



PACT

Support, Educate, Empower

Navigating the Queensland court
system as an adult victim or witness



ABOUT PACT

A non-profit with nearly 40 years of experience, PACT is committed to impartially supporting victims and witnesses who have to give evidence in the Queensland criminal justice system.



OUR VISION

Every victim and witness that needs support is assisted through the stressful process of giving evidence, empowered as they navigate the justice journey.



OUR VALUES

We uphold the rights of victims and witnesses to be heard without fear or compromise. With compassion and honesty we help them realise their strength to journey through the court system, and the stage beyond.

Understanding the court process

The court process can be unpredictable and lengthy. The entire process from the initial arrest until the matter goes to trial can take from six months to more than two years, and along the way there will often be unexpected delays.

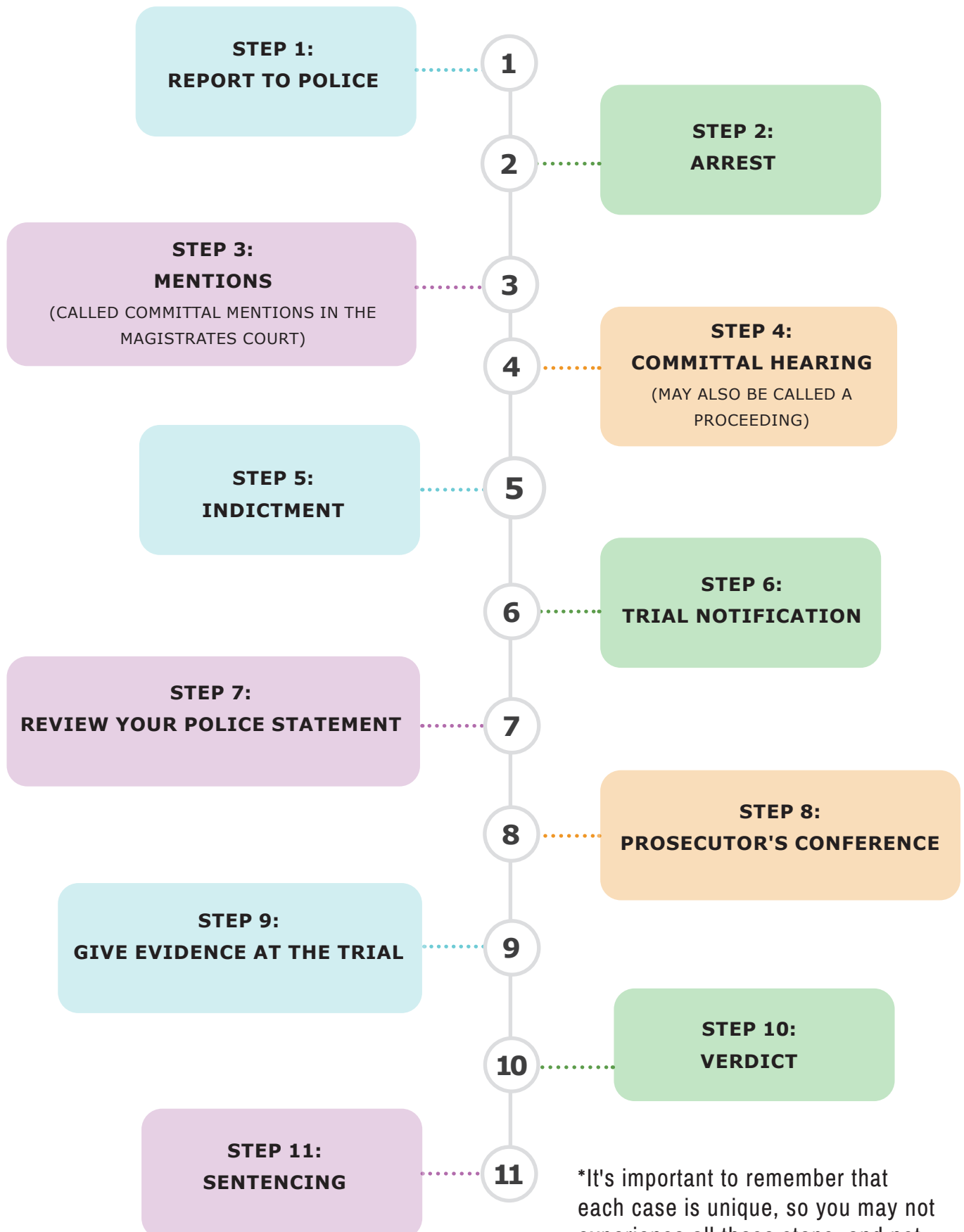
Our legal process is designed to ensure fairness and is essential to our country's justice system and identity. This doesn't make it any less frustrating or at times traumatic to be participating in this process.

