

What do these legal words mean?



This document explains what some common criminal legal words mean.

Accused

The person charged with a criminal offence.

The word 'accused' is used in a Judge's court and the word 'defendant' is used in a Magistrate's court. However, in the Youth Court, the young person charged with a criminal offence is commonly referred to by their name.

"The accused is pleading not guilty."

Adjourn

To move a court hearing until a future date, usually a specific date set by the court. Sometimes this is done 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

Factors which 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 will likely 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 they think happened? What are the allegations?"

Alleged

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

"The alleged offender is seeing a lawyer for advice."

"The police allege that I was at the scene of the crime."

Apprehension report or 'AP'

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 **alleged** victim's version of events. The AP is kept on the police file but is usually made available to the accused's **solicitor** so they will know what the **allegations** are. It also contains information about whether the suspect was interviewed by police. If the suspect was interviewed it will have a summary of what the suspect said. Each AP 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** or **information** and the bail papers if granted police **bail**).

"My lawyer asked for a copy of the AP report so they could see exactly what it is 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 a person is arrested they must go with police. They 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

The court document which has conditions a **defendant** has agreed to be bound by. 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** to be released from custody in between the date of being charged and the hearing of the court case. The **accused** may be required to promise to appear in court on another date. To get bail, an **accused** might also have to meet other conditions. For example, conditions could include:

- complying with a curfew
- who the **accused** cannot associate with
- where the **accused** cannot go
- home detention bail with electronic monitoring.

"I was locked up last night but I got bail at the police station so I could go home."

"At court, my lawyer asked the judge for bail so that I could get out of custody before I had to go to court again."

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."

Conviction

This is the record of the finding that an offence has been committed; whether a person has pleaded guilty or been found guilty by the court.

"I got convicted of assault and sentenced to a week in detention."

Custody / Detention

Refers to a period of confinement to a police cell, mental health facility, prison, training centre or detention centre. Young people cannot be put into an adult prison and if they are going to be detained then they will be held at a training 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 Kurlana Tapa until court on Monday."

Defendant

A person who has been charged with a criminal offence.

The word 'defendant' is used in a Magistrate's court and the word 'accused' is used in a Judge's court. See also [accused](#).

"The lawyer is representing the defendant."

Duty Solicitor/ Duty Lawyer

A lawyer at a court who provides free legal advice and assistance to people appearing in court who 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 the Youth Court.

"I went to see the Duty Lawyer at the Youth Court before I went in to court so that they could explain what was happening."

Family Conference

An alternative to appearing in 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 less serious, and
- he or she admits to committing the offence.

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

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

"I'm going to a Family Conference instead of Court. At the Family Conference there will be someone from Youth Justice, my dad, a police officer, the victim, and their support person there. I have to take responsibility for my actions when I go to the Family Conference."

First Instance Warrant or 'FINS' Warrant

A FINS warrant may be issued by a Magistrate when a [defendant](#) does not attend court on the date that they were supposed to. This is type of 'warrant of apprehension' which is document that says that a person must be arrested and taken to court.

"There's a FINS warrant out on that young person because he didn't show up at court when he was meant to. If the police find him they'll arrest him and take him back to court."

Formal Police Caution

This is another alternative to appearing in court if the person agrees that they have committed a minor offence. A formal police caution will happen where police have decided that a formal, recorded caution is appropriate. 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. A **matter** can also be diverted to a formal police caution once it is in Court.

"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.

"Aggravated robbery is a major indictable offence, so the penalty is high."

Informal police caution

An informal police caution means the issue 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 too 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 police caution on the spot and nothing else happened."

Information

A court document, sometimes called a 'charge sheet', formally charging a person with an **indictable** offence.

"I got a document called an information in the post today and I have to go to Court next month."

Interests

When people talk about something being 'in somebody's interest', they mean what they think is best for that person.

"It's within the child's best interest to live with their grandmother."

Interview/Interrogation

An interview or an interrogation is when police question someone who they suspect has committed an offence.

"I made sure that I had a lawyer and a support person with me when I went to the police interrogation."

Justice of the Peace ("JP")

A justice of the peace (JP) is a person who acts as an independent witness to documents people use for official or legal purposes. If the Court releases a young person/defendant they may have to sign their bail agreement in front of a JP.

"I had to sign my signature on the document in front of a JP"

Matter

What's happening with your 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 different legal problems."

"Your matter is being heard in court today."

Obligation

The document which a young person will enter into to 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 not break the law. If the young person is not well behaved, they can get in more trouble.

"I was put on an obligation to be of good behaviour for 6 months for breaking that window."

Offence

An offence is doing or saying something that is against the criminal law. This is another word for 'a crime'.

"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 about what they have been charged with. This response is called a 'plea'. The defendant has three options when asked how do they "plead" to the charge they face.

1. Admit their guilt and plead *guilty*.
2. Deny their guilt and plead *not guilty*.
3. Say they are *not guilty* because they have a mental impairment. Sometimes a Court might decide a person doesn't have the [capacity](#) to plead because of a mental impairment

"She pleaded guilty because she said that she did it."

"I entered a plea of not guilty because I didn't do what the police say I did."

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 which meant I could leave their custody."

Pre-Court Diversion

Police cautions and family conferences are types of pre-court diversions. They are alternatives to going to court and are usually offered to young people who admit to committing an 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 you legal advice. Another word for solicitor is 'lawyer'. See also [duty solicitor/duty 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 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. There are special rules that apply to offences that were committed by young people.

"I committed an offence 15 years ago but now it's spent so I doesn't appear on my police record anymore."

Summary Offence

A summary offence is less serious than an [indictable offence](#) and is usually dealt with in a Magistrates Court.

"The offence was a minor offence, and the magistrate just made me pay a small fine."

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 or a training centre unless they commit more offences or break any conditions of the good behaviour bond/**obligation**. 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 18 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 (or not do certain things) in regard to their behaviour. If a young person does not keep to their undertaking(s), they will get into more trouble with police and the courts.

"I didn't comply with my undertakings and now I have to go to court."

"I made an undertaking to apologise to the victim."

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. Sometimes the phrase "warrant to issue" is used in the Court - this means that a warrant will be issued. Sometimes the phrase "warrant to lie" is used in the Court – this means that a warrant will be issued if the defendant/young person doesn't attend Court when they are meant to.
- search warrant, gives police power to search certain buildings or areas.

"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

Do you or someone you know need legal advice? Call our free Legal Helpline on 1300 363 424

Got data but no credit? Check out our Legal Chat information service available free of charge 9am to 4:30pm weekdays on our website www.lsc.sa.gov.au

We provide legal education resources for use in schools, social services and community settings. See our website for more publications.

For further information or to book a free legal education community talk email cle@lsc.sa.gov.au