INNU-AIMUN LEGAL TERMS
(CRIMINAL LAW)

KAUESHINITUNANIT AIMUNA

Mushuau Dialect

FIRST EDITION, 2007

INNU AIMUN

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Innu-aimun Legal Terms (Criminal Law)
Kaueshinitunanit aimuna

Mushuau Dialect

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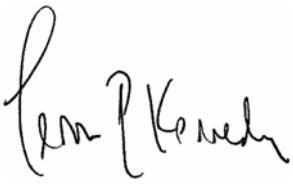
Foreword

Access to justice is a cornerstone in our justice system. But it is important to remember that access has a broad meaning and it means much more than physical facilities. One of the key considerations in delivering justice services in Inuit and Innu communities is improving access through the use of appropriate language services.

I am extremely pleased with the development and release of this glossary of criminal justice terms which has been translated into both dialects of Innu-aimun. This will be an important resource which will standardize translated and interpreted terms and concepts for Aboriginal people across justice settings and services.

I am equally pleased about the way we have been able to develop this resource. This has involved many partnerships with organizations and individuals who are also committed to addressing language barriers for people in the justice system. From the beginning, the Department of Justice has received tremendous support from such external organizations as the Department of Education, Memorial University of Newfoundland, the College of the North Atlantic, Public Legal Information Association of Newfoundland and Labrador, the Labrador Advisory Committee for the Aboriginal Interpreting Initiative (which includes Aboriginal representatives as well as justice system and College officials) and the Department of Labrador and Aboriginal Affairs, including the Northern Strategic Plan. However it is important to note that without the support and direct involvement of the Innu and Inuit translator/interpreters from Nain, Rigolet, Natuashish, North West River, Sheshatshiu and Happy Valley-Goose Bay, this project would never have been possible. Your determination to come together on several occasions and work to develop this resource for the use of individuals, communities, students, and the justice system deserves recognition. Finally, I would like to recognize the efforts of those officials within the criminal justice system who have taken a particular interest in assisting with the language workshops. The commitment in many areas has been exceptional but especially so with Legal Aid and Public Prosecutions in Labrador.

Through this project, we have been able to define a common goal which has required the skill, knowledge and perspectives of many. My sincere thanks go to all who have contributed to such a meaningful initiative.



Jerome P. Kennedy, Q.C.
Minister of Justice
and Attorney General

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We would also like to thank Nunavut Arctic College for allowing us to adapt their Legal Glossary for use in the Innu and Inuit Interpreters Training Program. Arctic College has generously shared its resource material for adaptation for our local context.

Preface

Background

The need for trained interpreters in the Labrador criminal justice system has been evident for many years. The Labrador circuit is one of the busiest in the province and a significant number of the defendants and witnesses do not speak English as a first language. The unfortunate practice of finding an Aboriginal language interpreter under pressure of time is now recognized to be detrimental to the best interest of people who must deal with the court system.

In 2006, the Department of Justice commissioned a report, *Developing a Strategy for Court Interpretation Services*, which identified the provision of trained court interpreters for Innu-aimun and Inuttitut as being of the highest priority. In the Spring of 2007, the Department of Justice approached the Faculty of Arts, Memorial University, and requested that Dr. Marguerite MacKenzie and Dr. Douglas Wharram of the Department of Linguistics facilitate workshops on the translation of criminal court terms in Innu-aimun and Inuttitut respectively. Kristen O'Keefe, a trained lawyer and Executive Director (Acting) of the Public Legal Information Association of Newfoundland and Labrador (PLIAN), was contracted to participate in the workshops as a resource person providing legal expertise.

The Department of Linguistics CURA project *Knowledge and Human Resources for Innu Language Development*, funded by the Social Sciences and Humanities Research Council (SSHRC), began in January 2004 with the aim of documenting the lexicon of the Innu language and providing training to community members in Labrador in language training. The long-term goal of the project is to produce a trilingual dictionary of the Innu language spoken in Labrador and Quebec, with information on the various dialects. A sub-project has been the elaboration of vocabulary for specific domains, such as justice, health, social services, environment. The opportunity to partner with the Department of Justice on this important project was thus very welcome.

Workshops

Three sets of workshops were held in 2007: Inuttitut July 31-August 2 and September 28-29; Sheshatshiu Innu-aimun July 17-19 and September 24-28; Mushuau Innu-aimun (Natuashish) November 26-29. Experienced Innu and Inuit interpreters were invited to work with the linguists and Ms. O'Keefe. Lawyers from the Goose Bay offices of Newfoundland and Labrador Legal Aid and the provincial Crown Prosecutor's office joined the workshops to provide additional legal expertise.

Over the course of the workshops, a core set of almost 500 terms used in the criminal justice process were translated and now appear in this glossary. Separate glossaries were established for the two distinct dialects of Innu-aimun, spoken in Sheshatshiu and Natuashish. The people of Natuashish are also known as Mushuau Innu (Barren Ground People), and their dialect is referred to as Mushuau-aimun.

Methodology

Before the workshops, all the data from the Nunavut lexicon prepared at Arctic College, over 900 terms in Inuktitut, English and French, with an English explanation, were entered into a database. Approximately 300 terms identified as having to do with the criminal justice process were tagged in the database. Keywords for subcategories and terms collected for the related dialect of East Cree and for Quebec Innu-aimun were also entered.

During the workshops the list of words to be translated was projected on a screen for discussion by all participants. The lawyers explained each term and gave examples of how it may be used during the various stages of the judicial process. Innu and Inuit speakers and the linguists discussed various translations, which were entered into the database in a standardized spelling. Terms from the first workshop were reviewed during the second and third workshops, and more terms were added, so that the final list stands at nearly 500 terms.

Staff of the CURA project formatted the Innu terms and produced camera-ready copy for the two Innu glossaries, printed in a format which gives the two dialects equal priority. The additional terms needed to interpret in cases of sexual assault have been placed in a separate glossary following the main list.

Dialects of Innu-aimun

Although Innu-aimun is a single language spoken in both Labrador and Quebec, there are many regional differences. Within Labrador, members of the two Innu communities speak significantly different dialects: Sheshatshiu-aimun is more closely related to the language as it is spoken by Innu in south-eastern Quebec, while Mushuau-aimun has a great deal in common with the Naskapi and northern Cree dialects of northern Quebec. Differences in pronunciation, grammar and vocabulary between the two dialects mean that an Innu interpreter fluent in, for instance Sheshatshiu-aimun, will likely not be able to translate quickly and accurately for a speaker of Mushuau-aimun. This fact has made the provision of two glossaries a necessity.

Linguistic Issues

The languages spoken by the Innu and Inuit are significantly different in grammatical structure from English. The vocabulary contains a very small number of nouns and a very large number of verbs, often making it difficult to translate an English term by the same part of speech (e.g., noun to noun). In many cases, a verbal form is used and, in most cases, an explanatory phrase is necessary. Some general principles for translation that were followed were: use a third person or impersonal form, rather than the second person form that might be used when speaking to a defendant or witness; use an Innu noun, if possible, for an English noun; aim for the shortest, yet most accurate, translation. Note that Innu-aimun is a gender-neutral language and that pronouns and verbs can be translated equally as 'she' or 'he'.

Legal terminology is difficult for the average speaker of English to understand and requires extensive legal training. The legal terms used in the criminal justice system are a shorthand way of speaking about often complicated concepts and processes. The translations done by the workshop participants represent the result of a very short and intensive training in these concepts and will no doubt be revised in future, as the interpreters gain more training and experience with the court system.

A shared, standardized spelling has been used for the Innu-aimun terms. As is the case for English, the spelling is not phonetic and does not represent any one of the four main dialects of the language.

Innu-aimun Legal Terms (Criminal Law)
Kaueshinitunanit aimuna

Mushuau Dialect

Abandoned

Nakatakanu

Where the owner of property gives up her/his rights of ownership, without transferring these rights to another, the property is said to be abandoned. For example, if a person throws something away s/he abandons it and another person can take it for her/himself and s/he would not be stealing.

Absolute Discharge

Tapuemakanu eshi uevueshiakanit muk^{u} ama anuemakanu kie nutim uepinakanu mashinaikan

When a person is found guilty of an offence s/he is usually said to be 'convicted.' A conviction is what goes on to a criminal record. In some cases, where a person is found guilty of an offence, but it is in the best interests of the offender and it is not against the public interest, a court may grant the offender an absolute discharge. This means that the offender is not penalised in any way and does not have a record for a criminal conviction. A discharge may also be conditional. In such cases the offender must fulfill a condition, such as a period of probation or the payment of restitution, before the discharge becomes absolute. Criminal Code Section 730. See Conditional Discharge.