PACT has an important role to play through each step of the court process to support adult victims and witnesses, as well as those interacting with the court system to support a victim or witness.

This resource is designed to help you understand more about journeying through the criminal justice system in Queensland. At the end of this document you will find information about the different levels of court and also definitions of the terms used throughout.



Step-by-step through the legal journey*



*It's important to remember that each case is unique, so you may not experience all these steps, and not always in this order.



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STEP 1: REPORT TO POLICE

The Investigation begins.

Once a crime has occurred and you report this to the police, a statement is taken, and police will begin their investigation. You will be given a QP number which is the police reference number for your matter. Evidence is gathered and police will often conduct interviews and take statements from witnesses who may have information relating to the matter.

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STEP 2: ARREST

Once an arrest is made and charges laid, the court process begins.

The matter will first enter the Magistrates Court. The Arresting Officer (AO) in the matter will be your best point of contact at this stage of the court proceedings. If you have any questions, contact the AO.

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STEP 3: MENTIONS (OR COMMITTAL MENTIONS)

These are called committal mentions in the Magistrates Court and mentions in the District and Supreme Court. The purpose of a mention is for the lawyers to update the court on the progress of the case. At all stages of the court process, both in the Magistrate and District Courts, there will be many mentions of the matter. You will not be informed of every mention because you are not generally required to attend these. If you are required, you will be notified by the ODPP's VLO or the QLD Police Service AO.

If you do have any questions or concerns about mentions you can contact your AO or VLO.



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STEP 4: COMMITTAL HEARING (MAY ALSO BE CALLED A PROCEEDING)

A committal hearing is where the Magistrate must decide if there is enough evidence to determine the matter should go to trial in the District or Supreme Court.

A Magistrate will hear the evidence against the defendant. To assist the Magistrate in making this decision, sometimes witnesses may be required to appear and give evidence at the committal hearing. If you are required to attend a hearing, you will be advised by the AO or the Victim Liaison Officer (VLO) from the Office of the Director of Public Prosecutions (ODPP) for your case.

You will be informed of the outcome after the committal hearing. If you don't hear from the AO, you should contact them for updates.

Police prosecutors will usually present the case in the Magistrates Court but depending on the details of your case it may be handed over to the ODPP to manage committal hearings. The ODPP will manage the prosecutions of all matters if they are indicted (as below in step 5) and reach the District or Supreme Courts.

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STEP 5: INDICTMENT

If the Magistrate decides there is enough evidence for the matter to proceed to trial then it will be committed to the District or Supreme Court for a trial (where it will be heard before a Judge and jury in a higher court).

Between the committal hearing and the first court date in the District Court there is a period where the evidence is reviewed, and an indictment is prepared. An indictment is a formal list of the charges. This period can be between 4-6 months depending on the complexity of the case.



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STEP 6: TRIAL NOTIFICATION

After the indictment is presented the defendant will instruct their lawyer whether they are going to contest the charges and go to trial or accept the charges and proceed to sentencing. If the defendant elects to contest the charges (plead not guilty) you will receive a letter from the ODPP notifying you of the trial date. If the defendant intends to plead guilty you will receive a letter notifying you of the sentence date. Please see **STEP 11** for info about sentencing.

If you have any worries about attending court to give evidence or would like a court support person to attend with you, contact your VLO to discuss your concerns.

