

## Common Terms Used on Court

**Absolute Discharge:** The accused has pleaded guilty, or been found guilty but instead of being convicted, he/she has been granted a discharge with no conditions attached. Usually reserved for first offenders; there is no record of conviction.

**Accused:** The person charged with a crime.

**Acquittal:** Finding someone not guilty.

**Adjournment:** Postponement of a case to a specified date.

**Affirmation:** A legally binding promise to tell the truth.

**Alternative Measures:** (young offender and adult) are used as an alternative to court proceeding for people alleged to have committed minor offences. The goals of these programs are to prevent the individual from obtaining a criminal record, prevent future criminal behavior, promote community involvement and foster community awareness through participation.

**Appearance Notice:** An order that tells the accused to go to court at a specified time to answer charges that have been laid.

**Bail Hearing:** This is a judicial hearing before a judge or justice of the peace to determine if an accused can be released from police custody after being arrested.

**Closed Custody:** Also known as “secure custody.” This is the term for jail for young offenders.

**Compensation:** This is the payment or re-imbusement for goods and/or services received.

**Complainant:** The individual who reports an alleged crime to the police.

**Concurrent Sentence:** When there are more than one offence and sentence, the offender will only serve the period of time of the longest sentence. For example, for three offences, the accused receives 3 months, one year, and 30 days. The longest sentence is one year, so that is what is served.

**Conditional Discharge:** Similar to an absolute discharge, except that the Court sets down conditions and a term of probation. The conditions might include keeping the peace, attending Alcoholics Anonymous for a specified period of time, etc. If the offender meets all the conditions of the probation then the discharge will become absolute.

**Consecutive Sentence:** The opposite of a concurrent sentence. If a judge specifies a consecutive sentence, the offender serves the total of all the sentences, as opposed to just the longest sentence.

**Contempt of Court:** Interfering with the administration of justice or ignoring the rules of the court.

**Corroboration:** Evidence that supports or confirms other evidence or testimony.

**Court of First Instance:** The trial court where the evidence is presented.

**Cross Examination:** Both the Crown and the Defence counsel have the right to question (cross-examine) a witness of the other side.

**Crown:** The state or the states representative at the trial.

**Docket Court:** Provincial court of first appearances in which trial dates are set.

**Election:** The procedure by which an accused chooses to be tried by Judge and Jury, by Judge alone, or by a Provincial Judge. As well as they wish a trial in a provincial court or a preliminary inquiry.

**Election by the Crown:** Procedure under which the Crown decides whether to prosecute a case as a summary conviction offense (less serious penalty) or as an indictable offense (more serious).

**Emergency Protection Order:** This is a protection that can be obtained by police in an emergency family situation. Police can request an EPO by phone, at the scene on a 24 hour basis. The EPO can order the abuser to stay away from the victim, their children, and their home (even if the abuser lives there or owns the property) and provides the victim with the time needed to make arrangements to make themselves and their children safer. There is no cost to obtain an EPO.

**Examination-In Chief:** The evidence of a witness given in court. During the Examination-in-Chief, a witness is asked questions by the lawyer who called the witness.

**Fine:** The offender has to pay money to the court as a punishment. There is usually time allowed for payment, or the offender may choose fine options, where the fine can be worked off by doing community work.

**Forensic Report:** This is a report that may be requested by the court to determine the mental health of the accused. The report can assist the court in determining the psychological needs for short and/or long term psychological treatment. It is often used in sentencing.

**Imprisonment:** The offender is sent to jail. This does not usually happen on a first offence unless the crime is very serious. A sentence of two years or more is served under federal jurisdiction, where less than two years is served provincially, hence the term "two years less a day." This is the maximum sentence an offender can serve in a provincial institution.

**Indictable Offence:** Serious offense resulting from a formal charge. It may carry a penalty ranging from a fine to life imprisonment.

**Intermittent Sentence:** A prison term of 90 days or less given to a person convicted of an offence. The sentence is to be served intermittently at such times as are specified by the court e.g. weekends.

**Jail Term:** The length of a jail term will vary with the seriousness of the offence and the previous criminal record of the offender.

**Judicial Interim Release:** Court order granted by a judge or justice of the peace releasing the accused from custody on his or her own bond or promises to appear. This order can include a variety of conditions including, but not limited to, the accused having no contact with the victim; not attending a residence, the posting a financial guarantee; and reporting condition to either the police or to the probation officer.