Absolute Jurisdiction Offence

E pikunak tshishe-utshimau umashinaikan, ekute tshe pimipanit anite nashuk kauishinitunanit petashtamipishtuau tshishe-kamakunuesht

All criminal offences are proceeded with by indictment or by summary conviction. This division is one of more serious and less serious offences. Most offences which are proceeded with by indictment, namely the more serious offences, allow the accused person to have a jury trial if s/he wishes. There are a few indictable offences, listed in the Criminal Code, which occupy a middle ground. They are more serious than offences proceeded with summarily but not so serious that the law entitles the accused to a jury trial. These offences are called absolute jurisdiction offences, meaning that they are tried by a provincial court judge without a jury. Criminal Code, Section 553.

Abuse

E piuenimakanit auen

Improper use or maltreatment. Abuse can be physical, sexual, financial or emotional.

Academic Degrees

Kamishta-tshishkutamashun

A certificate from an institution of higher education showing that a person has fulfilled the requirements of a particular course of studies. Academic degrees are divided into undergraduate and graduate degrees, graduate degrees being higher degrees. Common undergraduate degrees are Bachelor of Arts (B.A.), Bachelor of Science (B.Sc.). Common graduate degrees are Master of Arts (M.A.), Doctor of Philosophy (Ph.D).

Accident

Ama usht tutakanu

In criminal law, accident may give an accused person a complete or a partial defence. An unintentional killing may be no crime at all, or it may be the less serious crime of manslaughter. Even an accidental

killing, however, may be murder if the accused caused the death by an unlawful act or by negligence. A court would have to examine the circumstances of each case.

Accidental Death

Ama itamenishakanu eshi nipit auen

A death for which no individual is to blame, for example, drowning.

Accuse

Kaueshiakanit

To allege or claim that someone has committed a crime.

Accused [also called Defendant]

Kaueshiakanit

A person who is accused or charged with a criminal offence.

Accused Election

Kauitshinuesht tshika uauitamᵘ tan tshe ishi ueueshiakanit (kamishta-ueueshitunanit put nashuk kaueueshitunanit)

Except for absolute jurisdiction offences, where the accused cannot have a jury trial, and certain serious offences such as murder where an accused normally must have a jury trial, an accused who is tried on indictment can choose the court in which s/he is tried. s/he may be tried by a Provincial Court judge without a jury, by a Supreme Court judge without a jury or by a Supreme Court judge with a jury. This choice is called the accused election.

Acquittal/Acquitted [also called Dismissing the Charges]

Uepinakanu umashinaikannu

A finding by a court that an accused person is not guilty of the offence with which s/he was charged.

Act [also called Law, Legislation, Statute]

Tshishe-utshimau umashinaikan eshi pimipanit

A law, or piece of legislation, made by the Parliament of Canada or the Legislative Assembly of a Province or Territory, for example, the Child, Youth and Family Services Act. Also called a statute.

Actus Reus

Tutamᵘ tshekuannu nasht eka minuat

A criminal offence consists of both a wrongful act and the intention to commit that act. The wrongful act is referred to by the Latin term actus reus. Committing a wrongful act, or actus reus, without the intention of doing so is not a criminal offence. For example, if I take your snowmobile believing it to be my own, I have not committed theft. See also Mens Rea.

Adjournment [also called Postponement]

Nakanakanu apishish

The suspension or putting off of the hearing of the case until a later time (often on a different date).

Admissible

Tapuetakanu tshetshi pitakatakanit kaueshitunanit

See Admissible Evidence.

Admissible Evidence

Tapuetakanu tshetshi pitakatakanit eshi mishkakanit eshi ueueshiakanit

In order to make its decisions a court relies upon evidence, given by a witness or witnesses (a witness is a person who heard, saw, did, or knows something relevant about the case). There are many rules which determine whether or not a piece of evidence will be accepted by a court. Evidence which will be accepted, as conforming to these rules, is called admissible evidence. Evidence which does not conform to the rules will not be accepted and is termed inadmissible. See also Evidence, Witness.

Affidavit

Mashinaushu mashinaikannu eshi tapuet

An affidavit is a statement made in writing under oath.

Affidavit of Service [see also Proof of Service]

Mashinaushu mashinaikannu eshi tapuet manakanit mashinaikannu auennua

An affidavit is a statement, in writing, made under oath. Service refers to the act whereby a document is officially given to a participant in legal proceedings. An affidavit of service is the sworn, written statement of the person who gave the document to the participant that s/he did so. It is proof that the participant to the proceedings received the document.

Affirmation

Nasht tapueu

A solemn declaration by a person who does not wish, for reasons of conscience, to swear an oath on the Bible or other sacred scripture (e.g., the Qur'an of Islam).

Aggravated Assault

E mishta-ushikuiakanit uiat auen

An assault in which the accused wounds, maims, disfigures or endangers the life of the victim. Criminal Code, Section 268.

Aggravated Sexual Assault

E mishta-ushikuiakanit uiat auen mekuat e natuni-tutuakanit

A sexual assault in which the accused wounds, maims, disfigures or endangers the life of the victim. Criminal Code, Section 273(1).

Agreed Statement of Facts

Tapuetamuat kauitshinuesht mak tshishe-utshimau-ukakusseshima ka ishpanit

The accused (with his/her lawyer) and the Crown Attorney agree on the facts which support the charge. After a guilty plea is entered, the

Crown will sometimes read into the court record the agreed facts which support the guilty plea.

Alcohol Consumption

Ka minanut shitakanapui put kie ishkuteuapui

Drinking alcohol. The amount of alcohol consumed can determine whether a driver of a motor vehicle is guilty of impaired driving. Alcohol consumption can be an important issue in many criminal cases since it can have an effect on the intention of a person to commit a crime.

Alibi

Ama tapashapan mekuat e pikunakanit tshishe-utshimau umashinaikan

The defence in criminal law that the accused was somewhere else when the crime took place. For example,"I could not have committed the assault at the hotel in Hopedale because at the time I was in Happy Valley-Goose Bay. Therefore I have an alibi and should be found not guilty."

Amend the Information

Mishkutakanu ne etashtet eshi ueueshiakanit

To make a change to the court document that states the offence with which an accused is charged.

Anger

Tshishuapun

Rage, loss of control over emotion; in day-to-day speech 'to be mad'.

Appeal

Tshetshi minuat tshitapatakanit eshi ueshiakanit

A request that a decision made by a court be reviewed by a higher court on the grounds that the lower court made a mistake.

Appearance Notice

Tshika minakanu auen mashinaikannu tshetshi takushinit nete kaueshinitunanit

An order issued by a peace officer that a person attend court at a certain time and place. An appearance notice is used by a peace officer to compel a person to attend court when the circumstances of the alleged offence are such that the peace officer does not have the legal power to arrest the person.

Applicant

Ne auen ka kukuetshimat tshishe-kamakunuesht tshe tutuakanit

In court proceedings, the party (person) asking the court for a ruling or decision.

Application

Kukuetshimeu auen tshishe-kamakunuesht tshe tutuakanit

A request to a court for a ruling or decision.

Application for Interim Release

Kukuetshimeu auen tshishe-kamakunuesht tshetshi ueuit auen eshkᵘ eka ueshiakanit

The request, to a court, of a person charged with an offence and kept in custody, to be released from custody until the trial.

Arraignment

Ushkat uitamuakanu tan tshe ishi ueshakanit nete mishta-kaueshinitunanit

The formal reading of the charge(s) to the accused in Supreme Court.

Arrest

Makunakanu

The act of placing a person in custody, according to law. The powers of ordinary citizens and peace officers to arrest a person are set out in the Criminal Code.

Arrest Warrant

Itashtenu mashinaikannu tshetshi makunakanit auen

There are situations in which an arrest can be made without a warrant. There are even situations in which an ordinary citizen, not a peace officer, can make an arrest. But in some cases a peace officer is not supposed to make an arrest unless s/he has a written authorization from a justice of the peace to make the arrest. This written authorization is called an arrest warrant.

Arson

Usht ishkuasham^{u}

The crime of deliberately setting fire to property. Criminal Code, Sections 433-436.

