

## Appendix E

# The Layperson's Glossary of Legal and Technical Terms<sup>\*\*</sup>

**Acquittal:** A verdict of “not guilty.”

**Active Supervision:** The immediate availability to prisoners of facility staff members responsible for the care and custody of such prisoners, including, but not limited to (1) supervisory visits to be conducted at 15-minute intervals; and (2) the uninterrupted ability of such staff members to communicate orally with and respond to each such prisoner unaided by any electronic or other artificial amplifying device (NYS Codes, Rules and Regulations, Minimum Standards and Regulations for Management of County Jails and Penitentiaries, Chapter 1, Section 7003.2) See also **Supervisory Visit, Routine Supervision, and Constant Supervision.**

**Adjournment in Contemplation of Dismissal (A.C.O.D.):** A legal device which allows the case to be suspended (adjourned) for six months to a year. Charges are automatically dismissed at the end of that time if the defendant is not rearrested in the interim.

**Administrative Segregation:** A cell in either the general population area or in a special housing unit in which a prisoner is continuously confined for administrative

reasons, other than disciplinary, for the purpose of providing proper care and close supervision. Administrative segregation may be imposed for medical reasons, deviant behavior, or in accordance with reception procedures. Rooms or cells used for administrative segregation must, unless restricted by the administrator of the facility for reasons dictated by the circumstances of each case, be fully equipped in accord with housing the general population and the prisoner shall have access to the same services and privileges.

**Arraignment:** The occasion on which a defendant appears before the court in which the criminal action is pending for the purpose of having the court acquire control over the individual with respect to the accusatory instrument and set the course of further proceedings. The charges are read to the prisoner, bail is set, and an attorney is sometimes appointed. Arraignment usually occurs within 24 hours of arrest and is a safeguard against illegal detainment by the police.

**Bail:** The sum of money that a defendant deposits with the court to insure his reappearance at future court dates. If someone on bail fails to appear, the court keeps the bail and may issue an arrest warrant to have the police bring the defendant before the court.

**Bench Warrant:** An arrest warrant issued by a criminal court directing officers to bring an individual who has previously been arraigned before the court. Bench warrants are typically issued when a defendant has failed to appear for a scheduled court appearance.

**Bond:** A guarantee of bail which is put up by someone hired by a defendant who cannot afford to post bail. In some countries, for example, it costs \$52 for each \$1,000 of bail posted. Thus, if bail is set at \$10,000, it will cost a defendant \$520 to have a bondsman guarantee the bail. Unlike bail which is returned to the defendant when he appears in court, the fee for a bond is kept by the bondsman.

**Booking:** To formally record charges against a person at the police station or at

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\* The information presented in this glossary was taken from 1) *Black's Law Dictionary* by Henry C. Black, St. Paul, MN: West Publishing Co., 1979 and 2) *Dictionary of Desperation*, ed. by John Armore and Joseph Wolfe, Washington, D.C.: National Alliance of Businessmen, 1976 and 3) the *NYS Penal Law and NYSMental Hygiene Law*. (The assistance of the staff at the Hutchings Psychiatric Regional Forensic Unit in helping to compile the glossary is gratefully acknowledged.)

the receiving desk of the county jail.

**Catchment Area:** A geographic area (such as a county or part of a county) from which the users of a service are drawn. The catchment area of the Hutchings Psychiatric Center, for example, encompasses 14 upstate counties, and it provides pretrial forensic psychiatric services to all residents of this region who qualify.

**Citation:** A summons; an official notice to appear in court.

**Civil:** Any non-criminal legal action.

**Complaint:** In criminal law, a charge preferred before a magistrate that a named person has committed a specified offense. Filing a complaint implies an offer to prove the fact so that prosecution can be initiated.

**Conditional Discharge:** A sentence in which a person is released from custody with certain conditions attached that he must follow in order to avoid possible incarceration.

**Conservator:** A person who is appointed to manage the financial affairs of a patient who by reason of advanced age, illness, infirmity, mental weakness, intemperance, addiction to drugs, or other cause, has suffered substantial impairment of his ability to care for his property or has become unable to provide for himself or others dependent upon him for support. (Mental Hygiene Law, Section 77.01.)

**Constant Supervision:** The uninterrupted personal visual observation of prisoners by facility staff members responsible for the care and custody of such prisoners (NYS Codes, Rules and Regulations, Minimum Standards and Regulations for Management of County Jails and Penitentiaries, Chapter 1, Section 7003.2) *See also Supervisory Visit, Routine Supervision, and Active Supervision.*

**Court of Appeals:** The highest court in the NYS Judicial System.

**Defendant:** The accused in a criminal or civil case.

**Definite or Determinate Sentence:** A sentence calling for the imprisonment of an offender for a specified period of time. Definite sentences can be imposed for violations, misdemeanors and certain eligible felonies.

**Detainer:** A written order to a jail or prison giving authority to hold a prisoner pending further court action.

**Director of Community Services Certificate (DCSC):** An involuntary psychiatric commitment designed for use in emergency situations. The maximum initial length of commitment is 72 hours.

