendant enters a plea of guilty or no contest;
- Seek or not oppose dismissal of an offense charged if the defendant enters a plea of guilty or no contest to another offense reasonably related to the defendant's conduct;
- Seek or not oppose dismissal of other charges or not to prosecute other potential charges if the defendant enters a plea of guilty or no contest;
- Consent to deferred prosecution; or
- Consent to deferred sentencing.

When a plea has been reached, the prosecutor informs the court of the terms of the plea agreement and the recommended penalty. The court exercises independent judgment in deciding whether to grant charge and sentence concessions made in the plea agreement.

Pre-sentence investigation ("**PSI**"): After a defendant is convicted of a felony or misdemeanor (or a juvenile has been adjudicated for a felony), a probation officer conducts an investigation and makes a written report to the court before sentencing. Copies are provided to the prosecutor and the defense attorney. A PSI includes the following information:

- Details about the offense;
- A substance abuse assessment or evaluation;
- Family background and peer relationships;
- Educational history;
- Employment record;
- Past criminal record including any past juvenile delinquency record involving unlawful sexual behavior;
- An evaluation of alternative dispositions available; and
- A victim impact statement.

Preliminary hearing: A hearing on a complaint filed in the county court or an information filed in the district court, to determine if there is probable cause to believe that an offense has been committed and that the person charged committed it.

Pretrial services programs: A county may establish a pretrial services program which provides various types of community-based supervision as a condition of pretrial release. Such programs are required to establish procedures for screening arrested persons, and to provide information to the court to assist the judge in making determinations about releasing the defendant from custody and any related conditions (*e.g.*, the amount of bail and the type of bond).

Prison: Persons convicted of felony offenses are subject to a penalty of imprisonment at the Department of Corrections for a length of time that is specified in statute corresponding to the felony class for which the offender was convicted.

Probation: The court may sentence an offender (or a juvenile) to probation as an alternative to incarceration (or, in the case of a juvenile, commitment). Statute limits the offenders who are eligible to apply for probation, but such eligibility restrictions may be waived by the sentencing court upon the recommendation of the district attorney. The court establishes certain conditions of a probation sentence to ensure that the defendant leads a law-abiding life and to assist the defendant in doing so. Failure to meet the terms of probation set forth in the court's sentencing order may result in incarceration in a jail or prison. Probation services are provided by Judicial Branch staff in each judicial district; supervision may be provided by state employees or by private probation providers.

Recidivism: A measurement of convicted criminals who commit another crime or violate certain terms of their sentence within a particular period of time.

Restitution: A pecuniary loss suffered by a victim or other losses or injuries proximately caused by an offender's conduct that can be reasonably calculated and recompensed with money. Restitution may also include extraordinary direct public and all private investigative costs, as well as certain costs incurred by a government agency or private entity.

Restorative justice: Practices that emphasize repairing the harm to the victim and the community caused by criminal acts.

Sentencing: The court imposes a punishment or consequence for someone found guilty. The court has the discretion to determine a sentence in each case, within the legal parameters established by the General Assembly. A sentence may include payment of a fine or fee, payment of restitution, community service, probation supervision, community corrections, home detention, work release, imprisonment in a jail or prison, or death.

Shelter: A shelter provides temporary care of a juvenile in a physically unrestricted facility. Juveniles placed there are those whom the screener or court has determined must be removed from or are unable to return to their homes, but do not require physical restriction.

Staff-secure facility: A group facility or home at which the juvenile is continuously under supervision and all services including education and treatment are provided. The doors to the outside in this type of facility may or may not be locked.

Status offenses: Acts that are illegal only if committed by a juvenile, for example, truancy.

Summons: A notice requiring a person to appear in court on a specific day at a specific time.

Technical violation: A violation of a probation or parole condition that is not a conviction of a new criminal offense.

Transition: The placement of Department of Corrections prison inmates in community corrections facilities prior to their release on parole. While in the structured environment of a community corrections facility, offenders get jobs, renew contacts with family, and start developing community support systems prior to full release into the community.

Warrant: A written order issued by a judge directed to any peace officer commanding the arrest of the person named or described in the order.

Youthful Offender System ("YOS"): Certain juveniles tried and sentenced as adults may be sentenced to the YOS as an alternative to a sentence to prison. In order to sentence a

juvenile to the YOS, the court must first impose a sentence to the DOC which is then suspended on the condition that the youthful offender completes a sentence to the YOS, including a period of community supervision.

Sources

- Judicial Branch 2011 Annual Statistical Report
- Crime and Justice in Colorado: 2008-2010 (Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety, March 2011)
- Colorado Revised Statutes