

APPENDIX B: TERMS

Acquittal: The legal and formal certification of the innocence of a person charged with a crime; a finding of not guilty.

Act: An alternative name for statutory law. When introduced into the Legislature, a piece of proposed legislation is known as a bill. When passed by the first house and sent to the other, it may be referred to as an act. After enactment, the terms law and act may be used interchangeably.

Adjudication: The determination and formal pronouncement of the judgment.

Adjudicative Proceeding: A proceeding where a person is entitled to due process of law, that is, the person is entitled to notice and an opportunity to be heard.

Administrative Records: Records that are created to help the court accomplish its current administrative functions.

Advance Sheets: Current publications that contain the most recently reported opinions of the courts. These copies of court decisions are sent in advance of the bound volumes.

Adversarial System: In common law countries such as the United States, this is a system in which opposing sides each represent their own interest before an impartial judge. In a criminal case, the two opposing sides are the prosecution and the defense.

Affidavit: A sworn statement.

Affinity: The relation that one's spouse has to the other spouse's blood relatives because of their marriage.

Affirm: On an appeal from a court of record, the manner in which the appeals court decides that the trial court is correct.

Agreed Judgment: In a civil case, a judgment entered on the agreement of the parties, which receives the sanction of the court.

Allocation: The process of distributing in equal or proportionate parts.

Alphabetic Filing: A filing arrangement of names, subjects, or geographic locations in alphabetical order.

Alphanumeric Filing: Arrangement of files using a combination of alphabetic and numeric characters.

Annotations: 1) Statutory: brief summaries of the law and facts of cases interpreting statutes passed by Congress or state legislatures which are included in codes; 2) Textual: expository essays of varying length on significant legal topics chosen from selected cases published in essays.

Answer: A pleading filed in response to a motion or complaint. In civil cases such as a bond forfeiture, a formal pleading filed by the defendant in response to the plaintiff's complaint.

Appeal: The process of having a higher court conduct a new trial or review the facts and law or just questions of law from a proceeding held in a lower court. In municipal court of record, the appellate court reviews the transcript of the trial. In municipal courts of non-record there is a new trial in the appellate

court. An appeal is perfected when the appeal bond has been filed with the court. All defendants have the right to appeal their cases.

Appeal Bond: The bond presented to the court by a defendant who desires to appeal the case to a higher court. The bond may be surety cash, or the court may allow a personal bond.

Appearance: The formal proceeding in which a defendant submits himself or herself to the jurisdiction of the court. Other than the defendant, only an attorney hired to represent the defendant may appear for the defendant.

Appellant: The party who requests that a higher court review the actions of a lower court.

Appellate Court: A court having jurisdiction to hear appeals and review a trial court's procedure.

Appellee: The party against whom an appeal is taken. Sometimes called a respondent.

Arbiter: A person chosen to decide a controversy.

Archiving: For data processing usage, archiving generally means creating backup computer files - especially for long-term storage. It can also be used to mean transfer of records to an archive for permanent preservation.

Arraignment: The process in which the court identifies the defendant and asks for a plea. There is no formal term for this in municipal court. In the higher courts, there are statutory requirements for arraignment.

Array: The group of prospective jurors summoned to attend a court for jury duty as they are arranged on the panel. Also refers to the membership of the jury panel.

Attest: To certify as being true or genuine.

Attorney General Opinions: Opinions issued by the Texas Attorney General interpreting the law for the requestor in the same manner as a private attorney would for his or her client. The opinions are not binding on the courts, but they are usually considered persuasive.

Audit: A formal or official examination and verification of funds collected and disbursed.

Authority: That which can bind or influence a court. Examples: case law, legislation, and constitutions.

Bail: The security given by the accused that he or she will appear and answer before the proper court.

Bail Bond: A written agreement entered into by the defendant and sureties that assures the appearance of the defendant before the court to answer a criminal charge. If the defendant fails to appear when required, the court can forfeit the bond and use the proceeds to defray the cost of returning the defendant to court to answer the charges.

Bail Bond Surety: A person who executes a bail bond as a surety or co-surety for another person for compensation.

Bench Trial: A trial before the judge in which there is no jury, and the judge makes the finding of guilty or not guilty.

Beyond a Reasonable Doubt: The standard used in a criminal trial to determine whether the defendant is guilty of the offense charged.

Bias: An inclination or pre-conceived opinion.

Bicameral: Having two chambers or houses in the Legislature.

Bifurcated Appellate System: A court structure in which two separate courts are considered to be the highest appellate court. Texas and Oklahoma have bifurcated appellate systems. In Texas, the two courts are the Texas Court of Criminal Appeals for criminal cases and the Texas Supreme Court for civil cases.

Bill: A legislative proposal introduced in the Legislature.

Bill of Review: A proceeding brought for the purpose of reversing or correcting a prior judgment.

Bill of Rights: The first 10 amendments to the U.S. Constitution.

Bluebook: A popular name for *A Uniform System of Citation*, which is published and distributed by Harvard Law Review Association and bound with a blue cover.

