

## **Glossary of legal terms**

### **accused**

An accused is the term used when relating to a person who has committed an offence.

### **adjourn**

To adjourn or request an adjournment is to have the court delay the hearing of your case

### **affected family member**

This is the term used by police for a person who requires protection or safety concerning family violence matter.

### **affected person**

This is the term used for a person who requires protection from the Victorian police concerning stalking or harassment.

### **affidavit**

This is a legal document required when someone gives evidence in a courtroom, these types of documents will always require execution & in front of an authorised person such as a Justice of the peace or member of the court and is sworn to be true.

### **affirm**

An affirmation is when a person makes a declaration or promise that something is to be of nothing but the truth when they are not being sworn upon a religious testament such as the Bible, Koran or Torah.

### **alcohol interlock**

An alcohol interlock is a device that is legislated to be installed on a vehicle owned and registered to a convicted drink driver. An interlock will not permit the car to be started if the driver blows a reading with a blood alcohol level concentration.

### **allegation**

This is the term used when a person makes an accusation against another person concerning an offence being committed.

### **appeal**

An appeal is the term used for the procedure when a person challenges either the decision or penalty given to them by a court lower in the hierarchy.

### **applicant**

An applicant is the name used for a person who is applying to the courts to have an order made.

### **arrest**

Arrest is the term used when police bring a individual into custody to determine or question them concerning whether or not they have broken the law or committed an offence.

**attorney**

And attorney is the legal term for an individual who was appointed to make financial, medical, legal and all domestic decisions on behalf of another person.

## **B**

**bail**

Bail is the promise made by an individual to the courts that they will attend back at court to face the charges alleged against them on a certain day determined by the court. In most instances, conditions are also attached to the approval of bail and can at times be opposed by the prosecution if they feel the offender imposes an unacceptable risk of threat to the community.

**bail justice**

Bail justice is the title used for a person who can approve or decline bail for you whilst in police custody if a magistrate is unable to adjudicate on the matter.

**balance of probabilities**

The balance of probabilities is the burden of proof needed to be met concerning civil lawsuits or cases.

**barrister**

A barrister is the title of a person or lawyer who specialises in court appearances and advocacy.

**beneficiary**

The beneficiary is the legal term used for a person who receives benefit from a will or estate.

**beyond reasonable doubt**

Beyond reasonable doubt is the term used for the burden of proof required by the prosecution to which they must meet concerning proving whether or not an individual is found guilty or not guilty.

**blood alcohol concentration**

The blood alcohol concentration or BAC is the term used concerning how much alcohol is in an individual's blood at the time they are required to undertake a test.

**breach**

The breach is the term used when an individual breaks the law or a court order set by Magistrate or Judge.

**brief of evidence**

the things that make up the police's case against you if you have been charged with a crime. This can include the charge sheet, the informant's statement, your criminal record and other documents the police have about your

matter. A brief of evidence is the legal term used for the paperwork police build concerning the facts and allegations to which they accuse an individual of breaking a law. This will typically include the informant's statement, a charge sheet outlining the individual charges that are being made against the accused, your previous criminal history and any supporting documents or photographs of evidence to help the prosecution establish and meet the burden of proof for the individual's guilt.

## C

### **Centrelink benefit statement**

A Centrelink benefit statement is a legal document that is sometimes requested by the courts to confirm what benefit and individual receives from Centrelink financially.

### **certified copy**

A certified copy is the term used for a document that has been certified by a member of the Victoria police, justice of the peace, legal professional, accountant or an officer of the court.

### **Charge**

Charge is the legal term used when an accusation of an alleged offence for an individual is brought by the Victoria Police of Department of Transport for either criminal or civil offences. A charge is an allegation which is supported by evidence from the prosecuting agency requesting for a result against the individual from a Court.

### **charge and summons**

A charge and Summons is when the police serve you with legal correspondence concerning an alleged offence with summons to appear before a Magistrate or Judge.

### **charge sheet**

A charge sheet is a set of paperwork outlining the charge of allegation made against you from a prosecuting agency generally the Victoria Police. This will usually accompany the preliminary statement, summary from the informant or arresting officer.

### **Child Protection Panel**

This is a panel of legal members and representatives who deal with issues concerning the removal of children from a guardianship due to risk both physical or mentally to the children concerned.

