



The following list explains terms often used in the criminal justice process.

A

Accused

A person charged with committing a crime. Other words for the accused are 'defendant' and 'alleged offender'.

Acquit/acquittal/acquitted

When the magistrate, jury or appeal court find someone is not guilty of a crime.

Adjournment

A break for morning tea, lunch or for 'legal argument'. It can also mean the court has decided to set a new date for the matter to be continued.

Admissible

Describes evidence that is allowed to be given in court. Not all evidence is admissible.

Adversarial

This means the prosecution lawyers and the defence lawyers will argue about the facts, witnesses, evidence and legal issues.

Affidavit

A statement that is signed and agreed to in the presence of an authorised witness, such as a justice of the peace. The person signing the legal document states that the contents are, to the best of their knowledge, true.

Affirmation

An affirmation is a promise to tell the truth (usually in a courtroom) without using a religious book.

Allegation

Something that is said but has to be proved, or is yet to be proved.

Alleged offender

Until a person is proved to be guilty of a crime, they are called an 'alleged offender', the 'accused' or the 'defendant'.

Antecedents

A person's criminal record and background.

Appeal

When a case is taken to a higher court to challenge a decision.

Arraignment

Where the details of the charge (called an indictment) are read out to the accused in court.

Arrest

When the police take someone into custody to charge them with a crime, or to take them to court.

B

Bail

Bail is when a prisoner is released, but signs an agreement to abide by certain conditions, such as attending court hearings as directed. Other conditions may include not going near or contacting witnesses or others involved in the case. A bail agreement is also known as an 'undertaking', and if a defendant fails to abide by the specified conditions, they could be put back in jail.

Balance of probabilities

Is when something must be more likely to have happened than not to have happened.

Barrister

A senior lawyer who is usually involved in trials, and often has specialist knowledge.

Bar table

A long table near the front of the courtroom where the defence and prosecution lawyers sit.

Bench

The elevated seat at the front of the court where the judge or magistrate sits.

Bench warrant

An arrest warrant ordered by the court.

Beyond reasonable doubt

The test used by a jury, judge or magistrate to decide if someone is guilty or not guilty of a criminal offence. It must be proved beyond reasonable doubt that someone committed a crime before they can be found guilty.

Breach

When someone doesn't do what a court order has stated, they are in breach of that order. For example, they 'breach' bail if they do not abide by the relevant conditions.

Brief or brief of evidence

A collection of material including statements from witnesses, experts and medical professionals, as well as photographs, which is used by the CDPP to decide whether there is enough evidence to start a prosecution. Briefs are prepared by police or investigators within the relevant agency.

C

Charge

The allegation that someone has committed a specific crime, or offence.

Closed circuit television (CCTV)

Vulnerable witnesses or child witnesses may be allowed to give evidence to the court from somewhere other than the courtroom, and this evidence is seen and heard in the court via a CCTV link.

Closed court

Sometimes the judge or magistrate may order the court to be closed. This means only certain people are allowed to come into the courtroom to watch, or take part in, a case. There may also be restrictions on what the prosecutor can tell you about what happened in court on that day. Courts may be closed by the magistrate or judge when a vulnerable witness, such as a child, is giving evidence.

Committal hearing

At a committal hearing, a magistrate will consider the evidence and decide if it's enough for the defendant to be tried in either the Supreme, County or District Court. At a committal hearing, there is no jury and the magistrate makes all the decisions and judgments.

Common Law

Laws that are based on earlier court decisions, rather than the laws created by Parliament, which are called legislation.

Commonwealth Director of Public Prosecutions (CDPP)

The CDPP prosecutes crimes against Commonwealth law. We decide whether or not a case is strong enough to go to court, and what charges should be laid. We don't investigate crimes—other agencies such as the Australian Federal Police do this. When deciding what crimes to prosecute, we follow guidelines set out in The Prosecution Policy of the Commonwealth.

Commonwealth offence

A criminal offence against a Commonwealth or federal law (rather than a state or territory law).

Complainant

Is the victim of the crime being prosecuted.

Conference

A meeting with a prosecutor to talk about your case.

Convicted

When a person accused of a crime is found guilty.

Counsel

A barrister who acts for the defence or the prosecution during complex matters, or where specialist expertise is needed.

Counsel for the prosecution

Another name for a prosecutor.

County Court

A higher court that operates in some states and territories. It is the same as a District Court.