Bond: A type of bail required to ensure the presence of a defendant in a criminal case.

Brief: A written statement prepared by the counsel arguing a case in court. It contains a summary of the facts of the case, the pertinent laws, and an argument of how the law applies to the facts supporting the counsel's position.

Budget: A plan for the coordination of resources and expenditures in a given time period.

Canon: Standards of ethical conduct for members of the judiciary.

Capias: A writ (order) issued by a court with jurisdiction over a defendant when a defendant is not in custody ordering a peace officer to bring the defendant before the court. Required to be issued when a forfeiture is declared.

Capias Pro Fine: A written order issued by a judge when a defendant is absent at a time judgment is rendered or when a defendant defaults in payment of fine. It is a written order from a court directed to a peace officer commanding the officer to arrest a person and to bring the person before the court, or place that person in jail until he or she can be brought before the court. See 43.015(2), C.C.P.

Case Law: The law of reported judicial opinions, as distinguished from statutes or administrative law.

Caseflow Management: The process of evaluating, monitoring, and accounting for case files in municipal court.

Caption: Also see *style of case*. The heading on a legal document listing the parties, the court, the case number, and related information.

Cause of Action: The facts that give rise to a lawsuit or a legal claim.

Central Files: The files of several offices or organizational units physically and/or functionally centralized and supervised in one location.

Certified Court Interpreter: An individual who is a qualified interpreter as defined in Article 38.31, C.C.P., or Section 21.003, Civil Practice Remedies Code or certified under Subchapter B by the Department of Assistive and Rehabilitative Services to interpret court proceedings for a hearing-impaired individual. Sec. 57.001(1), G.C.

Challenge for Cause: An objection to a particular juror during jury selection that requires a legal reason to be shown. There may be an unlimited number of strikes for cause.

Charging Instrument: The formal accusation that a person committed a criminal offense. In municipal courts, it may be a sworn complaint filed with the court charging a criminal offense.

Charter: Governing document of a home rule city. The charter outlines a home rule city's structure and powers.

Citation: In a criminal case, written notice to appear issued only by a peace officer. Under certain procedural circumstances, it may be used as the charging instrument in municipal court.

Citators: A set of books that provide, through letter-form abbreviations or words, the subsequent judicial history and interpretation of reported decisions and lists of cases and legislative enactments constructing, applying, or affecting statutes. Example: *Shepard's Citations*.

Civil Law: 1) Roman law embodied in the Code of Justinian or the Napoleonic Code, which prevails in most European countries other than England; 2) the law concerning non-criminal matters in a common law jurisdiction, for example, a personal injury lawsuit or a divorce.

Code: A compilation of statutes.

Codify: Organize as a written code or statute.

Coding: The act of applying file designations on records for the purpose of classifying or condensing.

Color of Office: Pretense of an official right to do an act made by one who has no such right. An act under color of office is an act of an officer who claims authority to do the act by reason of his or her office when the office does not confer on him or her any such authority.

Commercial Driver's License: A type of driver's license that can be identified by the words "Commercial Driver's License" on the top of the license. Allows a person to drive a commercial motor vehicle.

Common Law: The body of law derived from judicial decisions and based on precedent. A common law court will generally look to case law for its decisions in similar cases. It is the basis for legal systems in both the United States and England.

Complainant: A person who brings a legal complaint against another.

Complaint: In municipal court, a sworn allegation charging the accused with commission of an offense.

Concurrent Jurisdiction: Indicates that cases may be filed in any of the courts that have authority of the offense.

Conduct in Need of Supervision/Conduct Indicating a Need for Supervision: Juvenile conduct that is a lower grade of penal offense, such as running away. These offenses are filed in juvenile court.

Conflict of Interest: A relationship that suggests disqualification of a public official from performing his or her sworn duty; a clash between public interest and the private pecuniary interest or other interest of the individual concerned.

Consanguinity: Blood relationship; the connection of persons descended from the same stock or common ancestor.

Constitution: A written document that establishes the fundamental rights and principles by which a nation or state governs itself.

Constitutional Courts: Courts established by the Texas Constitution, including the Supreme Court, Court of Criminal Appeals, courts of appeals, district courts, county courts, and justice of the peace courts.

Contempt: Any act calculated to embarrass, hinder, or obstruct a court in the administration of justice or calculated to lessen its authority or dignity. There are two kinds of contempt: direct and indirect. Direct contempt is committed in the immediate presence of the court; indirect is the term chiefly used with reference to the failure or refusal to obey a lawful court order.

Continuance: The adjournment or postponement of a case pending in court to a later date and time.

Controlling Authority: A case decided by the highest appropriate court in Texas or the Fifth Circuit Court of Appeals, a federal district court within the Fifth Circuit, or the U.S. Supreme Court.

Corporation Court: An old name for municipal courts. A reference in state law to a corporation court means a municipal court. The Corporation Court Law of 1899 created corporation courts in each municipality in Texas and was later codified in Chapter 29 of the Texas Government Code.

