

**THE  
COURT WATCH  
PROGRAM**

**Remove Intoxicated Drivers  
Oak Ridge/Anderson County Chapter  
P.O. Box 4863  
Oak Ridge, TN 37831-4863**

**RID: BECAUSE WE CARE  
February 2004**

# TABLE OF CONTENTS

	Page
Acknowledgements	ii
Section One	
The History of <u>REMOVE INTOXICATED DRIVERS</u> of Oak Ridge/Anderson County and the Court Watch Program	1
History	1
Goals	2
Purpose	2
Section Two	
Court Watching	
What is a Court Watch?	3
The Role of the Court Watcher	4
Policies for Court Watchers	6
Section Three	
The DUI Case	
From Start To Finish	7
Section Four	
Criminal Prosecution: Screening Cases and Charging Defendants	10
When the Case Goes To Court	11
Criminal Justice System	12
Criminal Justice Professionals	13
Responsibilities of the Prosecutor	14
Responsibilities of the Defense Attorney	15
Responsibilities of the Judge	15
Section Five	
Glossary	16

## Acknowledgements

The Oak Ridge/Anderson County Chapter of RID, **REMOVE INTOXICATED DRIVERS**, initiated its Court Watch right after it was formed in 1982. From 1982 until approximately October 1996, we used internally generated documents for court watcher training procedures. In July 1996, the Metropolitan Drug Commission (MDC) in Knox county formulated a court watcher's manual for their program using input from Oak Ridge RID's Barbara Reed, Mothers Against Drunk Driving (MADD) documents, and their own efforts. Thanks to RID's Jerry Wing, who was also a member of the MDC, we obtained the finished manual in October 1996 and modified it to fit RID's needs in Anderson County. RID appreciates the generosity of the MDC for allowing RID's court watchers the use of their manual material.

This newly developed Court Watch Manual has been prepared for RID volunteer Court Watchers. It includes portions of the MDC manual along with several pages from the web site of Anderson County District Attorney General Jim Ramsey. Additional research and preparation was provided by RID members Charlotte and Ernie Lees, longtime Court Watchers in both Knox and Anderson County courts, and by Marilyn and Jerry Wing. DAG Jim Ramsey and his staff were very helpful in their review of the manual for accuracy.

To all those who contributed to this documents,  
RID is ever grateful . . .

**BECAUSE WE CARE!**

## Section One

# The History of Remove Intoxicated Drivers (RID) of Oak Ridge/Anderson County and the Court Watch Program

## History

Remove Intoxicated Drivers was established in February 1978 by Doris Aiken in upstate New York. She had read a newspaper account of two small children who had been killed in a car crash caused by a drunk driver.

She decided to investigate what happens to drunk drivers in the criminal justice system.

She was shocked by what she learned! Due to plea bargaining, people were driving drunk for as many as three years before they got their first alcohol conviction! Even after killing or maiming someone, drivers kept their license or received a special, conditional license. It seemed drunk driving was out of control.

Aiken joined forces with other groups also concerned about drunk driving to fight for legislation that would hit the problem hard and meaningfully. Their battle with legislators was not easy, but they devised a strategy to bring pressure to bear on the legislators by networking with many large, influential organizations like the Salvation Army, the American Association of University Women, the Council of Churches, and a variety of service clubs and law enforcement groups. The result was the founding of RID of New York state.

This was a major breakthrough, and it happened because of the actions of a few concerned people without money, political prestige, or position. Following this pattern for success, RID chapters were formed all over the United States.

The RID Chapter of Oak Ridge/Anderson County was established in January 1982 after an initial public meeting in November 1981. At a meeting attended by a number of people, including John and Barbara Reed and Anderson County District Attorney General Jim Ramsey, the groundwork for the local chapter was laid.

Because Anderson County has become a widely recognized jurisdiction where DUI is most vigorously prosecuted, the office of Anderson County District Attorney General Jim Ramsey received a national award from RID-USA in recognition of their success in prosecuting drunk drivers.

## **RID Goals**

- 1 To collect and disseminate information on the subject of driving while intoxicated.
- 2 To raise public awareness of the toll drunken drivers inflict on society, and to increase public involvement in finding solutions.
- 3 To work with government at all levels to improve the laws and their enforcement concerning driving while intoxicated.
- 4 To support the victims and victim families by providing emotional support and guidance step by step through the court process.

RID does not advocate prohibition, but opposes drinking and driving.

