

TEACHER'S NOTE: EXPLANATION OF LEGAL TERMS

This is an explanatory note for the most commonly used terms you might hear in the courtroom.

- **Accused:**

A person who has been charged with committing a particular offence in a criminal trial.

- **Acquittal:**

The term used when an accused is found to be innocent of the charges against him/her. It means that he/she is free to go.

- **Adjournment:**

The term used when a case has been postponed to a date in the future.

- **Book of Evidence:**

Set of documents which by law must be served on an accused person before his/her trial. It includes a statement of the charges against the accused, witness statements and a list of the exhibits to be produced in the case.

- **Beyond a reasonable doubt:**

Criminal courts demand the highest standard of proof of any court. This is because a finding of guilt can result in the accused being sent to jail, perhaps for a long time. For an accused to be found guilty, the evidence must establish 'beyond a reasonable doubt' that he or she is guilty. There must be no reasonable explanation for what happened other than the accused did it. If there is any other reasonable explanation, the accused will not be found guilty. The onus of proof rests on the prosecution. This means it is up to the prosecution to prove that the accused is guilty beyond a reasonable doubt.

- **Cross-examination:**

This is the questioning of a witness in a trial. It is done by the lawyer for the party who did not call him/her as a witness. This happens after the 'examination-in-chief'. The main purpose of cross-examination is to test the credibility of the witness and to help the party that is cross-examining.

- **Defence:**

This word can be used in a number of different but related ways. 'The defence' often just means the accused and his legal team, as in 'The defence presented its evidence today'. It could also be used as follows: 'Mr. Smith will enter his defence today'. In this case the word refers to the evidence and legal arguments Mr. Smith and/or his legal team will be putting to the court. You might also see this word used to introduce a discussion about different kinds of arguments an accused is using in his case. For example, 'the defences open to the accused include self-defence and provocation'.

- **Evidence:**

In a trial, both sides try to prove their case to the jury. They will use testimony from people as

well as physical items. Both of these are evidence. There are strict rules about what can and cannot be used as evidence. For example, witnesses can only talk about things they know directly; they cannot tell the court about things they have heard about someone else. If the evidence is physical (for example, a weapon) the gardaí must have followed proper procedure to get that evidence or it will not be allowed to be used.

- **Examination-in-chief:**

This is evidence given in court by a witness. During examination in chief, a witness is asked questions by the lawyer who called him/her as a witness.

- **Expert witness:**

This is a person who, because of his/her expertise in a particular field, can testify about more than what they have seen or heard. They can tell the court what conclusions they have reached as a result of certain facts and they can give their opinion about the facts. Only expert witnesses can give evidence about their opinions. For example, a pathologist would be considered an expert in what different autopsy results mean; a gun expert could speculate about what kind of gun might have been used based on physical evidence presented by someone else.

- **Findings of fact:**

This refers to the determination of what evidence and testimony is believable and what is not. In other words, what is fact and what is not. In a criminal case, findings of fact are made by the jury.

- **Indictment:**

The document that outlines the charges against the accused.

- **Jury:**

A jury is a group of twelve citizens who are selected randomly to sit as 'finders of fact' in certain types of trials. In a jury trial, it is the jury that will decide on the guilt or innocence of the accused. If the accused is found guilty, the judge will determine the sentence.

- **Offence:**

This is the word used to describe a crime that has been committed.

- **Onus of proof:**

The onus of proof means the burden to prove something. In a criminal case the onus of proof is on the prosecution to prove the accused is guilty beyond a reasonable doubt, which means that it is up to the prosecution to prove that the accused is guilty beyond a reasonable doubt.

- **Plaintiff:**

The person who initiates a civil law case (one person suing another) is a 'plaintiff'.

- **Plea:**

This is when an accused person tells the court whether he/she is guilty or not guilty.

- In a criminal case, the accused person might decide to plead guilty, which is admitting that he/she is responsible for the act. In this case there is no trial and the judge will decide on a sentence.
- If the accused person pleads not guilty, there will be a trial. At the end of the trial, he/she may be found guilty based on the evidence.

- **Sentence:**

This is the penalty or punishment the judge chooses once someone has been found guilty. It can involve a fine, a term of imprisonment or a suspended sentence, where the sentence to jail is suspended if the accused person is of good behaviour for a specified number of years.

- **Testify:**

In court, a person 'testifies' when they give evidence under oath; that is, tells their story about what they saw and/or heard.

- **Witness:**

A witness is a person who has some knowledge of an event and may have seen or heard what has happened. If such a person testifies in a trial, they will be under an oath to tell the court only the truth about what they have seen and/or heard. With very rare exceptions (see expert witness), a witness in court can only testify about what they have personally seen and/or heard. They cannot give evidence about what someone else has seen or heard. This is called 'hearsay evidence'.

Witnesses testify on behalf of either the prosecution or the defence, depending on what they know. A prosecution witness could be someone who observed a robbery and believes they can identify the accused as the person who committed the crime. A defence witness in the same trial could be someone who believes they were with the accused at the time of the robbery in some location other than where the crime took place. Regardless of which 'side' the witness is testifying for, they will have to be cross-examined by the other 'side', who will attempt to discredit the evidence that they have given.