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STEP 7: REVIEW YOUR POLICE STATEMENT

You should have access to your original written police statement. If you do not, you can contact the AO or your VLO. You will need to familiarise yourself with your statement before the trial. You will also go over the statement if you have a Prosecutor's Conference (see step 8) with ODPP prior to the trial.

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STEP 8: PROSECUTOR'S CONFERENCE

A prosecutor's conference (meeting) will usually take place in the days leading up to the trial or the day of trial. The conference will usually take place at the ODPP offices or the court house but may be by telephone depending on your location. This will usually be your first time meeting the prosecutor for your case.

The prosecutor's conference is an opportunity to discuss your witness statement, the types of questions that may be asked of you and to raise any questions or concerns you may have. Come prepared with any questions you may have about your evidence, going to court, or the process. If you have any safety concerns about attending the courthouse or transportation difficulty, please inform the prosecutions team as early as possible.



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STEP 9: GIVING EVIDENCE AT THE TRIAL

A trial date is set where all witnesses and legal parties will be required to attend court. The purpose of a trial is to decide whether there is enough evidence to convict the accused of the offences they have been charged with.

At the trial any of the following can happen depending on the circumstances and what type of witness you are. When the trial date is set you will be informed of the various options available to you to give your evidence, such as:

- You may give your evidence in the courtroom during the trial.
- You may be allowed to have a support person.
- You may be allowed a screen in the courtroom (so you can't see the defendant and vice versa).
- The courtroom may be closed meaning all persons who don't need to be present, are removed from the court.
- Special adult witnesses give their evidence to the court using a video link from another room or location within the courthouse.
- In some circumstances you may pre-record your evidence prior to the trial which is done via a remote room in the courthouse. The video of your pre-recorded evidence is then played for the Judge and jury during the trial.
- You are given frequent rest breaks.
- In very rare circumstances the defendant may be removed from the courtroom and placed in a separate room to watch the proceedings.

You should discuss your preferences with the VLO and/or ODPP legal team well ahead of the trial as an application will need to be made to the court for certain privileges.

REMEMBER YOU CANNOT SHARE YOUR EVIDENCE WITH ANYONE OUTSIDE OF THE COURT PROCESS AT ANY TIME.

There may be instances where a trial date is set and then court does not go ahead that day. In these cases you will be informed and notified of the new court date. These delays and changes can happen for any number of reasons.



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STEP 9: GIVING EVIDENCE AT THE TRIAL (CONTINUED)



Evidence in the Courtroom

You may be required to provide your evidence in person, in the courtroom, during the trial. If this is the case you will be called into the courtroom when you have to give your evidence and you will be escorted to the witness box. You will give an oath or an affirmation then be questioned by the Prosecutor and the Defense lawyer.

The courtroom may have several people inside. This would include the legal teams, the Judge and their associates, the jury, the defendant, the bailiff, prison or correctional officers, and if the court is an open court, members of the public, possibly including the defendant's family and friends. You may also have people in the public area to support you.

Once you are finished you will be dismissed and will be free to go. You may not be able to speak with the prosecutor straight away as the trial is still going. They will be in contact with you when they can.

Special Witness

If you are given special witness privileges you may be allowed to give your evidence via video link in a separate room to the defendant but live into the trial. You will arrive on the day of court and be met by the Prosecutor and their legal team. You will be escorted to a special witness room in the building where you will give evidence from. It may not be on the same floor or location of the courtroom where the trial is taking place. There will be a bailiff there to let you in and make sure water and tissues are available for you and that all the technology is working.

You will wait outside the room until the bailiff lets you know that it is time for you to give your evidence. In some courts, a legal officer will make contact from the courtroom to let you know.



You will give an oath or an affirmation then be questioned by the prosecutor and the defense lawyer.

In some regional courts, these processes may be different. You should ask the prosecutor or VLO for your matter to assist you with the procedures for your particular courthouse.

