

Glossary of common legal terms

Attrition: the filtering process by which cases drop out of the criminal justice system.

Acquittal: this occurs at the end of the trial once both the state and the defence have both had a chance to present their cases and a judgement is passed that a person is not guilty of the crime with which the person has been charged. Acquittals also occur when the state has failed to prove its case beyond reasonable doubt or other circumstances lead to the case being discharged after trial has started

Appearance: in a criminal prosecution, an appearance is the initial court proceeding in which an accused person is first brought before a magistrate.

Bail: is the mechanism whereby an arrested person may be allowed to be outside custody pending trial. Bail can be refused when there is a chance that the release of the accused will endanger the safety of the public or any particular person; there is a chance that the accused will avoid his/her trial; there is a chance that the accused will attempt to influence or intimidate witnesses, or cover and/or destroy evidence; there is a chance that the accused will undermine or endanger the functioning of the justice system including the bail system; or there is a chance that the accused will disturb public order or undermine public peace and security.

CAS number: is a unique reference number allocated to the case by the SAPS Case Administration System. This is the number that the police will use to track and trace the docket on its journey through the criminal justice system.

Charge sheet: is a formal document prepared by the prosecutor, in which it is alleged that the accused is guilty of a specific crime or crimes.

Child: as set out in the Children's Act 38 of 2005, a child means a person under the age of 18 years.

Closed case: This means no more work to be done on the case, no outstanding suspects or leads that need tracking down.

Court Roll: the order of cases to be dealt with by the court in a specific day.

Complainant: as set out in the Sexual Offences Amendment Act (SOAA) this is an alleged victim of a sexual offence. When child victims are involved, the guardian or person who reports the rape is the complainant and the child is the victim.

Coercion: tactics used by perpetrators to exert power and control over another person. This may include a person intimidating, tricking, forcing or manipulating someone into engaging in sexual activity without the use of physical force. Perpetrators may also use threats of violence, blackmail, drugs, and/or alcohol to coerce someone into sexual activity.

Compelled rape: as set out in the Sexual Offences Amendment Act (SOAA) this is when a person (A) who unlawfully and intentionally compels a third person (C) without the consent of C, to commit an act of sexual penetration with another person (B), without the consent of B.

Crime scene: the place, including where applicable, the vehicle or vessel at or in which an alleged rape or sexual offence took place.

Discharge (section 174): a section 174 application is brought once the state's case has closed and before the defence has begun. The defence will argue that there is no need to continue as the state has failed to make a *prima facie* case that needs to be defended.

Docket: a SAPS case file in which all record of documents and criminal case proceedings are stored.

FCS Unit: specialised unit within SAPS that deals with family violence, child protection and sexual offences cases.

First report witness: the first person the complainant told about the rape incident and who gives testimony in the trial.

Intermediary: the role of the intermediary is to convey the evidence-related questions from the prosecution or the defence to the child in a manner which is understandable to the child. In carrying out this duty, the intermediary has two specific functions: to protect the child against hostile cross-examination and to assist the child in understanding the questions posed. The child will, therefore, only talk to the intermediary during the court proceedings.

Intimate partner: a husband, cohabiting partner, boyfriend or lover, or ex-husband, ex-partner, ex-boyfriend or ex-lover. Investigation is the procedure to gather facts about a rape incident.

Investigating officer: a member of the South African Police Service responsible for the investigation of an alleged sexual offence or any other offence.