

# Background Check Terminology

## A

**Abated by death:** Case disposed of by death.

**Abduction:** Taking away by violence or fraud and persuasion: kidnapping. Usually a female, wife, child, or ward.

**Abstraction:** Taking away with intent to harm or deceive.

**Abstract of Judgment:** A type of document to be filed with the court to keep a civil judgment or federal and/or state lien "open" until satisfied.

**ABWIK:** In South Carolina, assault & battery with intent to kill.

**Accessory:** Not the perpetrator of the crime but a person that is in some way involved; one who aids or contributes in a secondary way or assists in or contributes to crime as a subordinate.

**Accessory After the Fact:** One who receives, comforts, or assists a felon knowing that he/she has committed a felony or is sought in connection with the commission or attempted commission of a felony.

**Accessory Before the Fact:** One who procures, counsels, or commands the deed perpetrated, but who is not present, actively or constructively, at such perpetration.

**Accusatory Instrument:** Refers to the initial pleading or other paper, which forms the procedural basis for a criminal charge. An accusatory instrument can include an indictment, accusation, or information. If the accusatory instrument is defective, the entire proceeding will be rendered null and void.

**Acquittal:** A legal judgment that an accused is not guilty of the crime for which he or she has been charged and tried.

**Action:** A court proceeding wherein one party prosecutes another party for a wrong done, or for protection of a right or prevention of a wrong.

**Active Case:** Case is currently active.

**Adjourn:** To postpone; to delay briefly a court proceeding through recess. An adjournment for a longer duration is termed continuance.

**Adjudication:** The determination of a controversy and pronouncement of judgment.

**Adjudication is Withheld:** The court will withhold a decision until a future date. Usually, some sort of probation is added and if the defendant complies with the conditions for a specified period of time, the case will be dismissed.

**Adverse Action:** The two-step process an employer is required to follow anytime the employer intends to make an adverse decision with respect to the individual's employment if the decision is based, in whole or in part, on information contained in the Consumer Report.

- Step 1 (commonly “Pre-Adverse Action”): Prior to actually taking Adverse Action, the employer must provide the individual with a copy of the Consumer Report, the Consumer Financial Protection Bureau (CFPB) document “A Summary of Your Rights Under the FCRA,” and provide an opportunity for him/her to dispute inaccurate or incomplete information prior to a final decision being made.
- Step 2 (commonly “Adverse Action” or “Final Adverse Action”): Communicating with the individual that adverse action is being taken (i.e., the individual will not be hired, promoted, etc.), as explained in Section 615 of the FCRA.

**Adverse Action Notice:** A letter or other document informing the job applicant he or she has been denied employment. Necessary when using the services of a consumer reporting agency and the employer is making an adverse employment decision on the basis of the consumer report provided by the consumer reporting agency. This document must contain the name, address, and phone number of the employment screening company, a statement that the employer, not the background screening company, is responsible for making the adverse decision, and a notice that the individual has the right to dispute the accuracy or completeness of any of the information in the report. The Adverse Action Notice must be preceded by a “Pre- Adverse Action Notice.”

**Affidavit:** A voluntary, written statement of fact, confirmed by oath.

**Aggravated Assault:** An assault where serious bodily injury is inflicted on the person assaulted, including assaults with a dangerous or deadly weapon.

**Aiding and Abetting:** To assist and/or incite another to commit a crime.

**Alias (AKA):** "Otherwise known as"; an indication that a person is known by more than one name.

**Alien:** One who is not a citizen of the country in which he/she lives.

**Alimony:** Court-ordered payment of support of one's estranged spouse in the case of divorce or separation.

**Annul:** To make void; to dissolve that which once existed, as to annul a marriage.

Annulment wipes out or invalidates the entire marriage, whereas a divorce only ends a marriage from that point on and does not affect the former validity of the marriage.

**Antitrust Acts or Laws:** Laws to protect trade or commerce from unlawful practice.

**Appeal:** A request to a higher court to review and reverse the decision of a lower court.

On an appeal, no new evidence is introduced. The higher court is limited to considering whether the lower court erred on a question of law or gave a decision plainly contrary to the evidence presented in the trial. An appeal cannot be made until the lower court renders a final judgment.

**Appellant:** One who makes a complaint to a superior court to review the decision of a lower court.

**Appellate Court:** A court having jurisdiction to review the law as applied to a prior determination of the same case; not a forum in which to make a new case, it is merely a

court of review to determine whether or not the rulings and judgment of the court below upon the case as made were correct; not a trial court.

**Application for Employment:** The application form should be carefully designed to solicit needed information without subjecting the company to unwanted litigation. Since the passage of Title VII, the Age Discrimination and Employment Act (ADEA) and the Americans with Disabilities Act (ADA), employers have revised most forms to delete questions that refer to protected categories such as race, age, national origin, religion, gender or disability. The application should also contain a certification by the applicant which acknowledges that falsified, misleading, or omitted information on the application will (not "may") result in a decision not to hire the applicant, or if hired, a decision to terminate regardless of the date of discovery. This policy, as with all others, should be consistently followed.

**Appropriate:** To take something from another for one's own use or benefit.

**Arbitration:** Submitting a controversy to an impartial person, the arbitrator, chosen by the two parties in the dispute to determine an equitable settlement. Where the parties agree to be bound by the determination of the arbitrator, the process is called Binding Arbitration.

**Arbitrator:** An impartial person chosen by the parties to solve a dispute between them, who is empowered to make a final determination concerning the issue(s) in controversy, who is bound only by his/her own discretion, and from whose decision there is no appeal.

**Archive/Archives:** The place where records are stored after a certain specified period of time. The period of time a record is held at a court of record may differ between courts and states.

**ARD (Accelerated Rehabilitation Disposition):** 1st offender program for a criminal case. If the program is completed and fines/costs are paid, there is a possibility that the charge(s) might be dismissed.

**Armed Robbery:** Robbery aggravated by the fact that it is committed by a defendant armed with a dangerous weapon, whether or not the weapon is used in the course of committing the crime.

**Arraign:** To bring a defendant to court to answer the charge under which an indictment has been handed down.

**Arraignment:** An initial step in the criminal process in which the defendant is formally charged with an offense, given a copy of the complaint, indictment, information, or other accusatory instrument, and informed of his/her constitutional rights, including the pleas he/she may enter.

**Arrears / Arrearages:** That which is unpaid and due to be paid. A person in arrears is behind in payment.

**Arrest:** The taking or keeping of a person in custody by legal authority, especially in response to a criminal charge; specifically, the apprehension of someone for the purpose of securing the administration of the law, especially of bringing that person before a court.

**Arson:** The attempted or intentional destruction of property by fire or explosion.

**Assault:** An attempt or apparent attempt to inflict bodily injury upon another by using unlawful force, accompanied by the apparent ability to injure that person is not prevented.

An assault need not result in touching so as to constitute a battery. Thus, no physical injury needs to be proved to establish an assault. An assault may be either civil or criminal. Some jurisdictions have defined criminal assault to include battery – the actual physical injuring.

**Authorization and Disclosure:** Before an End-User (employer, landlord, etc.) may request a Consumer Report on an individual, the End-User must get the individual's consent.

For an employment purpose, the employer must notify the individual in writing (disclosure) and the individual must grant permission for the report to be prepared (authorization). This is typically done via an electronic or actual (wet) signature. Authorization and Disclosure forms are often referred to as "consent forms" and "release forms."

## **B**

**Background Screening:** An inquiry into the history and behaviors of an individual under consideration for employment, credit, access to sensitive assets (such as national defense information), and other reasons.

**Bad Check:** A check that is dishonored on presentation because of insufficient funds (NSF), unavailable funds, or a closed bank account. Issuing a bad check is a form of larceny (theft).

**Bad Debt:** A debt that is not collectible and is therefore worthless to the creditor.

**Bail:** An amount of money, set by a judge at an initial appearance to ensure the return of an accused at subsequent proceedings.

