

# Youth Justice

Your Guide to Cops and Court in NSW

4th Edition

Macquarie Legal Centre

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# Words, words, words

## A criminal justice jargon buster

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| acceptable person                | someone who signs a defendant out on a bail surety   |
| accused                          | the person accused of a crime; the <i>defendant</i>  |
| acquit                           | to find you not guilty at a trial or hearing   |
| actus reus                       | the guilty or wrongful act that forms the basis of a criminal offence  |
| adjourn                          | to postpone court proceedings to a future date   |
| admission                        | a confession (usually to police)   |
| adult                            | a person aged 18 or over   |
| advocate                         | to act on someone's behalf in order to pursue their best interests   |
| affidavit                        | a written statement to be used in court, sworn or affirmed to be the truth before a solicitor or Justice of the Peace  |
| affirmation                      | a promise to tell the truth  |
| affray                           | disruptive or violent behaviour in a public place that may cause fear to the public  |
| aggravating factors              | factors that make an offence more serious and often worthy of greater punishment   |
| annulment application            | <ol style="list-style-type: none"><li>1. application to a Local or Children's Court to annul (undo) a conviction or penalty that has been imposed in the defendant's absence. Also known as a section 4 application</li><li>2. an application to the State Debt Recovery Office to annul (undo) an enforcement order and have the fine dealt with in court</li></ol> |
| AOD                              | alcohol and other drugs  |
| AOABH                            | assault occasioning actual bodily harm   |
| appeal                           | to challenge a decision by taking the case to a higher court or tribunal   |
| appeal bail                      | bail while you wait for your appeal to be heard  |
| appellant                        | a person making an appeal  |
| applicant                        | a person applying for a court order (such as an AVO)   |
| apprehended violence order (AVO) | a court-made order which restricts the defendant's contact with the person applying for the order  |
| appropriate adult                | a person who supports and assists a minor in a police interview. Also known as the independent adult, responsible adult, monitor or support person   |

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| arbitration              | an alternative method of dispute resolution where a decision is made by a private arbitrator instead of a court. Arbitration is sometimes used in civil cases but not in criminal cases   |
| arrest warrant           | a document (or a computer entry) giving police the power to arrest you  |
| assault                  | an act that intentionally or recklessly causes another person to fear violence. There does not have to be any physical contact  |
| ATSILS                   | Aboriginal and Torres Strait Islander Legal Service   |
| attendance centre order  | a penalty that forces the offender to attend programs that deal with their offending behaviour (eg anger management or drugs). Usually imposed as part of a community service order   |
| background report        | a report about a juvenile offender, written by Juvenile Justice (similar to a pre-sentence report written by the adult Probation and Parole Service). The magistrate reads it before deciding the sentence  |
| backup charges           | the police may lay several charges for the one offence. Backup charges are the less serious charges. If you are found guilty of the more serious charges, the prosecutor drops the less serious backup charges. If you are found not guilty of the more serious charges, you may still be found guilty of the backup charges  |
| bail                     | granting bail means that you are released until the next court appearance, often with conditions you must follow  |
| bail CAN                 | a court attendance notice where the defendant is either refused bail or is required to sign a bail undertaking  |
| bail continued           | your bail continues until the next court appearance   |
| balance of probabilities | in civil cases (and AVO applications) the case must be proved on the <i>balance of probabilities</i> . The person bringing the case must show that their version of the facts is more likely than not the correct version   |
| barrister                | a lawyer who specialises in going to court (mostly District and Supreme Court)  |
| beyond reasonable doubt  | you cannot be found guilty of a crime unless the case against you is proved <i>beyond reasonable doubt</i> . If there is a reasonable doubt about your guilt, you should be acquitted (found not guilty). It is harder to prove something beyond reasonable doubt than on the balance of probabilities  |
| bond                     | also called a <i>good behaviour bond</i> , a penalty available in the criminal courts   |
| breach                   | breaching means breaking the conditions of a court order (eg bail or a CSO)   |
| breach AVO               | breach of apprehended violence order: a criminal offence, where the defendant breaks one of the conditions of the AVO   |
| brief                    | <ol style="list-style-type: none"> <li>1. the <i>police brief</i> (brief of evidence) is the police evidence against you. <i>Serving the police brief</i> means the police give your lawyer a copy of the brief, so the lawyer can prepare the case</li> <li>2. solicitors also prepare <i>briefs</i> for barristers</li> <li>3. a <i>brief</i> is also legal slang for a lawyer</li> </ol> |

