

## Understanding Commonly Used Legal Terms

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### Terms Related to People Involved in the Justice System

#### Accused

In criminal law, a person who is charged with an offence under the Criminal Code is called the Accused. A person is called the Accused up to and throughout a trial until the charges have been dealt with and the matter is concluded.

#### Adjudicator

A government-appointed, impartial person who considers the arguments presented during a formal legal proceeding and decides the outcome of the matter. A judge in a court is a kind of adjudicator, but the title "Adjudicator" is most often used in less formal, specialized tribunal hearings, where matters such as employment, human rights and immigration and refugee issues are decided.

## **Applicant**

Another word for Plaintiff, that is, the party applying, or bringing a complaint to court. (see definition for "Plaintiff" below)

## **Arbitrator**

An independent person, who acts like a judge, chosen by the parties in a dispute, to resolve the issues they can't agree on. The decision of an Arbitrator is usually final, and can be taken to court to make sure that it is followed. In Ontario, an Arbitrator may be chosen to settle family matters such as child custody, child and spousal support and division of family property, but must follow Ontario and Canadian laws. They must make decisions considering the best interests of children, and must conduct interviews to look for domestic violence between the parties. Arbitrators are commonly used to settle disputes arising between employers and unions on behalf of their members, in labour law.

## **Attorney**

Another word for lawyer, but not typically used in Canada, other than in a specific title, such as the Attorney General of Ontario, who is the chief legal advisor to the Ontario government and a member of cabinet, who oversees the justice system in the province.

## **Barrister**

This is a traditional term from the legal profession in the United Kingdom, which divides practicing lawyers into two categories: Barrister and Solicitor. A Barrister is a lawyer who can speak for or represent a client in court. In the United Kingdom, a Barrister usually talks to another lawyer, a Solicitor, about the client's interests and wishes in a case. In Canada, a practising lawyer is able to be both a Barrister and a Solicitor. (see definition for "solicitor" below)

## **Client**

A person who talks to a practicing lawyer to get legal advice or other legal services about a legal problem.

## **Complainant**

A person who is making a complaint that their legal rights have been affected is called the Complainant. In criminal law, the person who says she or he was the victim of a crime and who makes a formal statement to the police (often called "laying a complaint") is the Complainant. The victim of a crime is not a party to the criminal proceedings, but may be a witness.

## **Counsel**

Another word for a lawyer who is representing a client, and who gives legal advice or counsel. The lawyer for a person starting a legal proceeding can be called Counsel for the Plaintiff or Applicant.

## **Crown Counsel**

The government lawyer in a criminal case. When a person is charged with a criminal offence, it is the government, or Crown, that begins the court proceedings and prosecutes, or tries to prove the criminal charges in court. Crown Counsel is the lawyer responsible for representing the government and arguing that the Accused has committed a crime, during the trial.

## **Decision Maker**

In a legal setting, such as a court or tribunal or regulatory body, the decision maker is a person or panel of people who decides the outcome of a claim or dispute, considering the law that applies and the facts and interests affecting a party or parties in the matter. A Judge, Justice of the Peace, Adjudicator and Arbitrator are all decision makers.

## **Defendant**

Another word for Respondent. (see definition of Respondent below)

## **Defense Counsel**

The lawyer who represents the person accused of committing a criminal offence. The Defense Counsel is responsible for giving advice to and speaking for the Accused, and for defending the rights of the Accused during the criminal trial process.

## **Duty Counsel**

In Canada, Duty Counsel are lawyers who are available at courthouses to give assistance, and some free legal advice to people who appear in court without a lawyer and who cannot afford to hire a lawyer. Duty Counsel generally can help with criminal, family law, tenant rights, and mental health law issues.

## **Judge**

A government-appointed, impartial decision maker who presides over court proceedings. Judges, either on their own or as part of a panel, consider the law and facts to make decisions about the parties' rights and interests. Judges are also responsible for making the proceedings fair and as efficient as possible, and for

ensuring the parties and others in the courtroom follow specific rules and procedures.

## **Jury**

A jury is a group, usually of 12 community members, who are chosen to sit with a Judge to decide the facts and help determine the outcome of a trial. A jury may only sit on trials for certain matters, usually serious criminal cases. In those cases, the Accused has the right to decide whether the case will be heard by Judge and Jury, or Judge alone. In a jury trial, it is the Jury that decides if the Accused is guilty of the charges. If the Accused is found guilty by a Jury, the Judge applies the law and decides what the punishment or sentence will be. Jury members in Canada must be Canadian citizens and are not allowed to talk about anything that goes on at the trial, both during and after it is over. Some professionals, including lawyers, police and doctors are not allowed to be on a Jury. In Canada, most trials are not jury trials.

