

# Legal Terms

Prepared by the Canadian Resource Centre for Victims of Crime

**Absolute Discharge:** An absolute discharge may occur where the accused is found guilty or has pleaded guilty, but is deemed not to have convicted of the criminal offence and is given no punishment or restrictions placed upon them. Such a discharge cannot be given if the offence carries a minimum punishment, or is punishable for 14 years or greater.

**Acquittal:** A court finding of not guilty.

**Act:** An act is a law that has been passed by the federal or provincial legislature.

**Adjournment:** A temporary delay of court proceedings.

**Affirmation:** A non-religious oath given by a witness before testifying, promising that the evidence they offer is, to the best of their knowledge, the truth.

**Appeal:** An appeal is an application for judicial review by a higher court of a lower court's decision.

**Bail:** Financial or other security put up by the accused or by someone on the accused's behalf as an assurance that the accused will appear on the date of his/her trial.

**Beyond a Reasonable Doubt:** In criminal cases the Crown has to meet a standard of proof beyond a reasonable doubt. The Crown must show that the evidence is so complete and convincing that the judge/jury has no reasonable doubts regarding the accused's guilt.

**Challenge for Cause:** During jury selection, both the Crown and Defence may make an unlimited number of challenges for cause. A challenge for cause is a challenge that must be proven on specific grounds, such as jury impartiality.

**Change of Venue:** Generally, cases are tried in the community courthouse nearest to where the offence took place. A change of venue is where the case has been moved to another courthouse in another place.

**Conditional Sentence:** A conditional sentence is a sentence that is served by the offender in the community. The offender would essentially remain in the community under supervision, and would be required to abide by a number of conditions.

**Crown Attorney:** A government appointed agent who prosecutes criminal offences on behalf of the Attorney General of Canada, the Crown presents all relevant evidence to the trier of fact (the trial judge or the jury) that sheds light upon the offence of which the accused is charged

**Dangerous Offender:** A dangerous offender is an offender who has been convicted of a serious personal injury offence and the court has found him/her to be a danger to society.

If the court finds an offender to be a dangerous offender, a sentence of incarceration for an indeterminate period will be imposed.

**Damages:** Damages include monetary compensation for financial loss, property loss, emotional injuries, physical injuries, loss of earnings, and costs of care.

**Day Parole:** Day parole is a type of early conditional release from incarceration. It may be available at six months prior to full parole and allows the offender to participate in community-based activities during the day and return the institution by night.

**Dual Procedure Offence:** A category of criminal offences where the Crown Attorney has the choice to proceed by summary conviction or indictment.

**Indictable Offences:** Summary offences are a category of criminal offences that are usually more serious crimes and carry greater maximum sentences.

**Intermittent Sentence:** A sentence that allows the offender to serve his/her time of incarceration in intervals.

**Legal Aid:** Legal aid offers legal services to those who cannot afford counsel. Legal aid offers different kinds of help depending on your legal problem and where you live in Canada.

**Parole:** Parole is the early release of an offender from incarceration in which he/she serves the remainder of his/her sentence in the community under supervision and specific conditions.

**Preemptory Challenge:** A preemptory challenge is a challenge made by the Crown or defence counsel to eliminate a potential juror during jury selection. Counsel can only make a limited number of preemptory challenges, for which no reason need be given.

**Perjury:** Perjury occurs when a person gives evidence in court that he/she knows is false. As outlined in the Criminal Code, anyone who commits perjury is guilty of an indictable offence and may liable to imprisonment for a term not exceeding fourteen years.

**Plea-Bargaining:** Plea-bargaining occurs when the Crown and the defence come to an agreement wherein the accused pleads guilty. The guilty plea usually comes in exchange for a benefit such as reducing the charge against the accused or where the two sides agree upon a sentence.

**Preliminary Hearing:** A preliminary hearing is a court proceeding that is held before the trial to determine if there is enough evidence to proceed with the charges. During the preliminary hearing the Crown prosecutor can call witnesses to convince the judge that there is sufficient evidence against the accused to proceed with a trial.

**Pre-Sentence Report:** A pre-sentence report is a report prepared by a probation officer that the judge may use in determining a sentence for a person who pleads guilty or is found

guilty. The pre-sentence report may include information regarding the accused's background such as their family, education and employment.

**Probation:** Probation is a sentence in which the offender is released into the community under the supervision of a probation officer and must follow certain conditions such as being of good behavior, abstaining from alcohol, not contacting the victim, etc.

**Recognizance:** A promise, made by an accused who is pending trial, to appear in court and answer to the criminal charges that have been brought against him/her.

**Restitution:** A type of sentence that can be imposed on an offender that requires him/her to make restitution (compensation) to the victim for the loss or destruction of property and/or bodily harm.

**Statutory Release:** Statutory release is a form of conditional release that allows most federal offender to serve the last one-third of his/her sentence in the community.

**Subpoena:** A subpoena is a command that a witness attend court at a certain time to give evidence.

**Summary Conviction Offences:** Summary offences are a category of criminal offences that are usually less serious crimes and carry lower sentences.

**Temporary Absence:** An escorted or unescorted temporary absence may be granted to incarcerated offenders in order for them to receive medical treatment; have contact with their family; undergo personal development and/or counseling; and participate in community service work projects; may also be granted for compassionate reasons (e.g. a funeral).

**Testimony:** Evidence given by a witness who is under oath or affirmation.

**Verdict:** A verdict is the jury's finding of a case. In criminal cases, the verdict must be unanimous.

**Victim Impact Statement:** A victim impact statement is a written account of the personal harm suffered by a victim of crime. The statement may include a description of the physical, financial and emotional effects of the crime. Where a victim impact statement has been prepared, it must be taken into consideration by the sentencing judge.

**Victim Surcharge:** A victim surcharge is a monetary penalty imposed on offenders, in addition to any other punishment imposed, at the time of sentencing. It is collected by the provincial and territorial governments, and the revenue is used to provide programs, services and assistance to victims of crime within their jurisdictions (it is not paid to you). The amount of the victim surcharge is 15% of any fine that is imposed on an offender as a sentence, and, in the absence of a fine, \$50 for summary conviction offences and \$100 for indictable offences.

**Voir dire:** A voir dire is a trial within a trial. It is a hearing held, without the presence of the jury, to determine whether an issue of fact or law will be admissible. For example, a voir dire may be used in order to decide whether certain aspects of an expert witness' testimony will be allowed.

**Work Release:** Work release is a correctional program that enables inmates to leave the correctional facility to work during the day and return to the facility at night.

**Young Offender:** In Canada, those aged twelve to seventeen are considered youths under criminal law, and fall within the scope of the Young Offenders Act (YOA).

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\*This glossary of terms was prepared for the Canadian Resource Centre for Victims of Crime by Lisa Sattler. Lisa is a third year Criminology student at Carleton University.