Ask to be Excused

Natuenitam^{u} auen tshetshi ueuit anita kaueshinitunanit

To request to be released from some obligation. For example, "The juror asked to be excused from jury duty because she had a small baby to look after."

Assault

Tatshinakanu auen eka tapuetak

A person who directly or indirectly applies force intentionally to another person, or attempts or threatens to do so, has committed an assault.

Assault, Aggravated

E mishta-ushikuiakanit uiat auen

An assault in which the accused wounds, maims, disfigures or endangers the life of the victim. Criminal Code, Section 268.

Assault: Beating

E utatamuakanit

A type of assault.

Assault Causing Bodily Harm

Ushikuiakanu auen e tatshinakanit auen eka tapuetak

An assault in which the victim suffers bodily harm. 'Bodily harm' is defined in section 2 of the Criminal Code as: "any hurt or injury to a person that interferes with the health or comfort of the person and is more than merely transient or trifling in nature." Criminal Code, Section 267.

Assault: Choking

E tshiputaminakanit

A type of assault.

Assault: Kicking

E tatshishkuakanit

A type of assault.

Assault: Punching

E utamanakanit

A type of assault.

Assault: Pushing

E natshipitakanit

A type of assault.

Assault, Simple or Common [also called Assault]

Tashinakanu auen eka tapuetak

See Assault. Simple or common assault is a basic assault, not as serious as those assaults which cause bodily harm, or are with a weapon etc. Criminal Code, Section 266.

Assault: Slapping

Apishish e utamuakanit uiat

A type of assault.

Assault: Touching

E tatshinakanit eka tapuetak

A type of assault.

Assault With a Weapon

Apatshitakanu tshekuan tshetshi put ushikuat auen

An assault in which a weapon is used. Criminal Code, Section 267.

Assess Credibility

E natu-tshissenitakanit tshetshi tapuanit

When a judge or jury decides whether a piece of evidence or witness is reliable/believable, they assess the credibility of the evidence.

Assessment, Mental

Natukuashtikushu natu-tshissenimeu auennua

Assessment means an assessment by a medical practitioner of the mental condition of an accused and any observation or examination of an accused made in the course of that process.

Assessment, Order for

Natukuashtikushu kukuetshimakanu tshetshi natu-tshissenimat auennua

Assessment means an assessment by a medical practitioner of the mental condition of an accused and any observation or examination of an accused made in the course of that process. An assessment order is made by the judge having jurisdiction over an accused where s/he has reason to believe that this would provide evidence to determine whether an accused is unfit to stand trial or whether s/he was suffering from a mental disorder at the time of the alleged offence or for sentencing purposes.

Assessment, Physiological

E natu-tshissenitamuat uianu auennu natukuashtikushu

An assessment of the physical condition of a person.

Assessment Process

Natukuashtikushu e natu-tshissenimat auennua

The process of considering and evaluating.

Assessment, Psychological

Katshissenitak e natu-tshissenitak anite ushtikuanit auennu

An assessment of the mental state of a person, conducted by a psychologist.

Attempt to Commit an Offence

Kutshitau tshetshi pikunak tshishe-utshimau umashinaikan

Trying to commit an offence. Commencing preparation of a crime without actually committing it. A person must have the intention to commit the crime.

Attempted Murder

Kutshitau tshetshi nipatatshet

The unsuccessful act of deliberately trying to kill a person. A serious crime, punishable by life imprisonment. Criminal Code, Section 239.

Automatic Review of Sentence / Disposition

Tshishe-kamakunuesht tshitapatamᵘ minuat ka makunakanit auassa

When a young person (aged 12 to 17) is sentenced to custody for a period of one year or more, the law requires that the young person be brought back to the Youth Court so that the Youth Court judge can review the sentence and reduce it if appropriate.

Automatism

Ama tshissenitamᵘ mekuat tshekuannu etutak

For a court to find that a person has committed a crime it is essential that the wrongful act was committed voluntarily. It happens at times that, for various reasons, a wrongful act is committed involuntarily. Thus a person might kill another while sleepwalking. s/he is said to

have acted in an automatic state and the defence of automatism is available to him.

Autopsy

Natu-tshissenitakanu uiu tan eshi nipit

The examination by specialized medical practitioners of a dead body to ascertain the cause of death.

Bail

Uevetishinakanu kamakunakanit

To let go, to discharge from custody. Informally used for release. Release of a person in custody following her/his promise or security or that of a third party and which may involve a sum of money with or without deposit.

Bail Hearing [also called Show Cause Hearing or Judicial Interim Release Hearing]

Tshetshi kukuetshimakanit tshishe-kamakunuesht tshetshi ueuit kamakunakanit

A court proceeding in which a decision is made whether or not a person charged with an offence is to be released before the trial or kept in custody.

Balance of Probabilities

Put tshika ishinakuan kie put ama tshika tshi ishinakuan

The standard of proof in non-criminal matters. It is to be compared to the standard of proof in criminal matters, proof beyond a reasonable doubt. Proof on a balance of probabilities means proving that something is more probable than not. It is a much lower standard of proof than proof beyond a reasonable doubt, where the court must be sure that the accused committed the crime with which s/he is charged.

Ballistics Expert

Kamishta-tshissenitak passikana kie kutakinu tshekuannu e passitshemakaniti

Experts on the properties and behaviour of firearms and other weapons (e.g., bow and arrow) that can hurl a projectile (such as a bullet) through the air.

Ban on Publication [see also Non-publication Order]

Ama tapuetakanu tshetshi ueueshtakanit tshekuan ka issishuanut anite kauishinitunanit

A court order that prohibits the publication of evidence and/or the names of individuals. Commonly used to protect the identity of victims in sexual assualt cases.

Be of Good Behaviour

Tshe eka animishit

To act in accordance with the law. A condition of every probation order is that the probationer keep the peace and be of good behaviour.

Bench Warrant [also called Arrest Warrant]

Itashtenu mashinaikannu tshetshi makunakanit auen

An order for the arrest of a person issued by a judge. For example, when a person fails to appear in court when required to do so the judge will issue a bench warrant.

Benefit of the Doubt

Patshitinakanu eka minu-tapuetakanit

It is well known that the prosecution, to succeed, must prove the charge(s) beyond a reasonable doubt. It is part of this rule, that if there is a doubt, the benefit of the doubt must be given to the accused. See Reasonable Doubt.

Beyond a Reasonable Doubt

Nasht tshekat tshitshue tapuetatishun

See Reasonable Doubt.

Biased [also called Prejudice]

Etatu peik^{u} ama itutuakanu auen

To be in favour of one side over the other in a dispute, but for reasons which are personal or in some other way irrelevant to the merits of the dispute. For example, "The judge said s/he preferred the evidence of the policeman to that of the mother because s/he felt the mother could not help but be biased in favour of her son, the accused."

Blameworthy

Tshika tshi atamenitakanu

A blameworthy act is an act which is in some way wrong and deserving of blame.

Blood Sample

Umik^{u} auen e utinakanit

A small amount of a person's blood. Sometimes the police are allowed to demand such samples, for example, in impaired driving cases where the accused cannot give a breath sample.

Blood Splatter Specialist

Kamishta-tshissenitak e natu-tshissenitak tan eshi patshitit umikunu

Where a person is seriously assaulted or killed in a way that results in blood being spilt, it has been learned that the spilled blood will form certain patterns which can show how the victim was hit, and with what. This is important information for crime investigators and those who have made a study of this are referred to as blood spatter specialists.

Breach

Ka pikunak

The breaking of a law or of an obligation.

Breach of Probation

Pikunakanu ka ishi nakatuenimakanit

The breaking of one or more conditions of a probation order. This is a criminal offence.

Breach of Recognizance

Ka pikunak ka ishi tapuetatishut anite kaueshinitunanit e ueuetishinakut muk^{u} tshika ui tshishikashu

Undertakings and recognizances are official documents allowing a person in custody to be released until the trial date. Both will state when the person has to go to court and usually involve other conditions. A breach of one of an undertaking or recognizance is a criminal offence and can lead to the person being taken back into custody where s/he might remain until the conclusion of the trial.

Breach of Undertaking

Ka pikunak ka tapuetatishut ka mashinataushut mashinaikannu tshetshi ueuetishinakanit

Undertakings and recognizances are official documents allowing a person in custody to be released until the trial date. Both will state when the person has to go to court and usually involve other conditions. A breach of one of an undertaking or recognizance is a criminal offence and can lead to the person being taken back into custody where s/he might remain until the conclusion of the trial.