**Bail Forfeiture:** Defendant allowed to forfeit bail and is found guilty of the offense charged.

**Bankruptcy:** A statutory procedure by which a debtor obtains financial relief and undergoes a judicially supervised reorganization or liquidation of the debtor's assets for the benefit of creditors.

**Battery:** The unlawful touching of or use of force on another person willfully or in anger.

Battery may be considered either a tort, giving rise to civil liability for damages to the victim or a crime. Compare to assault.

**Bench Trial:** Trial by judge, without a jury.

**Bench Warrant:** A court order for the arrest of a person; commonly issued to compel a person's attendance before the court to answer a charge of contempt or if a witness or defendant fails to attend after a subpoena has been duly served.

**Blackmail:** An illegal demand for money or property under threat of harm or exposure of undesirable acts.

**Bond:** A certificate of obligation, either unsecured or secured with collateral, to pay a specified amount of money within a specified period of time.

**Bond Forfeiture:** The permanent loss of property (money in this case) for failure to comply with the law. Interest is accrued. This is not a conviction, nor a finding of innocence.

**Bookmaking:** An operation with the purpose of placing, registering, paying off or collecting debts for bets.

**Bound Over:** Court finds probable cause exists to believe the accused committed the offense charged and binds the charge over to superior court.

**Breach of Contract:** A wrongful nonperformance of any contractual duty of immediate performance; failing to perform acts promised, by hindering or preventing such performance or by repudiating the duty to perform.

**Breach:** Failure to perform some contracted-for or agreed-upon act, or to comply with a legal duty owed to another or society.

**Breaking and Entering:** Two of the elements necessary to constitute a burglary, consisting of the use of physical force, however slight, to remove an obstruction to an entrance. For example, pushing open a door that is ajar, followed by unauthorized entry into a building, is sufficient to constitute the breaking and entering elements of a burglary.

**Bribery:** The voluntary giving of something of value to influence the performance of an official duty.

## C

CALIFORNIA CIVIL CODE 1785.10 (a): Every consumer credit reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding that consumer at the time of the request.

CALIFORNIA CIVIL CODE 1785.11 (a) (2) (3) (B):

a) A consumer credit reporting agency shall furnish a consumer credit report only under the following circumstances:

(2) In accordance with the written instructions of the consumer to whom it relates.

(3)(B) To a person whom it has reason to believe intends to use the information for employment purposes

CALIFORNIA CIVIL CODE 1785.13 (a) (1) (2) (3) (4) (5) (6) (7):

(a) No consumer credit reporting agency shall make any consumer credit report containing any of the following information:

(1) Bankruptcies that, from the date of adjudication, antedate the report by more than 10 years.

(2) Suits and judgments that, from the date of filing, and satisfied judgments that, from the date of entry, antedate the report by more than seven years.

(3) Unlawful detainer actions where the defendant was the prevailing party or where the action is resolved by settlement agreement.

(4) Paid tax liens that, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed in collection or charged to profit and loss that antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime that, from the date of disposition, release, or parole, antedate the report by more than seven years.

(7) Any other adverse information that antedates the report by more than seven years.

**CALIFORNIA CIVIL CODE 1785.18 (a) (b) (c):**

(a) Each consumer credit reporting agency which compiles and reports items of information concerning consumers which are matters of public record shall specify in any report containing public record information the source from which such information was obtained, including the particular court, if there be such, and the date that such information was initially reported or publicized.

(b) A consumer reporting agency which furnishes a consumer report for employment purposes and for that purpose compiles and reports items of information on consumers which are matter of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall in addition maintain strict procedures designed to ensure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests,

indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

(c) No consumer credit reporting agency which furnishes a consumer credit report for employment shall report information on the age, marital status, race, color, or creed of any consumer.

**CALIFORNIA CIVIL CODE 1785.20 (a) (1) (2)(3)(4)(A)(B):**

(a) If any person takes any adverse action with respect to any consumer, and the adverse action is based, in whole or in part, on any information contained in a consumer credit report, that person shall do all of the following:

(1) Provide written notice of the adverse action to the consumer.

(2) Provide the consumer with the name, address, and telephone number of the consumer credit reporting agency which furnished the report to the person.

(3) Provide a statement that the credit grantor's decision to take adverse action was based in whole or in part upon information contained in a consumer credit report.

(4) Provide the consumer with a written notice of the following rights of the consumer

(A) The right of the consumer to obtain within 60 days a free copy of the consumer's consumer credit report from the consumer credit reporting agency identified pursuant to paragraph (2) and from any other consumer credit reporting agency which complies and maintains files on consumers on a nationwide basis.

(B) The right of the consumer under Section 1785.16 to dispute the accuracy or completeness of any information in a consumer credit report furnished by the consumer credit reporting agency.

**CALIFORNIA CIVIL CODE 1785.20.5 (a) (b):**

(a) Prior to requesting a consumer credit report for employment purposes, the user of the report shall provide written notice that to the person involved. The notice shall inform the person that a report will be used and the source of the report, and shall contain a box that the person may check off to receive a copy of the credit report. If the consumer indicates that he or she wishes to receive a copy of the report, the user shall request that a copy be provided to the person when the user requests its copy from the credit reporting agency. The report to the user and to the subject person shall be provided contemporaneously and at no charge to the subject person.

(b) Whenever employment involving a consumer is denied either wholly or partly because of information contained in a consumer credit report from a consumer credit reporting agency, the user of the consumer credit report shall so advise the consumer against whom the adverse action has been taken and supply the name and address or addresses of the consumer credit reporting agency making the report. No person shall be held liable for any violation of this section if he or she shows by a preponderance of the evidence that, at the time of the alleged violation, he or she maintained reasonable procedures to assure compliance with this section.

CALIFORNIA CIVIL CODE 1785.22 (a) (b) (1) (A) (B) (C) (2):

(a) A person may not procure a consumer credit report for the purpose of reselling the report or any information therein unless the person discloses to the consumer credit reporting agency which issues the report identify of the ultimate end user and each permissible purpose for which the report is furnished to the end user of the consumer credit report of information therein.

(b) A person that procures a consumer credit report for the purpose of reselling the report or any information therein shall do all of the following:

(1) Establish and comply with reasonable procedures designed to ensure that the consumer credit report or information is resold by the person only for the purpose for which the report may be furnished under this title. These procedures shall include all of the following:

(A) Identification of each prospective user of the resold consumer credit report or information.

(B) Certification of each purpose for which the consumer credit report or information will be used.

(C) Certification that the consumer credit report or information will be used for no other purpose.

(2) Before reselling the consumer credit report or information, the person shall make reasonable efforts to verify the identities and certifications made under paragraph (1).

**CALIFORNIA CIVIL CODE 1786.2 (c):** The term “investigative consumer report” means a consumer report in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through any means. The term does not include a consumer report or other compilation of information that is limited to a specific factual information relating to a consumer’s credit record or manner of obtaining credit obtained directly from a creditor of the consumer or from a consumer reporting agency when that information was obtained directly from a potential or existing creditor of the consumer or from the consumer.

**CALIFORNIA CIVIL CODE 1786.2 (d):** The term “investigative consumer reporting agency” means any person who, for monetary fees or dues, regularly engages in whole or in part in the practice of assembling or evaluating information concerning consumers for the purposes of furnishing investigative consumer reports to third parties.

**CALIFORNIA CIVIL CODE 1786.2 (f):** The term “employment purposes,” when used in connection with investigative consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

**CALIFORNIA CIVIL CODE 1786.10 (a):** Every investigative consumer reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding the consumer at the time of the request.