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| burden of proof               | the obligation to prove what is alleged (also called onus of proof)   |
| CAN                           | see <i>court attendance notice</i>  |
| caution                       | <ol style="list-style-type: none"> <li>1. in some circumstances the police can caution an offender instead of sending them to court</li> <li>2. a sentencing option available in the Children's Court</li> <li>3. when police arrest or question a suspect, they 'administer the caution' by saying: <i>you do not have to say anything, but anything you do say or do may be used in evidence</i></li> </ol> |
| chamber registrar             | an official at the Local Court who provides advice about court procedure, and issues summons and other court documents including AVO applications   |
| character references          | see <i>references</i>   |
| charge                        | a formal accusation of criminal conduct   |
| child                         | a person aged under 18 years. Note that some laws (eg the <i>Children and Young Persons (Care and Protection) Act 1998</i> ) define a child as a person under 16. However, in this book, <i>child</i> means a person under 18   |
| Children's Court              | the Children's Court deals with criminal matters where the defendant was under 18 at the time of the alleged offence and under 21 when charged. It also deals with care and protection matters, where the Department of Community Services believes that a child under 16 is in need of care  |
| circle sentencing             | a program used in some Indigenous communities, where community members and elders have a say in the sentencing process  |
| citizen's arrest              | when a person who is not a police officer arrests someone   |
| committal hearing             | for <i>indictable offences</i> , a hearing where the prosecutor must persuade the magistrate that there is a strong enough case against the defendant to put them on trial in a higher court  |
| common purpose                | see <i>joint criminal enterprise</i>  |
| community justice centre      | a centre which helps people mediate (sort out) disputes (eg, neighbourhood disputes)  |
| community legal centre (CLC)  | a non-profit non-government centre which provides legal advice, representation, education and lobbying  |
| community service order (CSO) | a sentence imposed by the court, requiring the offender to do a certain amount of unpaid work   |
| complainant                   | a victim or a person who starts court proceedings. In AVO applications, either the police or the person in need of protection   |
| conference                    | see <i>youth justice conference</i>   |
| control order                 | a sentence of detention in a juvenile justice (detention) centre  |
| conveyance                    | a vehicle, such as a car, truck, motorbike or boat  |
| conviction                    | If you are found guilty, you are said to be <i>convicted</i> , but the court may or may not <i>record a conviction</i> . If a conviction is recorded, you get a criminal record   |
| COPS                          | The NSW Police Computerised Operational Policing System, which lists details of police reports, investigations, charges, etc  |

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| corroboration                         | evidence of a witness which supports the evidence of another witness  |
| court alternatives history            | a record of any <i>Young Offenders Act 1997</i> cautions or youth justice conferences you have had. This may be taken into account by the Children's Court, but not by an adult court   |
| court attendance notice (CAN)         | a notice issued to a defendant to tell them they are required to attend court to respond to a charge laid against them  |
| court election                        | the process of taking an infringement notice to court – see <i>infringement notice</i>  |
| criminal history                      | a background of information about all your previous court matters, even if you were found not guilty or if no conviction was recorded   |
| criminal record                       | an official record of convictions that have been recorded against you   |
| cross-examination                     | the prosecutor, defence lawyer or defendant questions the other side's witnesses. See also <i>examination-in-chief</i>  |
| culpable                              | guilty, responsible for the crime   |
| custody                               | <ol style="list-style-type: none"> <li>1. if you are in custody, you are locked up</li> <li>2. having something in your custody means having it in your possession or control</li> </ol>  |
| deemed supply                         | if you have more than a certain amount of drugs it is called <i>trafficable quantity</i> , and the court will presume that you intended to supply the drug unless you can prove otherwise   |
| defence                               | a defence is a legal argument used by the defendant in court to say they are not guilty. If the court accepts the defence, the defendant is found not guilty  |
| defendant                             | the person accused of a crime, the <i>accused</i>   |
| deferred sentence                     | the court delays sentencing you until you have done something eg drug rehabilitation. The court <i>defers sentence</i>  |
| detention                             | when a person is held against their will, either by police or in a prison or detention centre   |
| detention warrant                     | allows police to keep you in custody for more than four hours before charging you or releasing you, when they are investigating a crime   |
| Director of Public Prosecutions (DPP) | DPP lawyers prosecute people in the Supreme Court and District Court, and sometimes for more serious matters in the Local and Children's Court  |
| diversionary program                  | a program that aims to divert people away from the court or prison system – eg youth justice conferencing, MERIT  |
| DJJ                                   | Department of Juvenile Justice (now part of the NSW Department of Human Services)   |
| DoCS                                  | Department of Community Services (now part of the NSW Department of Human Services)   |
| doli incapax                          | a Latin phrase meaning: <i>Incapable of wrong</i> . 10-13 year olds are legally <i>doli incapax</i> , which means they can't be found guilty – unless the prosecution proves that the child knew that what they were doing was seriously wrong as opposed to just naughty |
| DPP                                   | see <i>Director of Public Prosecutions</i>  |