Breached

Ka pikunak

Synonym of 'broke'. "s/he breached her/his undertaking" is simply the use of the word as a verb rather than a noun. Police and prosecutors tend to use the verb in another way: "s/he was breached on her/his undertaking"; meaning s/he was charged with a breach of undertaking.

Break and Enter with Intent

Eka tapeutuakanit e pitutshet mitshuapinu eka tshetshi minututak

An offence in the Criminal Code. It involves the unauthorised entry of a building (nothing has to be broken) by a person intending to commit an offence in the building, such as theft. This is the charge used when there is no theft or other offence committed, perhaps because the person is caught before s/he can steal anything. Criminal Code, Section 348(1)(a).

Break, Enter and Theft

Eka tapeutuakanit e pitutshet mitshuapinu mak tshemutinanit

This is the offence of making an unauthorized entry into a building and stealing something in the building. Criminal Code, Section 348(1)(b).

Breaking and Entering

Eka tapeutuakanit e pitutshet mitshuapinu

A slang expression describing the various break and enter offences.

Breathalyzer Expert

Kanatu-tshissenitak shitakunapui put ishkuteuapui anite umikut

A person who has studied the breathalyzer machine and its workings to such an extent that judges are willing to accept that s/he is an expert and will receive opinion evidence from him/her.

Breathalyzer Test

E natu-tshissenimakanit auen e ishipish minit shitakunapunu put ishkuteuapunu

A tool for measuring the amount of alcohol in one's blood by breathing into a machine.

Bribery

E tshishikuakanit auen put e minakanit tshekuan tshetshi tutak

Giving or promising money or other benefit to a person in authority in order to influence her/his decision.

Burden of Proof [also called Onus of Proof]

Tshishe-utshimau-ukakausseshima put kauitshinuesht tshika ui tapuemeu tshetshi tapuemakanit

Onus is a Latin word that means a burden, weight or responsibility. The party that has the onus of proof in a case is the party that has the responsibility to prove something. Thus in criminal cases, it is always the Crown that has the responsibility to prove the charge(s). In civil cases, the party that has the onus of proof is the one that started the action, the plaintiff.

By-Law

Eshi pimipaniti utenaua

A law that applies only to a particular group or community, passed by a body other than a legislature.

Canada Evidence Act

Kanata tshishe-utshimau umashinaikan eshi mishkakanit tshekuan tshe apatshitakanit ueshiakanitshe auen

This is a piece of legislation that sets out some of the rules of evidence. Much of the law of evidence is found in case law.

Careless Use of Firearm

Matshi-nakatuenitam^{u} upassikan

Negligent handling of a firearm without reasonable precautions for the safety of others.

Case

Ushkau minuat mashinaikan eshi ueshiakanit

Collectively, all evidence presented, arguments given, and decisions made with respect to one criminal matter.

Case Law

Mamunakanua tshishe-kamakunuesht ka ishi ushitat Kanata umashinaikannua

Law based on precedent or the build-up of decisions in individual cases with similar facts rather than being strictly based on statute or code. However, case law can be useful for interpreting statutes or the written constitution, as different judges consider what the words in a statute have meant in different situations. See Common Law.

Cause of Death

Eshi nipit

The reason why a person died.

Causing Disturbance

Uakanueu

Disturbing the public by conduct, behaviour, or speech.

Certain / Certainty / Absolutely Certain

Tshitshue tapuetam^{u}

Without doubt. Definite. Exact. Precise.

Certified Copy

Ka peikutakanit mashinaikan

Copy of a document (usually a photocopy) on which the signature of an authorized person is shown to certify that this copy is identical to the original document.

Challenge for Cause

Papeikᵘ patshitinakanu ka uishamakaniht tshetshi utinakaniht ka peikunnueshiht ashu nishᵘ (12)

When a jury is being selected the prosecutor and the defence may object to the selection of a particular juror because the juror is not qualified to serve for one or more of a number of reasons set out in the Criminal Code. Some of these reasons are that the juror is not a Canadian citizen, or has been sentenced in the past to more than twelve months in jail, or is going to be biased against the Crown or the accused. Any number of such challenges may be made.

Challenging the Array

Mishkutinakanuat kassinu auenitshi ka uishamakaniht tshetshi utinakaniht ka peikunnueshiht ashu nishᵘ (12)

The list of people from among whom a jury will be selected is called an array. If the Crown or the accused, prior to a jury trial, believe that the court officer responsible for putting together the list deliberately chose the people in a biased or prejudiced way, or did something fraudulent in making the list, the whole list, or array, can be challenged.

Chambers (Judge's Office)

Tshishe-kamakunuesht umashinaikanitishuap

An old-fashioned word meaning rooms. It is still used to refer to a judge's office. Much legal business that does not have to be done while a court is in session is done in a judge's office and this is said to be done 'in chambers'. In practice, this kind of legal work is done in the courtroom where there is more space, but it is still referred to as chambers.

Change of Plea

E mishkutinak auen ka issishuet: tapuanu put ama tapuanu

At some point in every criminal proceeding an accused person is asked for her/his plea. s/he is usually expected to answer 'guilty' or 'not guilty'. This is her/his plea. It sometimes happens that an accused who has pleaded 'not guilty' asks to change her/his plea to

'guilty'. This is easily done. It happens less frequently that a person who has pleaded 'guilty' asks to change her/his plea to 'not guilty'. If the Crown Attorney does not agree to the change in plea, the accused will have to persuade the court why s/he should be allowed to do so. See also Plea.

Change of Venue

Ua mishkutinakanit kueshtetshe tshe ueshinitunanit

As a general rule, a trial takes place where the offence is alleged to have occurred. The place where the trial takes place is the venue of the trial. Occasionally, either the accused or Crown counsel apply to the court for the trial to take place in a different community for various reasons.

Change of Venue Application

Natuenitakanu tshetshi mishkutinakanit kueshtetshe tshe ueshinitunanit

As a general rule, a trial takes place where the offence is alleged to have occurred. The place where the trial takes place is the venue of the trial. Occasionally, either the accused or Crown counsel apply to the court for the trial to take place in a different community for various reasons. The judge considers this change of venue application and may change the venue if it is in the interests of justice.

Charge

Eshi ueueshiakanit

The alleged offence that an accused is said to have committed, and which the Crown must prove beyond a reasonable doubt.

Charge the Jury [also called Final Instructions]

Tshishe-kamakunuesht uauitamueu ka peikunnueshiht ashu nish^{u} (12) etashiniti, tan tshe ishpanit

A jury consists of twelve ordinary citizens who are not expected to know the law. The presiding judge in a jury trial often tells the jury that it and the judge are a team, the jury being responsible for

deciding what evidence to accept and the judge being responsible for telling the jury about those parts of the law it needs to know in the case it is judging. That part of the trial in which the judge tells the jury about the law is called the charge to the jury. It always takes place after all the evidence has been heard and after the lawyers have made their final speeches to the jury. When jury decisions are appealed to a higher court it is sometimes on the grounds that the judge made a mistake about the law during the charge to the jury.

Charter of Rights and Freedoms

Etashtet mashinaikan auen eshi tipenimushut mak tshetshi eka piuenimakanit

The Canadian Charter of Rights and Freedoms has been part of the Canadian Constitution, the highest law in the country, since 1982. In addition to guaranteeing everyone in Canada certain fundamental democratic rights such as freedom of conscience and religion, freedom of the press, and the right not to be discriminated against, the Charter lists a number of rights which are of the greatest importance where a person is accused of committing a criminal offence. The rights that are protected in this way include the right to be secure against unreasonable search or seizure, the right not to be imprisoned without good reason, the right to legal advice upon arrest and a number of other rights. The Charter gives a court power to exclude evidence if it is obtained in a way that breaches an accused's rights, or to give some other remedy such as a judicial stay of proceedings. The full text of the Charter is to be found in most editions of the Criminal Code.