**CALIFORNIA CIVIL CODE 1786.12:** An investigative consumer reporting agency shall only furnish an investigative consumer report under the following circumstances:

(d) To a person that it has reason to believe:

(1) Intends to use the information for employment purposes

**CALIFORNIA CIVIL CODE 1786.16 (a) (2):** If, at any time, an investigative consumer report is sought for employment purposes other than promotion or reassignment, the person procuring or causing the report to be made shall, not later than three days after the date on which the report was first requested, notify the consumer in writing that an investigative consumer report regarding the consumer's character, general reputation, personal characteristics, and mode of living will be made. This notification shall include the name of the investigative consumer reporting agency conducting the investigative and a summary of the provisions of Section 1786.22

**CALIFORNIA CIVIL CODE 1786.16 (c):** The provisions of subdivision (a) shall not apply to an investigative consumer report procured or caused to be prepared by an employer if the purpose of the employer is to determine whether to retain an employee when there is a good faith belief that the employee is engaged in any criminal activity likely to result in a loss to the employer.

**CALIFORNIA CIVIL CODE 1786.18 (a) (1-8) (b) (2) (c) (d) (1) (2):**

(a) Except as authorized under subdivision (b), no investigative consumer reporting agency

shall make or furnish any investigative consumer report containing any of the following items of information:

(1) Bankruptcies that, from the date of adjudication, antedate the report by more than 10 years.

(2) Suits that, from the date of filing, and satisfied judgments that, from the date of entry, antedate the report by more than seven years.

(3) Unsatisfied judgments that, from the date of entry, antedate the report by more than seven years.

(4) Unlawful detainer actions where the defendant was the prevailing party or where the action is resolved by settlement agreement.

(5) Paid tax liens that, from the date of payment, antedate the report by more than seven years.

(6) Accounts placed in collection or charged to profit and loss that antedate the report by more than seven years.

(7) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime that, from the date of disposition, release, or parole, antedate the report by more than seven years.

(8) Any other adverse information that antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any investigative

consumer report to be used in the following transactions:

(2) The employment of any individual at an annual salary that equals or may reasonably be expected to equal, seventy-five thousand dollars (\$75,000) or more.

(c) Except as otherwise provided in section 1786.28, an investigative consumer reporting agency shall not furnish an investigative consumer report that includes information that is a matter of public record and that relates to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless the agency has verified the accuracy of the information during the 30-day period ending on the date on which the report is furnished.

(d) An investigative consumer reporting agency shall not prepare or furnish an investigative consumer report on a consumer that contains information that is adverse to the investigative interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of the item of information, unless either (1) the investigative consumer reporting agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information, or (2) the person interviewed is the best possible source of the information.

**CALIFORNIA CIVIL CODE 1786.20 (a) (b):**

(a) Every investigative consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user prior to furnishing the user any investigative consumer reports.

(b) Whenever an investigative consumer reporting agency prepares an investigative consumer report, it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

(c) An investigative consumer reporting agency shall not make an inquiry for the purpose of preparing an investigative consumer report on a consumer for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any applicable federal or state equal employment opportunity law or regulation.

**CALIFORNIA CIVIL CODE 1786.22 (a):** An investigative consumer reporting agency shall supply files and information required under section 1786.10 during normal business hours and on reasonable notice.

**CALIFORNIA CIVIL CODE 1786.24 (a) (d):**

(a) If the completeness or accuracy of any item of information contained in his or her file is disputed by a consumer, and the dispute is conveyed directly to the investigative consumer reporting agency by the consumer, the investigative consumer reporting agency shall, without charge, reinvestigate and record the current status of the disputed information or delete the item from the file in accordance with subdivision (c), before the end of the 30- day period beginning on the date on which the agency receives the notice of the dispute from the consumer.

(d) Notwithstanding subdivision (a), an investigative consumer reporting agency may terminate a reinvestigation of information disputed by a consumer if the investigative

consumer reporting agency reasonably determines that the dispute is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

**CALIFORNIA CIVIL CODE 1786.28 (a) (b):**

(a) Each investigative consumer reporting agency which complies and reports items of information concerning consumers which are matters of public record shall specify in any report containing public record information the source from which such information was obtained, including the particular court, if there be such, and the date that such information was initially reported or publicized.

(b) A consumer reporting agency which furnishes a consumer report for employment purposes and for that purpose complies and reports items of information on consumers which are matter of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall in addition maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

**CALIFORNIA CIVIL CODE 1786.30:** Whenever an investigative consumer reporting agency prepares a investigative consumer report, no adverse information in the report (other

than information that is a matter of public record, the status of which had been updated pursuant to Section 1786.28) may be included in a subsequent investigative consumer report unless that adverse information has been verified in the process of making the subsequent investigative consumer report, or the adverse information was received within the three-month period preceding the date of the subsequent report is furnished.

**CALIFORNIA CIVIL CODE 47 (c):** Employment reference verifications-California Civil Code Section 47 (c) was amended in 1994 to protect employers from defamation law suits when giving employment references to another employer. It states, "This subdivision applies to and includes a communication concerning the job performance or qualifications of an applicant for employment, based upon credible evidence, made without malice, by a current or former employer of the applicant, to and upon request of the prospective employer."

**Capias:** The Latin meaning is "That You Take." This is the name for several types of writs, which require that a law enforcement official take a named defendant into custody.

**Capital Case/Crime:** Case or crime for which the death penalty may be imposed

**Capital Punishment:** Punishment by death for a capital crime.

**Carnal:** Sexual. Sensual. Carnal knowledge is sexual intercourse.

**Case:** An action, cause, suit or controversy, at law, or in equity.

**Case Sent to Collections:** Case sent to a collection agency to collect on past due fines, fees or court costs.

**Cause of Action:** A claim in law and fact sufficient to form the basis of a valid lawsuit, as a breach of contract; the composite of facts that gives rise to a right of action. Right of action is the legal right to sue.

**Change of Venue:** Offense transferred to the court in the appropriate geographical area.

**Charge:** In criminal law, a charge is an allegation that an individual has committed a specific offense.

**Child Support:** The amount of money the court requires one spouse to pay to the other who has custody of the children born of marriage, may be imposed by the court with or without an award of alimony.

**Circuit Court:** One of several courts in a given jurisdiction; a part of a system of courts extending over one or more counties or districts; formerly applied to United States Court of Appeals. There are 13 Circuit Courts of Appeal in the federal court system.

**Citation:** An order issued by a law enforcement officer requiring appearance in court to answer a charge. Bail is not accepted in lieu of appearance.

**City Court:** Courts that try persons accused of violating municipal ordinances. City courts may have jurisdiction over minor civil or criminal cases or both.

**Civil Action:** An action to protect a private right or to compel a civil remedy in a dispute between private parties, as distinguished from a criminal prosecution.

**Civil:** A branch of law that pertains to suits other than criminal practice and is concerned with the rights and duties of persons.

**Civil Contempt:** Failure to do something ordered by the court for the benefit of another party to the proceedings.

**Civil Disorder:** A violent public disturbance by three or more people, which causes danger, damage or injury to property or persons.

**Civil Records:** Official records related to civil cases, i.e., when one party sues another.

**Co-defendant:** One of a group of two or more people charged in the same crime.

**Coercion:** The use of physical force or threats to compel someone to commit an act against his or her will.

**Complainant:** A person that brings a lawsuit by filing a complaint. A complainant is often referred to as a plaintiff or petitioner.

**Complaint:** 1. In a civil action, the first pleading of the plaintiff setting out the facts on which the claim is based. 2. In criminal law, the preliminary charge or accusation made by one person against another.

**Compounding Crime:** The receipt by an individual of consideration in exchange for an agreement not to prosecute or inform on someone who they know has committed a crime.

**Concurrent Sentences:** Two or more terms of a sentence served simultaneously.

**Conditional Discharge:** A conviction. Court issues the discharge from the jail and requires the defendant to comply with some conditions. Regardless whether the defendant complies with rules or not, he/she is still convicted (guilty) and the case can never be expunged.