Cost-First Allocation Rule: Defined by the Texas Attorney General as when a defendant pays only part of the required fines and costs, the money collected should go first to the payment of the costs and the balance, if any, to the amount of the fine.

Count: An allegation of a separate offense. A criminal indictment or complaint in higher courts may contain several counts.

County Courts: Courts having exclusive original jurisdiction over misdemeanors punishable by incarceration in jail up to one year and fines up to \$4000. These courts also have appellate jurisdiction over cases appealed from municipal and justice court.

Court of Criminal Appeals: Court of last resort that has jurisdiction over criminal case appeals. The Court of Criminal Appeals is also authorized by the state legislature to promulgate rules of evidence and appellate procedure in criminal cases.

Cross-Examination: The examination of a witness upon a trial or hearing by the party who did not produce the witness.

Cross Reference: A notation in a file or on a list showing that a record has been stored elsewhere.

Cubic Foot: The volume of paper records that fills a space one foot high by one foot wide by one foot long. The basic measurement for records volume.

Culpable Mental State: The defendant's state of mind at the time a crime is committed. A culpable mental state is required for most criminal offenses. The different mental states are defined in the Texas Penal Code.

Custodian of the Records: Anyone who has charge or custody of property or records. Municipal court clerks are responsible for the care, control, maintenance, and archival of municipal court records.

Database: An electronically stored collection of related records containing frequently used information.

Decentralized Files: Files stored throughout an organization; not centralized in one office or area.

Decree: A determination by a court of the rights and duties of the parties before it.

Default Judgment: In civil cases, a judgment that is rendered when a defendant fails to appear or answer.

Defendant: The person against whom a civil or criminal action is brought.

Deferred Disposition: A process where the judge may defer the proceedings in a case without entering an adjudication of guilt and place the defendant on probation not to exceed 180 days.

Delinquent Conduct: Juvenile conduct that generally involves violations of the penal laws punishable by imprisonment or jail. These types of offenses are filed in juvenile court.

Denial: In a civil case, the pleading of an allegation of fact or defense. In a bond forfeiture, for example, the answer is the pleading denying the allegation of the facts which caused the forfeiture.

DIC-81: Form submitted by the court to the Department of Public Safety giving notice of the municipal court's order to DPS to either suspend the driver's license or keep a minor from obtaining a driver's license for failing to appear or failing to pay a fine.

Dicta: Language in an opinion that is not necessarily essential to the holding of the decision and is usually written in a dissenting opinion and does not embody the determination of the court; thus, it is not binding on the courts.

Digest: An index to reported cases that provides brief, unconnected statements of court holdings on points of law, arranged by subject and subdivided by jurisdiction and courts.

Diligence: The attention and care legally expected or required of a person.

Direct Access Filing: A method of filing in which no code is needed to reference a file.

Directed Verdict: When the state rests and has failed to present evidence of an element of the offense, the defense may ask the court for a directed verdict. If granted, the court orders a verdict of "not guilty." See 45.032, C.C.P. This is different from a Judgment Notwithstanding the Verdict (JNOV), which does not exist in criminal cases.

Disbarment: A form of discipline of a lawyer, resulting in the loss (often permanently) of that lawyer's right to practice law.

Disbursement: The act of paying out funds.

Discovery: A pre-trial device that can be used to obtain certain information about the case. In criminal cases, discovery procedures are outlined in Chapter 39 of the Code of Criminal Procedure. Prosecutors are also under a pre-existing duty to disclose exculpatory evidence, known as *Brady* Material, to the defendant.

District Courts: Courts having original jurisdiction over issues including felony offenses, misdemeanors involving official misconduct, and all civil matters where the amount in controversy is \$200 or more.

DL-115: Form submitted by the court to the Department of Public Safety for certain offenses under Chapter 106 of the Texas Alcoholic Beverage Code, including (1) giving notice of the municipal court's order to suspend or deny issuance of a minor's driver's license upon conviction; (2) giving notice of an order of deferred disposition; (3) upon a defendant's failure to take an alcohol awareness program. Formerly known as the DIC-15.

Docket: A formal record required to be kept on cases filed in the court. Maintaining the docket is a ministerial duty that the judge may delegate to the clerk.

Docket Number: A number sequentially assigned to the case by the clerk.

Double Jeopardy: A prohibition against a second prosecution after an original trial for the same offense.

Due Process of Law: Broad legal concept embodied in the 5th and 14th Amendments to the U.S. Constitution. Due Process requires states to use fair procedures when depriving a person of life, liberty, or property and requires the state to have adequate justification for such deprivation.

Duplex-Numeric Filing: Arrangement of files using two or more sets of code numbers, with the sets separated by dashes, commas, periods, or spaces.

Electronic Filing: Transmission and filing of court documents via electronic means. Also known as "paperless filing."

En Banc: A session in which the entire bench of the court will participate in the decision rather than the regular quorum. The federal circuit courts of appeal usually sit in groups of three judges, except for important cases when they sit as a full court of nine members. When all nine members are present, they are said to be sitting en banc.

