

COMMUNITY LEGAL EDUCATION

What do these legal words mean?



Accused

Person charged with a criminal offence.

"The accused is pleading not guilty."

Adjourn

To put off a court hearing until another time. When this happens, matters are usually adjourned to a specific date set by the court. Matters are sometimes adjourned so the **accused** person can get legal advice.

*"I'm going to ask the Magistrate to adjourn this **matter** until I speak to my lawyer."*

"My lawyer is asking for an adjournment."

Aggravating factors

Things that make an offence much more serious. For example, using a weapon when committing an offence, or committing an offence against a child, or committing an offence with a group of people.

"She is likely to get a greater sentence for that offence because of the aggravating factors."

"It was an aggravated offence. He used a knife in the attack."

Allegations

The police version of the events. The allegations will be contained in the **Apprehension Report**.

"What did the police say you did? What are the allegations?"

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Alleged

What the police say but have not yet proved in court. For example, an ‘alleged offender’ is someone that the police say committed a crime.

“The alleged offender has applied for legal aid get help.”

“The police allege that he was at the scene of the crime.”

AP (apprehension report)

This is the report of the arrest made by the investigating police officer. The AP report contains the **allegations** and a brief outline of the victim's version of events. It is a document on the police file which is usually made available to the accused's **solicitor** so they will know what the **allegations** are. It also contains information about whether there was a police interview. If there was a police interview it will have details of what was said. Each report is numbered (e.g. AP/98/1234) and this number is used to identify the matter on all police documents, such as the AP, the complaint (see definition) or information (see definition) and the bail papers if granted police bail (see definition).

“My lawyer asked for a copy of the AP report so they could see exactly what the police say I’ve done.”

Arrest

When the police apprehend or take into custody a person who they suspect has committed a crime. If you arrested you must go with police, you do not have the freedom to leave when you want.

“I was arrested last night and was locked up at the police station.”

“Did you know you have rights when you are under arrest? For example, you can speak to a lawyer.”

Bond

A court penalty that puts conditions on a person. If a condition is broken then they may have to go back to court for further penalty.

“I was sentenced to a good behaviour bond for 12 months.”

Bail

Bail allows an **accused** person to be released from custody if they promise to appear in court on another date. To get bail, an **accused** person may also have meet other conditions, such as having to provide a guarantor. A guarantor is someone who makes a promise that the accused will appear in court and obey all the bail conditions. The guarantor – also known as ‘someone who will provide a surety’ – will have to pay money to the court if the **accused** breaches the bail conditions or does not return to court. If the police do not grant bail after laying charges, a magistrate will hear a bail application on the next court day.

“I was arrested last night but I got bail at the police station so I could go home.”

“At court, my lawyer applied for bail.”

Capacity

The ability to understand and give legal consent to something.

“The lawyer wanted to check that her client had the capacity to understand what was going on.”

Complaint

The court document filed by police prosecutors containing the allegation (see definition) that the defendant has committed an offence.

“The complaint stated that the defendant stole goods to the value of \$325.”

Conviction

This is the record of the court that a defendant has been found guilty.

“I got convicted of assault and put on a bond.”

Custody

Refers to a period of confinement to a police cell, mental institution, gaol or training centre. Young people cannot be put into an adult gaol and if they are going to be subject to a period of custody then they will be held at a detention centre. If a young person is held in a police cell they are to be held separately from any adults being held in police custody.

“I was arrested over the weekend but there weren’t any spare police cells so they sent me directly to Adelaide Youth Training Centre until court on Monday.”

Defendant

A person who has been charged with a criminal offence.

“The defendant has been granted legal aid.”

Duty Lawyer

A lawyer at a court who provides free legal advice and assistance to people appearing in court do not have a lawyer. There are duty lawyers for family law matters at the family law courts and criminal law matters at the Magistrates Court and Youth Court.

“I went to see the Duty Solicitor to help me in court.”

Family Conference

A type of [pre-court diversion](#) used at the Youth Court. A family conference might be offered to a young person instead of going to court if:

- a young person has not committed an offence before,
- the offence is not considered too serious, and
- he or she admits to committing the offence.

If a case is referred to a family conference the young person does not have to go to the Youth Court unless the young person:

- does not attend the family conference,
- does not admit to committing the offence, or
- fails to comply with an [undertaking](#).

“I went to a Family Conference instead of Court. At the Family Conference there was someone from Youth Justice, my dad, a police officer, and the victim and their family.”

First Instance Warrant (FINS)

A FINS warrant will be issued by a Magistrate when a [defendant](#) does not turn up to court on the due date. This is a type of ‘warrant of apprehension’ which says that a person must be arrested and taken to court.

“There’s a FINS warrant out on that young boy because he didn’t show up at court when he was meant to.”

Formal Police Caution

A young person (under 18) may be given a formal police caution for a minor offence. The person will not be charged with an offence, but the [allegations](#) of what happened will be put in writing in the police officer’s report and given to the young person and their guardian. A formal caution will be given by a senior police officer in uniform in front of the young person’s guardian or an adult associated with the young person. It does not have to happen at a police station – it may take place at the young person’s home, school, or in the court building. A formal police caution will only be given if the young person admits to the allegations and the young person acknowledges the caution in writing.