**Dismissal:** A claim or action is dismissed when it is put out of court without further hearing. Charges are dismissed if there is insufficient evidence to prosecute or if some other point of law calls for the charge not to be prosecuted.

**Disposition:** A final decision on a criminal charge—the charge is “disposed of.” It could be either a conviction or an acquittal, but it always means that the criminal charge is resolved (no longer pending) by the action.

**Felony:** An offense for which a sentence to a term of imprisonment in excess of one year may be imposed. A fine not to exceed the higher of \$5,000 or double the amount of cash retained in the crime can also be imposed. Certain felonies are also eligible for a sentence of probation or conditioned discharge.

**Final Order:** Under 730 CPL, an order of a judge committing someone found incompetent to stand trial for treatment of up to 90 days. This commitment is used when a misdemeanor or violation is charged, and does not require the person’s return for trial (the charge is dismissed when the final order is issued). *Contrast with Temporary Order.*

**Fine:** A financial penalty (money) levied by a judge as punishment for a crime. For individuals convicted of crimes, the fine can be up to \$1,000 for a misdemeanor, up to \$5,000 for a felony, or three times the proceeds from the crime.

**Geographic Team:** Also known as “civil team,” this means any of the treatment teams at a state psychiatric center who take non-Forensic clients based on the geographic area where the client lives.

**Good Time Allowance:** A deduction from an inmate’s term of imprisonment for good behavior. Good time deductions up to one-third of the sentence are allowed and the deduction is subtracted from the maximum term.

**Grand Jury:** A body of citizens whose duties consist of determining whether there is probable cause to believe that a crime has been committed and whether an indictment (i.e., a “true bill”) should be returned against a particular person for committing it. If the grand jury determines that probable cause does not exist, it returns a “no bill.” The grand jury is an accusatory body and its function does not include a determination of guilt.

**Guilty Plea:** An admission by a defendant who waives his/her right to a trial and confesses to the crime charged.

**Habeas Corpus:** A writ or order requiring that a person be brought to court to decide whether he/she is being held lawfully.

**Halfway House:** A temporary home which allows persons released from institutions to have a period of readjustment to community life.

**Incapacitated Person (Incompetent):** A person who “as a result of mental disease or defect lacks the capacity to understand the proceedings against him or to assist in his own defense.”

**Indefinite or Indeterminate Sentence:** A sentence establishing a minimum and maximum period of imprisonment but which allows the parole board to decide the length of time within those parameters that the prisoner must be confined.

**Indictment:** A formal written accusation originating with a prosecutor and issued by a grand jury against an individual charged with a crime.

**Information:** A formal written accusation filed with a local criminal court, which charges a person or persons with the commission of one or more offenses, none of which is a felony.

**Jail:** A locally administered correctional facility where prisoners are detained while awaiting trial or sentenced to terms of confinement up to one year.

**Keyplock:** An operational procedure whereby an inmate is kept locked in his/her cell for disciplinary or administrative reasons.

**Local Conditional Release Commission:** As a result of a statute enacted in 1989, all New York State counties now possess a Local Conditional Release Commission (LCRC) that has responsibility for reviewing applications for local conditional release made by offenders sentenced to jail. To be eligible for local conditional release, an offender must be sentenced to ninety days or more and must serve at least sixty days of that sentence. In reviewing applications for local conditional release, the LCRC may consider proposals for treatment, (e.g. outpatient treatment, or participation in a community-based mental health residence) in lieu of incarceration. Offenders who are released under the terms of this statute are subject to a mandatory one year term of probation and any treatment conditions are made a special condition of that probation.

**MHLS:** “Mental Hygiene Legal Service,” a court agency that is a watchdog for all Mental Health facilities. It guarantees that patients’ rights are protected and represents patients on non-criminal matters related to commitment.

**Misdemeanor:** An offense other than a traffic infraction for which a sentence to a term of imprisonment in excess of 15 days but not greater than one year may be imposed.

**Motion:** A formal request made by an attorney in court. Motions might be made to suppress a confession, dismiss a charge, obtain a competency assessment, etc.

**Not Responsible:** According to NYS Law, "A person is not criminally responsible for conduct if at the time of such conduct, as a result of mental disease or defect, he lacks substantial capacity to know or appreciate either: (a) the nature and consequence of such conduct; or (b) that such conduct was wrong (New York State Penal Law, Section 40.15.)

**Parole:** A conditional release from prison of someone who has been incarcerated but is being released before the end of his/her mandatory release date. If a person violates the conditions of parole, he/she can be sent back to prison.

**Plea Bargaining:** An arrangement whereby a defendant enters a plea of guilty in return for a lighter sentence or reduced conviction charge.

**Pre-Sentence Report:** The results of an investigation conducted by a probation department on persons who have been convicted of a crime. The investigation is conducted between conviction (or guilty plea) and the time that sentence is pronounced, usually about three weeks. The report is given to the judge before sentencing, and the type or severity of the sentence may be influenced by this report.

**Pre-trial Conference:** A meeting held after arrest and before the formal trial process begins. Present at this conference is a judge, an assistant District Attorney, the Defense Attorney, and sometimes the Defendant.