## **Justice of the Peace**

A government-appointed, impartial decision maker who presides over court proceedings concerning more limited issues than a Judge. A Justice of the Peace can make decisions on smaller criminal and civil (non-criminal) legal matters, as well as conduct

marriages, bail hearings, issue a warrant to arrest a person or search a location, and they can also issue a kind of protection order called a “Surety to Keep the Peace”, commonly called a Peace Bond.

## **Lawyer**

A person who has studied law and received a university degree in law. To be qualified to actively practise law by providing legal advice and representing clients, a lawyer has to be licenced by a Canadian provincial or territorial body. In Ontario, this body is called the Law Society of Upper Canada.

## **Litigator**

A lawyer who specializes in representing clients by making legal arguments in courts, tribunals or in front of other decision-making bodies.

## **Mediator**

An independent person who is chosen by disputing parties to help them resolve their differences through a process called Mediation. A Mediator helps parties find a solution they both can agree on, but the Mediator does not make a decision for them.

## **Offender**

An Accused who pleads guilty to a criminal offence or is found guilty of a criminal offence by a court is convicted of committing a crime and called an Offender.

## **Paralegal**

Legal professionals who may provide a specific range of basic legal services, but have not gone to law school and are not lawyers. In Ontario, Paralegals must be licenced to practice by the same body that licences lawyers. Paralegals may provide legal advice and represent clients for legal matters such as immigration, small claims, traffic court charges under the Provincial Offences Act, cases that are heard before a tribunal including landlord-tenant issues or workplace safety, and some minor criminal charges. Paralegals cannot represent clients in Family Court in Ontario.

## **Party**

In a legal proceeding a person or organization or government named in a legal proceeding, who is either bringing or defending the legal claim.

## **Plaintiff**

The party (person or organization) who brings a complaint to court and begins a non-criminal legal proceeding.

## **Respondent**

The party (person or organization) who is responding to a claim in a non-criminal legal proceeding. When a Plaintiff or Applicant files a legal claim to begin a legal proceeding, every person and organization they file it against is known as a Respondent, because they are responding to the claim and the allegations made in it. (see definitions for "Plaintiff" and "Applicant" above)

## **Solicitor**

This is a traditional term from the legal profession in the United Kingdom, which divides practicing lawyers into two categories: Barrister and Solicitor. Solicitors meet with clients, and can review or draft legal document and provide legal advice. A Solicitor does not argue in court. In Canada, a practising lawyer is able to be both a Barrister and a Solicitor. (see definition for "Barrister" above)

## **Witness**

A person who has personal knowledge about an event or issue in a legal process is a witness. A witness may be interviewed by

police, lawyers, and may be asked to give evidence in writing or in person, in a legal case.

## **Terms about the Legal Process**

### **Acquittal**

A decision that the Accused in a criminal trial is not guilty.

### **Adjournment**

Puts a case (at a trial or a hearing) on hold for a short period of time until it starts again, usually on another day.

### **Appeal**

A request to formally review a decision made by a tribunal or court which is generally made to a higher level court. To go forward, an appeal may have to argue that there was a mistake in the law or facts that the decision was based on. Not every decision can be appealed. An Appeal Court can uphold the decision, change it, or send it back to be re-decided. The party that asks for an appeal is called the "Appellant". An opposing party in the matter is called the "Respondent".

### **Arbitration**

A legal process similar to a trial, but that takes place outside of a courtroom. Parties choose the decision-maker, called an Arbitrator, who makes a decision for the parties, based on evidence and the law. Parties that choose to go to arbitration,

agree to follow the final decision, which can also be enforced by a court.

## **Bill**

A written law in draft form that is put forward in the government by a Member of the federal Parliament or a Member of a provincial or territorial legislature. The draft must go through a voting process to become law. A Bill may be passed or voted down, with or without changes during the voting process.

## **Common Law**

Law that is based on previous decisions by Judges who have interpreted and applied the law in different circumstances. Common law can evolve to reflect changes in society, and can help a decision maker know how to apply legislation. Lower courts must follow the decisions of higher courts in their province or territory. All Canadian courts must follow the decisions of the Supreme Court of Canada.

## **Community Legal Clinic**

Government-funded centres that provide legal help for low-income Ontarians in a variety of ways, including representing them in courts and tribunals, providing legal advice and public legal education.

## **Decision**

A formal conclusion reached by a decision maker.

## **Disposition**

Another word for decision, because it “disposes” of a matter by making a final decision, which concludes a matter or issue.

## **Evidence**

Evidence is information or a thing presented by a witness in a legal proceeding to help prove an argument. The decision maker decides what evidence can be considered, and a witness must formally promise that the evidence is true. In a legal proceeding, both parties may use evidence to try to prove their case.

Evidence includes testimony from people as well as physical items, such as photographs, documents or objects.