Court

The building where the case is heard. (See our going to court video to find out who's who in a typical courtroom.)

Court officer/bailiff

The court officer/bailiff helps the judge and people coming into the court. They administer oaths and affirmations to witnesses. Tell the bailiff if you have any concerns for your safety. (See our going to court video to find out who's who in a typical courtroom.)

Court reporter

The court reporter records what happens in court. Some courts record trials electronically.

Corrective services officer

The corrective services officer provides security to people in custody.

Crime

An illegal act.

Criminal history

A record of the crimes someone has been found guilty of committing.

Cross-examination

When a witness is asked questions about their evidence by the lawyer for the opposing side or party.

The Crown

In higher courts, the prosecution may be referred to as 'the Crown'. This is because prosecutors that work for the CDPP are representing the Queen in her role as the head of the Commonwealth.

Custody

A person in custody may be held in a remand centre, police watch house, or serving a sentence in jail.

D

Defence

The lawyers who represent an accused person in court.

Defendant

The defendant is the person accused of breaking the law. They may also be known as 'the accused' or 'alleged offender'.

Defence lawyer

The defence lawyer represents the person charged with breaking the law.

Deliberations

When a jury is deciding whether the accused is guilty or not guilty. The jury leaves the court and goes to a private room, called the jury room, to decide the verdict.

Deposition

A deposition refers to witness statements or affidavit material that is provided to the court without the person being present for cross-examination.

District Court

The District Court is the same as the County Court, but they are called different things depending on what state or territory you live in.

Dock

Where the defendant usually sits in court. Not all courts have a dock. (See our going to court video to find out who's who in a typical courtroom.)

E

Electoral roll

To be eligible to be called as a member of the jury, you need to be on the electoral roll. The electoral roll is a list of names of people registered to vote.

Empanel a jury

The process of choosing a jury (12 people) from a larger group that has been called to carry out jury duty.

Evidence

Information given to the court by witnesses and used during the case. All evidence, including physical evidence like fingerprints or clothing, needs to be presented to the court by a witness, such as forensic officer or the investigator.

Evidence-in-chief/examination-in-chief

When the prosecutor asks the prosecution witness questions.

Exhibits

Exhibits include evidence such as documents, photographs, clothing or other items relevant to the case.

F

Forensic evidence

Evidence found where the crime took place, such as fingerprints and DNA.

Forensic medical examination/procedure

The victim and/or accused may have to have an examination or provide samples to help investigators. For example, they may have to give blood or have a DNA mouth swab.

G

Guilty

Being found guilty means a jury or magistrate has decided the defendant committed the crime they are accused of. Juries usually decide the verdict in the Supreme, County or District Court. In the Magistrates' or Local Court there is no jury, and the magistrate will decide whether the defendant is guilty or not guilty.

H

Hearing

A court hearing is when evidence is presented and legal arguments are heard. Hearings take place after the accused has pleaded not guilty.

Higher court

A court such as the Supreme, District or County Court hears more serious matters. A judge is in charge in a higher court, and a jury decides if someone is guilty or not.

Hung jury

When the jury can't agree whether the accused is guilty or not guilty.

I

In camera

When a case or discussion is carried out in private it is held 'in camera'. For example in a closed court, or the judge's private room.

Indictable offence

A serious criminal offence that is usually heard in a higher court, such as the County, District or Supreme Court. Indictable offences require a trial by judge and jury. Examples of Commonwealth indictable offences include major drug importation cases, terrorism offences and fraud cases where the sum of money involved is large.

Indictment

A formal written accusation charging someone with an offence that is to be tried in a higher court.

Instructing solicitor

A solicitor who helps prepare a case for the barrister in court.

Interpreter

If a witness does not have strong English skills, an interpreter helps the court by translating what is said to them, and what they say.

Investigator

An investigator may be a police officer or someone from a government agency who collects evidence and prepares a brief for the CDPP. For example if the case involves tax fraud, the investigator may come from the Australian Taxation Office.

J

Justice of the Peace (JP)

A Justice of the Peace witnesses oaths, statutory declarations and other legal documents.

Judge

The judge is in charge of the courtroom and sits at the high bench. The judge makes sure the trial is run fairly and decides the sentence.

Judge's associate

The judge's associate assists the judge in the courtroom and in their office. The associate carries out specific duties in the courtroom such as arraigning the accused and recording the judge's orders in writing.