**Conditional Release:** The release from a correctional facility before full sentence has been served which is conditioned on specific behavior. If conditions are not met the individual may be returned to the facility.

**Consecutive Sentences:** Multiple sentences, served one after the other.

**Consent/Release Form:** A certification to be signed by the applicant in order to authorize a detailed background and reference check. This authorization should also contain language, which releases not only the prospective employer, but also any other person or employer from any and all liability that may result from the furnishing of information. This may assist you in obtaining information from otherwise hesitant parties and former employers of the applicant.

**Conspiracy:** The coming together of two or more people for the purpose of committing an unlawful act or to commit an unlawful act by unlawful means.

**Consumer:** An individual who is the subject of a background check, often an applicant for employment or tenancy.

**Consumer Financial Protection Bureau (CFPB):** A regulatory agency charged with overseeing financial products and services that are offered to consumers. The Consumer

Financial Protection Bureau works together with the Federal Trade Commission to protect and educate consumers about the various types of financial products and services that are available. The newly created CFPB has now become the agency primarily responsible for interpreting the FCRA.

**Consumer Report:** A report or document containing one or more of the following pieces of information about an individual: credit standing, credit history, credit capacity, personal characteristics, character, general reputation, and/or mode of living. This information is primarily provided through verification of employment, references, education, licensure, as well as criminal, motor vehicle, and credit report record gathering. The report is prepared by a third party and used by employers and landlords when considering the individual for employment or tenancy (but may be used for other permissible purposes as outlined in the FCRA). Consumer Reports are often referred to as Background Investigations, Background Checks, Screening Reports, and other similar names.

**Consumer Reporting Agency (CRA):** Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. Some CRA's may also, on request, prepare investigative reports not just on consumers' creditworthiness but also on personal information gathered from various sources, including

interviews with neighbors, friends, and co-workers. It is also important to bear in mind that, while all credit bureaus and credit reporting agencies are CRA's, not all CRA's are credit bureaus or credit reporting agencies.

**Contempt of Court:** An act or omission tending to interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

**Continuance:** The adjournment or postponement, to a specified subsequent date, of an action pending in court.

**Contract:** A promise; a transaction involving two or more individuals whereby each has reciprocal rights to demand performance of what is promised.

**Controlled Substance:** Drug whose general availability is restricted, regulated, or outlawed because of its potential for abuse and/or addiction. Controlled substances include: narcotics, stimulants, depressants, hallucinogens, and cannabis (marijuana).

**Conversion:** The tortious deprivation of another's property. There must be a wrongful taking, detention, or illegal assumption of ownership for conversion to occur.

**Conviction:** The act or process of judicially finding someone guilty of a crime; the state of having been proved guilty.

**Corporation:** An association of shareholders (or a single shareholder) created under law as an artificial person, having a legal entity separate from the individuals who compose it, with the capacity of continuous existence or succession, and the capacity of taking, holding, and conveying property, and the capacity of suing and being sued, and exercising like a

natural person other powers that are conferred on it by law. A corporation is normally limited to its assets; the shareholders are thus protected against personal liability for the corporation.

**Count/Charge:** An offense named in a cause of action. A cause of action may contain multiple counts or charges, each relating to the others but identifying a separate offense.

**Counterfeit:** Forged; fabricated without right; made of imitation of something else to defraud by passing the false copy for genuine.

**Court of Limited Jurisdiction:** Court that has authority to adjudicate cases of a certain kind or up to a limited amount, usually lesser offenses (opposite of Court of General Jurisdiction).

**Court of Record:** The court where the permanent record of all proceedings is held.

**Credit Bureau:** See Consumer Reporting Agency.

**Credit Card Fraud:** Use, or attempted use of a credit card to purchase goods or services with the intent to avoid payment of such.

**Credit Report:** a Report consisting of an individual's credit history including, but not limited to, items such as payment history, liens, charge-offs, bankruptcies and other actions as well as outstanding balances held. Credit Reports are prepared by credit bureaus (see links below to the three primary credit bureaus) or their authorized agents and may be contained in a Consumer Report. Credit Reports obtained for employment purposes do not include a (FICO) score, while tenant credit reports may show the (FICO) score. A consumer

may contact a credit bureau directly to dispute credit information the consumer believes is inaccurate.

**Crimes Against Nature:** Deviate sexual intercourse.

**Criminal Complaint:** In criminal law, a charge, preferred before a magistrate having jurisdiction, that a person named, has committed a specific offense, with an offer to prove the fact, to the end that a prosecution may be instituted.

**Criminal Contempt:** Acts disrespectful of the court or its process that obstruct administration of justice.

**Criminal Mischief:** A crime against property; the willful damaging or the property of another. Such offenses may include throwing rocks through windows, spray painting graffiti; slashing car tires or other acts of vandalism.

**Criminal Nonsupport:** Failure to pay child support in violation of court order.

**Culpability:** Blame, or responsibility for a crime. This may be in degrees or purposeful, knowingly, recklessly or by negligence.

**Criminal Plea:** The defendant's response to a criminal charge (guilty, not guilty, or nolo contendere).

**Criminal Records:** Official records related to criminal cases. A crime is an act or omission that is prosecuted in a criminal court by a government prosecutor and can be punished by confinement, fine, restitution, and/or forfeiture of certain civil rights.

**Culpable:** Implies fault rather than guilt.

**Cumulative Sentence:** A sentence that takes effect after a prior sentence is completed for crimes tried under the same cause of action.

## D

**DD Form 214:** The term "DD-214" is often used generically to mean "separation papers" or "discharge papers", no matter what form number was used to document active duty military service. A DD-214 is issued to military members upon separation from active service and was issued to separated service members beginning in the 1950's.

**Damages:** Monetary compensation that the law award to one who has been injured by the action of another; monetary recompense for a legal wrong such as a breach of contract or a tortuous act.

**Dangerous Weapon (or Instrument):** Almost any device that has the potential to cause serious bodily injury or endanger life.

**DBA:** Abbreviation for "Doing Business As". Trade name. Usually filed at the County Records Office.

**Decision-Making:** The process of evaluating and judging information gathered and relating it to the specific requirements of the position for which the applicant is applying.

**De-Novo:** Latin for "anew" or "afresh." Usually used as Trial De Novo. A new trial, or one that is held for a second time, as if there had been no previous trial or decision.

**Dead Docket:** The case never went to trial. The case can be reopened if new evidence is submitted.

**Deadly Weapon:** Any device capable of causing death or serious bodily injury. An instrument may be intrinsically deadly, as a knife or pistol, or deadly because of the way it is used, as a wrench or hammer.

**Debt:** An obligation of one person to pay or compensate another.

**Debtor:** One who owes another anything, or is under obligation, arising from an express agreement, implication of law, or principles of natural justice, to pay money or to fulfill some other obligation; in bankruptcy or similar proceedings, the person who is the subject of the proceedings.

**Defamation:** Untrue statements made about another that damage his/her reputation. See libel and slander.

**Default Judgment:** 1. A judgment against a defendant who has failed to respond to plaintiff's action or to appear at the trial or hearing. 2. Judgment given without the defendant being heard in his own defense.

**Defendant:** Civil: The part responding to the complaint. Criminal: The accused.

**Deferred Probation:** The judge doesn't make a finding of guilt; he assigns probation. If probation is completed without incident, the charges are typically dropped.

**Deferred Sentence:** Defendant found to have committed the crime, conditions imposed and now awaits sentencing on final outcome.

**Defraud:** Knowingly misrepresenting facts to cheat or trick.

**Degree (First, Second, or Third, A, B, or C):** Classification assigned to a crime, depending on circumstances, for purposes of determining punishment. First degree is considered more serious than third; A is more serious than C. Degrees may be assigned to the actual crime (i.e. murder in the first or second degree) or the class of crimes (i.e. felony or misdemeanor).