## **Hearing**

A legal proceeding where one or more issues are decided by a decision maker. A Hearing in court usually refers to part of a full trial, when a part of the case or one particular issue is being considered. A Hearing can also refer to the legal proceedings before other decision making bodies such as Tribunals or Arbitrations (where an Arbitrator is the decision maker). The parties at a Hearing might appear in person in front of the

decision maker, or some hearings are based only on written materials provided by the parties.

## **Judgment**

A decision made by a Judge that describes the final result in the matter presented in court. Judgments sometimes also include reasons for the decision and discussion about the facts and law that were relied on to reach the decision.

## **Judicial Review**

A request for a court to formally review the decision made by a tribunal or board (see definition of “Tribunal” below). Depending on the circumstances, a court may be able to examine whether the decision was unfair, or made mistakes in law or fact, and may send the decision back to the original decision maker to decide the case again, without the original error.

## **Law Society of Upper Canada (LSUC)**

The regulating body for all lawyers and paralegals in Ontario. The LSUC decides who is allowed to practice law, sets rules for people who do practice law, assists members of the public in finding legal services, and works to improve the profession.

## **Legal Aid Certificate**

A certificate that promises to pay a lawyer for giving you legal services. The certificate allows you to have free advice and representation by a lawyer while the government pays for your legal fees, up to a certain limit. All lawyers can decide whether or not to accept a case on a legal aid certificate. To get a Legal Aid Certificate, your case has to be eligible, and your family income has to be below the levels set by Legal Aid. [Visit the Certificate program page.](#)

## **Legal Aid Ontario**

A government organization that provides legal aid certificates and funds legal clinics across the province to help provide access to lawyers for those who are not able to afford a lawyer.

## **Legislation**

Another word for Statute. (see definition for "statute" below)

## **Mediation**

A legal process used to try to settle a dispute. Parties choose an independent person called a Mediator, to help them solve their disagreement over legal issues. Both parties have to agree to the outcome. The Mediator does not decide or force a solution.

Mediation can be used in settling family law disputes such as child

custody and money matters, but it is not always a good process to use if there has been bullying or abuse between the partners.

### **Mistrial**

An extreme case where a trial cannot be concluded, for example, because of some fundamental unfairness in the process or because a jury cannot agree on a verdict. (see definition for "verdict" below)

### **Regulation**

Regulations are a set of legal rules that can be passed under a statute. They can be more specific than the general statute, and can usually be passed and changed more easily than a statute. (see definition for "statute" below)

### **Ruling**

A decision maker's determination on a legal question. A ruling can be on a specific issue during a proceeding, for example ruling on whether to grant an adjournment, or it can be the final decision in a matter.

### **Sentence**

After a guilty verdict in a criminal trial, the Judge decides what Sentence to order to punish the offender. There is a range of

possible sentences for each offence in the Criminal Code, and some offences have a minimum and/or maximum sentence. Some examples of sentences are a fine; return to community with conditions, such as probation, community service or other program; and time in prison

## **Statute**

A written law that is passed by government and can be enforced.

## **Stay of Proceedings**

A verdict in a criminal trial that puts the matter on hold, either temporarily until there can be a verdict, or permanently, where there cannot be a verdict of guilty. (see definition for "verdict" below)

## **Testimony**

A kind of evidence which is spoken or written by a witness who has formally promised to tell the truth. (see definition for "evidence" above)

## **Trial**

The process of resolving a dispute in court, where evidence is given and sworn (or formally promised) to be true by witnesses, and where the law is argued and applied to the evidence by each

party in front of a Judge (sometimes with a Jury). Most trials end with a decision or “verdict” to resolve the matter. A trial can last anywhere from a day to several months.

## **Tribunal**

A decision making body like a court, that hears evidence and makes decisions based on facts and law. A Tribunal usually specializes in a particular area of law, is usually less formal than court, and instead of a Judge, the decision maker at a Tribunal is an Adjudicator.

## **Verdict**

The decision in a criminal trial, where the verdict may be guilty or not guilty (also called an “Acquittal”). A verdict can also be a “stay of proceedings”, which puts the matter on hold.



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*There is a greater risk of violence when an intimate relationship is ending. If you are in immediate danger, call 911. If you or someone you know is at risk, visit the FLEW website for information on getting support.*

*If you are a francophone woman living in Ontario, you have the right to access French language services in family law court proceedings. For more information regarding your rights, contact a lawyer, a community legal clinic, or the support line Femaide at 1-877-336-2433, TTY 1-866-860-7082.*

*You can find more information on how to access services in French on our website at [www.onefamilylaw.ca](http://www.onefamilylaw.ca) or [www.undroitdefamille.ca](http://www.undroitdefamille.ca).*