Once the video link has started, you will be able to see and hear the Judge, the prosecutor, the defense barrister and court advisers such as the legal officer and bailiff on the screen. The defendant will be in the courtroom however you should not be able to see them. Once you are finished you will be dismissed and will be free to go, unless otherwise advised by the prosecutor. You may not be able to speak with the prosecutor straight away as the trial is still going. They will be in contact with you when they can.

NOTE: YOU ARE THE ONLY PERSON ALLOWED IN THE REMOTE WITNESS ROOM.
YOU MAY HAVE A SUPPORT PERSON WITH YOU BUT ONLY IF IT HAS BEEN
PREVIOUSLY APPROVED BY THE COURT.

Please contact PACT or your VLO if would like to know more about having a support person.

Pre-recording of evidence

If you are granted special witness privileges you may be given permission to pre-record your evidence. The decision to give your evidence in this way must be made after an application is submitted by prosecutions based on certain criteria. Please discuss with your VLO if you have questions.

It's called 'pre-recording' because your evidence will be recorded prior to the trial and then played during the Trial for the Judge and Jury.



VALUABLE TIPS WHEN GIVING EVIDENCE

1. Giving evidence is about telling the truth, it's not a test so you don't have to know all the answers. When you are asked a question, it is OK to say "I don't remember" or "I don't know" if this is the truth.
2. If you don't understand the question you can say so or ask for the question to be repeated.
3. If a lawyer says something you do not agree with, you can say you don't agree.
4. When responding to a question use your voice to respond, do not answer by nodding or shaking your head.
5. If you need a drink, or to go to the bathroom, you need to let the Judge know you need a break.



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STEP 10: VERDICT

At the conclusion of the trial the jury will consider whether there is sufficient evidence to convict the accused of the offences.

By law, the Judge and jury must find the accused guilty beyond reasonable doubt. This means if they are unsure, they may find them not guilty on the basis that there is not enough evidence to prove the accused committed the offences they are charged with. If the accused is found guilty, the Judge will list the matter for sentencing. You can ask the prosecutor to explain the court's decision if you would like more information.

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STEP 11: SENTENCING

If there is a guilty verdict at the trial or a previous plea of guilt, the matter will proceed to sentencing. This can be on the same day the verdict is presented to the court.

The prosecutor and defence lawyer will summarise the arguments and each party will propose sentencing remarks to the court. The Judge will then decide what sentence the defendant should receive. You are not required to attend, however you may choose to if you wish.

You may also like to write a **Victim Impact Statement** to be read at sentencing.

Victim Impact Statement (VIS)

A VIS is a statement presented to the court at the sentencing stage of the court proceedings. It is your opportunity to explain to the court how your life has been impacted by the crime. Let the AO or VLO know if you would like to complete a VIS.



Victim's Register

If the defendant is found guilty and receives a jail term, you can stay updated about any progress involving them through the victim's register.

To register, visit the qld.gov.au website and apply:

www.qld.gov.au/law/your-rights/victim-rights-and-complaints/victims-registers

What do I do if I need to find my own support person?

PACT has a guide on what is involved in being a support person to a victim going through the court process and as a victim how to select the best support person for you. This guide can be located on PACT's website in our resources section.

UNDERSTANDING THE QUEENSLAND COURT HIERARCHY

Throughout your legal journey, your matter may move through the lower to the higher courts. Here is a snapshot of the three levels of courts you might deal with:

1. Magistrates Court

The Magistrates Court is the first level of the Queensland Courts system and hears about 95% of court cases. Most criminal cases are first heard in the Magistrates Court in some form. Unlike the Supreme and District Courts, Magistrates Courts have no jury. The Magistrate will make all decisions in criminal matters, including any penalty. The Magistrates Court deals with a range of offences including:

- Less serious offences such as traffic infringements
- Minor offences, such as shoplifting or disorderly behaviour
- More serious offences, such as assault, minor drug offences



2. District Court

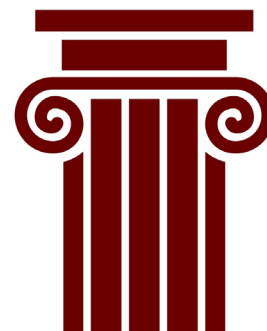
The second level of the Court system, the District Court deals with serious crimes, including armed robbery, rape and dangerous driving. Under Queensland law, all criminal offences are brought to the Magistrates Court first. Serious criminal offences such as those listed above are committed to the District Court for trial and sentencing.