Circumstantial Evidence

Tshekuan apatshitakaniti anite kaueshinitunanit eka ka tat kauapatshet

When the Crown, in a criminal case, wants to prove that with which the accused is charged, it usually tries to do so by calling evidence from the person or persons who actually witnessed the alleged offence. This is called direct evidence. However, it is not always possible to prove the alleged offence by direct evidence because it was not witnessed by anyone. It may still be possible to prove the offence by providing evidence of a number of other circumstances

surrounding the commission of the offence. When all the circumstances are looked at it may be that the judge or the jury will conclude that there is only one reasonable conclusion to come to and that is that the accused committed the offence. A case that depended on circumstantial evidence was the O.J. Simpson case. The prosecution was unable to produce any witnesses who saw the murders and tried to prove its case by evidence of blood stains, the behaviour of the accused at the time, etc. Circumstantial evidence may be used in non-criminal, or civil, cases also.

Civil Law

Ka ueshinitut

1. Private law: the rules that govern relationships between individuals or groups of individuals (as opposed to public law, the rules that govern disputes where the government is on one side of the dispute, as it is in criminal law cases). Includes contract, tort, property and corporate law. 2. The system of law used in most of Europe, and in Quebec, to govern private disputes. Any legal issues or disputes are resolved by referring to a comprehensive or complete 'code' (a book of rules) which is supposed to include all the law. Judges are obliged to obey the code, and do not necessarily have to do the same thing as another judge in a similar case. It is contrasted with case law or common law.

Closing Submissions

Tshishe-utshimau-ukakusseshima mak kauitshinuesht mashten tshika aimuat

These refer to the speeches made by the lawyers to the jury after all the evidence has been heard. Closing submissions generally consist of the theories of the two sides to the case, together with references to the evidence that supports the theories.

Committed to Stand Trial [see also Order to Stand Trial]

Ka nanatu-tshissenitakanit tshetshi ishpanit nete kamishta-ueshinitunanit

In all those cases where a person accused of a criminal offence has the choice of having a trial in the Supreme Court, that person is

entitled first to have a preliminary inquiry in the Provincial Court. This is a hearing similar to a trial. The main purpose of this inquiry is not to judge guilt or innocence but to decide whether there is sufficient evidence against the accused person to justify putting the matter before a jury or a Supreme court judge to decide whether the accused is guilty or not guilty. If it is decided that there is sufficient evidence, the accused is committed to stand trial.

Common Law

Tshishe-kamakunuesht ka ishi ushitat Kanata umashinaikannu

The system of law that governs private disputes in Canada outside of Quebec. Common law emerges over time as the courts decide many cases with similar facts, and develop a body of principles that link their decisions in similar cases. Judges make common law, not Parliament or legislatures, so we say common law relies on precedent rather than codified law or particular statute. Sometimes called case law, or referred to as unwritten law, or judge-made law. See also Case Law, Precedent.

Community Service

Tshishe-kamakunuesht itashumeu auen tshetshi atusset anite innu-assit muk^{u} ama tshishikuakanu

In criminal law a judge may order a person found guilty of an offence to perform a set amount of community service. This is unpaid work. It is a form of restitution to the community to compensate for the harm done by the offence. Community service has, of course, the ordinary meaning of voluntary work done by a person for the welfare of the community.

Complainant

Kamamishitshemut

The person who makes a complaint. In criminal law, the person who says that a crime has been committed.

Complaint

Mamishitshemun

The statement by a person that a wrong has been done to him/herself or another person.

Compulsion [also called Duress]

Aikamiakanu

The causing or compelling of a person to do something against that person's will. It is a defence, in criminal law, in some circumstances.

Concurrently

Mamu tapishkut

At the same time. If a person is convicted of two or more offences and is jailed for both or all of them, the sentences run either concurrently or consecutively. Thus a person sentenced to one month for one offence and one month for another offence to be served concurrently will only serve one month in total. See Consecutively.

Condition

Ueuetishinakanu kamakunakanit muk^{u} tshika ui tutam^{u} etashumakanit

Something that has to be done before something else will occur. I will lend you my snowmobile on condition you repair it. Or, a judge might allow a person who has been arrested to remain free before trial on conditions, such as: keep the peace and be of good behaviour, report to the police at certain times, etc.

Conditional Discharge

Patshitinakanu muk^{u} nakatuapamakanu

A conditional discharge is the same as an absolute discharge except that before the discharge becomes effective the person to whom it is granted must comply with one or more conditions. See Absolute Discharge, Discharge.

Confidential

Ama tshi uapatinuakanu tshekuan

Secret. Communications which are made on the understanding that they will be kept secret and not disclosed to unauthorized persons are made on a confidential basis.

Conflicting Inferences

Ama tapuetatishuat eshi tshissenitakuak

Where certain facts are known, an inference is a conclusion that it is reasonable and logical to come to, even though there is no direct evidence of that conclusion. For example, it is proved that a person was in a dwelling house and that the people of that house did not know the person. The person gave no explanation for his/her presence there. It is a reasonable inference that the person was there for an unlawful purpose. If different inferences are possible from the same set of facts and these conflict, they are conflicting inferences. In criminal law, in these circumstances, one would expect the benefit of the doubt principle to allow the innocent explanation to prevail.

Consciousness

Tshissenitamun

The state of being conscious, or aware.

Consecutively

Nishtam peik^{u} tshika tutakanu, minuat kutak tshe tutakanit

As opposed to concurrently. One after the other, not at the same time. For example, a person sentenced to two terms of imprisonment of one month each to be served consecutively would serve a total of two months. See Concurrently.

Consent

Tapuetam^{u}

Agreement. For example, an accused charged with sexual assault might say that s/he did have sexual relations with the complainant but says that it was with the consent of the complainant - that the complainant agreed to the activity in question.

Conspiracy

Ka tshimut tshekuannu eka minuanit ui tutamuat

The act whereby two or more persons confer secretly to do something unlawful.

Constitution

Mashinaikan ume pemipanikut Kanata

The supreme law of a country, that sets out the framework for government within a country. It says what different institutions of government (courts, legislatures, and executives) may or may not do, by defining the relationships between these institutions and also between individuals and the government. It is called the supreme law because all other laws and actions by government must obey constitutional law or principle. A constitution is not necessarily a written document - the United States has a written constitution, but England has an unwritten constitution that has developed over many years, and Canada has a combination of the two. See Constitution Act, 1982. R.S.C. 1985, App. II, No. 44.

Constitutional Law

Mashten mashinaikan ume pemipaninikut Kanata mak mishue tshekuannu tshishe-kamakunueshiht ka issishueht

The body of law, including the written constitution and court judgments which interpret it, which sets the limits on allowable government actions by judging whether or not laws or actions obey the constitution, or supreme law of the country. Just as regular laws say what people can and cannot do, the constitutional law says what governments can and cannot do.

Contempt of Court

Piuenitam^{u} anite kaueshinitunanit

The act of embarrassing a court by showing serious disrespect to that court or refusing to comply with an order of the court. Refusing to attend court when required to do so, refusing to answer questions, certain kinds of behaviour in court; all of these can be contempt of court.

Contend

Ui tapueu

To argue for a certain position. For example, "The Crown contended (or, it was the Crown's contention) that the delays in the case were the fault of the Defence."

Contradictory Evidence, Giving

Mishue iatapan issishueu tan katshi ishpanit

The giving of evidence that tends to disprove other evidence already given.

Conviction

Tapuemakanu mak umashinanikuakanu

Someone is found guilty of a criminal offence by judge or jury and gets a criminal record.

Court

Kaueshinitunanit

Place where trials are held and justice is rendered.

Court Docket

Mashinaikana etatiti tshe tshitapatakanua anite kaueshinitunanit

List of cases to be heard on a particular day.

Court House

Kaueshinitunanit mitshuap

Place where trials and held and justice is rendered.

Court of Appeal of Newfoundland and Labrador

Mashkutinakaniti kaueshinitunanit anite Newfoundland mak Naputau

The Canadian court system recognizes that judges can make mistakes. Therefore the decision of a judge can usually be reviewed by a higher court. In the Newfoundland and Labrador, the highest

appeal court is the Court of Appeal (Newfoundland and Labrador). The next highest court is the Supreme Court of Canada.

Court Order

Kaueshinitunanit itashumakanu

When a question or a dispute is brought before a court the parties who bring that question or dispute to the court expect the court to decide who is right, if one of them is. By going to court, the parties are agreeing that they will comply with what the court decides. This is the order of the court, and the parties must follow it.

Court, Provincial

Nashuk kaueueshinitunanit

The Provincial Court is the Court of first instance for all criminal and regulatory offences. Trials of the vast majority of such offences are concluded there. The Court serves as the Youth Court, Traffic Court, Small Claims Court for most civil claims up to $5,000.00, and - outside of those areas covered by the Unified Family Court Division of the Supreme Court - deals with most family law matters other than divorce or division of property under the Family Law Act. The Court also conducts inquiries into accidental or mysterious deaths or fires.