### **Civic Compliance Victoria**

This organisation chases up the collection of fines and infringements on behalf of the state revenue office or local and Commonwealth Government.

### **civil justice matters**

Civil Justice matters are concerned with matters between companies or individuals that are not of a criminal

nature but extend to social security through Centrelink, mental health issues and discriminatory matters and immigration disputes.

### **committal**

A committal hearing is when the prosecution present the evidence that will be used to meet the burden of proof before a case goes to the County Court for trial. A test of evidence for alleged offences against an individual or company.

### **community corrections order**

This is a form of sentence and punishment that a Magistrate or Judge can use to punish an offender for offence they have been found guilty of. They will include a designated period to which the order will run, therapeutic conditions such as psychological assistance, community volunteer work and sometimes judicial monitoring. They can usually still meet general and specific deterrence and are generally the last resort before an individual is sentenced to a period of imprisonment. If an order like this is breached by a new offence of failing to adhere to the conditions the individual is brought back before the Court and sentenced on the original offence.

### **confidentiality**

This is a term used to define that something said between 2 individuals or an agreed collective of people will not be shared or disclosed to other recipients unless subpoenaed by a Court.

### **consent**

The legal word used when something is agreed to by a party.

### **consent orders**

A consent order is a form of agreement between parties that is then made into a Court order to be bound.

### **contest**

A contest is when a party disputes their guilt concerning an alleged offence and wants the matter heard before a Court to determine the outcome.

### **contest mention**

A contest mention is the term used when a brief hearing before a Magistrate is arranged for the Court to hear the key points of disagreement between the prosecuting authority and the alleged offender.

### **contested hearing**

If an individual pleads not guilty, the contest for the determination of the outcome by the Court is known as a contest hearing. This is where both parties to the matter explain their version of events and submit evidence to the Court to support their position in defence or prosecution.

### **contested hearing (intervention orders)**

A contest hearing concerning an order of intervention is when a party disagrees to the consent of an order where they feel it not suitable given their dispute surrounding the facts alleged by the other party.

**contravention**

Contravention is the term used when a Court order conditions have been broken by a party that has agreed to adhere to the conditions.

**convict/conviction**

A conviction is the term used when a party is found guilty of an offence and is recorded on their national crime database against an individual.

**costs**

Costs are monies that can be ordered to be paid by a party who incurred costs to get a result through the Courts using legal representation or other out of pocket expenses that must be proven and submitted to the Courts.

**court list**

A court list displays and informs the public concerning which matters the court applicable is hearing on the designated day.

**court order**

A court order is a determination by the Court to say that an individual must do or not do a certain specific thing. These can be breached which would incur a further hearing and additional penalties depending of the seriousness of the breach or contravene.

**criminal record**

This is a formal record maintained on an individual concerning the charges they have been found guilty of or charged with.

**custodial sentence**

This is a sentence and form of punishment to which an individual loses their liberty and has to serve incarcerated.

**custody**

Custody is the term used when you have been arrested and are not able to leave the the Police Station or arresting place by the informant or member of prosecuting agency.

## D

**de facto spouse**

This term is used to describe a romantic relationship to which the parties lived together but are not married or recognised by the state to be so.

**defence**

A legal submission or reason that an individual provides to a Court as to why they are in fact not guilty of an alleged offence brought against them.

**defendant**

This is the title of a person or entity who is brought before a Court on allegations of an offence they have been charged with committing.

**deponent**

This is the word used to name a person submitting, starting and making an affidavit sworn to be true.

**discretion**

This the term used to describe the power to decide that a judicial officer such as a Magistrate has determining the outcome or penalty on a case even after hearing submissions from both parties involved.

**diversion**

A way or direction to have a criminal matter heard that is outside the criminal justice stream generally available to first time offenders for minor criminal offences.

**diversion hearing**

This the name for a hearing when a Magistrate exercises their discretion to either grant or decline a diversion for an individual concerning their offence.

**diversion notice**

This is the name for a document that the Police provide when they are in agreement to the granting of a diversion concerning an offender. This is provided to the magistrate to consider when final decision to grant or decline the diversion takes place.

**diversion recommendation**

This is the consent that is provided from the informant or arresting officer that they are not in disagreement of the diversion should it be granted by the Magistrate.