**Deposit Account Fraud:** Georgia: Bad checks.

**Directed Verdict:** A determination by a jury, made at the direction of the judge. A directed verdict happens in cases where there has been a lack of evidence, an overwhelming amount of evidence, or where the law is in favor of one of the parties.

**Discharge:** 1. To satisfy or dismiss the obligation of contract of debt. 2. The method by which a legal duty is extinguished.

**Discovery:** The pre-trial devices that can be used by one party to obtain facts and information about the case from the other party in order to assist the party's preparation for trial.

**Dismissal:** Finally disposing of the cause without further consideration. Maybe voluntary or involuntary. When involuntary, there is usually lack of prosecution or failure to produce sufficient evidence.

**Dismissed:** The judge orders the disposing of an action without trial of the issues involved or without any further consideration or hearing.

**Dismissed With Prejudice:** Such a dismissal is on the merits of the case and does bar a subsequent suit on the same cause of action.

**Dismissed Without Leave; North Carolina:** The DA dismissed the charge/case, etc.

**Dismissed Without Leave After Deferred:** Prosecution charges dismissed after the specified time (90 days to 1 year) provided certain conditions have been met such as participating in a specified program of anger control or drug counseling or providing community service, etc.

**Dismissed Without Prejudice:** Such a dismissal is not on the merits and does not bar a subsequent suit on the same cause of action, nor affect any right or remedy of the parties.

**Disorderly Conduct:** Broadly signifies conduct that tends to breach the peace or endangers the morals, safety or health of the community.

**Disposed/Disposition:** The final settlement in the matter. Examples of disposed cases are those with a finding of guilt (conviction), innocence, or acquittal.

**Dispute:** The consumer has the right to dispute inaccurate information in their consumer report. The FCRA requires consumer reporting agencies to reinvestigate the matter to confirm the information is accurate, delete or correct information that is inaccurate, and/or delete information which cannot be confirmed, usually within 30 days and free of charge. If the

reinvestigation results in a change in the consumer report, the CRA must provide the individual and the End-User with an updated copy of the report.

**District Court:** In the federal court system a district court is a trial court for federal cases in a court district. A court district may consist of an entire state or only a part of it. District courts have original jurisdiction, exclusive of courts of the individual states, of all offenses against laws of the United States. District Court also refers to inferior courts in several states having limited jurisdictions to try certain minor cases.

**Diversion Granted:** Pre-trial intervention, first-time or petty criminal offenders are not subjected to the regular judicial process, usually placed on probation for no more than 1 year. Not an admission of guilt or a conviction.

**Diversion Program:** A court direction which calls for a defendant, who has been found guilty, to attend a work or educational program as part of probation. May include some type of anger management, drug rehab, etc. If the conditions of the program are met, the charge may be considered a non-conviction.

**Diversity of Citizenship:** A crime of claim, which extends between citizens of different states. This is one of the grounds that can be used to invoke the jurisdiction of the U.S.

Federal District Court. Divorce: Dissolution of the bonds of marriage.

**DMV Hold:** The court notifies the Department of Motor Vehicles for non-compliance in criminal cases to place a hold for renewing a driver's license or car registration until the criminal matters are taken care of.

**DOB:** Date of Birth

**Docket Record:** A court's official record of proceedings and calendar of upcoming cases.

**Drug Treatment Court:** The federal and California state governments are jointly promoting the expansion of "drug treatment courts." Drug courts combine the close supervision of the judicial process with the resources available through alcohol and drug treatment services. The goals are to reduce recidivism of drug-related offenses and to create options within the criminal justice system to tailor effective and appropriate responses to offenders with drug problems.

**DUI:** Driving under the influence.

**Due Diligence:** The attention and care that a reasonable person exercises under the circumstances to avoid harm to other persons or their property. Failure to make this effort is considered negligence.

**Due Process of Law:** Procedures followed by law enforcement and courts to ensure the protection of an individual's right as assigned by the Constitution.

**Duty:** Obligatory conduct owed by a person to another person.

**DWAI:** Driving while ability impaired.

**DWI:** Driving while intoxicated, alcohol or drugs. Complete intoxication is not required.

Individual state statutes specify the blood alcohol content at which a person is presumed to be under the influence of intoxicating liquor.

DWLS: Driving while license suspended.

## E

**Embezzlement:** Fraudulent appropriation for one's own use of property lawfully in his/her possession. Embezzlement is often associated with bank employees, public officials or officers of organizations, who may in the course of their lawful activities come into possession of property, such as money, actually owned by others.

**EMPJ; Los Angeles County, CA Civil:** Equal Employment.

**Employment Purposes:** Employment purposes, when used in connection with a consumer credit report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

**Employment Verification:** The process of contacting an applicant's past employers to confirm dates of employment, title, salary, and eligibility for rehire.

**End-User:** An entity (employer, landlord, etc.) that requests a Consumer Report from a Consumer Reporting Agency for a permissible purpose (i.e. employment or tenancy).

**Entrapment:** Crimes induced by certain governmental persuasion or trickery. The defendant must prove that if it were not for the actions of the police he would not have committed the crime.

**Et Al:** Latin abbreviation for "and others".

**Eviction:** The physical expulsion of someone from land by the assertion of paramount title through legal proceedings.

**Evidence:** Any species of proof, or probative matter, legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, for the purpose of inducing belief in the minds of the court or jury as to their contention.

**Ex Parte:** In behalf of or on the application of one party; by or for one party. Ex parte judicial proceedings is one brought for the benefit of one party only, without notice to or challenge by an adverse party. An ex parte judicial proceeding the adverse party and his/her evidence are excluded.

**Expungement of Records:** A procedure whereby a court orders the annulment and destruction of records of an arrest or other court proceedings. Some jurisdictions provide that an individual arrested and not convicted may apply to the court for an order of expungement and that if such an order is granted the individual may regard the arrest and all subsequent proceedings had as having not occurred in contemplation of law. Court ordered expungement might also be available as a remedy for unlawful arrests. Many states permit an expungement remedy as a means of removing civil disabilities following a period of good behavior after a conviction. Even an expunged record may be used for sentence enhancement and as a basis for denial of a federal firearms permit.

**Extortion:** Obtaining another's property by actual or threatened force, fear or violence.

**Extradition:** The surrender of an individual accused or convicted of a crime by one state to another.

## F

**Fair and Accurate Credit Transactions Act (FACTA):** The Fair and Accurate Credit Transaction Act of 2003, Publ.L. 108-159, 111 Stat. 1952, (FACTA) added new sections to the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., (FCRA) intended primarily to help consumers fight the growing crime of identity theft. Accuracy, privacy, limits on information sharing, and new consumer rights to disclosure are included in FACTA.

**Fair Credit Reporting Act (FCRA):** The FCRA established specific requirements and rules that apply when an employer uses a third party to help conduct a background screen. The FCRA addresses the right and obligations of four groups: consumer reporting agencies, users of consumer information, furnishers of consumer information, and consumers. The FCRA does not pertain only to credit reports but to the entire consumer report. The FCRA requires that consumer-reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner, which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information.

**False Imprisonment:** Unlawfully confining/detaining a person. Physical force is not a required element in proving false imprisonment.

**False Pretense:** Obtaining property by knowingly making false statements.

**Family Law:** Divorce; child support; personal protection order cases.

**Federal Civil:** Claims against the Government (copyrights, civil rights, government employees)

**Federal Courts:** The courts of the United States.

**Federal Trade Commission (FTC):** A federal agency, the FTC protects consumers by stopping unfair, deceptive or fraudulent practices in the marketplace by conducting investigations into companies and people that violate the law, and educate consumers and businesses about their rights and responsibilities.

**Felonious:** Describing an offense that is done with malicious, villainous criminal intent (i.e. felonious assault).

**Felony:** A serious crime usually punishable by imprisonment for more than one year or by death. Examples include burglary, arson, rape, and murder.