## **Purpose**

According to the National Highway Traffic Safety Administration, court monitoring of DUI cases by volunteer citizen groups can be effective in increasing the likelihood of convictions, decreasing dismissals and, in the case of repeat offenders, increasing the length of jail sentences.

Statistics which can be gathered through a court watch program can provide the following information:

- An analysis of sentences handed down by particular judges for particular offenses.
- The number of DUI cases which are heard during a given period in a particular jurisdiction.
- The number of DUI cases which actually go to trial in a particular jurisdiction.

## Section Two

### Court Watching

#### What is a Court Watch?

Our courts are busy. Drunk driving charges are common. With 30 or more court sessions each month, details about repeat offenders, side-bar deals, and trends in sentencing are often lost. Basically, court watchers attend court sessions and, for all DUI cases, record the docket numbers, the names of the participants, the charges, and verdict or action. These data are reported to the RID Data Manager for analysis. RID analysts also appreciate the court watchers' personal comments and observations, but RID court watchers do not have to be legal experts. Based on the results of analyzing these data, RID is in a position to make suggestions to and exchange ideas with law enforcement officers and state legislators.

Court watching can be very interesting and rewarding. For some, court watch can be a real eye-opener. Simply watching the proceedings...the judicial system in action...can be an educational experience. Court watchers, at first, may find it difficult to follow what is happening. The court watcher will quickly learn that much of what happens is repetitious. But few experiences can compete with what occurs in our courts or its impact on one's perception of the world and complexity of its problems. Therefore, court watchers benefit from "watching" and, at the same time, are of help to others and to the community by working to **REMOVE INTOXICATED DRIVERS.**

The Court Watch Program, through trained court watchers, has one important mission: to improve all aspects of the justice system's approach to intoxicant-related driving offenses, including enforcement, laws, prosecution, record-keeping, defense issues, and defendant accountability.

# The Role of a Court Watcher

## Welcome to the world of court watching!

As a court watcher, some of what you see may be confusing at first, but as you begin to understand the system, you will be more comfortable with the procedures. If you have any questions about what you have observed in court, ask your trainer or another RID member. This must be done at an appropriate time and not while court is in session. Remember that you are not in court to tell those in the system how to do their jobs.

All General Sessions Judges and the Clerks of the Court are familiar with the RID Court Watch Program. The prosecutors **are** supportive. One prosecutor commented that the Court Watch Program is a boost to the effective prosecution of drunk drivers. Your presence in court can have a great impact.

Here are some important guidelines to follow when court watching:

Be courteous to everyone who works in the court system. They usually are excellent sources of information and are willing to share information and be helpful to you.

Never wear name badges or anything with a distinguishing logo on it. If you carry a RID brief case, you may be well advised to carry the side with the RID logo facing your body and the clear side facing the courtroom.

Leave any newspapers, magazines, books or personal papers in your briefcase or purse. The court is not the place to read these materials while court is in session, but you may take reading materials for use during delays in recesses.

Before attending the court session, pick up a court docket at the Office of the Attorney General for the Clinton Court, or General Sessions Clerk's office in Oak Ridge for the Oak Ridge Court.

Dress neatly, as though you were going to a business meeting.

Find a seat near the front of the courtroom so you can hear clearly.

Never speak while court is in session or gesture your agreement or disagreement with the action of the court. Refrain from showing emotion.

Act professionally at all times even when you encounter uncooperative people. Do not be rude. If you are asked what you are doing, simply state that you are a court watcher from REMOVE INTOXICATED DRIVERS. If anyone tries to get you into an argument, walk away. Nothing will be accomplished by arguing.

To prevent inadvertently speaking with a defense attorney, defendant, press, or witness, it's best not to discuss your activities until after adjudication of the cases. To do otherwise could result in a mistrial.

*(continued)*

## **The Role of a Court Watcher (continued)**

You may introduce yourself to prosecutors, bailiffs, and clerks to let them know you are present to do court watching. Be friendly with all judicial personnel.

Be encouraging, especially if you think someone has done a good job. After adjudication of a case, let people know that you appreciate their work.

Educate yourself on all state and local laws pertaining to drunk driving. Current laws are printed in the manuals for new drivers available at the motor vehicle office. New or revised laws often appear in the newspapers at the time the state legislature recesses. Be aware of the changes. Cut them out of the newspapers and put them in this manual.

Become familiar with legal terms used in the courtroom. Definitions are found in the last section of this manual.

Establish a relationship with the Prosecutor.