Endorse: To sign one's name on a document.

Entrapment: An act of law enforcement officers to induce a person to commit a crime not contemplated by the person and for the sole purpose of instituting a criminal prosecution against the person.

Equal Protection of the Law: The legal concept that no person or class of person shall be denied the same protection of the laws, pursuant to the 5th and 14th Amendments to the U.S. Constitution.

Essential Record: Any record necessary for the resumption or continuation of government operations in an emergency or disaster, for the recreation of the legal and financial status of the government, or for the protection and fulfillment of obligations to the people of the State.

Ethics: Relates to moral action, conduct, motive, or character; conforming to professional standards of conduct; the discipline dealing with what is good and bad and with moral duty and obligation; a set of moral principles or values.

Evidence: Any type of proof legally admitted at a trial, including witnesses, records, documents, or objects, for the purpose of proving or disproving elements of a criminal case. The Texas Rules of Evidence govern the admission of evidence at trial.

Ex Officio: Literally “from the office.” Powers resulting from the holding of a particular office. These powers are not specifically conferred upon an officer, but the officer may exercise them by right of holding the office.

Ex Parte: Literally “from one party.” Communication with a judge by one party without the other present. Ex parte communications between the judge and opposing parties are generally prohibited.

Exclusive Original Jurisdiction: A court having sole jurisdiction over a case because no other court has jurisdiction to hear and decide the case.

Execution: The process of enforcing a judgment, usually by seizing and selling property of the debtor.

Exonerate: To free from obligation.

Expunction: The process by which the record of a criminal conviction or arrest is destroyed or sealed.

Felony: A classification of criminal offense in the Texas Penal Code generally punishable by incarceration in prison. District courts have jurisdiction over felony offenses.

Finding: A legal determination made in a case based on certain facts. On conviction for certain Penal Code offenses, the court is required to enter an affirmative finding after considering the evidence. In municipal court, this typically involves a Finding of Family Violence in Title 5 offenses or a Finding of Motor Fuel Theft.

Fine: The penalty assessed by a judge or a jury upon the conviction of a defendant in a criminal case.

Forfeiture: A civil process that occurs when a defendant posts bond and then fails to appear. Failure to perform a condition of the bond causes the forfeiture of the bail to be declared or forfeited for the fine and costs.

General Jurisdiction: Authority to hear any criminal and/or civil cases, although judgments remain subject to appellate review.

General Law City: A city that is subject to the general laws of the state. A general law city looks to the state legislature and state statutes for its authority and may not act unless state law authorizes the action.

Guilty: A plea by which a defendant confesses to the crime with which the defendant is charged, or the verdict by which a defendant is convicted.

Headnote: A brief summary of the legal rule or significant fact in a case that often precedes the printed opinion of the case.

Holding: The main legal principle in the case; the declaration of the conclusion of law reached by the court as to the legal effect of the facts of the case.

Home-Rule City: A city that is governed by a charter that gives the city a measure of self-government. A home-rule city generally looks to its charter for its authority and may act unless state or federal law prohibits the action.

Hornbook: Refers to a series of treatises published by West that reviews various fields of law in a summarized, textual form as opposed to a casebook, which contains reprints of court opinions.

Inactive Records: Records that have a reference rate of less than one search per month. Records that are not needed to be readily available, but which must be kept for administrative, fiscal, legal, historical, or governmental purposes.

Index: An organized aid to find the contents of a document, database, or filing system that is arranged in a logical order, giving document or data location in storage. Usually a list or file that is arranged alphabetically or numerically for the purpose of facilitating references to topics, names, numbers, or captions within a body of information.

Indexing: The action of specifying or determining the pre-designed topic, name, number, or caption under which a document is to be filed.

Indictment: A formal accusation of a crime made by a grand jury at the request of a prosecuting attorney. In Texas, indictments are required in felony cases.

Indigent: One who does not have sufficient financial ability to hire legal counsel or pay a fine and court costs. Texas law defines indigency as not earning more than 125 percent of the income standard established by federal poverty guidelines.

Indirect Access Filing: A system in which reference to the code under which material is filed must be made before the file can be located.

Information: Written statement based on a complaint charging the defendant with a Class A or B misdemeanor. Filed and presented by a county or district attorney.

Jail-Time Credit: Credit on a defendant's fine required to be given when a defendant has been confined in jail before or after being convicted of a crime by the court or jury.

Judgment: In a criminal case, the written declaration of the court signed by the trial judge and entered in the record showing the conviction or acquittal of a defendant. In a civil case, the final decision of the court resolving the dispute and determining the rights and obligations of the parties.

Judgment Nisi: A temporary order that will become final unless the defendant or surety shows good cause as to why the judgment should be set aside.

Judicial Council Monthly Court Activity Report: The monthly report that all Texas courts must submit to the Office of Court Administration (OCA). Commonly known as "The OCA Report."