**Felony Conversion: (Fraudulent Conversion)** Similar to embezzlement or theft. An example of felony conversion is if someone sold goods for a company, and kept the money instead of turning it into the company (North Carolina).

**Files Archived / No Longer Available:** Cases that are either archived or destroyed. Cases that are archived may require ordering and additional charges.

**Forcible Entry:** Entering or taking possession of property with force, threats, or menacing conduct.

**Fraud:** A broad term used to cover all kinds of acts. Generally, fraud is the commission of an act with the goal to benefit or gain an advantage at another's expense. A purposeful misrepresentation with the intent to deceive.

**FTA:** Failure to Appear.

**FTP:** Failure to Pay.

## G

**Georgia 1st Offender Act:** O.C.G.A. § 42-8-62 (In Part)... Upon fulfillment of the terms of probation, upon release by the court prior to the termination of the period thereof, or upon release from confinement, the defendant shall be discharged without court adjudication of guilt. The discharge shall completely exonerate the defendant of any criminal purpose and shall not affect any of his rights or liberties and the defendant shall not be considered to have a criminal conviction.

**Grand Jury:** A jury to determine whether the facts and accusations presented to the prosecutor warrant an indictment and eventual trial of the accused; called grand because of the relatively large number of jurors impaneled (usually 23) as compared with a Petit Jury.

**Grand Larceny:** The theft of property over a specified value. Dollar amounts vary by state.

**Gross:** Flagrant, out of measure.

**Gross Misdemeanor:** Serious misdemeanor.

**Guilty:** A judge or jury finds that the evidence proves beyond a reasonable doubt that the defendant committed the offense.

## H

**HA; South Carolina:** House arrest.

**Habeas Corpus:** Criminal: to bring the petitioner before the court to inquire into the legality of his confinement. The writ of Federal habeas corpus is used to test the constitutionality of a state criminal conviction. The writ is used in the civil context to challenge the validity of child custody and deportations.

**Habitual Violator:** To have committed the same offense three times. Can also be charged as a habitual offender.

**Hijacking:** To take control of a vehicle by intimidation, force, or threatened force. Also, the theft of good while in transit, as when transported in trucks.

**Homicide:** The killing of another human being. "Justifiable homicide" occurs in cases such as during the enforcement of law, and/or occurs without evil intent. "Excusable homicide" may occur by accident or in self- defense. "Felonious homicide" is the killing of another without justification. This type has two degrees – manslaughter and murder, depending on circumstances and intent. See Manslaughter; Murder.

**Hung Jury:** A hung jury is one in which all jurors cannot reach a consensus required for a verdict.

**I**

**Illegal Alien:** A non-citizen who has not been given permission by immigration authorities to reside in the country in which he/she is living.

**Illicit:** Prohibited or unlawful.

**Incarceration:** The act or process of confining someone; imprisonment.

**Incendiary:** One who intentionally sets fires. Arsonist.

**Incorrigible:** One who is incapable of reform.

**Indictment:** A formal written accusation, drawn up and submitted under oath to a grand jury by the public prosecution attorney, charging one or more persons with a crime.

**Infraction/Violation/Traffic:** Charges below Felony and Misdemeanor. Not a criminal offense.

**Injunction:** A court order, which prohibits a person from doing a specified act for a specified period of time.

**Intent:** The frame of mind or attitude of the person at the time an act was committed. See Culpability.

**Interrogation:** The process by which suspects are rigorously questioned by police.

**Intoxicates, Intoxication:** Reduction of physical or mental culpabilities caused by the ingestion of an intoxicating substance such as alcohol or drugs.

**Investigative Consumer Report:** A consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

**Involuntary Dismissal:** Dismissed due to lack of prosecution or lack of evidence.

**Issue FIFA; Georgia:** to place a lien against. If a business or property is sold, this lien must be paid.

## J

**Jail:** A local government's detention center where persons awaiting trial or those convicted of misdemeanors are confined.

**John/Jane Doe:** Fictional names used to identify persons in a hypothetical situation in order to explain an issue; name used when a person refused to identify himself/herself or when a person cannot be identified.

**Judgment:** A court's final determination of the rights and obligations of the parties in a case.

**Jurisdiction:** The power of a court to question facts, apply law, make decisions and judgments.

**Jury:** A group, composed of the peers of the parties or a cross-section of the community, summoned and sworn to decide on the facts in issue at a trial.

**Jury Trial:** The determination of a case by a jury.

**Justice Court:** A court of statutorily limited civil jurisdiction and who is also a protector of the peace with limited jurisdiction in minor criminal proceedings. This office has been abolished in most states, with similar powers transferred to municipal or district courts.

**Justice of the Peace:** A judge who handles minor legal matters such as misdemeanors, small claims actions and traffic matters in "justice courts".

## K

**Kidnapping:** Taking and carrying away a person by force, fraud, threats, or intimidation.

Unlawfully confining a person.

## L

**Larceny:** The feloniously taking and carrying away of the personal property of another, without his/her consent, by a person not entitled to possession, with intent to deprive the owner of the property and to convert it to the use of the taker or another person other than

the owner. Larceny is sometimes classified as Grand Larceny or Petit Larceny, according to the value of the property taken or method employed.

**Legal Malice:** An act, committed without just cause or excuse, intended to inflict harm or cause death.

**Lewd and Lascivious:** Obscene, indecent.

**Libel:** Defamation of another person through print, pictures, or signs.

**Limited Jurisdiction:** Refers to courts that are only authorized to hear and decide certain or special types of cases.

**Lien:** A legal right or interest that a creditor has in another's property, lasting usually until a debt or duty that it secures is satisfied.

**Lis Pendens:** A pending suit.

## M

**Magistrate:** Public officials, including judicial officers who have limited jurisdiction in criminal cases and civil cases.

**Mail Fraud:** The use of the mail system to commit a fraud.

**Malice:** The state of mind that accompanies the intentional doing of a wrongful act without justification and in wanton or willful disregard of the plain likelihood that harm will result.

**Malice Aforethought:** Planning to commit an unlawful act without cause or excuse.

**Manslaughter:** The unlawful killing of another without malice aforethought. Voluntary

**Manslaughter:** Intentional killing committed under circumstances that, although they do not justify the homicide, reduce evil intent. A charge of manslaughter is appropriate where the defendant killed the victim in rage, terror or desperation. Voluntary Manslaughter is homicide that is committed during an act in the heat of passion. Involuntary Manslaughter consists of a homicide resulting from criminal negligence or recklessness. Voluntary Manslaughter is homicide that is committed during an act in the heat of passion.

**Mayhem:** The intentional infliction of injury on another, which causes amputation, disfigurement or impairs the function of any part of the body.

**Merged:** Judgment is merged into another related charge/judgment.

**Misdemeanor:** A crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement (usually for a brief term) in a place other than prison (such as a county or city jail).

**Mistrial:** A trial, which is terminated or declared invalid. Reasons for a mistrial include misconduct on the part of the jury, defense team or the court, or illness on the part of the judge, jury, or defendant. Maybe followed by a retrial on the same charges.

**Municipal Court:** City court that administers the law within the city. These courts generally have exclusive jurisdiction over violations of city ordinances, and may also have jurisdiction over criminal cases arising within the city and over certain minor civil cases. They are thus inferior courts of limited jurisdiction.

**Murder:** The unlawful killing of another human being with premeditated intent or malice aforethought. First Degree Murder is unlawful killing of another that is deliberate and premeditated. Second Degree Murder is unlawful killing of another with malice aforethought but without deliberation and premeditation.

## N

**NCIC:** National Crime Information Center. Computerized records used by law enforcement agencies to determine criminal records, arrest or bench warrants, or stolen vehicles, and guns. This is not public access.