**No-Contact Order:** A court order preventing the accused from seeing or speaking to victim. The condition may sometimes say “direct or indirect contact” with the victim.

**No Publication Order:** A court order preventing the media from presenting certain information (often the identity of the victim of a crime) to the public.

**Open Custody:** This is a sentence for young offenders which means a period of time to be served in a group home.

**Peace Bond:** Is an order that requires someone to “keep the peace” and obey any other conditions the court places on the order. Conditions could include no contact with the victim; seek counseling as required; and forbidding the abusive person from carrying weapons. The Peace Bond will contain a condition that requires the accused to report to probation authorities as required.

To be granted a peace bond, the victim will have to give evidence that indicates that he/she believes the person is a threat to his/her safety. The court will require evidence in order to justify the restriction of another persons’ liberty. The Peace Bond can be ordered for a maximum of twelve (12) months. A current copy of the Peace Bond should be kept with the victim at all times, so that she/he can show it to the police if the order is violated.

**Plea Bargaining:** Process of the Crown accepting a guilty plea on a lesser charge instead of incurring the expense and problems of a trial on the original charge.

**Pre-Sentence Report (adult) or Pre-Disposition Report (young offender):** A description of the accuser’s family life and personal situation, prepared by a probation office, which the judge uses the help in deciding an appropriate sentence.

**Preliminary Inquiry:** Court session held in provincial court before the trial so that the judge may determine if there is sufficient evidence to justify holding a trial in a higher court e.g. Court of Queen’s Bench.

**Probation:** The offender is released into the community under the supervision of a probation officer, and under certain conditions. The release is conditional on the

offender acting in accordance with the instructions of the probation officer. An offender who does not satisfy these conditions can be charged with “breach of probation.”

**Recognizance:** An accused is released on his or her own recognizance when the Judge or Justice of the Peace, gives permission for the accused to be released on bail, subject to the conditions specified on the appropriate form.

**Remand:** An accused who is ordered held in custody until his or her next court appearance is remanded in custody. Custody is subject to review by a judge every 8 days unless this right is waived by the accused.

**Reserve Judgment:** A judge hearing a case may decide to take some time to do research, study the law or review-the evidence presented at the trial before making a decision.

**Restitution:** An act of repaying or compensating for loss, damage, or injury.

**Restraining Order:** Is a civil law remedy restraining one party from having contact with another. A Restraining Order in family law matters can only be granted by the Court of Queen’s Bench.

Although the victim can apply for a Restraining Order her/himself, it is easier with the assistance of a lawyer. Restraining Orders can be put into effect quickly, often within 24 hours of meeting a lawyer or getting help from an agency. A Restraining Order is usually ordered for between three (3) and six (6) months, but can be renewed when it expires. In exceptional cases, where the evidence is present, a Restraining Order can last indefinitely. A current copy of the Restraining Order should be kept with the victim at all times so that he or she can show the police if the order is violated.

**Set Over:** This term equates to “postponed” or “adjourned”, but most often refers to sentencing. An accused’s matter in court is set over to another date to allow time for any valid reason, such as obtaining a pre-sentence report.

**Show Cause Hearing:** A hearing where the Crown Attorney must convince the court that the accused should be kept in jail until the trial.

**Stay of Proceedings:** A suspension of court proceedings on a particular charge.

**Subpoena:** Order directing a person to appear in court.

**Summary Conviction Offence:** Less serious offence usually carrying a penalty of no more than six months imprisonment, or a maximum fine of \$2,000, or both.

**Summons:** Legal document ordering the appearance in court of an accused person.

**Surety:** Person who agrees to be responsible for the accused’s appearance on the trial date.

**Suspended Sentence:** The offender is found guilty but so long as he obeys the conditions set out by the court, does not have to go to jail. If he breaches the conditions, he will serve the time the judge set out at the time of sentencing. Even if he obeys the conditions, he will still have a record of conviction.

**Testimony:** Any evidence given.

**Voir Dire:** Trial within a trial to determine the admissibility of certain evidence.

**Warrant:** Court order giving legal authority to arrest a person.

**Withdrawal:** When charges against the accused are withdrawn, no further legal action will be taken against the accused on that particular charge.