Judicial Discretion: The exercise of judgment by a judge based on both what is fair under the circumstances and what is within the established principles of the law.

Judicial Duties: Duties that require an exercise of judgment or decision on a question of law or fact or choice of alternatives. Only judges may perform judicial duties.

Jurisdiction: The power given to the court by a constitution or legislative body to hear and decide cases.

Jury Charge: An instrument which contains the law that applies to a case and is read to jurors before argument commences in a trial.

Jury Shuffle: On motion by the defense or prosecutor, a shuffle of the order in which jurors are seated. No practical method is prescribed in the code to accomplish this, but a common method is to mix up juror names and individually draw them to reseal the jury order.

Jury Summons: A notice sent to prospective jurors notifying them to appear for jury duty. Usually, this act is performed by the court clerk.

Justice of the Peace Court: Courts with original jurisdiction in criminal cases where punishment upon conviction may be by fine only. Justice courts generally have concurrent jurisdiction with municipal courts.

Juvenile: Generally, a person who is at least 10 years of age and under the age of 17.

Key Number: A building block of the West indexing system. The key number is a permanent number given to a specific point of law.

Law Review or Law Journal: A legal periodical that usually describes a scholarly publication edited by law students.

Legal Advice: A statement that interprets some aspect of the law, recommends some course of conduct, or applies the law to specific facts.

Legislative History: The information embodied in legislative documents that provides the meanings and interpretations (intent) of statutes.

LexisNexis: A corporation that provides a computerized legal research system used by attorneys and court personnel. Its database provides the full text of court decisions, statutes, administrative materials, annotations, law review articles, reporter services, Supreme Court briefs, and other items.

Licensed Court Interpreter: An individual licensed under Chapter 157 of the Government Code by the commission to interpret court proceedings for an individual who can hear but who does not comprehend English or communicate in English. Sec. 157.001(2), G.C.

Life Cycle of Records: The management concept that records pass through four stages: creation, maintenance, use, and disposition.

Limited Jurisdiction: Authority to hear only certain types of matters. Municipal courts are courts of limited jurisdiction.

Linear Foot: A unit of measurement used to determine the quantity of records in terms of length of space occupied without regard to height and width.

Litigant: Broad term describing a party to a lawsuit.

Loose-Leaf Services and Reporters: Contain federal and state administrative regulations and decisions or subject treatment of a legal topic. They consist of separate leaves to be placed in a binder that allows for frequent substitutions and updates.

Magistrate: A judicial officer whose duty it is to preserve the peace within a certain territorial jurisdiction through all lawful means; to issue all process intended to aid in preventing and suppressing crime; and to cause the arrest of all offenders in order that they may be brought to trial or, after trial, to punishment.

Magistration: The process where a magistrate explains to a defendant his or her rights under the law and constitution.

Mandatory Authority: Authority that a court is to follow and includes constitutional provisions, legislation, and court decisions.

May: Denotes permissible discretion or, depending on the context, refers to action that is not covered by specific proscriptions.

Microfilm: A film containing photographic records or images considerably reduced in size from the original material filmed.

Microfilming: The process of photographic reproduction of a document, usually on 16mm or 35mm film. The original may be reduced from one-eighth to one-fiftieth of its original size, with such clarity that it can be enlarged to its original size without loss of detail.

Microform: Roll microfilm, microfiche, computer output microfilm, and all other formats produced by any method of microphotography or other means of miniaturization on film.

Ministerial Duties: A duty in which there is nothing left to discretion, or a duty imposed by law.

Minor: In the Transportation Code, a person who is younger than 17 years of age. In the Alcoholic Beverage Code, a person who is under 21 years of age.

Misdemeanors: A classification of criminal offense in the Texas Penal Code punishable by incarceration in jail or a fine. County courts, justice courts, and municipal courts generally have jurisdiction over misdemeanors. Municipal courts and justice courts, however, only have jurisdiction over fine-only, Class C misdemeanors.

Mitigating Circumstances: Circumstances that do not constitute a justification or excuse of the offense in question, but which, in fairness and mercy, may be considered as extenuating or reducing the degree of moral culpability.

Motion: A formal request made to a judge pertaining to any issue arising in a case.

Municipal Court of Non-Record: A municipal court that does not keep a record of its proceedings. The appeal is de novo to the county court.

Municipal Court of Record: A municipal court that is required to keep a record of its proceedings. Established either by state legislation or city election.

Must: Creates or recognizes a condition precedent.

No Contest/Nolo Contendere: A plea in which the defendant does not contest the charge. Nolo contendere has the same legal effect as a guilty plea; however, it may not be used against the defendant as an admission of guilt in a civil suit based upon or growing out of the act upon which the criminal prosecution is based.

Nonessential Record: A record that is not vital to the continued operation of the court.

Nonsecure Custody: An unlocked multipurpose area where juveniles may be detained for up to six hours. While the juvenile is in the custodial area, they cannot be handcuffed to a chair, railing, or any object, and they must be under continuous visual observation by a law enforcement officer or a member of the facility staff.