- a) A healthy relationship with the prosecutor's office should be cultivated since the prosecutor's office can be invaluable in keeping you apprised of court activities.
- b) Maintaining regular contact with at least one member of the prosecutor's office is a good idea, in order to exchange information.
- c) Once a good relationship has been established with the prosecutor's office, they may be able to give you good tips on cases to watch and statistics to make public. However, a measure of independence from the prosecutor should be maintained.
- d) The District Attorney General, Anderson County, has a web page. It contains valuable information and should be referred to often. The URL is  
[www.attorneygeneral.org](http://www.attorneygeneral.org)

Establish a relationship with the judiciary.

- a) Comments and questions concerning sentencing should be forwarded to the RID Court Watch Coordinator who will review the comments and questions with the District Attorney General and will keep the court watcher apprised of the outcome.
- b) Personal contact with the judge should never be made until the case is adjudicated.

## **Policies for Court Watchers**

All potential volunteers will be contacted by the RID Court Watch Coordinator who will explain the training procedure and ask basic information of the potential court watcher such as telephone number, preferred location for court watching (Clinton or Oak Ridge) and preferred day of the week or month. For training, newly appointed court watchers will attend court sessions with an experienced court watcher for as many sessions as the appointee desires.

Information required by RID for analysis should be noted on the front of the docket. The back of the docket can be used for comments and questions. This is the preferred way of submitting the information to RID for analysis, although some court watchers write their own reports on separate papers or phone the results to the Coordinator. RID appreciates the service performed by the volunteers, regardless of the form used to transmit the information. Some court watchers send the reports by e-mail.

Court watching schedules are prepared near the end of each month. The RID Court Watch Coordinator will call the court watchers in order to confirm a date or dates for court watching. Any changes by court watchers should be made through the Court Watch Coordinator.

RID expects volunteers to maintain a high level of ethical behavior. A volunteer may be asked to resign as a Court Watcher for failure to observe policies related to decorum; interfering with safety or welfare of others; consumption or possession of alcohol while acting as a court watcher or any consumption of illicit drugs; or any act or omission which negatively affects RID.

## Section Three

### The DUI Case

#### The DUI Case: From Start to Finish

**Traffic Stop:**

A law enforcement officer observes a driver violating a traffic law, such as weaving left of center, reckless operation, etc., and signals the driver to pull over.

**Sobriety Tests:**

If the officer suspects the driver is impaired or smells alcohol, then a variety of coordination tests are given to verify this. Some common sense tests are reciting the alphabet, walk and turn, one-leg stand, and finger to nose.

**Arrest:**

If the officer determines the driver is impaired, then arrest is made and a citation is issued that advises the person of the charges and the first court appearance.

**Blood Alcohol Content (BAC) Tests:**

This test is to determine if alcohol is present in a person's blood, breath, or urine, and, if present, if it is above or below the legal limit.

**Warrant:**

A written order from a judge that a person be arrested. If you are a victim or a witness, the warrant is based on a written statement about the crime in which you were involved.

**Bail:**

An amount paid or pledged by the defendant to make sure he or she will appear in court.

**Preliminary Hearing:**

A hearing before the General Sessions Court Division in Clinton or Division II in Oak Ridge. Evidence is heard and decisions are made concerning "probable cause" that a crime has been committed and that the defendant committed it. If so, the case will be "bound over" to the Grand Jury. This is not the "trial" of the case. Misdemeanor cases may be resolved at this stage if the defendant waives his right to a jury trial.

**Grand Jury:**

An independent group of 13 private citizens of the County, including a foreman. They meet in secret and listen to the State's evidence about the crime in order to decide whether the case should go to trial. It takes 12 of the 13 grand jurors voting for a True Bill for the case to be indicted. Less than 12 votes results in No True Bill, which means the case is dismissed.

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## The DUI Case: From Start to Finish (*continued*)

### **Indictment:**

If the Grand Jurors decide that a case should go to trial, they "return" an indictment or presentment charging the defendant with the crime or crimes he or she may have committed.

### **Arraignment:**

If a Grand Jury returns a True Bill, the case is brought to Criminal Court for final disposition. The arraignment is the first scheduled appearance by the defendant in Criminal and Circuit Court. The indictment returned by the Grand Jury is read and the defendant is given a copy and a trial date may be set.