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| Drug Court             | a court for people charged with a crime who have a drug problem (see also <i>Youth Drug and Alcohol Court</i> )  |
| duty solicitor         | a Legal Aid lawyer or a private lawyer paid by Legal Aid to be on a court roster to represent people who can't afford their own lawyer   |
| ERISP                  | Electronically Recorded Interview with Suspected Person – a police interview with a suspect, recorded on video and audio CD  |
| event number           | a reference number allocated when someone makes a report to the police   |
| evidence-in-chief      | the evidence a person gives in court before being cross-examined. It may consist of a statement, recorded interview or oral evidence given in the witness box  |
| examination-in-chief   | when a lawyer, prosecutor or defendant questions their own witnesses. See also <i>cross-examination</i>  |
| examination summons    | for unpaid fines, a summons issued by the State Debt Recovery Office (SDRO). You must appear in court to answer questions about your income and possessions, so the SDRO can work out what action to take to recover unpaid fines  |
| exclusion order        | a possible condition of an AVO, that stops someone from living in the same house as the person needing protection  |
| ex parte hearing       | pronounced <i>ex partay</i> . A hearing when one side in a case is not present in court. In criminal cases it is usually the defendant who fails to turn up  |
| fact sheet             | a summary of what the police say the defendant did (also, see <i>police facts sheet</i> )  |
| fail to appear         | you don't appear in court when you are meant to  |
| field CAN              | a court attendance notice which is usually issued on the spot. There is no bail undertaking attached which means the defendant is free, without any conditions, until their court date   |
| fine                   | a penalty imposed for an offence. A fine may be: <ol style="list-style-type: none"> <li>1. a penalty notice (also known as infringement notice or on-the-spot fine) given by a police officer or other official; or</li> <li>2. a fine imposed by a court after the defendant has pleaded or been found guilty.</li> </ol> |
| first instance warrant | a warrant issued for failing to appear at court, or for breach of a court order such as a CSO or supervision   |
| first return date      | the first day you must appear in court   |
| forum sentencing       | a program for adult offenders involving a meeting between the offender and the victim, in some ways similar to a youth justice conference  |
| future CAN             | a court attendance notice which is usually sent to the defendant some weeks after the alleged offence. There is no bail undertaking attached which means the defendant is free, without any conditions, until their court date   |
| good behaviour         | good behaviour is often a condition of a bond, parole or probation order. It means not committing any more offences  |