Not Guilty Plea: A plea in which the defendant denies guilt in a criminal case and contests the charge. Defendants are presumed innocent, and guilt must be proved by the prosecution. Consequently, if a defendant refuses to enter any plea, a plea of not guilty may be entered by the judge.

Numeric Filing: Arrangement of numeric characters in various combinations.

Opinion: An expression of the reasons a certain decision was reached in a case and includes the following:

- A **majority opinion** is usually written by one judge and represents the principles of law that the majority of the court deemed operative in a given decision. It has the greatest precedential value.
- A **separate opinion** may be written by one or more judges in which he or she concurs with or dissents from the majority.
- A **concurring opinion** agrees with the results reached by the majority, but it disagrees with the precise reasoning of the majority opinion.
- A **dissenting opinion** disagrees with the result and the reasoning of the majority.
- A **plurality opinion** (called a judgment by the Supreme Court) is agreed to by less than a majority as to the reasoning of the decision, but it is agreed to by a majority as to the result.
- A **per curiam opinion** is an opinion by the court which expresses its decision in the case but whose author is not identified.
- A **memorandum opinion** is a holding of the whole court in which the opinion is very concise.

Oral Argument: An opportunity for lawyers to summarize their position before the court and to answer the judges' questions.

Ordinance: The equivalent of a municipal statute, passed by the city council and governing matters not covered by state or federal law.

Out-Card: A card filled out showing the date, description of the record, agency, person requesting the record, and other pertinent information. This card replaces the record that is pulled and is removed when the record is refiled.

Party: A person, business, or government agency actively involved in a legal proceeding.

Payee: A person to whom a check, money, etc., is payable.

Payor: A person who pays. A person named in a bill who has to pay the holder.

Peremptory Challenge: An objection made to a particular juror during jury selection that does not require cause be shown. The stricken juror is removed from consideration for the jury in that case. In municipal court, the prosecution and defense are each permitted three peremptory strikes.

Perfect: To take all legal steps needed to complete or secure. In court, often used in reference to whether appeal bond requirements have been completed.

Permanent Record: A record considered to be so valuable or unique that it is to be permanently preserved.

Personal Bond: A bond that is granted in the court's discretion that releases the defendant on his or her word or promise to appear, without sureties or other security, to appear in court to answer criminal charges.

Persuasive Authority: Reasoning which a given court may, but is not bound to, follow. For example, decisions from one jurisdiction may be persuasive authority in the courts of another jurisdiction, although they are not binding.

Plaintiff: In a civil case, the person who complains or brings the lawsuit and seeks relief for an injury.

Plea: In criminal cases, there are four possible pleas: guilty, not guilty, nolo contendere (no contest), or the special plea of double jeopardy.

Pleadings: The written statements of fact and law filed by the parties. In municipal and justice court, pleadings may be oral or in writing as the court may direct.

Pocket Part: A paperback supplement inserted in a book through a slit in its back cover. Usually includes textual, case, or statutory references keyed to the original publication.

Precedent: A previously decided case that guides the decision of future cases.

Preponderance of the Evidence: Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Presumption of Innocence: A principle of criminal law that the government has the burden of proving every element of a crime beyond a reasonable doubt, and the defendant has no burden to prove his or her innocence.

Pre-Trial Hearing: A court setting to address preliminary matters, including plea discussions, prior to the trial of an offense. The court may set any criminal case for a pre-trial hearing under Section 28.01 of the Code of Criminal Procedure.

Primary Authority: Statutes, constitutions, and administrative regulations issued pursuant to enabling legislation and case law. Primary authority may be either mandatory or persuasive. All other legal writings are secondary and are never binding on the courts.

Privileged Information: Information that is protected from disclosure.

Procedural Law: The law that governs the operation of the legal system, including court rules and procedures, as distinguished from substantive law.

Process: Written orders such as a warrant, *capias*, *capias pro fine*, and summons issued by the municipal judge.

Public Information: Information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for the governmental body and the governmental body owns the information or has a right of access to it, pursuant to the Public Information Act (PIA).

Ratio Decidendi: The point in a case that determines the result; the basis of the decision. This is more commonly referred to as the holding of the case.

Reasonable Doubt: All persons are presumed innocent, and no person may be convicted of an offense unless each element of the offense is proven beyond a reasonable doubt. The fact that a person has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at his or her trial. The law does not require a defendant to prove his or her innocence or to produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in the case.

Reconciliation: The act of harmonizing records.

Record: A document containing data or information of any kind and in any form generated or received by an organization and containing information necessary for the operation of that organization's business.

Record Copy: A record that is designated to be kept for the full retention period; not a reference, working, or convenience copy.

Records Control: The management of documents generated or received by an organization.

Records Creation: The process of production or reproduction of records.

Records Disposition: The final processing of records for destruction, permanent retention, or archival preservation.