### **Plea Agreement:**

This is sometimes inaccurately called "plea bargaining," which is a term used to describe a method of disposing of cases without a trial. Defendants may plead guilty. Once a defendant decides to plead guilty, it is up to the District Attorney's Office and the defendant's attorney to work out an agreement to present to the judge. The defendant may agree to plead guilty to the crime(s) charged or to a lesser offense, and there may be an agreement that the District Attorney's Office will recommend a sentence to the judge. The judge may accept or reject the plea. Although the victim will not have the final say as to what sentence is given, the District Attorney's Office is interested in the victim's views on the defendant and the crime.

### **Trial:**

The court proceeding in which the District Attorney, or an Assistant District Attorney, presents the case for the State, attempting to prove beyond a reasonable doubt that the defendant committed the crime as charged. The defendant may present proof to dispute the State's claim. Usually the defendant chooses whether a judge or a twelve-person petit jury will decide the case. If the defendant is found guilty, he or she has the right to appeal to the court of Criminal Appeals. If he or she is not found guilty, the case is over. The State cannot appeal due to the Constitutional prohibition against double jeopardy.

### **Subpoena:**

A subpoena or summons is a court order directing a person to appear in court at a stated time and place. If one is received, he or she must appear in court. Failure to appear can result in that person being placed under arrest and having to post bond.

### **Sentencing Hearing:**

After a defendant's guilty plea is accepted or he or she is found guilty after a trial, the judge decides what happens. The defendant may be sent to prison or jail, or the sentence may be "suspended" and the defendant put on probation. At the sentence hearing, the defendant will be given a term of imprisonment and fine as determined by the Sentencing Matrix of the Tennessee Truth in Sentencing Law. Probation means the defendant is left free as long as he or she obeys the judge's instructions. He or she may also be placed in other programs, such as "Community Corrections."

*(continued)*

## The DUI Case: From Start to Finish (*continued*)

### **Appeal:**

Convicted defendants have a right to appeal their convictions and sentences to higher courts. These courts examine the record made of the trial proceedings to determine if reversible error has occurred. If a higher court finds that serious errors occurred in the trial proceedings, it may remand the case for a new trial or even dismiss the charges. Although most appeals are unsuccessful, the process is often very lengthy.

### **Parole:**

The release of a person from prison before the end of his sentence, under certain conditions or restrictions which must be met or the person will be returned to prison.

## **Section Four**

### **Criminal Prosecution: Screening Cases and Charging Defendants**

The screening of cases and charging of defendants is one of the most important of the district attorney's responsibilities. In deciding whether or not to charge an individual, the district attorney must consider a number of factors. The district attorney must devote his time to those important cases that will have the greatest impact on the community at large. At the same time, the district attorney must be careful to abide by the ethical responsibility he has to not endanger the reputation of an individual unless such is based on a solid foundation of evidence. Unlike the defense attorney who must zealously represent his or her client, the district attorney's goal is to make sure justice is served. The American Bar Association, in their Code of Professional Responsibility and the National District Attorneys Association, in their National Prosecution Standards have set standards for the performance of these duties.

#### **Screening**

Screening is the process by which the district attorney determines if charges may be brought against an individual.

The district attorney must follow a number of guidelines when determining which individuals should be charged with which crimes. These guidelines include sufficiency of evidence, the age of the case, and whether undue hardship has been caused to the accused. The district attorney must also be willing to share information and reconsider new information. In addition, the district attorney should explain the screening program to victims, witnesses, and law enforcement officials so that not only is justice done, but the people involved understand the result.

#### **Charging**

Charging is the process by which the district attorney determines the crimes an individual is accused of committing.

The district attorney must determine which charges are to be filed and brought before the grand jury or the court. The district attorney must file charges appropriate to the offense and which are supported by the evidence. The district attorney must consider the likelihood of conviction, the interests of the victim, the availability of adequate civil remedies, and any mitigating circumstances to determine which charges are to be brought against the defendant.

#### **Ethical Considerations**

These are the ethical obligations the district attorney is bound by during the criminal charging process.

A district attorney general has a legal as well as ethical duty to furnish the accused with exculpatory evidence or favorable information; and he has both a legal and an ethical duty to refrain from suppressing such evidence, to correct the false testimony of a prosecution witness, and to refrain from using false evidence to convict an accused. *State v. Spurlock*, 874 S.W. 2d 602 (Tenn. Crim. App. 1993).