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| goods in custody                             | a criminal charge for having goods that may have been stolen or illegally obtained, or money obtained through illegal activity  |
| Griffiths remand                             | now called a <i>deferred sentence</i> or <i>section 11 bond</i>   |
| guardian                                     | a person who has the right and duty to protect another person, their property and their rights  |
| hearing                                      | like a trial, except that there is no jury. Both sides present evidence, then the magistrate or judge decides whether the person is guilty or not guilty  |
| home detention                               | when the court orders you to serve a prison sentence at home. This is very strict supervision (including electronic monitoring) to check that you stay at home  |
| imprisonment                                 | placing someone in prison as lawful punishment  |
| independent adult                            | the person who supports and assists a young person under 18 years old in a police interview. Also called the appropriate adult, responsible adult, monitor or support person  |
| indictable offence                           | (pronounced <i>in-dight-able</i> ) a serious crime that can be tried before a judge and jury  |
| indictable offence tried summarily           | when an indictable offence is dealt with by a magistrate in the Local or Children's Court, instead of by a judge and jury   |
| informant                                    | the police officer who lays the charges, prepares the case, and brings the case to court. Usually the arresting officer. Also known as the officer in charge (OIC)  |
| infringement notice                          | also known as a penalty notice or on-the-spot fine, this is a fine given to you by a police officer or other official such as a transit officer or council ranger. Instead of paying the penalty notice, you may choose to take it to court |
| inclosed lands (entering on or remaining on) | an offence like trespassing: being on another person's property without permission  |
| instructions                                 | what you tell your lawyer about how to represent you and what to say in court. A lawyer must follow their client's instructions or withdraw as their lawyer   |
| interim order                                | a temporary order, usually lasting until the next court date  |
| JIRT   | Joint Investigation Response Team made up of police and DoCS workers. JIRT investigates allegations of child sexual assault and other forms of abuse  |
| joint criminal enterprise                    | when two or more people agree to commit a crime. Anyone who agreed to commit the crime and was present when it was committed can be charged – regardless of whether they carried out the actual act itself                                  |
| judgment                                     | decision and reasoning by a judge or magistrate   |
| jurisdiction                                 | <ol style="list-style-type: none"> <li>1. the types of cases that a particular court is allowed to hear</li> <li>2. the limits of the orders a court can make</li> </ol>  |
| justice of the peace (JP)                    | a person who has formal authority to witness legal documents  |

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| juvenile                                | a person under 18 years old. In this book, <i>juvenile</i> or <i>juvenile offender</i> usually means a defendant who was under 18 when the alleged offence was committed, even if they have since turned 18 |
| juvenile correctional centre            | a detention centre for serious juvenile offenders, run by Corrective Services. There is currently only one such centre at Kariong on the Central Coast  |
| Juvenile Justice (JJ)                   | the government agency which employs juvenile justice officers (JJOs) and runs juvenile justice (detention) centres – used to be known as the Department of Juvenile Justice (DJJ)                           |
| juvenile justice centre                 | a juvenile detention centre   |
| juvenile justice officer (JJO)          | the JJ worker who writes background reports and supervises some court orders, eg probation  |
| juvenile justice report                 | JJ report – see <i>background report</i>  |
| lawyer                                  | a general word for solicitors or barristers   |
| legal aid                               | when Legal Aid NSW provides or pays a lawyer to represent you   |
| Legal Aid NSW                           | the government agency that provides, or pays for, free legal representation for disadvantaged people  |
| leniency                                | where the court gives you a lighter penalty   |
| list day                                | a day when a court deals with new cases, guilty pleas, short mentions, etc. Some courts have list days on certain days of the week and hearings on other days   |
| litigation                              | a dispute that is taken to court  |
| Local Court                             | a court that deals with criminal and civil cases. (Criminal cases for juveniles usually go to the Children’s Court. Serious cases go to the District or Supreme Court)                                      |
| lobby                                   | people lobby government officials and politicians to change laws and legal practices  |
| malicious damage                        | intentionally or recklessly causing damage to another person’s property (eg graffiti, vandalism)  |
| malicious wounding or reckless wounding | injuring a person in a way which causes the breaking of skin. To be guilty you must intend to cause harm or be very careless about whether harm will result   |
| means test                              | an income test: If your income is above a certain amount, you won’t get the particular service (eg Legal Aid representation) or benefit (eg Centrelink)   |
| mediation                               | a less formal attempt to achieve justice than in court. Parties discuss alternative outcomes that would deal with the problems  |
| mediator                                | a person who runs a mediation. Unlike a judge, the mediator does not make a decision, but tries to get the parties to reach their own agreement   |
| mens rea                                | a guilty mind, the evil intention or knowledge that an act is wrong (see also <i>actus reus</i> )   |
| mention                                 | a short court appearance for administrative purposes eg to enter a plea, to set a date for a hearing  |