Juror

A member of the jury.

Jury

The jury is made up of 12 people who listen to the evidence presented in a criminal trial, and decide whether the accused is guilty or not guilty.

L

Legal argument

An argument between lawyers involving legal matters. The judge or magistrate is responsible for deciding which side is more correct in how to interpret the law.

Local Court

A lower court that hears less serious matters known as 'summary offences'. A local court can also be referred to as a lower court or a Magistrates' Court, and the magistrate is in charge of proceedings. There is no jury.

M

Magistrate

The magistrate is the person in charge in the Magistrates' or Local Court. They make all decisions regarding the law and decide what the sentence should be if someone is found guilty.

Magistrates' Court

A lower court that hears less serious matters known as 'summary offences'. A magistrate is in charge of the court, which may also be known as the Local Court. There is no jury.

Matter

A court case is often referred to as a 'matter'.

Media

The media refers to journalists, who often attend court to report on what's happened.

Mention

Where the case appears in court for a brief time, usually to update the court on how a matter is progressing, and deal with an administrative matter such as setting dates and deciding bail. Witnesses don't usually have to go to court for a mention. Normally witnesses don't have to go to court for a mention, however the prosecutor will let you know if you are required to appear.

Mistrial

A trial where there has been a mistake in the way it was carried out. This usually means the trial will need to begin again with a new jury.

My learned friend

Lawyers often say this in court when talking about the opposing lawyers, particularly barristers.

N

No bill/no further proceedings

If the CDPP decides to stop a case, for example because there isn't enough evidence, this may be called entering a 'no bill' or 'no further proceedings'.

Notice of Discontinuance/Nolle prosequi

A Notice of Discontinuance, sometimes referred to as a nolle prosequi, describes a decision not to go ahead with one of the charges in an indictment.

Not guilty

A not guilty verdict means the judge or jury does not think the prosecution was able to prove 'beyond reasonable doubt' that the defendant committed the crime. At the start of all criminal proceedings, a defendant will be required to say how they plead to the charges. If a defendant pleads not guilty, the case will need to be heard by the court.

O

Oath

An oath is a religious promise to tell the truth, where someone puts their hand on a holy book such as the Bible or Koran.

Objections

When the defence or prosecution believe a question shouldn't be asked before the court, they can object and the judge or magistrate must decide whether to allow the question.

Offence

The crime a person is charged with.

Offender

A person who is found to have done something against the law. Until this happens, a person charged with an offence will be known as the alleged offender, defendant or accused.

Open court

When the public gallery of the court is open and anyone that is interested can attend. Most hearings in Australia take place in an open court.

Opening address

An introductory speech or submissions made by prosecutors and defence lawyers in court about their case and the evidence.

P

Paper committal

A paper committal is an administrative process to transfer an indictable matter from the Magistrates' or Local Court to the Supreme, District or County Court. No evidence is heard.

Part heard

A matter is part heard when court proceedings have started but are adjourned to another date.

Parties

There are generally two parties in a criminal matter: the prosecution or Crown and the accused or defence.

Plea

When the accused person tells the court whether they are guilty or not guilty. If they plead guilty, a trial isn't needed and the matter goes to a sentencing hearing.

Plea negotiation

A plea negotiation is when lawyers for each party try to resolve a criminal charge before a case goes to trial.

Pre-sentence report

A report that helps the court decide an appropriate sentence for a person who has been found guilty or has pleaded guilty. It often includes information about the offender's background, including their upbringing and response to past court orders.

Prima facie

Prima facie means 'on the face of it'. A prima facie case is one that has a greater possibility of success than not.

Prosecutors

Prosecutors are lawyers employed by the Commonwealth Director of Public Prosecutions.

Prosecution Counsel

A CDPP lawyer or private barrister who presents the prosecution's case in court on behalf of the CDPP.

Public gallery

The public gallery is where your support person, family members, friends, journalists or other members of the public can sit. (See our going to court video to find out who's who in a typical courtroom.)

Q

Queen's Counsel (QC)

A Queen's Counsel is a senior barrister. See also Senior Counsel.

Quash

When a higher court discharges or sets aside a decision made by a lower court. This is usually the result of an appeals' process.

R

R

The letter 'R' commonly represents Regina, a Latin word for the Queen. In criminal proceedings, 'R' refers to the Crown or the Commonwealth.

