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| **AC313 Chapter 2 Glossary**

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| **administrative law**  | Source of law that stems from government agencies. |
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| **affidavit**  | Sworn statement often made by law enforcement officers to obtain search warrants. |
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| **arraignment**  | Proceeding in which a criminal defendant is brought before a judge and receives a written copy of the charges to which the defendant enters a plea of guilty or not guilty. |
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| **arrest**  | Procedure in which a defendant is formally detained and then booked at a law enforcement facility. |
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| **arrest record**  | Record created when a defendant is formally booked at a law enforcement facility. |
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| **arrest warrant**  | Order by a court to arrest someone. |
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| **bench trial**  | Trial with a judge but no jury. |
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| **booking**  | Procedure in which an arrest record is created and for which law enforcement takes the accused person's fingerprints and photograph. |
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| **burden of proof**  | Requirement in criminal trials that the prosecutor must prove the defendant guilty beyond a reasonable doubt; in civil trials, only a preponderance of the evidence is required for conviction. |
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| **case law**  | Source of law that results from the decisions of appellate courts. |
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| **chain of custody**  | Careful record that accounts for custody of evidence between the time of its collection and its presentation at trial. |
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| **citation**  | Alternative to an arrest procedure in which a law enforcement agent gives an accused a written document that indicates the charges. |
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| **closing argument**  | Final argument made by each side in a trial proceeding. |
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| **common-law crime**  | Type of crime, generally derived from old English law, that exists almost universally in law. |
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| **Computer Fraud and Abuse Act**  | First major federal computer crime act that in general protects government computers; those important to national security, to foreign relations, and to certain atomic energy data; computers of financial institutions; computers related to credit reports; and certain designated “protected computers” used in interstate or foreign commerce, government, and financial institutions. |
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| **constitutional law**  | One of the different sources of law in the United States, and which is derived from the U.S. Constitution. |
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| **cross-examination**  | In a trial, the first round of questioning of a witness by the opposing attorney. |
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| **direct examination**  | In a trial, the first round of questioning of a witness by the attorney calling the witness to testify. |
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| **discovery**  | Outside-of-trial process by which opposing sides obtain evidence or potential evidence from each other. |
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| **district attorney**  | Prosecutor in criminal proceedings who is said to represent “the people” in bringing a case against a defendant. |
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| **double jeopardy**  | Process of being tried for the same crime twice, which is not permitted under the Fifth Amendment of the U.S. Constitution, although individuals may be tried separately in state and federal courts for the same crime. Once the jury is seated in a jury trial or when the first witness takes the stand in a bench trial, the criminal defendant is said to be in jeopardy, and after that point, the defendant cannot be retried for the same crime if there is a verdict of not guilty or the judge dismisses the case. |
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| **element**  | Item that must be present for an individual to be found guilty. |
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| **expert witness**  | Individual so qualified to be permitted to give opinions in court. |
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| **felony charge**  | Criminal charge that could result in a prison sentence of more than one year. |
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| **Foreign Corrupt Practices Act (FCPA)**  | Congressional act originally designed to inhibit an organization from paying bribes to foreign governments and then covering them up in the accounting records; requires companies to maintain adequate records and internal controls. |
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| **fraud triangle**  | Three things generally present in most crimes: pressure, opportunity, and rationalization. |
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| **fruit of the poisonous tree**  | Legal doctrine that excludes from evidence anything obtained as a result of improperly obtained evidence. |
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| **grand jury**  | Group of citizens called to meet, generally in secret, to investigate whether criminal charges should be filed against an individual; empowered to subpoena documents and require testimony; sometimes investigates matters of general public interest. In the federal system, felony charges can be brought only via a grand jury indictment. |
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| **hearsay statement**  | Information overheard by a potential witness in a trial that is generally excluded from evidence with exceptions including dying declarations, excited utterances, defendant admissions, statements that show someone's state of mind, written government and business records, and prior inconsistent statements. The state-of-mind exception generally allows any type of out-of-court statement(s) that show a person's emotions, beliefs, or intent despite their being made out of court if they are otherwise admissible. |