Records Inventory: The physical listing of all records series created and maintained by an agency conducted prior to the development of retention schedules. Includes data such as records series titles, inclusive date, use, location, quantity, arrangement, duplication, and other pertinent information.

Records Management: (1) The systematic control of recorded information required in the operation of an organization's business from creation and active maintenance and use, through inactive storage, to final disposition; (2) The application of management techniques for the purpose of reducing the cost and improving the efficiency of recordkeeping. Statutorily defined in the Local Government Records Act (Sec. 201.003, L.G.C.).

Records Preservation: The maintenance of documents in usable form.

Records Protection: Safeguarding documents against unintentional destruction.

Records Retention Schedule: A document that identifies the length of time a records series must be retained in active and inactive storage before its final disposition to permanent storage, archival preservation, or destruction.

Records Series: A group of identical or related records that is normally used and filed as a unit and that permits evaluation as a unit for retention scheduling purposes.

Records Storage: The systematic assembling of documents in containers or depositories for possible future use.

Recusal: The process by which a judge is disqualified from hearing a charge filed in his or her court.

Reference Copy: A copy of an official record that serves as a substitute for reference purposes. Also called convenience or working copy.

Remand: To send back; the sending by the appellate court of the case back to the same court out of which it came for the purpose of having some further action taken on it there.

Remit: To pay back money.

Remittitur: To put back into the previous position and may include the return of all or part of the amount of the bond.

Rendering Judgment: The judicial act of pronouncing the decision (judgment) of the court.

Retention Period: The period of time during which a record must be kept before final disposition.

Riding Dirty: A term used by bikers for operating a motorcycle without a driver's license or without a Class M endorsement on the license.

Rules of Evidence: Rules that govern the admissibility of evidence at trials and hearings.

Rules of the Road: Subtitle C of Title 7, Transportation Code. This includes Chapters 541 to 600. These are important for determining certain court costs and also an adult's right to take a driving safety course.

Rule of Law: The principle that laws should govern a nation state, and every person should be subject to those laws.

Scire Facias: A special docket required by law to handle all cases and proceedings involved in the forfeiture of bail bonds. The process of issuing a citation (notice) to the parties of a temporary judgment (judgment nisi) that they need to come to court or lose the bond money to the State.

Sealing of Records: The process whereby a juvenile's court records are closed, and the matter is treated for all purposes as if it never occurred. The records will not be opened except by order of the juvenile court brought about by a petition of the person whose records were sealed. After September 1, 2001, municipal courts are no longer required to seal juvenile records. Juvenile cases filed with municipal courts before September 1, 2001, are subject to the sealing provisions.

Sentence: Punishment imposed on a defendant who has been found guilty. In municipal court, the amount of the fine and costs ordered to be paid to the State.

Server: A computer that shares its resources, such as printers and files, with other computers on the network. An example of this is a Network File System (NFS) Server which shares its disk space with a workstation that does not have a disk drive of its own.

Session Laws: Laws of a state enacted that are published in bound or pamphlet volumes after the adjournment of each regular or special session.

Shall and Shall Not: Imposes a duty to either act or refrain from acting.

Shepardizing: To check whether a certain case is still good law. Specifically refers to the use of *Shepard's Citations* to accomplish this.

Should or Should Not: Relates to aspirational goals and is a statement of what is or is not appropriate conduct but is not a binding rule under which a judge may be disciplined.

Slip Opinion: An individual court decision published separately soon after it is rendered.

Stare Decisis: Latin term meaning "to stand by things decided." The doctrine that courts will follow precedent, or previous judicial decisions, with similar issues or facts.

Statute: An act of a legislature. Depending upon its context in usage, a statute that may mean a single act of a legislature or a body of acts that are collected and arranged according to a scheme or for a session of a legislature.

Statute of Limitations: The time within which a legal process must be taken. There are different statutes of limitations for different kinds of lawsuits or crimes. In criminal cases, the time within which a prosecutor must formally present charges and file a complaint against a defendant. The statute of limitations for misdemeanor cases heard in municipal courts is two years.

Statutory Construction: A process by which a court seeks to interpret the meaning and scope of legislation.

Statutory Courts: Courts created by the State Legislature under authority granted by the Texas Constitution. These include municipal courts, county courts at law, and special courts such as probate courts.

Statutory Law: Law enacted by the legislative branch of government as distinguished from case law or common law.

Strike: A common name for a challenge that seeks to remove a particular juror from consideration during the jury selection portion of trial.

Style of Case: The parties to a lawsuit as they are written in the heading at the beginning of the case. Also known as the caption of the case.

Subject Matter Jurisdiction: Refers to the types of cases over which a court has jurisdiction.

Subpoena: A command from a court to appear at a certain time and place to give testimony upon a certain matter.

Subpoena Duces Tecum: Latin term meaning “under penalty you will bring with you.” A command from the court for a witness to appear and bring books, papers, or other tangible items as evidence.

Subsidiary Dockets: Listings of cases set for a particular date for trial and are also called trial dockets.