## **When the Case Goes to Court**

### **Here's What You Can Expect!**

At the initial court appearance of the accused, you can expect any of several actions:

**A) Defendant pleads guilty**

1. As charged
2. To reduced charges as agreed between Attorneys

**B) Reset/Continuance due to**

1. Defendant requests a Public Defender or must hire an Attorney
2. Arresting officer fails to appear
3. Court calendar is too heavy and therefore there is insufficient time
4. The accused is in jail or cannot appear for some other reason
5. The accused fails to appear (without excuse). Judge issues warrant for arrest.

**C) Dismissed due to**

1. Prosecution decides case is too weak
2. Arresting officer fails to appear (the charges can be reinstated by the District Attorney)
3. Paperwork has not been completed properly (i.e. charges not sworn by arresting officer)

## Criminal Justice System

The Criminal Justice System has three components: law enforcement, courts, and the correctional penal institutions. Law enforcement exists to prevent crime and detect criminals. The courts exist to decide guilt or innocence. The correctional penal institutions exist to correct/punish criminals.

The courts are divided into two parts:

**General Sessions Court** which handles misdemeanor offenses that are lesser crimes punishable only by a fine and/or a jail sentence of less than one year. Examples are: DUI involving no serious injury or death, domestic violence, petty theft, assault, etc.

**Criminal Court** which handles felony offenses and misdemeanors where the defendant demands his rights to a jury trial. Alcohol-related traffic fatalities or serious injury, rape, murder, etc., are examples of felony offenses.

There are two types of cases: criminal cases and civil cases.

**Civil cases** involve one party suing another, generally for money.

**Criminal cases** involve the State's bringing a lawsuit against a defendant for breaking laws.

Most DUI cases are misdemeanors unless there is serious injury or death involved.

## **Criminal Justice Professionals**

### **Magistrate:**

A public official who has executive or judicial power.

### **Municipal Judge:**

An elected or appointed judge who has jurisdiction within the municipality (city) in which he or she is appointed. In some cities this judge is called a corporation court judge.

### **General Sessions Court Judge:**

An elected official whose court has jurisdiction in criminal cases where the fine to be imposed may not exceed an amount specified by statute.

### **Criminal Court Judge:**

An elected official whose court has original jurisdiction in criminal cases of the grade of felony, of all misdemeanors involving official misconduct, and of misdemeanor cases transferred to District Court.

### **County Attorney:**

An elected or appointed official who serves as prosecutor in the county court during the term of court.

### **District Attorney:**

An elected official whose office represents the state in all criminal cases in the district courts and courts of appeal.

### **Prosecutor:**

An attorney from the District Attorney's office who represents the state's case against the defendant.

### **Defense Attorney:**

A defender of the accused. He or she takes an oath to protect the constitutional laws of the United States of America.

### **Probation Officer:**

One who acts as an "arm of the court." The two primary responsibilities of the probation officer are to monitor compliance with the rules of probation and to assist in the rehabilitation of the offender.

### **Bailiff:**

A sworn deputy sheriff whose function is to keep order in the courtroom.

## **Responsibilities of the Prosecutor**

Investigation of cases and, in some cases, prepares search and arrest warrants.

Preliminary Hearing/Examining Trial – establishes probable cause before a judge.

Grand Jury – Establishes probable cause in seeking indictments on a single criminal charge or multiple counts.

Arraignment – Arraigns felony defendants, entering formal plea to charges in indictment or prosecutor's information; may allow defendant to plead guilty to a reduced charge or to a single charge in a multiple-count indictment.

Pretrial Motions – Opposes motions to suppress evidence alleged to have been illegally obtained.

Trial – Must prove each element of crime beyond a reasonable doubt to obtain a conviction.

Sentencing – Recommends harsh or lenient disposition at sentence hearing.

Appeal – Under most circumstances, only the defense can appeal. The Prosecutor cannot appeal, but may counter an appeal triggered by the defense attorney.

Parole – May oppose early parole release from prison of dangerous offenders.

## **Responsibilities of the Defense Attorney**

Analyze the case:

- \* With what is the defendant charged?
- \* To what court is the case assigned?
- \* At what stage in the process is the case?
- \* What is the defendant's version of the facts?
- \* Have procedures been followed? (search warrants, police acted correctly, etc.)
- \* Do the facts add up? Can the State prove the defendant is guilty of what he/she is charged? He/she may be guilty of a lesser offense.

Witnesses – if the defendant presents witnesses, the defense attorney has a duty to sit down and talk to those witnesses even if he/she doesn't believe them. He/she does not have to call a witness who will prove the defendant guilty; it is up to the State to prove him/her guilty. Has an obligation to avoid knowingly putting on perjured testimony.