“I got a formal police caution instead of having to go to Youth Court.”

Indictable Offence (pronounced “in-dye-ta-ball”)

Indictable offences are the more serious types of criminal offences. There are *major* indictable and *minor* indictable offences.

“Murder is a major indictable offence, so the penalty is high.”

Informal police caution

An informal police caution means the young person can be dealt with ‘on the spot’ by police. An informal police caution might be given by a police officer to a young person if the young person admits to committing the offence, and the offence is not considered serious. The police officer cautions the young person against committing more [offences](#). When an informal caution is given, a young person will not have to go to court for committing the offence. However, the police will keep a record that they had to caution a young person and this may be brought up by police if the young person commits another offence in the future.

“The police gave me an informal caution on the spot and let me go.”

Information

A court documented formally charging a person with an indictable offence.

“I got a document called an information to go to Court next month.”

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Interests

When people talk about something being ‘in somebody’s interest’, they mean what is best for that person.
“It’s within the child’s best interests to live with their grandmother.”

Interrogation

An interrogation is police questioning someone who they suspect committed an offence.
“I made sure that I had a lawyer and a support person with me at the police interrogation.”

Matter

A legal problem. Words that have a similar meaning to ‘matter’ are ‘case’, ‘dispute’, ‘lawsuit’, ‘legal proceedings’, and ‘legal action’.
“My lawyer is dealing with a lot of matters. She has many clients with serious legal problems.”
“Your matter is being heard in court today.”

Obligation

A written promise that a young person will be of good behaviour (similar to a [bond](#)). When a young person ‘enters into’ an obligation, it is a promise by the young person to behave.
“I was put on an obligation to be of good behaviour for 6 months for breaking that window.”

Offence

An offence is an action that is against the law.
“Threatening to kill somebody is a serious offence.”
“What was the offence?” “The offence was ‘possession of an illegal substance.’”

Plea

A person must tell the court their position in response to the charge. This position is called a ‘plea’. When asked to “plead”, a defendant can:

1. Admit the offence and plead *guilty*.
2. Deny the offence and plead *not guilty*.
3. Reserve their plea, i.e. put off making a plea until a later court date.

“She pleaded not guilty because she said she didn’t do it.”

Police Bail

Bail which is given by the police to a person in their custody (as opposed to bail given by a Magistrate or Judge in court).
“I got police bail at the station so I could go home.”

Pre-Court Diversion

Police cautions and family conferences are types of pre-court diversions for less serious offences. They are alternatives to going to court and are usually available to young people who admit to the offence.

“A young person I work with has got into a bit of trouble and has to do a pre-court diversion.”

Solicitor

A solicitor is someone who has legal qualifications and can give legal advice. Another word for solicitor is ‘lawyer’.

“Legal Aid organised a solicitor to help out with my legal problem.”

Spent Conviction

A **conviction** for a criminal offence, which is considered to no longer have an effect. Spent convictions do not appear on a police records check and do not have to be talked about when questions are asked about a person’s criminal history. Certain convictions can ‘become spent’ if the person has not committed another offence in a certain period of time.

“I committed an offence when I was a teenager but that was years ago and I doesn’t appear on my police record anymore.”

Summary Offence

Summary offences are not as serious as **indictable offences**. They are usually heard and decided by a magistrate, rather than a judge or jury.

“Examples of summary offences include assault, theft, and driving under the influence of alcohol”

Summons

A court document which is sent to a person to order them to attend court. The summons will tell that person which court they have to go to, the date they have to go to court, the time they have to go to court, and why they have to go to court.

“I got a summons in the mail which said I have to go to court next month.”

Suspended Sentence

If a prison sentence is suspended, it means the **defendant** does not have to go to prison unless they commit more offences or break any conditions of the suspension. If a sentence is *partially suspended* it means part of the sentence does not have to be served in prison. If it is *wholly suspended* it means there is no time served in prison.

“The judge said that as long as I’m of good behaviour, my sentence will be suspended and I won’t have to get locked up for that time.”

“The magistrate said that my sentence is for 12 months, but I only have to be locked up for 3 months because the rest of the sentence will be suspended.”

Undertaking

An undertaking is a commitment or a promise. If a young person is involved in a [pre-court diversion](#), such as a [Family Conference](#), it may be that they have to make an undertaking. This means they promise to do certain things in regard to their behaviour. If a young person does not keep to their undertaking, they will get into more trouble.

"I made an undertaking to apologise to the victim. If I don't do it, I'll have to go to court."

Warrant

A court document telling police to take certain action. Types of warrants include:

- **warrant of apprehension**, directing that a person be arrested and brought before a court.
- **warrant of commitment**, directing that a person be arrested and imprisoned.
- **warrant of distress**, directing that a person's goods be seized to satisfy a debt.
- **warrant of seizure and sale of property**, directing that a person's home or other property be taken to help repay a debt;
- **search warrant**, directing that a search of certain premises be carried out.

"There's a warrant out for her arrest."

"The police showed up at my door and I asked to see their search warrant before I let them inside."



Contact us

For further information on our community legal education programs, or to book a free legal education session contact:

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