**Neglect:** The omission of proper attention.

**Negligence:** Failure to exercise a degree of care that a person of ordinary prudence would exercise under the same circumstances. Conduct that falls below the standard established by law for the protection of others against unreasonable risk of harm.

**Negligent Hiring:** Negligent hiring, a relatively new cause of action in tort law, is hiring someone in someone in some negligent manner. To avoid liability under the new tort it requires that you make a reasonable effort to determine the applicant's suitability for the job.

This reasonable investigation would be proportionate to the position applied for by the applicant. Should an employer fail to do this and there is an accident causing injury to a third party, the third party can sue for negligent hiring alleging that the employer failed to exercise "due care" in the selection of this employee for a particular job. Employers have a

legal duty not to hire people who could pose a threat of harm to others, which can include everything from slight to fatal bodily injury, theft, arson, or property damage. The definition of "reasonable care" depends on the degree of the risk of harm to others. The greater the risk, the higher the standard of care required.

**Negotiated Plea:** See Plea Bargain.

**No Bill or No True Bill:** The decision by a grand jury that it will not bring an indictment against the accused on the basis of the allegations and evidence presented by the prosecutor.

**No Contest:** A plea in which the defendant does not contest the charge. This has the same effect as a guilty plea except the conviction cannot be used against the defendant in a civil suit.

**No Papered; Washington, DC:** No follow up action was made after the initial charge was prepared. No prosecution, no conviction, no further interest. Sometimes a case is "No Papered: as part of a plea bargain, other times when the case is weak or the officer perhaps didn't complete the necessary paperwork.

**Nolle Prosequi (No! Pros):** The state's attorney declares that he or she will not prosecute a case or some charge on a case any further.

**Nolli Illigitimi Carborundum:** Latin Phrase loosely translated, "hang in there."

**Nolo Contendre / No Contest (Latin vs. English):** A statement that the defendant will not contest a charge made by the government. See No Contest.

**Nonsuit:** A judgment ordered by the court against a plaintiff who fails to proceed to trial.

**Not Guilty:** A judge or jury finds that the evidence does not provide beyond a reasonable doubt that the defendant committed the offense.

**NWNI; Alabama:** Negotiating worthless non-negotiable instrument.

## O

**Original Jurisdiction:** Authority to consider and decide cases in the first instance. The test of whether a court exercises original jurisdiction is not the manner in which the case reaches the court but the nature of the court's authority.

## P

**Pander:** To provide products or services that cater to the sexual gratification of others.

**Pandering:** To entice another into prostitution.

**Parole:** In criminal law, a conditional release from imprisonment that entitles the person receiving it to serve the remainder of his/her term outside prison if he/she complies with all conditions connected with his/her release. Compare to probation.

**Parole Violation:** An act that violates or does not conform to the terms of probation.

**Perjury:** Making false statements under oath. This is a criminal offense.

**Permissible Purpose:** The instances which the FCRA has deemed acceptable for an End-User to obtain a Consumer Report. Employment and Tenancy are common types of permissible purposes.

**Petit (Petty) Jury:** Ordinary trial jury, whose function is to determine issues of fact in civil and criminal cases and to reach a verdict in conjunction with those findings. While the numbers of jurors have historically been twelve, many states now permit six-member juries in civil cases, and some states permit six-member juries to hear criminal cases as well.

**Pjin:** Personal Injury.

**Plaintiff: Civil:** The party who is complaining, suing. The Plaintiff has the burden of proof to state their claim against the defendant.

**Plea:** The defendant's formal answer to a charge.

**Plea Bargain:** A plea of guilty to a lesser offense in return for a lighter sentence.

**Pray for Judgment, 1st Offense; North Carolina:** Juveniles only, can use once every three years. Waives all fines/costs/penalties, etc.

**Pre-Adverse Action Notice:** A letter or other document informing the job applicant that the employer intends to take an adverse action against the applicant based upon information contained in a consumer report. The notice will provide the applicant with a copy of the consumer report, a summary of the applicant's rights under the FCRA, and is intended to provide the applicant a meaningful opportunity to review, reflect, and respond to the consumer report if the applicant believes it is inaccurate or incomplete.

**Preliminary Hearing:** In criminal law: 1. A hearing, before indictment, to determine whether probable cause for the arrest of a person exists. 2. A hearing to determine whether

there is sufficient evidence to warrant the defendant's continued detention and whether submission of such evidence to the grand jury is warranted.

**Premeditation:** Forethought. As one of the elements of first-degree murder, the term is often equated with intent and deliberateness.

**Preponderance of the Evidence:** Standard of proof in civil cases. The fact in issue is more probably than not.

**Pre-Sentence Investigation (PSI):** Usually conducted by a probation officer after a plea or verdict of guilt. Done before sentencing and includes information about the defendant's criminal history and personal background.

**Pre-Trial Intervention (PTI):** A remedial program by which first-time or criminal offenders are not subjected to the regular judicial process, but rather are immediately placed under probationary supervision for a period usually no longer than one year. The program allows persons accused of a crime to avoid the stigma of conviction and a permanent criminal record by correcting their criminal behavior during the period of probation. Pre-conviction probationary programs divert persons from the ordinary criminal process without the admission of guilt or a conviction, and for this, they are called diversionary programs.

**Prison:** A state or federal facility of confinement for convicted criminals, especially felons.

**Probable Cause:** Degree of proof needed to arrest.

**Probate:** Act of proving that an instrument purporting to be a will was signed and otherwise executed in accordance with the legal requirements for a will, and of determining its validity.

**Probation:** Procedure whereby a defendant is found guilty of a crime, upon a verdict of a plea of guilty, is released by the court without imprisonment, subject to conditions imposed by the court, under the supervision of a probation officer. Compare to parole.

**Probation Before Judgment (PBJ):** Violation of probation terms may result in an entry of a conviction.

**Prosecution:**

1. The act of pursuing a lawsuit or criminal trial.
2. The party initiating a criminal suit, i.e. the state. If the civil litigant or the state in a criminal trial, fails to move the case towards final resolution or trial as required by the court schedule, the matter may be dismissed for want of prosecution or for failure to prosecute.

**PSE:** In South Carolina, Public service employment.

## Q

**Quash/Quashed:** to annul, overthrow, or vacate by judicial decision.

## R

**Racketeering:** Originally, an organized conspiracy to commit extortion. Today, punishable offense created by Congress aimed at eradicating organized crime by providing

for enhanced sanctions and new remedies to be used in dealing with the illegal activities of persons involved in organized crime.

**Rape:** Sex without consent. Maybe forcible or by intoxication, with a person who is underage and unable to give consent, or with a person with diminished mental and/or physical capabilities.

**Reasonable Doubt:** Standard of proof in criminal cases. Proof must be so conclusive as to eliminate any reasonable doubts of fact from a person's mind.

**Reasonable Man (Person):** Test used to determine a person's negligence. How would a reasonable person act under these circumstances?

**Receiving Stolen Property:** A crime at common law that property stolen by someone other than the person being charged with receiving it; that the person receiving it has actually received the property or aided in concealing it; that the person has knowledge that the property has been stolen; (in some jurisdictions) that the person received it with wrongful intent.

**Reckless Disregard:** Refers to conduct without concern for consequences or danger. Compare negligence.

**Reckless Endangerment:** An act that does or could cause injury to another, not necessarily with intent.

**Reckless:** Careless, inattentive to duty; foolishly heedless of danger; rash adventurous, indifferent to consequences; mindless; very negligent.

**Refused:** Charges were not accepted by the District Attorney's Office.

**Release Form:** See Consent/Release Form.

**Remand:** To return an individual to custody pending further trial, or to return a case from an appellate to a lower court for further proceedings.

**Resident Alien:** A person who has been admitted to permanent resident status but not been granted citizenship.

**Resisting Arrest:** Common-law offense involving physical efforts to oppose a lawful arrest.

**Restitution:** Payment made by a defendant to a victim as reimbursement for monetary losses incurred as a result of the crime.