Testify – the defendant has the right to testify. The defense attorney must put him/her on the stand if he/she requests to testify.

Evidence – the prosecution must show the defense all exculpatory evidence (evidence of innocence) but the defense has no obligation to show the State inculpatory evidence (evidence of guilt). The burden of proof is on the prosecution, and the defendant is presumed innocent until proven guilty.

## **Responsibilities of the Judge**

Bound by the law, the judge will abide by the following:

- \* State and Federal Constitutions
- \* Rules of Evidence
- \* Rules of Procedure
- \* Penal Code
- \* Plea Bargaining System
- \* Case Law

## Section Five

### Glossary

**Accessory:** A person who contributes to or aids in the commission of a crime. One who aids without being present at a crime.

**Acquittal:** A verdict or finding of not guilty by a jury, or, in the case of a bench trial, by a judge.

**Adjourn:** To postpone the case to a later time.

**Adjudication:** A legal decision that ends a criminal proceeding by a judgment of acquittal, conviction, or dismissal of the case.

**Admissible evidence:** Evidence or testimony which is allowed by the judge to be introduced during the trial.

**Affidavit:** A written declaration or statement sworn to and affirmed.

**Appeal:** to ask for review by a higher court of the bail, the sentence, a decision, a motion or the verdict handed down by a lower court.

**Alleged:** The term used to modify any fact or charge not yet proven true.

**Appearance ticket or summons:** A summons to appear in court on a particular date. Issued by a police officer after or in lieu of arrest.

**Applications or motions:** Procedural moves made by either attorney and submitted to the court. They help to define and set the ground rules for the proceedings of a particular case.

**Arraignment:** Generally means an accused person's appearance in court at which the court may inform the accused of the charges against him/her, advise the accused of his/her rights, appoint a lawyer for him/her and/or hear his/her plea.

**Arrest:** The taking into custody of a person suspected of a crime for the purpose of charging him/her with committing a specific offense.

**Blood Alcohol Level [Content] (BAC):** The amount, by percentage, of alcohol in a person's blood at any given time; determined by measurement.

**Bail:** An amount paid or pledged by the defendant to make sure he/she will appear in court.

**Bail bond:** An obligation to pay the amount of bail if the person fails to appear in court when requested.

**Personal bond:** Release upon person's recognizance and promise to return for trial.

10% bond: Release upon posting cash or security equaling 10% of bond value.

Cash or surety bond: Release upon posting full amount of bond or upon signature of bondsman.

## Glossary (continued)

**Bar:** Refers to attorneys, counselors, and advocates of the court collectively.

**Bench warrant:** A direction by the court for the apprehension and arrest of a defendant or one in civil contempt or sought in a civil case.

**Beyond a reasonable doubt:** The degree of proof needed for a jury or a judge to convict an accused person of a crime.

**Bias:** Undue partiality leading a judge to decide cases other than on law and facts presented to the court. Distinguish this from conflict of interest which is potential bias, and exists before a decision is made.

**Breathalyzer:** An apparatus which measures blood alcohol level via a person's breath. Suspension of license if not taken upon request.

**Calendar:** The list of cases which are to be heard in a particular court.

**Case Law:** Non-statutory law, based on past decision, opinions, interpretations, tradition.

**Case number:** A reference number assigned to a case by the clerk's office. All court documents are filed by the case number. Also called "cause number."

**Charge:** A formal accusation filed by the prosecutor's office that a specific person has committed a specific crime, also referred to as pressing charges, or formal charges filed.

**Commitment:** The order of a court to keep a person in custody in a penal or mental institution or hospital.

**Common law:** The vast collection of previous court decisions, customs, and usage.

**Commutation:** A reduction of punishment or sentence after conviction.

**Complaint:** The document prepared by the plaintiff to set forth his or her claims.

**Concurrent and consecutive sentence:** A concurrent sentence is one in which the sentences for different offenses are served at the same time. A consecutive sentence is one in which each sentence is served one after another has been completed.

**Conditional discharge:** A sentence wherein the defendant is released on certain conditions set by the court.

**Continuance:** A postponement of court action until a future time. This may occur at any point in a case presentation.

**Court reporter:** A stenographer who records verbatim the proceedings in open court.

**Cross examination:** The questioning by a party or the attorney of the opponent's witnesses.

## Glossary (continued)

**Defendant:** A person who has been formally charged with committing a crime.

**Detention:** The act of holding a person in custody; by police for questioning, by police while awaiting arraignment, or in jail while awaiting a hearing or trial.

