

## TERMS IN USE ON THE CRIMINAL JUSTICE TOPIC

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**Accreditation:** A process by which police departments are assessed in terms of standards of competency and professionalism. Accreditation typically involves a rigorous process of self-study followed by external review by an accreditation team made up of an official body of organizations. The Commission on Accreditation for Law Enforcement Agencies is the standard accrediting body.

**Affirmative Action:** Programs that are intended to prevent discrimination in present hiring and promotion practices and to actively promote proportional representation and equitable opportunity.

**Alford Plea:** From *North Carolina v. Alford* (1970); this refers to a guilty plea that allows the defendant to maintain innocence, notwithstanding evidence that might convince a judge or jury to convict.

**Arrest:** The act of depriving a person of his or her liberty by legal authority, done for the purposes of interrogation or criminal prosecution.

**Automatic Number Plate Recognition (ANPR):** Technology that uses optical character recognition to read the license plates on vehicles.

**Battery:** Harmful or offensive body contact between two people, such as when an officer applies any force to an individual without justification.

**Bench Trial:** a trial in which the judge serves as the fact-finder and determines guilt or innocence in criminal cases.

**Blind/Double-Blind Procedure:** An identification procedure in which the officials administering the lineup are unaware of the suspect's identity.

**Body-Worn Cameras (BWC):** Cameras worn by police to record their interactions with citizens, ostensibly to increase police accountability.

**Brady v. Maryland:** A 1963 Supreme Court case concerning the prosecutor's obligation to disclose to the defense material exculpatory evidence; a prosecutor's failure to do so is referred to as a "Brady violation."

**Broken-Windows Theory of Policing:** A theory which posits that officers should pay more attention to minor infractions such as public drunkenness and vagrancy. Attention to these minor violations may ease citizen fears and deter more serious crime from occurring.

**Capital Charge:** A charged crime for which the death penalty is a possible punishment.

**Carroll Doctrine:** Provides for warrantless searches of motor vehicles if the vehicle is in fact mobile and if there is probable cause. This doctrine was established by the Supreme Court Case, *Carroll v. United States* (1925).

**CCTV:** Closed-circuit television.

**Certiorari:** A writ or order by which an appellate court exercises its discretion to review a case that was previously decided by a lower court.

- Chain of Custody: The chronological documentation that shows the seizure, custody, control, transfer, analysis and disposition of physical or electronic evidence.
- Civil Asset Forfeiture: A process in which law enforcement officers take assets from persons suspected of involvement with crime or illegal activity without necessarily charging the owners with wrongdoing.
- Civilian Review Board: Group of citizens charged with investigating allegations of police misconduct.
- Code of Silence (Blue Wall): Protective, supportive and shared attitudes, values, understandings and views of the world associated with the police society.
- Cognitive Bias: Systematic errors in human judgment and decision-making that derive from subconscious mental processes; includes confirmation and disconfirmation biases.
- Commission on Accreditation for Law Enforcement Agencies (CALEA): National commission that accredits police agencies, public safety training academies and public safety communication centers based on established standards and a process of self-study and on-site review.
- Community Policing (COP): A mode of policing that is highly responsive to the identities and needs of the communities that a department serves. Among other things, community-oriented policing (or simply community policing) is characterized by philosophies and programs that promote ongoing police-community interaction, strong community partnerships and a broad view of police responsibilities.
- Conducted Energy Devices (CEDs): Weapons designed to disrupt a subject's central nervous system through the use of electrical energy (for example, the Taser).
- Confirmation Bias: The subconscious tendency to interpret new evidence in such a way as to confirm one's pre-existing beliefs.
- Consent Decree: The Violent Crime Control and Law Enforcement Act of 1994, often simply called the Crime Bill, established the power for the U.S. Justice Department (DOJ) to scrutinize the practices of local police departments to determine whether the practices are properly protecting the civil rights of citizens. If the DOJ finds reasons to believe that a police department is in a crisis with regards to tactics, it will initiate investigations. If there is substantial evidence of systematic abuse, the DOJ then begins the process of negotiating an agreement with the police department, city officials and those communities directly impacted by the abuse. Once the agreement is solidified, it then goes before a federal judge for approval and a federal monitor is assigned to oversee the reform process. To date, there are now fifteen total cities with federal oversight in the way of consent decrees. The Trump administration Justice Department has, however, essentially abandoned enforcement of consent decrees.
- Counterterrorism: Policing that aims to protect citizens from terrorist attacks. Counterterrorism activities must take into account the particular motivations and tools of terrorists and require new forms of cooperation between local police and federal agencies. Many current counterterrorism policies are controversial because of their effects on individual freedom.