Court Registry

Kaueshinitunanit mashinaikana ka nakatuenitakaniti

Place where court orders are issued and files are kept and where various judicial tasks are performed.

Court, Supreme

Kamishta-ueshinitunanit

The Supreme Court of Newfoundland and Labrador is the superior court of civil and criminal jurisdiction in the province. It was created by the Judicature Act and has two divisions: Trial Division and Court of Appeal. The Chief Justice of Newfoundland and Labrador and five other justices make up the Court of Appeal. The Chief Justice of the Trial Division and nineteen other justices make up the Trial Division. It deals with civil claims, probate, administration and guardianship,

and family and criminal matters. It is also the appeal court for summary conviction and small claims matters heard in the Provincial Court.

Court, Supreme, of Canada

Kanata kamishta-ueshinitunanit

Canada's highest court and final court of appeal. This court consists of 9 judges and sits in Ottawa. The Supreme Court building is situated next to the Parliament buildings. The judges are drawn from across the country.

Credibility

Tan eshpish tapuetakanit

The believability of a witness or of a piece of evidence. In a trial, a court frequently hears conflicting evidence. The judge or the jury has to decide what evidence, if any, it considers to be reliable. The court has to assess credibility. It is important to understand that a court, in saying that it does not find a piece of evidence to be credible, is not necessarily saying that it thinks the witness from whom the evidence came is lying. The witness may be lying, but equally, an honest witness may be mistaken.

Crime [see also Offence]

E pikunak tshishe-utshimau umashinaikan

An action or omission that constitutes an offence that may be prosecuted by the state and is punishable by law.

Criminal Code of Canada

Tshishe-utshimau ute Kanata umashinaikan e apatshitakanit anite kaueueshtakanit

A major piece of federal legislation in which are listed nearly all the criminal offences existing in Canada. There are few criminal offences apart from those found in the Criminal Code. Some other federal statutes create criminal offences. The Code also contains the rules of criminal procedure.

Criminal Law

Mishue eshinakuati eshi pikunakanit tshishe-utshimau umashinaikannu ka ashtet

That body of law which deals with crime, its prosecution, the defence of accused persons and the punishment of persons convicted of crime.

Criminal Liability

Etamenimakanit nete kaueshinitunanit eka minu-tutak

Conduct which leaves a person open to being convicted of a crime is conduct for which a person is criminally liable.

Criminal Negligence

Ama apatenitamᵘ e tutak tshekuannu

Criminal Code, Section 219, defines Criminal Negligence as follows: Everyone is criminally negligent who (a) in doing anything, or (b) in omitting to do anything that it is her/his duty to do, shows wanton or reckless disregard for the lives or safety of other persons.

Criminal Prosecution

Eshi pimipanit anite kaueshinitunanit

The process of causing a person to be brought to court to answer to a criminal charge; the trial process. See Charge.

Criminal Record

Takuanua umashinaikana ka ishi-ueshiakanit nete utat

A record maintained by courts and the police of the criminal convictions entered against a person. Frequently, a witness, including the accused if s/he gives evidence, will be faced with her/his criminal record. In addition, where an accused person is convicted of an offence, the court that sentences the person may consider her/his criminal record.

Cross-examination

Tshishe-utshimau-ukakusseshima kukuetshimeu nenua kutaka kauapatsheniti ka peshuaniti kauitshinueshiniti; put kauitshinuesht kukuetshimeu nenua kutaka kauapatsheniti ka peshuaniti tshishe-utshimau-ukakusseshiminiti

This is the questioning of a witness by the lawyer for the opposing side. The object of cross examination is to obtain admissions from the witness favourable to the side the lawyer is representing. Cross examination is to be compared to direct examination, which is the questioning of a witness by the lawyer representing that witness' side. Different rules apply to the two forms of examination.

Cross-examining One's Own Witness

Tshishe-utshimau-ukakusseshima put kauitshinuesht tipan uin minuat kukuetshimeu nenua katshissenitak tan eshpanits

As a rule, lawyers are not allowed to cross-examine their own witnesses. This is because the court expects that the lawyer calling a witness has already evaluated the evidence of that witness and has decided that it is probably reliable. (Of course, the court makes the final decision as to the reliability of evidence.) However, it sometimes happens that a witness surprises the lawyer by giving evidence contrary to what was expected. In such circumstances, the court may give the lawyer permission to cross-examine his or her own witness.

Crown

Tshishe-utshimau

See Crown Counsel.

Crown Counsel / Crown Attorney / Crown Prosecutor

Tshishe-utshimau-ukakusseshima

In criminal cases, this is the lawyer who represents Her Majesty the Queen - that is, the government, the prosecutor.

Crown Election [see also Dual Procedure, Hybrid Offence]

Tshishe-utshimau-ukakusseshima tshika uauitam^{u} tan tshe ishi ueueshiakanit, (kamishta-ueueshitunanit put nashuk kaueueshitunanit)

The Crown counsel's choice of procedure in dual procedure/ hybrid offences. For such offences, the Crown has the descretionary power to decide whether to proceed, either summarily or by indictment. See Dual Procedure/Hybrid Offence.

Crown's Evidence

Tshishe-utshimau-ukakusseshima mishue tshekuana e apatshitat nenua tapuetat

The evidence for the prosecution, given by witnesses called by Crown counsel.

Crown's Opening Submissions

Tshishe-utshimau-ukakusseshima ushkat tshika aimu

In a jury trial, the lawyers are allowed to tell the jury, before the jury hears the witnesses called by them, what they expect their witnesses to say. The Crown always calls evidence first. The Crown's opening submissions provide an outline to the jury of what the Crown hopes to prove through the witnesses and help the jury to follow the evidence.

Culpable Homicide

Atamenitshakanu ka nipaiat auennua kutaka

The criminal law divides homicide into culpable and not culpable. Where homicide is not culpable it is not an offence. For example, it is not a crime to kill another person where this is done in self-defence. Culpable homicide is a criminal offence. It may be murder, or manslaughter, or infanticide. Criminal Code, Section 222. See Homicide.

Curfew

Kushtinakanu auen tshetshi ueuit tepishkaniti

A requirement or condition that a person remain indoors between specified hours, typically at night.

Custody

Makunakanu

1. The care and control of a thing. For example, where evidence such as weapons or drugs are kept in the custody of the Police. 2. Imprisonment. The accused was taken into custody.

Custody, Open

Makunakanu mak nakatuapamakanu muk^{u} ama tshipauakanu e tshishikat tshishkutmashuti put atusseti

A form of custody under the Youth Criminal Justice Act. It is distinguished from secure custody. Open custody is freer than secure custody which is more like regular jail. Young Offenders serving sentences of open custody often go to ordinary schools or jobs during the day and can be given permission to go out in the community for various functions.

Custody, Secure

Makunakanu

There are two forms of custody for young offenders, Open custody and secure custody. Secure custody is more like a real prison than open custody. Sometimes called closed custody.

Decision

Tshishe-kamakunuesht eshi tapuetasht put peikunnu ashu nish^{u} (12) eshi tapuetatut

The final result of a case, determined by a judge or jury. Also, a ruling on a question, such as the admissibility of a piece of evidence, arising within a case, decided by a judge.

Defence

Eshi mishkakanit tshekuannu nenu ka ueshiakanit eka tutak eshi uinikuin, kie eshi mishkakanit tshekuan tshipa tshi ut uitshiakanu auen

In criminal law, the legal response of an accused to the allegation by the Crown that s/he committed a criminal offence. There are many defences, and the law is open to considering new ones. The basic contention (See Contend) of any defence is that the Crown has not proven its accusation beyond a reasonable doubt and that the accused should therefore be found not guilty.

Defence Case

Mishue eshi mishkakanit ne eka etutak eshi ueshakanit

The evidence called by and the legal arguments made on the part of the defence, in a criminal or civil trial. The defence makes its case after the Crown in a criminal trial or after the plaintiff in a civil trial.

Defence Counsel

Kauitshinuesht

The lawyer representing the accused in a criminal trial or the defendant in a civil trial.

Defence of Property

Nakatenitamᵘ utapatshitaun

The law concerning what a person is allowed to do to defend her/his property, especially with respect to the use of force. Criminal Code, Sections 38-42.