**Default:** Failure to appear and defend a law suit.

**Defense attorney:** Attorney representing the accused defendant.

**Deposition:** A written statement made under oath.

**Dismissal:** A decision by a judicial officer (prosecuting attorney or judge) to end a case for legal or other reasons.

**Disposition:** The outcome of a case.

**District Attorney or State's Attorney:** The state agency having official jurisdiction over vehicle and driver licensing and kindred events.

**Docket:** The formal record maintained by the clerk of the court, listing all cases to be heard in a particular part each day. It often contains the defendant's name, docket number, charge, date of arrest, and the outcome of the case.

**Dram Shop Law:** Defines the liability of alcohol servers for actions of patrons who are intoxicated.

**Driver's license restoration:** A temporary, conditional, or permanent restoration of a driver's license after a suspension or revocation by the Division of Motor Vehicles (DMV) or equivalent state agency.

**Driving record:** Transcript of the legal history of driver's record.

**Drunk driving:** Driving under the influence of intoxicating liquor to an extent defined as illegal. Called variously, from state to state, driving while intoxicated (DWI), driving under the influence (DUI), operating under the influence (OUI), etc.

**Due process:** Regular and orderly administration of justice by a court in accordance with established rules - a constitutional right.

**Evidence:** Testimony and objects used to prove or corroborate the statement made by the victim, the accused, or the witness.

**Exhibits:** Documents or other tangible evidence offered for court consideration.

## Glossary (continued)

**Expunged:** A public record in the Clerk's office that has been removed from the record only when a case has been dismissed. This information is not removed from the law enforcement or judicial records - public records.

**Extradition:** The process of returning a fugitive from one state to another which wants him/her for a criminal offense.

**Felony:** A crime that may be punishable by imprisonment for more than one year or by probation supervision.

**Gallery:** The area where spectators sit.

**Habeas Corpus:** A writ that requires a person having another in custody to produce that person before the court, to show he/she has the right to custody of the other person.

**Hearing:** A legal proceeding in which arguments, witnesses, and/or evidence are heard by a judicial officer of an administrative body.

**Hearsay evidence:** Testimony that is brought out by the witness which is based not on his/her personal knowledge but rather on information he/she received from someone else. Generally it is not acceptable because the informant is not available for cross examination.

**Impact Statement:** Prepared letter by victim and/or family of victim detailing extent of damage suffered from actions of the accused.

**Incarceration:** Imprisonment.

**Incompetent:** Defendant who is unfit to stand trial because he/she is unable to understand the nature of the case due to a mental or physical condition.

**Indictment:** A formal, written accusation, made by a grand jury and filed in a court, alleging that a specific person has committed a specific crime.

**In camera:** In judge's private chambers; in secrecy, off the record.

**Information:** The written charge against a defendant filed by the prosecutor in circuit court.

**Injunction:** A court order prohibiting a certain named person from performing certain acts.

**Judgement/Judgement of Conviction:** The court document that summarizes the case, shows the conviction of the defendant, and sets the punishment by the court.

**Judgement of Acquittal:** The same as the judgement of conviction except there will be no punishment set in the case.

## Glossary (continued)

**Jurisdiction:** The geographical area and type of case over which a court has authority.

**Juvenile:** An accused person usually between the ages of seven and sixteen-eighteen years. These cases are conducted in juvenile court.

**Magistrate:** An official having the power to issue a warrant for arrest of a person charged with a crime. All judges are magistrates, but not all magistrates are judges.

**MIP:** Mail in Probation Report.

**Misdemeanor:** An offense punishable by less than one year in jail.

**Mistrial:** A trial which is invalid because of some error in procedure, law, or fact.

**Motion for Warrant and to Revoke Probation:** This court document explains the grounds the prosecuting office has established for revoking a defendant's probation and requests the court to order the warrant.

**Motion:** A verbal or written request made by the prosecutor or the defense attorney before, during, or after a trial, that the court issue a ruling or an order.

***Nolo Contendere:*** A defendant's formal answer in court to the charges in which the defendant states that he/she does not contest the charges. The *nolo contendere* plea is not an admission of guilt but carries the same legal consequences as a guilty plea.