**driver disqualification**

This is when the Court cancels your driver license deriving from a penalty or punishment received when guilt is found from the committing of an offence.

**drug impairment assessment**

This is a test that Police can request in order for them to legally determine if the person is under the influence of a controlled or banned substance as stated in the *Drugs, Poisons and Controlled Substances Act 1981*.

**duty lawyer**

This is the name used for a Lawyer accessible to people who have not arranged for their own representation on the day of their case or hearing. Free of charge to the alleged offender and provided by [Legal Aid Victoria](#).

**E**

**enforcement order**

This is a document provided by the Court to say that an individual must refrain from doing or not doing a certain thing or action. Enforced by the Court and punishable if breached or contravened.

**evidence**

This is the term used for evidence, victims or witnesses in proving a fact or denial of a fact stated or alleged by either party involved.

**ex parte**

This is the name of a decision made by the Court regarding an offence committed by a person who is not in attendance for the hearing. I.e: The matter was dealt with and the offender was fined \$300.00 ex parte as they were not present at the time of the judgement..

**exclusion order**

This is a decision or order made by a judicial officer such as a Magistrate that a person is banned or not allowed to attend a certain place whether private or public and if breached or contravened is punishable.

# F

**family report**

This is a report that can be requested by the Court regarding the safety of people attached to a Family as defined in the [Family Law Act 1975](#) (Cth) used by the court to determine the appropriate decision and outcome of a hearing concerning the safety of people involved in criminal offences that take place within a family unit.

**family violence**

This is the term used to describe and define violence or offences of either physical or mental behaviour that results in harm being inflicted by one member of the family onto another.

**family violence intervention order**

This is a rule or order made by the Court to protect a specific family member from violence or contact with another member of the family deriving from allegations of offences committed against the protected person or persons.

**family violence safety notice**

This is a notice or document issued by the Court to the Police to protect a specific person from violence being committed in their domestic environment or home.

**final hearing**

This is the name of a hearing where the Court hears evidence for the parties concerning allegations of offences committed before deciding the outcome for the case in question.

**forensic medical examination**

This can involve the taking of blood, hair or other intrusive evidence used either to acquit or indict an individual concerning the allegations of an offence committed by the individual. A court has the authority to order such a procedure without the consent from the individual and reasonable force can be used by members of the Police to obtain such a examination.

## G

**giving instructions**

This is the term used by an individual when they are asking a Lawyer to do or not do such a thing.

**guilty**

This term is used when confirming that a person did in fact break the law or was contested and later found to be responsible for the commitment of an offence.

## H

**hearing**

The hearing of evidence or a legal issue by a court to be determined.

## I

**illicit drug**

These are drugs found to be unlawful in possession or trafficking under the *Drugs, Poisons and Controlled Substances Act 1981*.

**immobilise**

This is used when a vehicle is stopped from being mobile or used by an offender by the Police.

**impound**

This is the name of a location that a vehicle is stored by Police when they take or arrange possession of a vehicle used in the committing of an offence or as evidence of the vehicle used in a previous crime to be later tested for evidence.

**Independent Third Person**

A person able to be present with you during a period of question by Police concerning an offence or involvement in an offence to assist with understanding and removal of force or duress by a party.

**indictable offence**

A term used to describe an offence of a serious nature and is to be heard generally by a Judge and Jury in the County Court. Indictable offences can at times also be heard summarily in the Magistrates Court if consent for this request is granted by the appropriate people.

**informant**

A member of police, government agency or authorised persons who brings a charge or arrest against an individual when an offence is alleged.

**informant's statement**

This is the statement from an informant or arresting officer given reason as to why they believe the alleged offender broke the law.

**infringement notice**

MOney owing that an individual must pay regarding traffic fines, littering offences or minor public transport issues.

**infringement warrant**

This is a document that allows a member of the Sheriff office to take action against an individual.

**Infringements Court**

This is a Court that deals only with fines and the penalties applicable to such offending.

**interim order**

This is the term for an order made before a hearing for a final decision takes place on an issue.

## **J**

**jaywalking**

Walking on the street and not abiding to the law applicable in that designated area.

**judge**

A person and title given to those who decide on issues in a County Court.

**judgment**

A legal decision or direction for a matter decided by the Court or Judicial Officer.