- Crime Control Act of 1990: Comprehensive federal crime legislation that led to the development of the COPS (Community Oriented Policing Services) program and the hiring of an additional 100,000 police officers.
- Criminal Laws: Laws concerned with the relationship between the individual and the government, especially in the areas of public safety and order (driving licenses, theft, rape and murder), as distinct from civil laws.
- Cybercrime: Computer crime, involving the computer as a target, the computer as a tool for the commission of a crime, or the computer as incidental to the crime itself.
- Daubert Test/Factors: From *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993), one standard used to determine the admissibility of expert testimony; charges judges to serve as gatekeepers and evaluate several factors before admitting expert testimony.
- Deadly Force: Level of force capable of killing a person; used to incapacitate a suspect who presents an immediate and potentially deadly threat to an officer or other person.
- Deescalation: Techniques that involve the use of communication and tactics designed to provide officers with time when dealing with combative suspects, the mentally ill or distraught persons.
- Deinstitutionalization: Because the practice of committing people with serious psychiatric illness to mental hospitals was deemed unfair and inhumane, patients were released to underfunded community-based and outpatient services. Consequently, more people with serious mental health issues are “on the street” and have become a police problem.
- Department of Homeland Security (DHS): Federal agency responsible for a unified national effort to secure the country and preserve freedom; Immigration and Customs Enforcement (ICE) is the DHS agency assigned to the policing of immigrants.
- Depolicing: Phenomenon where, in the wake of a lawsuit, officers may feel the need to engage in fewer interactions with the public, particularly officer-initiated encounters. Officers rationalize this as a normal response to what they feel is an unjust situation and rationalize that their own likelihood of being named as a defendant in a lawsuit decreases if they interact with fewer citizens.
- Differential Police Response (DPR): Differential response programs classify incoming calls according to their degree of seriousness and base the type of action police take on that classification. Such programs can decrease costs and increase efficiency.
- Discovery: In a criminal case, the process involving the prosecutor’s sharing or revealing evidence to the defense prior to trial; the defense sometimes has a reciprocal obligation to reveal evidence within its possession to the prosecutor.
- Discrimination: Treating people differently because of their race, gender, religion or national origin; involves behavior that, in its negative form, excludes all members of a certain group from some rights, opportunities or privileges.
- DNA: Deoxyribonucleic acid; the hereditary material in the nucleus of most cells, that can be identified through the testing of biological material.
- Drones: Aircraft without a human pilot on board controlled either by computers or remotely by an operator on the ground or in another vehicle.

**Drug Courts:** Judicially supervised court dockets that provide a sentencing alternative of treatment combined with supervision for people living with serious substance use and mental health disorders.

**Drylabbing:** Fabricating results for laboratory tests that were not conducted.

**Error Rate:** the rate at which innocent people are convicted, or the proportion of all convictions that involve innocent persons; estimates generally fall between 1-5%.

**Electronic Communications Privacy Act (ECPA):** Wiretapping regulation that protects email, pagers and cell phone calls.

**Equal Protection Clause of the 14th Amendment:** Applies to the police in that it prevents both the federal government and all states from denying the protection of the law to any group of persons by making arbitrary, unreasonable distinctions based on race, religion, gender, national origin and so on.

**Evidence-Based Policing:** A method of policing guided by evidence that shows certain practices to be the most effective and efficient.

**Excessive Use of Force:** Also referred to as police brutality, this form of malfeasance pertains to situations in which officers overextend their legal authority by using excessive force to arrest or coerce information from individuals with whom they interact during the course of their duties.