Criminal trials in the District Court will usually involve a jury. Most appeals against decisions made in the Magistrates Court will also be heard in the District Court.



3. Supreme Court

The Supreme Court is the highest level of Court in Queensland. It comprises the Trial Division and the Court of Appeal. The Trial Division deals with the most serious criminal offences: attempted murder, manslaughter and murder, and sexual offences with the supply of drugs. Criminal cases must first be brought before the Magistrates Court, but serious criminal offences such as these are committed to the Supreme Court for trial or sentencing. The Court of Appeal hears appeals from the Trial Division and the District court. It does not hear entire cases or have a jury. It only deals with the subject of the appeal.





COURT PROTOCOLS

1. Stand whenever the Judge or Magistrate enters or leaves the courtroom and the bailiff or clerk says "all rise".
2. Refer to the Judge or Magistrate as 'Your Honour' if spoken to.
3. If you enter or leave the courtroom, bow your head at the Judge or Magistrate.
4. Turn mobile phones off.
5. Do not chew gum.
6. Remove hats and sunglasses.
7. Never approach, speak or make any contact with jury members if it is a jury trial

Victims in Queensland have certain rights, which include the way a victim should be treated, as far as appropriate, by Queensland Government agencies and non-government organisations. These are outlined in the Charter of Victims' Rights which you can read on the qld.gov.au website.



COMMONLY USED COURT TERMS

Accused/Defendant

A person charged with committing a criminal offence or offences. Other words for accused are “defendant” and “alleged offender”.

Acquit/Acquittal/Acquitted

When the Magistrate, jury or appeal court finds that a person is not guilty of the crime.

Adjournment (During the Trial or Hearing)

A break in legal proceedings, either for part of a day or put off until another day.

Affidavit

A statement which is signed and sworn (on a religious book) or affirmed that the contents are, to the best of their knowledge, true.

Affirmation

A promise to tell the truth in court. Used by people who do not wish to swear on the Bible or other religious book. See also “Oath”.

Appeal

To take a case to a higher court in order to challenge a decision. The person who appeals is the appellant. Not all decisions can be appealed.

Arraignment

The formal process of informing an accused person of the charges against them. When a person is “arraigned”, the charges are read aloud in court in the presence of the accused and they are asked to enter a plea to the charges. The accused will then plead either “guilty” (and the matter will proceed to sentence) or “not guilty” (and the matter will proceed to trial). After an arraignment, the trial or sentence may be scheduled to start on a future date.

Bail

A person who has been arrested may be granted bail, which means they are released from custody subject to conditions.

Bailiff

An officer of the court who enforces the law by executing court orders such as eviction notices, serving legal orders and documents such as summonses and subpoenas, organising jury and witness lists, and summoning and swearing in juries and witnesses.

Barrister

A lawyer who specialises in court presentation, usually in the higher courts.

Beyond reasonable doubt

The test (or standard of proof) used by a jury, Judge or Magistrate to decide if the accused or defendant is guilty or not guilty of each criminal charge. It must be proved beyond reasonable doubt that a person has committed an offence before they can be found guilty.

Closed Circuit Television (CCTV)

This is a provision that may be available to some witnesses, such as vulnerable witnesses or child witnesses, so they can give evidence to the court from a remote location.

Committal Mention

A committal mention is a mention (see below) that occurs in the Magistrates Court before a matter has a committal hearing date set.

Committal Hearing

A hearing of all the evidence supporting the charge in the lower court by a Magistrate who then decides if there is enough evidence for the case to go to trial. In some cases witnesses may be required to give evidence at a committal hearing.

Complainant

A term used in court to refer to a victim of crime.

Conference

A meeting with a solicitor / barrister to talk about the case.



Conviction

When a person accused of committing a criminal offence is guilty of that offence, a record of their guilt is recorded on their criminal history.