**judicial officer**

This is the term for a person who can decide, hear and make orders for penalties and decisions surrounding both civil and criminal issues. A Justice, Judge, Magistrate and Member of VCAT are all Judicial Officers.

**judicial registrar**

A person with vested power to make decisions about minor criminal issues or civil matters.

**jurisdiction**

This is the term used to name the legal power of a certain authority to decide or make order for given the designated area of law and area concerned with the offence. Ie: A Victorian magistrate does not have legal power or jurisdiction to decide a decision against an offence committed in New South Wales.

**jury**

A group of people who are members of society who hear the evidence and facts surrounding an individual or entities offending and then decide the outcome being either guilty or not guilty. Punishment is then applied by the Judge presiding over the case.

## L

**lawyer**

A legal title used for a lawyer who can advise you, represent you and advocate on your behalf in a Courtroom.

**legal capacity**

This means to have the ability to think things through with consideration to offence and punishments that may follow if a law is broken. The ability to understand their position legally.

## M

**magistrate**

A legal title for a person vesting power from the state to determine a person's guilt and what punishment or sentence they receive for this offence.

**mental impairment**

This term is used by parties when they submit that an individual has a disability affecting their ability to make decisions surrounding the breaking of the law or culpability concerning an offence.

**mention date**

This is a hearing where the Magistrate will ask the parties about the case and facts or information provided by the parties. Once this has concluded a new date for a hearing will be set by the presiding Magistrate.

**mention hearing**

This is the title of a Court matter being heard in the first instance it was delegated when the Police issued summons or arrest and bail for an individual.

# N

## **no comment**

No comment is the a term used when an individual chooses not to make a comment or provide a detailed summary to the police regarding an offence that is alleged about them or someone else.

## **not guilty**

What you say when you deny breaking the law. Also a decision made by the court.

## **notice to appear**

A document you may get when the police suspect you of breaking the law. The document tells you to go to court on a certain date. The police will usually give the notice to appear to you rather than sending it to you.

# O

## **oath**

This is the term used when a person makes a promise on their chosen religious testament to tell the truth when providing information of fact or allegations in a matter heard before a Court.

## **offence**

This word is used to describe a rule regarding something that is to be done or not to be done either directly or by omission in circumstances.

## **offender**

A person or entity who has committed a criminal or summary offence.

# P

## **party**

A entity or person being namely a party involved in a case being heard by a Court for a decision.

## **penalty**

A punishment or sentence for someone who has been found guilty of breaking the law.

## **penalty units**

These are units of measurement found in legislation to give guidance and restriction on the Court when they determining the amount of fine being used against an offender for a charge they have been found guilty of.

**perpetrator**

Term used for a person who has broken the law or committed an offence.

**plea/plead**

Either a plea of guilt or not guilty plea is used by an alleged offender regarding their charges brought against them by a prosecuting agency.

**police brief**

A document or set of files used by Police to prove the guilt of the offender and meet the burden of proof namely 'beyond reasonable doubt'.

**police case**

This is what the police say happened regarding the offence and why they have charged the individual and why they believe the person to be guilty.

**police summary**

This is the statement of what the Police allege to have happened regarding an offence that they believe to have been committed.

**precedent**

This term is used to describe a previous case that may have reasoning or a decision that will be used by either the prosecution or defence lawyer to persuade a Court or Magistrate to consider or use as a decider in a case. These will always need to be relevant or similar to the case before the Court.

**preliminary brief**

This is the evidence used in the first instance concerning an alleged offence that an individual has committed and is provided to the person involved or alleged against. This will typically not include evidence to support the allegation but rather a short version of the events relative.

**priors**

This term is used to describe an individual's previous criminal or offending history when a matter is heard by a Court about allegations of offences committed.

**privilege**

This a rule that states that information you have passed between your legal representation and yourself is protected from being used in a matter heard before a Court.

**prosecution authority**

This is the person who has authority vested in them by the state or Commonwealth to prosecute a person in the hearing by a Court. This type of authority is usually the Police or department of government usually associated with the offence. Ie: Department of Transport regarding a ticket offence on public transport.

**Prosecutor**

This is the name used for the member of the Police who is designated to provide evidence to the Court on behalf of the informant or arresting officer to be used for consideration in finding guilt against the offender.

**proven**

This is the term used when a Court has found an individual guilty of committing the alleged offence. The charge is found 'proven'.