Defence Opening Submissions

Kauitshinuesht ushkat tshika aimu

In a jury trial, the lawyers are allowed to tell the jury, before the jury hears the witnesses called by them, what they expect their witnesses to say. Defence has an opportunity to call evidence after the Crown closes its case. Sometimes, no evidence is called by defence. However, if defence does call evidence, it will unusally make opening submissions before doing so. The defence's opening submissions

provide an outline to the jury of what the defence hopes to prove through the witnesses and help the jury to follow the evidence.

Defences Available to Accused

Ishpeuashushun

In a jury trial the jury has to follow the law as the judge explains it. The judge will always explain to the jury what defences it may consider in the case. As a rule, there must be some evidence in the case giving rise to a defence. For example, the defence of self-defence would not be available to an accused in a murder case unless there was some evidence that the accused did what s/he did to protect her/himself from the deceased.

Defendant [also called Accused]

Kaueshiakanit

1. In criminal law, another word sometimes used for the accused. 2. In civil law, the term for the party against whom the case is brought, the party bringing the case being the plaintiff.

Deliberate (adjective) [also called Intentional]

Usht

Something done consciously and intentionally; on purpose.

Deliberate (verb)

***Mamitunenitam**u*

To consider, to think about what to do; e.g., the jury went out to deliberate.

Demeanour

Etenitakushit mak eshinakushit e tshitapamakanit

The outward appearance and behaviour of a person. In deciding what they think of the evidence of a witness, judges and juries consider the witness's demeanour. Does the witness appear to be forthright and honest? Did the witness try to answer the questions without trying to change the subject? Etc.

Diminished Capacity

Akushiutshenitakushu

A person is said to have diminished capacity where her/his ability to think and behave rationally and clearly has been reduced by age or illness. If a person's capacity is sufficiently diminished the courts will not accept as valid her/his signature to a will or other legal document.

Direct Evidence

Mishue tshekuan eshi mishkakanit katshi kukuetshimat tshishe-utshimau-ukakusseshima put kauitshinuesht tipan uin nenua katshissenitak

The evidence brought out by direct examination.

Direct Examination / Examination in Chief

Tshishe-utshimau-ukakusseshima put kauitshinuesht tipan uin kukuetshimeu nenua katshissenitak tan eshpanit

This is the questioning by a lawyer of a witness s/he has called in support of her/his case. Compared to cross-examination. Although many of the rules concerning the proper way of conducting direct examination and cross-examination are the same, some important ones are different. In direct examination the lawyer is supposed to ask questions in such a way that the answer is not suggested to the witness. In contrast, in cross-examination, it is quite correct to make suggestions to a witness.

Discharge

Patshitinakanu

To release a person from an obligation or a situation; e.g. "The accused was discharged following her/his acquittal by the jury", "The patient was discharged from hospital." See Absolute Discharge, Conditional Discharge.

Disclosure

Tshishe-utshimau-ukakusseshima tshika mineu kauitshinueshiniti mishue eshi tshissenitak tshe apatshitat

Commonly used in criminal law to mean the provision of details of the Crown's case to the defence. Usually it consists of copies of statements of witnesses and the accused given to the police. The courts have said that the Crown has an obligation to make complete disclosure to the defence.

Discredit

Nishtunakushu auen eka tapuetuakanit

Take away credibility; show that someone or something is not believable.

Discretion

Ititamᵘ shutshiunnu tshetshi tutak tshekuan

In law, discretion is a term that is used to indicate that an official, such as a judge, has power to decide a certain matter as s/he thinks best.

Discretionary Warrant

Mashinaikan tshe itashtet tshika tshi utinakanu put ama tshiak tshi utinakanu auen (eka takushinit kauishamikut kaueshinitunanit)

Where an accused or a witness does not appear in court when required to do so, the judge may issue a warrant, or order, for the arrest of that person. If it is unclear why the person did not appear, and if the person may have had a good excuse, the judge may ask that discretion be used by the police in executing the warrant. The idea is that a person should not be taken into custody except for very good reason.

Disfigure

Eti akuiakanit auen uiat

To damage the good appearance of a person. It is a factor in some cases of aggravated assault. E.g., "The victim's nose was broken so

badly that s/he was left permanently disfigured." Criminal Code, Section 268.

Dismissing the Charges [also called Acquittal]

Uepinakanu umashinaikannu

More correctly, dismissing the information. This is what the judge does when the defendant is found not guilty. It is the same as being found not guilty.

Disposing of Exhibits

Uepinakanua kauapatinuaniti tshekuana

After a trial is over, an order will be made by the judge saying what should be done with any items of evidence that were made exhibits in the trial. Some exhibits might be destroyed, e.g., weapons or drugs, and others may be returned to their owners. The exhibits might thus be disposed of in different ways.

DNA

Tipan eshinakushit auen anite uiat

Deoxyribonucleic Acid. A self-replicating material present in nearly all living organisms as the main constituent of chromosomes. It is the carrier of genetic information.

DNA order

Tshishe-kamakunuesht natuenitamᵘ tshetshi nanatu-tshissenitakaniti tipan eshinakushit auen anite uiat

A judge's order that a person must submit to a sample being taken of their DNA.

Doctor's Report

Natukuashtikushu umashinaikan

A written report from a physician.

Doctrine of Recent Possession

Atamenimakanu tanite uin anite matshima tau anita tshekuannu ka unitakanits

The unexplained possession, by an accused, of recently stolen property, is sufficient to allow a court to infer, or come to the conclusion, that the accused is guilty of theft, or a similar crime.

Driving Prohibition

Kushtinakanu tshetshi pimipanitat tshekuannu e pimipanit

Where a person is convicted of impaired driving the court must prohibit that person from driving for a period of time. In other offences involving motor vehicles the court may prohibit a convicted person from driving for a period. Criminal Code, section 259.

Dual Procedure [see also Hybrid Offence, Crown Election]

Tshishe-utshimau-ukakusseshima tshika uauitamᵘ tan tshe ishi ueueshiakanit, (kamishta-ueshinitunanit put nashuk kaueshinitunanit)

Terms given to those offences where the Crown has a choice, or election, to treat the offence either as a summary conviction or an indictable matter. If the Crown elects summarily, the accused may not have a jury trial but is subject to a lower maximum term of imprisonment. If the Crown elects to proceed by indictment the accused is entitled to a jury trial (except for absolute jurisdiction offences) but is liable to longer terms of imprisonment. See Absolute Jurisdiction Offence, Crown Election.

Duress [also called Compulsion]

Aikamiakanu

The causing or compelling of a person to do something against that person's will. It is a defence, in criminal law, in some circumstances.

Duty Counsel

Katshinuesht

Lawyer at court who can help the accused through the initial court process (not at trial); assists people who are arrested.

Dwelling Place/Domicile

Uitshit auen

A dwelling place is a person's home (includes an apartment or mobile home).

Elders

Tshishennuats

Mature and respected members of the community to whom others turn for advice and direction.

Election, Accused

Kauitshinuesht tshika uauitamᵘ tan tshe ishi ueueshiakanit, (kamishta-ueshitunanit put nashuk kaueshitunanit)

Except for absolute jurisdiction offences, where the accused cannot have a jury trial, and certain serious offences such as murder where an accused normally must have a jury trial, an accused who is tried on indictment can choose the court in which s/he is tried. s/he may be tried by a Provincial Court judge without a jury, by a Supreme Court judge without a jury or by a Supreme Court judge with a jury. This choice is called the accused election.

Election, Crown [see also Dual Procedure, Hybrid Offence]

Tshishe-utshimau-ukakusseshima tshika uauitamᵘ tan tshe ishi ueueshiakanit, (kamishta-ueshinitunanit put nashuk kaueshinitunanit)

See Dual Procedure/Hybrid Offence.

Election, Political

Takanakanu

The procedure in which citizens choose their representatives in Parliament, the Provincial or Territorial legislature, municipal councils and a wide range of other institutions, both governmental and private.

Empanelling

Uishamakanuat tshetshi apits nete peikunnu ashu nishᵘ (12) ka itashit

The process whereby the sheriff, a court official, arranges for a number of people in the community to be summoned to court for jury service.

Evidence

Mishue tshekuana e tshi uapatinuet put e tshi petakanits

Information with respect to a matter being considered by a court, provided usually through witnesses who have sworn under an Oath or Solemn Affirmation to tell the truth. The court considers this evidence, and only this evidence, in deciding the matter.