**Exclusionary Rule:** Refers to a legal remedy created by the Supreme Court as a response to evidence obtained in conflict with the Constitution of the United States where such evidence may not be introduced at criminal trial to determine guilt. While numerous Supreme Court cases have contributed to the establishment of the exclusionary rule, the key case was *Mapp v. Ohio* (1961).

**Extralegal Police Aggression:** Acts committed by a police officer that are intended to injure someone physically or psychologically with no legitimate police function.

**Federalism:** A form of government in which some powers are exercised by the national government, while many others are delegated to state and local units of government.

**Felony:** A more serious criminal offense (above misdemeanors), including most violent offenses, that are usually punishable by a year or more of imprisonment.

**Ferguson Effect:** The theory that policing practices have changed in the wake of the shooting of Michael Brown in Ferguson, Missouri, where beat officers are backing off proactive policing and not getting out of their squad cars as often, which has emboldened criminals and fueled other social unrest, which has in turn led to a spike in violent crime.

**Fleeing-Felon Rule:** Common law doctrine authorizing the use of deadly force to capture an escaped felon or someone hastening from the scene of a suspected grave crime; overturned by the *Garner v. Tennessee* (1985) decision of the U.S. Supreme Court.

**Foreign Intelligence Surveillance Act (FISA):** Specifies that the purpose of electronic surveillance must be to obtain intelligence in the United States on foreign powers (such as enemy agents or spies) or individuals connected to international terrorist groups.

**Forensic Evidence:** Evidence obtained through the use of scientific methods and techniques for use in court.

**Fruit of the Poisonous Tree Doctrine:** An extension of the exclusionary rule, which indicates that not only evidence seized improperly must be excluded from criminal court, but also any additional evidence seized after that police action.

**Frye Test:** The Supreme Court decision, *Frye v. United States* (1923), established a standard used to determine the admissibility of expert testimony; it requires the scientific technique to be generally accepted within the relevant scientific community.

**Garrity Interview:** Compelled testimony for internal (administrative) investigations; a routine practice not protected by the Fifth Amendment, such testimony cannot normally be used in a criminal proceeding. This procedure was clarified by the Supreme Court case, *Garrity v. New Jersey* (1967). The Court ruled that a police officer could be compelled to testify under threat of losing his or her job, but that such a requirement would provide immunity from criminal prosecution based upon the testimony.

***Gideon v. Wainwright*:** A 1963 case in which the Supreme Court ruled that defendants charged with a felony and who cannot afford an attorney have the right to be represented at trial by court-appointed counsel.

**Good-Faith Doctrine:** Involves searches conducted with a warrant and states that when a police officer acting in good faith obtains a warrant, conducts a search and seizes evidence, that evidence will not be excluded from court proceedings even if the warrant is later invalidated.

**Grass Eaters:** Term coined by the Knapp Commission to refer to officers who engage in minor acts of corrupt practices (acceptance of gratuities, etc) and passively accept the wrongdoings of other officers.

**Habeas Corpus:** Latin for, “you have the body,” allows an incarcerated person to challenge a criminal conviction or sentence on the grounds that he or she is being held in violation of the United States Constitution or the laws or treaties of the United States, typically filed in federal court after all state remedies have been exhausted.

**Highway Patrol:** A state police force whose duties are generally limited to enforcing traffic laws and dealing with accidents on state roads and highways.

**Hot-Pursuit Exception:** A common exception to warrant requirements. Police may follow a felon or otherwise dangerous criminal into a place typically protected by the Fourth Amendment, such as a home, or may cross jurisdictional boundaries. Hot pursuits must be based on probable cause and the gravity of the offense must be taken into consideration. Once in a constitutionally protected area, the officer may search for the suspect and for weapons or evidence, but once the suspect is found, the search must cease.

**Implicit Bias:** Unconscious attitudes or stereotypes that influence an individual’s beliefs, understanding and actions.

**Incentivized Informant:** A person who agrees to provide information in a criminal case in exchange for some type of promised benefit or other incentive.

**Ineffective Assistance of Counsel:** Representation by a criminal defense lawyer that falls below constitutionally acceptable standards.