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| merit test                                       | sometimes Legal Aid is only available if they think you have a good chance of winning your case. If they do, they say that your case <i>passed the merit test</i>   |
| mitigation                                       | or <i>mitigating circumstances</i> : reasons why the defendant should get a lighter penalty   |
| monitor  | <ol style="list-style-type: none"> <li>1. (<i>Young Offenders Act 1997</i>) the person who checks that a young offender completes their outcome plan</li> <li>2. the person who supports and assists a young person under 18 years old in a police interview. Also called the <i>independent adult, appropriate adult, responsible adult</i> or <i>support person</i></li> <li>3. an officer in court who is responsible for recording the court proceedings</li> </ol> |
| no bail CAN                                      | a court attendance notice without any bail undertaking attached. This means the defendant is free without any conditions until their court date   |
| non-parole period                                | if you are sentenced to imprisonment or detention this is the time you spend locked up before being released on parole  |
| oath   | a promise to tell the truth sworn on a religious book which is important to the person making the promise   |
| offence  | a breach of the criminal law; a crime; an illegal act   |
| onus of proof                                    | see <i>burden of proof</i>  |
| outcome plan                                     | a practical way that a young offender can make up to the victim of their crime after attending a youth justice conference ( <i>Young Offenders Act 1997</i> )   |
| parole   | time spent out in the community after a prison sentence or control order, usually with strict conditions and supervised by a parole officer or JJO  |
| party  | a person involved in a court case or dispute  |
| penalty  | punishment; sentence  |
| penalty notice                                   | see <i>infringement notice</i>  |
| penalty units                                    | system of fines. Currently 1 penalty unit = \$110   |
| periodic detention                               | a sentence of imprisonment served on weekends (or mid-week) only  |
| person in need of protection or protected person | a person who applies for an AVO, or who has an AVO applied for on their behalf  |
| perjury  | giving false evidence in court  |
| plea   | the defendant says whether they are guilty or not guilty  |
| plea in mitigation                               | the lawyer gives the magistrate reasons why the defendant should get a lighter penalty  |
| police data                                      | information that is usually kept on the Computerised Operational Police System (COPS). This usually contains information about warrants, arrests, questioning, warnings, cautions, victims of crime, witnesses, youth justice conferences, etc  |
| police direction                                 | a police direction to do something, eg to move on from where you are  |
| police facts sheet                               | see <i>fact sheet</i>   |

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| prescribed penalty    | the amount of a fine imposed by an infringement notice. If you choose to pay the infringement notice, this is the amount you will pay. It is usually less than the maximum penalty that a court may impose   |
| pre-sentence report   | a report for the court about an adult offender, written by Probation and Parole (similar to a Children's Court <i>background report</i> )  |
| priors                | previous convictions; criminal record  |
| probation             | a penalty available in the Children's Court  |
| pro bono              | when a lawyer does work for free   |
| prosecution           | <ol style="list-style-type: none"> <li>1. a prosecution means the proceedings by which a person is brought to trial for a criminal offence</li> <li>2. the prosecution means the agency that is arguing the case against the defendant in court (usually the police or the DPP)</li> </ol> |
| protected person      | a person who an AVO aims to protect  |
| public place          | a place which is open to or used by the public. Can include places where entry is restricted (eg pubs and clubs) or where there is an entry fee (eg sports and music venues). Can include some places that are privately owned (eg common areas of blocks of flats)                        |
| reckless              | to be reckless is to be extremely careless, eg you may be guilty of recklessly inflicting grievous bodily harm if you knew your actions might hurt someone but decided to go ahead anyway  |
| recognisance          | <ol style="list-style-type: none"> <li>1. <i>released on your own recognisance</i>: a type of bail</li> <li>2. (no longer used) a bond by which you promise to do something such as come to court on a future day</li> </ol>   |
| reference             | <i>character reference</i> : a letter to the magistrate about the offender. It might encourage the magistrate to give a lighter penalty, or to give a particular penalty   |
| remand                | in custody (locked up) while you wait for a court appearance   |
| respondent            | a person against whom an application is made (eg an AVO application)   |
| responsible adult     | the person who supports and assists a person under 18 in a police interview. Also called the independent adult, appropriate adult, monitor or support person   |
| restitution order     | after the Victims Compensation Tribunal pays compensation to a victim of violence, the tribunal may order the offender to pay to the tribunal the amount of money paid to the victim   |
| return date           | the date when something is listed in court (see also <i>first return date</i> )  |
| revocation            | discontinuing or cancellation (eg <i>revocation of parole</i> means that parole is cancelled and you go back into custody)   |
| riot                  | where there are 12 or more persons together involved in violent or threatening behaviour that may cause fear in the public   |
| search warrant        | an order issued by a magistrate or justice of peace, allowing police to search the premises named on the warrant   |
| section 4 application | see <i>annulment application definition 1</i>  |
| section 9 bond        | a good behaviour bond imposed on an adult offender   |