**Restraining Order:** An order granted without notice or hearing, demanding the preservation of the status quo until a hearing can be held to determine the propriety of injunctive relief, temporary or permanent. A restraining order is always temporary since it is granted pending a hearing; it is often called a TRO, a temporary restraining order.

**Retired (as Disposition):** The case can be brought up within the next year if the individual is arrested for anything. It is the judge's decision and only he can take action. If the individual remains "clean", then the case can be dismissed.

**RICO Act:** Racketeer Influenced and Corrupt Organizations Act.

**Robbery:** Forcible stealing; the felonious taking of property from the person of another by violence or by putting him in fear. Also see Armed Robbery.

## S

**SCOFFLAW;** Nassau County, NY: Driver's license is suspended indefinitely.

**Sealing of Records:** The sealing of records, permitted in some states with respect to youthful offenders, so that only the court may examine such records.

**Search and Seizure:** A police practice whereby a person or place is searched and evidence useful in the investigation and prosecution of the crime is seized. The search and seizure is constitutionally limited by the Fourth Amendment and the Fourteenth Amendment to the United States Constitution and by provisions in several state constitutions, statutes, and rules of court.

**Secreting Lien Property:** Hiding property that has a lien filed against it.

**Sedition:** Advocating the overthrow or reform of a government by unlawful means.

**Sentence:** A judgment of punishment for a criminal act.

**Separation:** A partial divorce decree usually entered in the course of divorce proceedings, which directs the parties to live separately but does not dissolve the marriage.

**Serious Misdemeanor:** Having a more severe penalty than other misdemeanors.

**Sex Offender:** A person convicted of a sexual offense.

**Slander:** Defamation verbal communication. Making false and malicious statements about another.

**Social Security Number:** A nine-digit number resembling "123-00-1234" that is issued to an individual by the U.S. Social Security Administration. The original purpose of this number was to administer the Social Security program, but it has come to be used as a "primary key" (a de facto national ID number) for individuals within the United States. The nine-digit Social Security number is divided into three parts. The first three digits are the area number. Prior to 1973, the area number reflected the state in which an individual applied for a Social Security number. Since 1973, the first three digits of a Social Security number are determined by the ZIP code of the mailing address shown on the application for a Social Security number. The middle two digits are the group number. They have no special geographic or data significance but merely serve to break the number into conveniently sized blocks for orderly issuance. The last four digits are serial numbers. They represent a straight numerical sequence of digits from 0001-9999 within the group.

**Solicitation:** Asking, urging, enticing.

**Status Closed:** No further action will occur on this case; cannot be reopened at a later date.

**Statute of Limitations:** "any law which fixes the time within which parties must take judicial action to enforce rights or else be thereafter barred from enforcing them," 116 S.E. 2d 654, 657.

**Statutory Rape:** Sexual activity by an adult with a person under the age of consent. Age of consent varies from state to state.

**Stay of Execution:** Process whereby a judgment is precluded from being executed for a specific period of time.

**Stay:** A halt in the judicial proceedings where, by its order, the court will not take further action until the occurrence of some event.

**STET:** In Maryland, a conditional stay of all further proceedings for a period of one year.

**Stricken:** To eliminate or expunge.

**Stricken Off Call/With Leave to Reinstate (SOL) (Stricken):** In Cook County, IL, the judge removes the case from the docket while reserving the right to recall or reinstate it at a later date.

**Summary of Rights:** A document prepared by the Consumer Financial Protection Bureau intended as a resource for individuals which states their rights with respect to Consumer Reports. This document must be provided to an individual anytime the individual receives a copy of his/her report, including those instances where an adverse hiring/tenancy decision is made and a copy of the report must be provided. The official name of this document is ["A Summary of Your Rights under the Fair Credit Reporting Act."](#)

**Superior Court:** A court whose decision is subject to review by another court. Superior Court is the name used in 16 states for the basic county trial court.

**Suspended Sentence:** Deferment of punishment usually over a period of probation.

## T

**Theft of Services:** Obtaining services without consent through deception, threat, tampering, etc.

**Theft/Unauthorized:** Theft by using someone else's information, credit card, check, or something similar.

**Tort:** A wrong; a private or civil wrong or injury resulting from a breach of a legal duty that exists by virtue of society's expectations regarding interpersonal conduct rather than by contract or other private relationship.

**Trespass:**

1. In common law, a form of action instituted to recover damages for any unlawful injury to plaintiff's person, property, or rights, involving immediate force or violence.
2. The violent act that causes such injury.
3. Most common: a wrongful interference with the possession of property and is applied to personal property as well as to realty.

**Truncated Files:** Destroyed or partially destroyed. Unable to obtain any more information.

## U

**Under the Influence of Intoxicating Liquor or Drugs:** Any condition where the nervous system, brain or muscles are impaired to an appreciable degree by an intoxicating substance.

**Undesignated Charge:** In some jurisdictions, a charge can be undesignated even after a judgment of guilt has been rendered. After completion of the sentence, the judge will determine if the charge will be designated a felony or misdemeanor.

**Undet: Unlawful Detainment;** the act of holding possession without right, as in the case of a tenant whose lease has expired (landlord/tenant disputes over rent not being paid).

**Uniform Commercial Code (UCC):** A code of laws governing various commercial transactions, including the sale of good banking transactions, secured transactions in personal property, and other matters, that was designed to bring uniformity in these areas to the laws of the various states, and that has been adapted, with some modification, in all states (except Louisiana) as well as the District of Columbia and in the US Virgin Islands.

UCC's expire after 5 years from the time of filing unless a continuation is filed.

**Unlawful Entry:** Entry onto someone's property without permission by means of fraud or force.

**Usury:** Charging more interest than is permitted by law for a loan of money.

## V

**Vacate (Judgment):** To render void; to set aside.

**Vehicular Homicide:** Death of another caused by the intentional, unlawful, or negligent operation of a motor vehicle.

**Venue:** The geographic area where the case or claim occurred, within which a court with jurisdiction can hear and determine a case. A change of venue or the moving of a case from one court to another may be granted for such reasons as when the court does not think the defendant can get a fair trial in that area or for the convenience of the parties in a civil case.

**Verdict:** The opinion rendered by a jury, or a judge where there is no jury, on a question of fact. A verdict is not a judicial determination, but rather a finding of fact that the trial court may accept or reject and utilize in formulating its judgment.

**Voluntary Dismissal:** The court or district attorney dismissed the charges against an individual.

## W

**Waiver:** An intentional and voluntary surrender of some known right, which generally may either result from an express agreement or is inferred from circumstances.

**Waiver by Magistrate:** Charges are waived after the defendant agrees to pay a fine. The defendant is not prosecuted on this charge.

**Waiver of Jury:** The right to a jury trial is waived and the judge makes the decision of guilt or innocence.

**Wanton Reckless, Malicious:** Without regard for the rights of others, indifferent to consequences to health, life or the reputation of another. Usually done without intent, but an act so unreasonable the perpetrator should know that harm would result.

**Warrant:** A written order from a competent authority directing the doing of a certain act, especially one directing the arrest of a person or persons, issued by a court, body, or official.

**Weapons Offenses:** The unlawful sale, distribution, manufacturing, alteration, transport, possession or uses of a deadly or dangerous weapon.

**With Specifications (W/S):** When W/S is listed after a charge, it is usually followed by a description of violence involved with that charge.

**Work Release Program:** Program that allows a prisoner to work at paid employment or participate in a training program in the community on a voluntary basis while continuing as a prisoner of the institution or facility, which he/she is committed.

**Writ of Execution (in a civil matter):** A routine court order by which the court attempts to enforce the judgment granted to a plaintiff, by authorizing a sheriff to levy on the property belonging to the judgment debtor.

**Wrongful Entrustment:** Allowing an unlicensed driver to operate a motor vehicle.