Re-trial

A new trial of the same matter. Retrials can happen after a mistrial, or because of a successful appeal to a higher court.

Right to review

There is generally no right to review the CDPP's decision not to proceed with a matter.

The only exceptions are in cases where it's been decided not to start, or to stop, proceedings relating to a child sexual abuse matter, where a child made the complaint. In this instance, the Director may be asked to review the decision.

- » Before a decision is made, the victim is consulted and the matter is discussed by senior prosecutors within the CDPP.
- » If a case doesn't go ahead, the reasons are always explained to victims.

Right to silence

This rule means a person accused of breaking the law doesn't have to say anything from the moment they are questioned by the police, to the end of the trial.

S

Senior Counsel

Senior Counsel is a senior barrister. See also Queen's Counsel.

Sentencing

Is when the judge or magistrate tells the offender the punishment they will get for breaking the law. A range of penalties can be given when someone is sentenced, including imprisonment, community service orders, good behaviour bonds and fines.

Sheriff's Officer

An officer responsible for everyone's safety while they are at court.

Statement of Facts

The Statement of Facts summarises what happened when the crime is said to have taken place. The facts are presented by the prosecutor and provided to the defence lawyer.

Subpoena

A court order to make a witness go to court to give evidence, and/or bring documents to court.

Summary hearing

A hearing in a lower court where all the evidence is heard only by a magistrate; there is no jury.

Summary offence

A summary, or simple offence, is tried by a magistrate in the Local or District Court. Examples of summary offences include less serious cases of fraud and some drug offences.

Summing up

A judge's review of the evidence and explanation of the law for a jury.

Summons

An order from a lower court requires the accused to come to court to answer a charge. It is also known as a 'Court Attendance Notice'.

Support person

A support person might be a family member, friend or counsellor, who has helped the victim or witness prepare for court. They will usually go to court with them on the day of the hearing. (See our going to court video to find out who's who in a typical courtroom.)

Supreme Court

A higher court that hears more serious or indictable matters.

T

Transcript

A typed copy of what was said in the court.

Trial

A hearing in a court where all the evidence is heard and a final decision is made about whether the accused committed the crime. In higher courts, a trial is carried out before a judge and jury. In lower courts, a trial is usually called a hearing and is heard before a magistrate without a jury.

U

Unanimous (verdict/decision)

A decision where all members of the jury agree that the accused is guilty or not guilty of an offence.

Undertaking

A promise made to the court by lawyers or by the accused. For example, when the accused enters into a bail undertaking, they agree to attend court when required and comply with any specific bail conditions.

Unrepresented

An accused person or defendant who doesn't have a lawyer.

V

Verdict

The jury's decision about whether someone is guilty or not guilty of the charge/s.

Victim

A person who has suffered harm as the direct result of a crime. Some victims, such as children and young people, may give their evidence via a CCTV link to the courtroom.

Victim Impact Statement

A Victim Impact Statement is a written or spoken statement that describes the impact of the crime on those affected by it, and the harm the victim suffered as a result. The harm may include physical, psychological and emotional suffering, economic loss and damage. If the court agrees, a family member may provide a Victim Impact Statement.

Voir dire

Legal argument about whether a particular piece of evidence can be admitted in court. The witnesses and the jury are sent out of the court while this argument takes place.

W

Witness Assistance Service (WAS)

The most vulnerable victims of Commonwealth crime are referred to the WAS. Matters that involve identifiable child victims of crime, and victims of slavery, sexual servitude and forced marriage offences, must be reported to the WAS. WAS staff are experienced social workers who work closely with the prosecutor assigned to a case to provide information and support to victims, witnesses, carers and support people.

WAS staff are located in the CDPP offices in Sydney (02 9321 1100) and Melbourne (03 9605 4333). However, the WAS is a national resource and provides assistance to witnesses and victims in whichever state or territory they live. When you phone, tell reception you'd like to speak to someone from the Witness Assistance Service.

Witness

Witnesses tell the court what happened to them, or what they heard or saw. Some witnesses, such as children and young people, may give their evidence via a CCTV link to the courtroom. In some cases, witnesses can also be the victim of the crime.

Witness expenses

Witnesses may be able to claim for travel, lost income and accommodation if they need to stay away from home to give evidence. Usually the CDPP will help organise, and pay for, any necessary travel and accommodation expenses up front.