**Innocence Project:** A non-profit organization founded in 1992 that works to secure exonerations through post-conviction DNA testing and advocates for criminal justice reform.

**Intelligence-Led Policing (ILP):** Operational strategy to reduce crime where crime analysis and criminal intelligence are used to guide police activities and priorities.

**Meat Eaters:** Term coined by the Knapp Commission to describe officers who engage widely in corrupt and unlawful practices during the performance of their duties.

**“Meet and Plead” Disposition:** Refers to a situation in which a case is resolved at the first court hearing, with little or no preparation by the defense attorney.

**Miranda Warnings:** Based on Fifth Amendment privilege from self-incrimination, police must take appropriate safeguards to ensure that a defendant’s rights are not violated during arrest. Specifically, police must advise defendants that (1) they have the right to remain silent, (2) any statement made may be used against the defendant in court, (3) the defendant has the right to have an attorney present during questioning and (4) if a defendant cannot afford an attorney, then the state will appoint one prior to questioning. The defendant must intelligently and voluntarily waive these rights prior to questioning. These requirements were established as a result of the Supreme Court Decision, *Miranda v. Arizona* (1966).

**Misdemeanors:** lower-level criminal offenses (below felonies) that make up the majority of cases processed by the justice system.

**Money Laundering:** Attempts to disguise the original source of monies, normally through illegal means and infuse said monies into the legitimate marketplace.

**National Commission on Forensic Science:** Created in 2013 by the U.S. Department of Justice and the National Institutes of Standards and Technology; it included a variety of stakeholders who examined problems related to forensic science and made recommendations for reform.

**National Registry of Exonerations (NRE):** A project founded in 2012 that provides information about wrongful convictions and exonerations in the United States; currently, the largest collection of known exonerations.

**National Security Letters (NSLs):** Written demands from the FBI that compel Internet service providers, credit companies, financial institutions and others to hand over confidential records about their customers (such as subscriber information, phone numbers, email addresses and websites visited).

**Open-Fields Doctrine:** A search doctrine indicating that items in open fields are not protected by the Fourth Amendment’s guarantee against unreasonable searches and seizures, so they can properly be taken by an officer without a warrant or probable cause. This doctrine was established by the Supreme Court Decision, *Hester v. United States* (1925) and slightly modified by *Katz v. United States* (1967).

**Plain View Doctrine:** The principle that what police discover during the performance of their normal duties can be seized. For example, if a police officer stops a person who committed a traffic violation and the officer sees illegal items in the back seat of the car, that contraband is in plain view and can be legally seized.

**Plea Bargain:** A method of resolving criminal cases outside of trial; generally involves an agreement between the prosecution and defense in which the defendant pleads guilty or no contest, and the prosecutor agrees to reduce charges and/or the recommended sentence.

**Police Brutality:** Excessive force, including violence, that does not support a legitimate police function.

**Post-Conviction Review/Relief:** Generally refers to challenges of a conviction or sentence based on matters not reflected in the trial record, and thus not considered on direct appeal.

**Predictive Policing:** A form of policing that uses data analysis to respond to crime more quickly and anticipate its “when and where” so that police can engage in preventative and preemptive practices.

**Pretextual Stops:** Officers stopping a suspect for a minor violation with the goal of eliciting another, more serious violation.

**Prisoner’s Dilemma:** a decision-making scenario in which two suspects are separated, questioned independently and each told that the other is implicating them in the crime.

**Privatization:** Trend in which public police are increasingly replaced or augmented by privately employed security forces. Privatization raises questions about racial and economic inequality.

**Probable Cause:** A general standard of proof that involves an evaluation of objective observations and an assessment of the totality of the circumstances to determine the legality of an arrest.

**Problem-Oriented Policing:** Encourages officers to take a holistic approach, working with other citizens and other agency representatives to find long-term solutions to a variety of recurrent problems.

**Procedural Error:** An error of process or procedure made in a court case, such as the denial of a fair hearing or an irregularity in the manner of enforcing a substantive legal right; a procedural error may be grounds for reversing a conviction but does not necessarily mean that a factual error has occurred or that a defendant has been wrongfully convicted.