## R

**registrar**

This is a person who has power invested in them by the Court to make decisions on minor legal implications or decisions concerning members of the public. Not entitled to the same power as a Magistrate or Judge.

**respondent**

This is the name of a party having to respond to allegations against them in a Court or prosecution.

**revoke**

To cancel or remove the order made initially by the Court or others and enforced by the Court.

## S

**sentence**

This is the legal term used when a Magistrate or Judge hands down a penalty or punishment for a proven offence by an individual.

**sentencing indication**

This is the term used when a alleged offender gets an indication on sentencing or punishment from a Magistrate when they either plead guilty or are found guilty after a contest.

**serve**

This term is used when legal documents or requests are lawfully given to another party regarding an offence or allegation they are a party to.

**sheriff**

A member of a department of the Police who can carry out an arrest if an order or contravene of a Court condition is breached. They will also assist in the collection of people needing to pay fines or infringement matters.

**solicitor**

A person who is a lawyer and can provide legal advice and representation in Court.

### **Special Circumstances List**

This is a list for matters to be heard concerning if special circumstances existed at the time a fine was awarded against an individual. These can be heard by either a Magistrate or judicial registrar.

### **stalking**

Stalking is defined by a person being contacted, communicated with either directly or indirectly that cause another to feel threatened, at risk or exposed to potential harassment.

### **statement**

This is a document of facts concerning what happened in an incident provided by a party with consent and is usually taken by the Victoria Police or other prosecuting agency.

### **statement of alleged facts**

This is the term used for statement made by the informant or arresting officer concerning the details of the charge against a party for alleged crimes; this will always include supporting evidence or statements provided by witnesses or victims involved if any to the crime.

### **statutory declaration**

This a legal document whereas a person declares a statement of facts to be true and that if the facts surrounding what is stated in the document eventuate as being false they are liable for penalties as legislated under section 107A of the *Evidence Act 1958*.

### **stay/stayed**

This is when a Court puts a result or determination on hold or pause until after a hearing or result from an appeal is sort.

### **stood down**

When cases stood down, this means it has been temporarily paused and is typically called back to be finalised on the same day.

### **subpoena**

This is a legal document that requires you attend or appear in court to provide certain documents to the court concerning a certain legal case or matter

### **summary case conference**

A summary case conference is a formal meeting to which your lawyer attends to discuss your charges with the police prosecution unit to discuss which parts of the facts the alleged offender agrees with and does not agree with the riding a possible contest mention.

### **summary offence**

A summary offence is at the lower end of the scale concerning criminal offences. These are heard in the magistrates court and children's Court of Victoria.

**summons**

A summons is a legal court document that instructs an alleged offender to attend court to enter for this allegation.

**supervised access**

This concerns a third party being present when a person or persons spends time with the child to ensure safety and other requirements or conditions as set out by the courts

**surety**

Surety is when a person promises monetary or property to the courts should the person they swear it on behalf of not meet the conditions set by the court concerning bail

**surrender notice**

This is a legal notice that can be served on an offender concerning the impoundment or forfeiture of a vehicle used in the committing of an offence.

**swear**

This can also be known as an oath and can be sworn on a Bible, Torah, Quran or other recognised religious book or published testament.

# T

**traffic offence**

A traffic offence concerns the law relative to driving matters such as speeding, drink-driving, drug driving, driver disqualified along with a long list of other offences that can occur when accidents or other incidents take place concerning cars and the road.

**transcript**

A transcript is a legal record of something spoken within court concerning a case.

**triable summarily**

This term is used when an indictable offence has the ability to be heard in the lower court namely the magistrates court and have the decision made by a sole magistrate rather than having a jury and judge preside over the matter in the County Court.

**trial**

A trial is when a court case is heard in front of the judiciary who adjudicate on the decision of guilty or not guilty.

**trustee**

A trustee is the name used for a person who manages property on behalf of another person within a trust.

## U

### **undertaking**

And undertaking is a promise to the courts to not do or do a certain thing.

## W

### **warrant**

This is a court document that is used to allow the police to do or not do a certain thing concerning the arrest of an individual or search of premises or property.

### **witness**

A witness as a person who is utilised by the courts to provide evidence on a certain matter.

### **witness summons**

This is a tool or document used when a witness is required to attend court for a manner and provide evidence.