**Objection:** A protest made to record one party's disapproval of a question asked or a response given by his opponent.

**Order:** A formal decision by a judge granting or denying a motion (request).

**Order Granting Probation:** A conviction, either by the plea of the defendant or the court's or jury's judgement, in which the defendant is granted probation. Included in the order is the jail time assessed, fines, probation fees, and rules that the defendant agrees to follow while fulfilling his probation.

**Ordinance:** A regulation established by a local government.

**Parole:** A conditional release from imprisonment after sentence is partially served.

**Perjury:** The legal offense of testifying falsely and deliberately while under oath.

**"Pit":** The area inside the railing where the business of the court takes place. This area is off-limits to spectators. NEVER ENTER THIS AREA WITHOUT BEING INVITED.

**Plaintiff:** One who takes a dispute to court; initiator of a lawsuit.

## Glossary (continued)

**Plea:** The reply of the defendant to the charges.

**Plea Bargain:** An agreement between the prosecutor and the defense attorney that the defendant will plead guilty to a charge in exchange for some concession from the state.

**Plea under advisement:** A guilty plea is held in abeyance for a period of time while the defendant is on probation. If probation is successful, the case may be dismissed. Sometimes this is called ADCD or adjournment in contemplation of dismissal. The record is erased after the waiting period ends.

**Preliminary Hearing:** A hearing before the trial justice judge who hears some of the evidence and decides if there is "probable cause" that a crime has been committed and that the defendant committed it. If so, the case will be "bound over" to the grand jury. This is not "the trial" of the case. Misdemeanor cases may be resolved at this stage if the defendant waives his right to a jury trial.

**Pre-sentence Report:** A document prepared by the probation department which details the past behavior, family circumstances and personality of a convicted offender and gives information about the crime he/she committed.

**Pre-trial Conference:** A meeting, after arraignment, in which the judge, defense attorney, prosecutor, and defendant try to conclude a case without a trial, or establish the parameters of the trial.

**Prima facie:** "On the face of it" or "At first view." Where sufficient evidence has been produced to obtain a conviction unless overcome by additional evidence.

**Privileged communication:** A statement made to a person of trust (clergyman, doctor, lawyer, wife, husband). It cannot be revealed without the originator's consent.

**Probable cause:** Sufficient evidence to believe that a particular person is likely the guilty party.

**Probation:** Conditional freedom granted to an offender by the court after conviction or a guilty plea with requirements for the offender's behavior set and supervised by the court.

**Program ("The Program"):** An alcohol highway safety program. Typically, completion is a condition of a drunk driving plea bargain.

**Prosecuting Attorney/Prosecutor:** The attorney who represents the state in the case. He/she is employed by a government agency to represent the interests of the general public.

**Public Defender:** Attorney assigned by a court to represent the indigent defendants.

**Quash:** To make void, or do away with.

**Restitution:** The requirement that a criminal restore something to its rightful owner or give an equivalent in cash or work for an injury.

## Glossary (continued)

**Sentence:** The final order and pronouncement of punishment of the court that sets the defendant's fine, jail term, and credits his/her time already spent in jail on this charge. The license suspension will be set on this document. If the court is granting work release or weekend serving of a sentence, the stipulations will be listed on this document.

**Stipulation:** An agreement between the parties and their attorneys.

**Stipulation of evidence:** When all parties (prosecutor, defendant, defense attorney) concede that what the evidence shows has indeed taken place.

**Subpoena:** A court order requiring a witness to attend; it may also order him or her to bring books or records with them.

**Summons:** The document by which a defendant is advised to appear in court, where there is a charge or claim against him or her.

**Testimony:** Statements made in court by witnesses who have sworn to tell the truth.

**Transcripts:** An official record of proceedings in court recorded by the court stenographer.

**Trial:** An examination of issues of fact and law before a judge, at which evidence is presented to determine whether an accused person is guilty of committing a specific crime.

**Trial docket:** Refers to the list of cases to be tried on a given day or in a given period of time.

**Venue:** The location in which a prosecution or action is brought to trial.

**Verdict:** The decision of the judge or jury at the end of the trial that the accused defendant is either guilty or not guilty of the crime for which he/she has been tried.

**Waive:** Voluntary surrender of a right, claim, or privilege.

**Warrant:** A document issued by a judge authorizing an officer to make an arrest, a seizure, or a search or to do other acts relative to the administration of justice.

**Withdrawal of plea:** The court at its discretion may permit a plea believed to be made unknowingly and involuntarily, to be withdrawn and a substitute or alternate plea submitted.

**Witness Box:** Where each witness sits to testify.