**Public Defender Offices:** Government-financed offices in which criminal defense attorneys provide legal representation to indigents.

**Pulling Levers Policing:** An innovation that focuses attention on a small number of chronic offenders responsible for a large share of the crime problems.

**Quality-of-Life Policing:** Police strategy that targets the reduction of physical and social dis-order so that community members will work together to promote neighborhood safety and concomitantly reduce crime.

**Racial Profiling:** When race is used as the sole or primary factor influencing officers' decisions, particularly within the context of traffic stops.

**Reactive Policing:** Reactive police work is characterized by police responses to incidents when assistance is specifically requested by citizens.

**Reasonable Suspicion:** Suspicion based on objective facts and logical conclusions that a crime has been or is about to be committed, based on the circumstances at hand.

**Record Expungement:** The process of sealing an arrest and conviction record so as to make it inaccessible to the public and allow the exoneree to lawfully report that he or she has not been convicted of a crime.

**Restorative Justice:** Seeks not retribution (punishment) but, rather, restitution to repair the damage of crime as much as possible and to restore the victim, the community and the offender.

**RICO Act:** Federal legislation enacted in 1970 that allows prosecutors to go after the organization rather than individuals; defines racketeering in a broad manner and makes it a crime to belong to an organization involved in a pattern of racketeering

**Rotten-Apple Theory of Corruption:** The idea that corruption is limited to a small number of officers who were probably dishonest prior to their employment. The term stems from the metaphor that a few rotten apples will spoil the barrel; in other words, a few bad officers can spoil a department.

**SARA Model:** A 4-step problem-solving or problem-oriented policing process that includes Scanning, Analysis, Response and Assessment.

**Sentinel Events Initiative:** An initiative undertaken by the National Institute of Justice, designed to review undesirable outcomes in criminal justice, including wrongful convictions and study them in a non-blaming fashion to determine why they occurred and what can be done to prevent future injustices.

**Solution-Oriented Policing (SOP):** Focuses on the fact that some police-community issues are best addressed through the development of unique approaches or thinking outside the box.

**Stop and Frisk:** Practice where an officer may stop a person, temporarily depriving him or her of freedom of movement, if the officer has reasonable suspicion that the person is involved in a crime. Furthermore, the officer may frisk the person if there is reasonable suspicion to believe the citizen is armed and poses a threat to the officer for the duration of the stop.

**Substantive laws:** Criminal laws that identify behavior and punishment; distinct from procedural laws.

**Taser:** Electroshock weapon that uses electrical current to disrupt voluntary control of muscles.

**Terrorism-Oriented Policing:** Adds new duties to those already assumed by the police in an attempt to detect and prevent terrorist acts.

**Terry Stop:** This procedure allows the police to briefly detain a person based on reasonable suspicion of involvement in criminal activity. Reasonable suspicion is a lower standard than probable cause which is needed for arrest. When police stop and search a pedestrian, this is commonly known as a stop and frisk. The term, "Terry Stop," derives from the Supreme Court decision, *Terry v. Ohio* (1968).

**Unmanned Aerial Vehicle (UAV):** A drone used by select departments nationwide for purposes of search and rescue and disaster assessment.

**USA PATRIOT Act:** Federal legislation passed in 2002 that represented a major reorganization of national security agencies; it created the Department of Homeland Security, which conducts services previously handled by various other organizations.

**Vigilantes:** Members of a voluntary band who organize to respond to real or imagined threats to their safety; to protect their lives, property or power or to seek revenge.

**Wade Trilogy:** Three Supreme Court cases (*United States v. Wade*, *Gilbert v. California* and *Stovall v. Denno*) that decided important constitutional issues related to in-person eyewitness identification procedures.

**Warrant:** An order in writing, issued by a judicial authority, authorizing a police officer to take specific actions

**White-Collar Crime:** Illegal or unethical acts that violate the fiduciary responsibility of public trust by an individual or organization, usually during the course of legitimate occupational activity, by persons of high or respectable social status for personal or organizational gain.