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| **identity theft**  | Process in which a criminal assumes part or all of a victim's identity, generally for purposes such as stealing funds from the victim's bank account or fraudulently obtaining credit in the victim's name. |
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| **investigative subpoena**  | Legal request for records frequently made by law enforcement officers as part of criminal investigations; generally, the officer making the request must have probable cause that the target has committed some crime; can require the approval of a judge in some jurisdictions. |
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| **jury instruction**  | Formal instruction given to the jury at the end of a jury trial before the jury begins deliberations; relates to the legal principles to be applied to the case. Often these instructions are complex and difficult for juries to understand because they tend to be based on wordings from previous appellate court decisions. Instructions are critical because they typically define the elements of the crimes (or civil wrongs) under consideration, the definition of reasonable doubt, permissible considerations in evaluating the credibility of the witnesses, and the mechanics of the deliberations. |
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| **leading question**  | Question that suggests a particular answer; prohibited from being asked by the attorney on direct examination but not on cross-examination. |
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| **motion *in limine***  | Request of the defendant to the judge to exclude from the trial anticipated evidence such as information that that the defendant was previously convicted of a crime. |
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| **opening statement**  | Statement presenting a roadmap of the case that the attorneys intend to present to the judge or jury. |
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| **personal knowledge rule**  | Rule of evidence that prevents nonexpert witnesses from testifying about matters that they did not directly observe with their own senses. |
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| **plea bargain**  | Agreement between the prosecution and defense that typically reduces charges in exchange for a guilty plea. |
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| **preliminary hearing**  | Mini-trial type of event in which a judge decides whether there is sufficient evidence to hold a formal trial against a criminal defendant. |
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| **privileged**  | Type of communication between individuals that is not subject to discovery or required disclosure in court; laws defining it can vary considerably from one jurisdiction to the next but include attorney-client, spouse-spouse, doctor-patient, psychoanalyst-patient, clergy-congregant, and accountant-client in certain tax matters. |
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| **probable cause**  | Not an exact legal standard; represents what might be a reasonable basis to believe that a suspect may have committed a crime; a much lower standard than “beyond a reasonable doubt” and that can be based on things that could seem dubious, such as an anonymous tip. |
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| **prosecutor**  | Attorney for the government (people) in criminal proceedings. |
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| **Racketeer Influenced and Corrupt Organizations Act (RICO)**  | Act that lists more than 30 different state and federal crimes for which the violation of any two in a related pattern over a 10-year period can lead to criminal and/or civil liability with criminal penalties of fines up to $25,000 and 20 years in prison; part of the Organized Crime Control Act (OCCA) of 1970. |
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| **rebuttal witness**  | Witness through whom the prosecution seeks to impeach the evidence presented in the defense case after the defense rests, the scope of which is limited to attacking evidence presented in the defense case. |
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| **recross-examination**  | Second cross-examination after a redirect examination. |
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| **redirect examination**  | Second direct examination after cross-examination. |
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| **rules of evidence**  | In criminal trials, the rules that control both the content of the evidence and the manner in which it is presented; set forth in statutory codes in the federal government and in most states. |
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| **Sarbanes-Oxley (SOX) Act**  | A complex U.S. congressional act that added and changed many laws aimed mainly at preventing and punishing various types of financial statement fraud among public companies. |
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| **search warrant**  | Court order that permits law enforcement authorities to search for and seize evidence. |
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| **statute**  | Codified law that is adopted by some legistative body. |
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| **statutory law**  | One of the different sources of law in the United States. |
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| **Title 18 of the U.S. Code**  | Part of the United States Code devoted mostly to criminal matters. |
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| **trial court**  | Lower court that decides facts and applies the law. |
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| **United States Code**  | Codified source of statutory laws in the U.S. federal government. |
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| **U.S. circuit court of appeal**  | Court in the U.S. federal court system that hears appeals over points of law from lower courts. |
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| **U.S. Constitution**  | Supreme law in the United States. |
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| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| **U.S. district court**  | Trial court in the federal court system. |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| **U.S. Supreme Court**  | Highest court in the United States. |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| http://highered.mcgraw-hill.com/olcweb/styles/shared/spacer.gif |
| **working paper**  | Document with notes that an accountant maintains as part of a client engagement. |

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