Counsel

A barrister acting for the defence or the prosecution.

Defence

The accused person's case and the lawyers who represent them.

Defence counsel

A barrister who presents the accused person's case in court.

Discontinue

Charges are discontinued when they are no longer going to proceed in the court. When charges are discontinued, the accused no longer needs bail to remain out of jail and will not stand trial or be sentenced on those charges.

Evidence

Information provided to the court that is used to prove or disprove a fact in issue in court proceedings.

Guilty/Not Guilty

Guilty means to be legally responsible for a criminal offence. When a defendant enters a plea of guilty, he or she accepts responsibility for the offence. When a defendant pleads not guilty, a jury will determine the guilt of the defendant if the matter proceeds as a trial in a higher court. Where a defendant pleads not guilty in the Magistrates or local court the Magistrate determines the guilt of the defendant.

Hearing

A proceeding where the evidence is presented to the court after an accused or defendant has pleaded not guilty.

Indictable Offence

A serious criminal offence that is usually heard in a higher court before a Judge and jury. Less serious indictable offences are sometimes heard in a Local/Magistrates Court.

Indictment

A formal written accusation charging a person with an offence that is to be tried in a higher court.

Judge

The Judge is in charge of the court and makes sure that it is conducted fairly for both sides. The Judge is referred to as "Your Honour". The Judge decides the sentence for offenders. A Judge sits in a higher court.

Judge's Associate

A person who helps the Judge with legal and administrative court matters. In a hearing, a Judge's associate may arraign the defendant and help with recording the documents used in the case, such as exhibits.

Jury

A group of (usually) 12 people chosen at random from the general community who are tasked with the responsibility of determining whether the defendant is guilty of the evidence presented in a criminal trial. The jury determines the verdict (whether the accused is Guilty or Not Guilty).

Matter

A prosecution or a proceeding in a court. A "case" may be referred to as a "matter".



Mention

This is where the case appears in court for a brief time, usually to deal with a procedural matter and is not the "hearing" of the matter. This includes setting dates and deciding bail. A witness is not usually required to attend court when the matter is for mention only.

Oath

A promise to tell the truth in court by swearing on a religious book, for example the Bible, that is important to the person making the promise. See also "Affirmation".

Office of the Director of Public Prosecutions (ODPP)

The ODPP represents the State in criminal cases. The community's interest is that the guilty be brought to justice and the innocent not be wrongly convicted. The main function of the ODPP is to prosecute criminal matters in the Magistrates (limited), District and Supreme Courts.

Plea

When the accused person tells the court whether they are guilty or not guilty of the charge. If an accused pleads guilty a trial does not take place and the matter proceeds to a sentencing hearing.

Prosecutor / Prosecution - Crown

The ODPP lawyer or lawyers conducting a criminal case before the court.

Prosecutor / Prosecution - Police

Most charges commenced by Queensland Police officers are prosecuted by Queensland Police Service prosecutors in the Magistrates Court.

Sentence

If the accused pleads or is found guilty, the Judge will pass sentence which means deciding what punishment should be given.

Summary Hearing

A hearing in a lower court where all evidence is heard and a final decision is made before a Magistrate alone (without a jury).

Trial

A trial is a hearing before a Judge and jury in the District or Supreme Court. The jury hears the evidence of witnesses and makes a decision about whether there is enough evidence to convict the accused or not. A trial can also be heard before a Judge alone.

Verdict

The decision of a jury in a criminal trial as to whether an accused is guilty or not guilty of an offence.

Victim

A person who has suffered harm as the direct result of an offence or offences.

Victim Impact Statement (VIS)

A statement written by a victim that may be read or presented to a court after an offender has been found guilty of an offence and before the offender is sentenced. The VIS informs the court about the harm suffered by the victim as a result of the offence.

Victim Liaison Officer (VLO)

If the ODPP decides to prosecute the offender, a victim liaison officer from the ODPP is appointed to help victims and witnesses throughout the court process.

Witness

Any person who has to come to court and answer questions in front of a Magistrate or Judge and jury.



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