**Pre-trial Diversion:** Conditional deferment of prosecution for specified type of offenses. Use of diversion is frequently dependent on the availability of a community based and monitored rehabilitative program (i.e., drug treatment, half way house). If the client does not respond positively to the deferment program, he/she may still be prosecuted his/her alleged criminal activity.

**Preliminary Hearing:** A hearing held in felony cases prior to indictment during which the State is required to produce sufficient evidence to establish that there is probable cause to believe that a crime has been

committed and that the defendant committed it.

**Prison:** State correctional facilities such as Elmira or Attica, where felony sentences of more than one year are served.

**Probation:** A conditional sentence allowing the probationer to remain at liberty within the community subject to conditions imposed by the court, including supervision of the probation department. Probation is sometimes used in conjunction with jail incarceration (called a "split sentence"). As a conditional sentence, it is revocable if the probationer fails to abide by the conditions imposed by the court.

**Protective Custody:** Part of the jail reserved for prisoners who must be isolated because inmates in the general population may want to injure or exploit them.

**Punitive Segregation:** A cell in either the general population area or in a special housing unit in which a prisoner is confined for a specified period of time as punishment or partial punishment for violating facility rules.

**Recidivist:** A person who repeatedly engages in criminal behavior.

**Remand:** To send a prisoner or defendant back into custody to await further court action or transfer to another institution; to send a case back to a lower court for additional proceedings.

**Restitution:** Reimbursement to the victim of a crime for the loss or expenses incurred because of the crime; often imposed as a condition of probation.

**R.O.R.:** Release on Own Recognizance. A court decision to release the accused on his/her promise to appear in court, rather than setting bail.

**Routine Supervision:** At a minimum, security officers in both lockups and jails must check the conditions of prisoners by actual visits to cells and detention rooms at intervals not to exceed 30 minutes. In jails, this requirement applies when prisoners are secured in their

individual housing units (NYS Codes, Rules and Regulations, Minimum Standards for County Jails and Penitentiaries, Chapter 1, Section 7003.3. and Minimum Standards and Regulations for Management of City Jails– Town and Village Lockups, Chapter 3, Section 7504.1) *See also* **Visit, Active Supervision and Constant Supervisory Supervision.**

**Sheriff:** An elected county official whose duties include assisting the civil and criminal courts of record. These duties encompass summoning juries, executing judgments, holding judicial sales and the like. The sheriff also fulfills a law enforcement function in the county and is frequently responsible for operating the jail.

**Stayed Sentence:** A court order which withholds the sentence of an offender to allow him/her to demonstrate an ability to function in the community.

**Subpoena:** A legal writ issued by a judge to cause an individual to appear before the court. It may also be issued by attorneys to obtain documents and depositions.

**Summons:** To notify the defendant that an action has been instituted against him/her and that he/she is required to answer to it in court.

**Superior Court Information:** A written accusation by a district attorney filed in a superior court charging a person with a crime. It has the same force and effect as an indictment.

**Supervisory Visit:** (1) A personal visual observation of each individual prisoner by facility staff members responsible for the care and custody of such prisoners to ensure the presence and proper conduct of all prisoners; and (2) a personal visual inspection of each individual prisoner housing unit and the area immediately surrounding such housing unit, by facility staff members responsible for the care and custody of prisoners, to ensure the safety, security and good order of the facility. (NYS Codes, Rules and Regulations, Minimum Standards and Regulations for Management of County Jails and Penitentiaries, Chapter 1, Part 7003.2). *See also* **Routine**

### **Supervision, Active Supervision, and Constant Supervision.**

**Suspended Sentence:** A sentence of incarceration which has been stayed by the court.

**Temporary Order:** Under 730 CPL, an order by a judge committing someone who is found incompetent to stand trial for treatment and return to court for trial. Used exclusively in felony cases (Contrast with Final Order).

**Two Physician Certificate (2 PC):** An involuntary psychiatric commitment designed for use in non-emergency situations. The maximum length of commitment is 60 days.

**Unconditional Discharge:** A disposition following conviction in which the judge releases the perpetrator to the community without imposing restrictions, fines, imprisonment or other form of punishment.

**Unconditional Release:** Also called a "Discharge," used in the same way in criminal courts as in mental health facilities.

**Vacate Order:** An order entered by the court which cancels an earlier court order.

**Verdict:** Similar to "Disposition," except that it refers to the actual finding of the court or jury (e.g., "guilty" or "not guilty").

**Violation:** The least serious criminal offense. Violations carry a maximum sentence of a \$250 fine and/or 15 days in jail.

**Waiver:** A voluntary decision by a defendant to eliminate a hearing, legal counsel or some other right/procedure to which he/she is legally entitled.

**Warrant:** An order for the arrest of an individual.

**Work Furlough:** A program in which an institutionalized offender is released daily to work in the community and is incarcerated overnight; typically the offender is charged a daily fee for his/her stay at the work furlough facility, and a portion of his/her salary is

appropriated for family support, if applicable.

**Youth Offender Status:** A judicial designation which replaces a conviction for eligible youths, seals court records pertaining to the case, and does not result in the creation of a criminal record.