Substantive Law: That law which establishes rights and obligations, as distinguished from procedural law, which is concerned with rules for establishing their judicial enforcement.

Summary Judgment: In a civil case, a judgment made when there is no genuine issue of material fact, and the party is entitled to prevail as a matter of law.

Summons: A writ of the court directing that a person appear at a stated time and place. In municipal court, the judge can issue a summons for a defendant or for the parents of a juvenile.

Suppress: To keep evidence from being presented during a trial. A motion to suppress evidence is typically heard prior to trial and outside the presence of the jury.

Surcharge: Surcharges were fees assessed against an individual following certain convictions under the Texas Driver Responsibility Program. The program was repealed, effective September 1, 2019.

Surety: One who bonds and obligates himself or herself to guarantee the appearance of the defendant in court at times ordered to answer the charges. Should the defendant fail to appear, the surety is liable on the bond.

Table of Cases: A list of cases arranged alphabetically by case names with citations and references to the body of the publication where the cases are treated.

Table of Statutes: A list of statutes with references to the body of the publication where the statutes are treated or construed.

Terminal-Digit Filing: The arrangement of files using the last digit or set of digits as the primary filing unit.

TexasSure: An automated vehicle insurance verification database created by state agencies including the Texas Department of Insurance, Texas Department of Motor Vehicles, and Texas Department of Public Safety.

The Rule: Rule 614 of the Texas Rules of Evidence, requiring witnesses to remain outside the courtroom while testimony is being heard, except when testifying or until discharged.

Time Payment Fee: A \$25 fee that is required to be collected on conviction if the person pays any part of the fine or costs more than 30 days after the judgment imposing the fine or costs.

Transcript: A written, word-for-word record of what was said while in a proceeding such as a trial or during some other conversation, as in a transcript of a hearing or oral disposition.

Transferring: Moving inactive records to a records center or storage area on a regular schedule.

Treatise: An exposition, which may be critical, evaluative, interpretative, or informative on case law or legislation and is usually quite detailed and often critical.

Trial Courts: Those courts in which trials are held, witnesses are heard, testimony is received, and exhibits are offered into evidence.

Trial De Novo: A new trial on a case, where both questions of fact and issues of law are determined as if no decision had been previously rendered.

Trial Dockets: Listings of cases set for a particular trial date and are commonly called subsidiary dockets.

Truancy: The unexcused voluntary absence of a child on 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period from a school without the consent of the child's parents. Prior to September 1, 2015, the act of truancy, or failing to attend school, was a crime in Texas punishable by a fine up to \$500. The 84th Texas Legislature overhauled the process of juvenile justice for municipal and justice courts, eliminating this criminal offense.

Truancy Courts: Specialized courts which exercise jurisdiction over cases involving allegations of truant conduct. Municipal and justice courts are designated as truancy courts and may hear civil truancy cases. This is distinct from their authority and jurisdiction as a municipal court.

Venire: Latin term meaning "to come." The panel summoned by the court from among whom jurors in a particular case are chosen.

Venue: The particular geographical area in which a court with jurisdiction may hear and determine a case.

Verdict: The final decision on the trial of a criminal case: either guilty or not guilty.

Voir Dire: Literally, "to speak the truth." (1) Trial process by which the defense and prosecution question and select jurors; (2) The preliminary examination that the court, prosecution, or defense may make of a person presented as a witness where the person's qualifications to testify as an expert may be examined. Opposing counsel may ask the court to "take the witness on voir dire" out of the jury's presence.

Waiver: In municipal court, the process in which the court removes the obligation of the defendant to pay a fine or costs within parameters specifically outlined in the law. Waiver is possible if the defendant is a child or if the judge determines that the defendant is either indigent or does not have sufficient resources or income to pay the fines or costs.

Warrant of Arrest: A written order issued by a magistrate or judge directed to a peace officer commanding him or her take the body of the person accused of an offense, to be dealt with according to the law.

Westlaw: The computerized legal research system of The West Group / Thomson Reuters corporation used by attorneys and court personnel. It is a database providing full text of court decisions, statutes, administrative materials, law review articles, reporter services, and other items.

Witness: One who personally sees, observes, or is an expert concerning something and later testifies to what was seen, perceived, or known; a person whose declaration under oath or affirmation is received as evidence.

Writ: A written order of which there are many types, issued by a court and directed to an official or party, commanding the performance of some act.

Writ of Execution: A written order commanding an officer to take the property of the defendant in satisfaction of the debt (judgment of forfeiture on the bail bond) containing evidence of the debt of the defendant (surety) to the plaintiff (city prosecutor).

Writ of Habeas Corpus: A written order commanding that a person is brought before a court to determine if the person is lawfully imprisoned. Literally, “you have the body.”

Writ of Procedendo: A written order by which the county court declares its lack of jurisdiction over an appeal and returns the case to municipal court, which may then proceed to collect judgment.

Writ of Venire: A written order from the judge commanding the proper officer (usually the court clerk) to summon immediately a list of prospective jurors to serve for a particular term of the court.