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| section 10                            | having a matter dismissed without a conviction or penalty in the adult courts   |
| section 11 bond                       | when the court adjourns sentencing proceedings to allow for rehabilitation (also known as a Griffiths remand)   |
| section 12 bond                       | a suspended sentence imposed on an adult offender   |
| section 32 application                | an application under the <i>Mental Health (Forensic Provisions) Act 1990</i> to dismiss charges for a defendant who has a mental illness or intellectual disability   |
| section 33 (1)                        | section 33 (1)(a), (b), (c), etc are all Children's Court penalties which are set out in section 33 of the <i>Children (Criminal Proceedings) Act 1987</i>  |
| security                              | money deposited at the court which you lose if the defendant does not turn up to court next time  |
| sentence                              | the penalty imposed when someone is found guilty of an offence  |
| serious children's indictable offence | a very serious offence that cannot be finalised by the Children's Court (must go to the District or Supreme Court)  |
| solicitor                             | a lawyer who gives advice, prepares legal documents and (often) also appears in court   |
| spent conviction                      | a conviction that is no longer listed on your criminal record, because you didn't reoffend for a certain period of time   |
| statement of facts                    | see <i>police facts</i>   |
| statutory declaration                 | a written statement, sworn or affirmed to be the truth before a solicitor or Justice of the Peace   |
| subpoena                              | a document directing a person to appear in court as a witness to give evidence, or to produce documents   |
| summary offence                       | an offence that can be heard by a magistrate. To hear an indictable charge <i>summarily</i> means to hear it in the Local Court or Children's Court   |
| summons                               | an order to appear in court as a defendant or witness   |
| superior courts                       | the District, Supreme and High Courts   |
| support person                        | <ol style="list-style-type: none"> <li>1. the person who supports and assists a suspect or defendant at the police station and in a police interview. If the suspect is under 18, the support person is sometimes called the independent adult, appropriate adult, responsible adult or monitor</li> <li>2. the person who supports and assists a young offender or a victim at a youth justice conference</li> </ol> |
| surety                                | in bail matters, a person of good character who says that they know the defendant and who puts up money which they lose if the defendant doesn't show up to court   |
| suspended sentence                    | a bond imposed on a defendant convicted of an offence (also known as a section 12 bond). If the defendant breaches the bond, he or she must serve a sentence of imprisonment (or, if a juvenile, a control order)   |
| telephone interception warrant        | allows police to listen in on, and record, your phone conversations   |

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| third party                         | a person who is not directly involved in a court case or dispute   |
| trifecta                            | legal slang for the three charges of resisting arrest, offensive language and assault police, which often occur together   |
| victim                              | the person who has suffered harm, loss or detriment as a result of someone else's illegal actions  |
| vulnerable person                   | police must follow special procedures when they detain a vulnerable person. Vulnerable persons are children under 18, people with a disability, Aboriginal people and Torres Strait Islanders, and people of non-English speaking background |
| warning                             | less serious than a caution, these are quick and informal on-the-spot words used by police to a young person after they have, or are believed to have, committed a minor offence   |
| warrant                             | a document (or computer entry) giving the police the power to arrest, search, etc (eg arrest warrant, search warrant, crime scene warrant, telephone interception warrant)   |
| warrant of first instance           | see <i>first instance warrant</i>  |
| witness                             | any person who tells a court what she or he knows about the matter   |
| young person                        | in this book, <i>young person</i> usually means a child (under 18) or a young adult (aged approximately 18-25)   |
| Youth Drug and Alcohol Court (YDAC) | a court for people under 18 who are charged with a crime and who have drug or alcohol abuse problems   |
| youth justice conference            | a meeting between a young offender and other people such as their family, the police, and the victim of their crime ( <i>Young Offenders Act 1997</i> )  |