Evidence, Admissible

Tapuetakanu tshetshi apatshitakanit mishue tshekuana e tshi uapatinuet put e tshi petakanits

In order to make its decisions a court relies upon evidence, given by a witness or witnesses (a witness is a person who heard, saw, did, or knows something relevant about the case). There are many rules which determine whether or not a piece of evidence will be accepted by a court. Evidence which will be accepted, as conforming to these rules, is called admissible evidence. Evidence which does not conform to the rules will not be accepted and is termed inadmissible. See also Evidence, Witness.

Evidence Against the Accused

Eshi mishkakanit tshekuannu tshe ishi ueueshiakanit

Evidence which is indicative that the accused is guilty of the offence charged.

Evidence, Circumstantial

Tshekuan apatshitakaniti anite kaueshinitunanit eka ka tat kauapatshet

When the Crown, in a criminal case, wants to prove that with which the accused is charged, it usually tries to do so by calling evidence

from the person or persons who actually witnessed the alleged offence. This is called direct evidence. However, it is not always possible to prove the alleged offence by direct evidence because it was not witnessed by anyone. It may still be possible to prove the offence by providing evidence of a number of other circumstances surrounding the commission of the offence. When all the circumstances are looked at it may be that the judge or the jury will conclude that there is only one reasonable conclusion to come to and that is that the accused committed the offence. A case that depended on circumstantial evidence was the O.J. Simpson case. The prosecution was unable to produce any witnesses who saw the murders and tried to prove its case by evidence of blood stains, the behaviour of the accused at the time, etc. Circumstantial evidence may be used in non-criminal, or civil, cases also.

Evidence, Crown

Mishue tshekuana e tshi uapatinuet put e tshi petakanits ka petat tshishe-utshimau-ukakusseshima

The evidence for the prosecution, given by witnesses called by Crown counsel.

Evidence, Direct

Tshishe-utshimau-ukakusseshima put kauitshinuesht mishue tshekuana e tshi uapatinuet put e tshi petakanits

The evidence brought out by direct examination.

Evidence, Giving Contradictory

Mishue iatapan issishueu tan katshi ishpanit

The giving of evidence that tends to disprove other evidence already given.

Evidence, Inadmissible

Ama tapuetakanu tshetshi apatshitakanit mishue tshekuana e tshi uapatinuet put e tshi petakanit

In order to make its decisions a court relies upon evidence, given by a witness or witnesses (a witness is a person who heard, saw, did, or

knows something relevant about the case). There are many rules which determine whether or not a piece of evidence will be accepted by a court. Evidence which will be accepted, as conforming to these rules, is called admissible evidence. Evidence which does not conform to the rules will not be accepted and is termed inadmissible.

Evidence, Insufficient

Ama ishpanu tshekuana e tshi uapatinuet put e tshi petakanits

See Essential Elements. The Crown must offer proof of each essential element. Where there is no proof of one or more of the essential elements, there is insufficient evidence and the accused cannot be convicted. Even where there is some evidence on each element, the trier of fact, the judge or the jury, may feel that the evidence is insufficient for a conviction, that the evidence is just not enough.

Evidence, Review of

Tshishe-kamakunuesht uitamueu peikunnu ashu nishᵘ (12) eshi mishkakanit tshekuana

This is one of the components of the charge to the jury in a jury trial. The judge surveys the evidence of the case in summary form for the benefit of the jury. s/he usually points out to the jury, when s/he does this, that it is the jury's recollection of the evidence that is important and that, if the jury does not agree with her/his summary of the evidence, it is expected to act on its own recollection. Twelve people, who often understand both Innnu-aimun and English, are usually better able to remember the evidence than one judge who only understands English.

Evidence, Unsworn

Apatshitakanu enu essishuet auass

1. A person under the age of 14 or of limited mental capacity who does not understand the nature of an oath or solemn affirmation, but who is still able to communicate the evidence, may be permitted to give evidence on promising to tell the truth. Canada Evidence Act, Section 16. 2. The Supreme Court of Canada, has made it possible for unsworn evidence to be received by a court when the court is of the

opinion that the unsworn evidence meets tests of necessity and reliability.

Evidence, Weigh the

Minu-uauapatamᵘ eshi ueshiakanit

To weigh the evidence is just an expression that means to consider carefully the evidence. It is what a judge or a jury is expected to do before making a decision.

Examination, Direct / Examination in Chief

Tshishe-utshimau-ukakusseshima put kauitshinuesht tipan nenua uinuau pieshuat kukuetshimeuat nenua kauapatshet

This is the questioning by a lawyer of a witness s/he has called in support of her/his case. Compared to cross-examination. Although many of the rules concerning the proper way of conducting direct examination and cross-examination are the same, some important ones are different. In direct examination the lawyer is supposed to ask questions in such a way that the answer is not suggested to the witness. In contrast, in cross-examination, it is quite correct to make suggestions to a witness.

Exclusion of Witnesses

Kushtinakanu kauapatshet tshetshi pitutshet anite kaueshinitunanit eshkᵘ eka aimit

Order to have witnesses remain outside the courtroom before testifying.

Excuse from Jury Duty

Patshitinakanu auen nete ka peikunnueshiht ashu nishᵘ (12)

When a person receives a summons for jury duty the law requires her/him to attend unless s/he is excused by the judge.

Exempt Occupations

Passe ka atussets ama tapuetuakanuats tshetshi apits nete peikunnu ashu nishᵘ (12)

Jobs which allow those people doing them to be excused from a duty which all others have to perform. For example, the Newfoundland and Labrador Jury Act, 1991 disqualifies certain occupations from jury duty. See section 5 of the Jury Act, 1991.

Exhibit

Tshekuan tshe uapatinuat anite kaueshinitunanit

A piece of physical evidence, e.g., a document, a weapon, video, photograph, a narcotic etc., produced to a court in a trial. Also used as attachments to an affidavit.

Exhortation to a Hung Jury

Shitshimakanuat peikunnu ashu nishᵘ (12) ka atashiht tshetshi minuat uauitak, nenu eka katshi tapuetatishut

In a criminal trial the verdict of the jury must be unanimous. Sometimes the twelve people of the jury cannot agree. This is known as a hung jury. When this situation occurs, and the jury tells the judge that it cannot agree, the judge usually asks the jury to try again to reach agreement, explaining that if the jury is unable to agree it will be necessary to declare a mistrial and start all over again with a new jury. The judge can only exhort, or encourage, the jury to try to reach agreement. s/he cannot insist.

Expert

Kamishta-tshissenitak

Someone who possesses expert skill or knowledge in a particular field.

Expert, Ballistics

Kamishta-tshissenitak passikana kie kutakinu tshekuannu e passitshemakaniti

Experts on the properties and behaviour of firearms and other weapons (e.g., bow and arrow) that can hurl a projectile (such as a bullet) through the air.

Expert, Breathalyzer

Kamishta-tshissenitak shitakunapui put ishkuteuapui anite umikut

A person who has studied the breathalyzer machine and its workings to such an extent that judges are willing to accept that they are experts and receive opinion evidence from them.

Expert, Fingerprint

Kamishta-tshissenitak eshi mashinatshepaniti utitshia

Everyone's fingerprints are different. In committing a crime, the criminal often leaves her/his fingerprints on various surfaces. These can be seen and studied for comparison with the fingerprints of known criminals, a record of which is kept by the police. The specialists who do this work are fingerprint experts. If fingerprint evidence is used in court it would be explained by one of these experts.

Expert, Fire

Kamishta-tshissenitak eshi ishkuatet

Specialists in determining the cause of fires. Often called as expert witnesses in arson cases.

Expert, Handwriting

Kamishta-tshissenitak eshi mashinaikanits

A specialist who analyzes samples of handwriting to give her/his opinion as to whether it is the handwriting of a certain person, or a forgery.

Expert Witness

Kamishta-tshissenitak

Expert who testifies in court. The court must first qualify someone as an expert witness before they can testify as such. This requires an inquiry into the person's education, work experience and other qualifications.

Explicit

Nasht nishtutakuan

Clear, in detail, certain. See Implicit.

Extrajudicial Measures

E uevetashumakanit auass eka ueshiakanit

Measures other than court proceedings used to deal with a young person who has allegedly committed an offence. Examples include police warnings and cautions, referrals to community programs and extrajudicial sanctions.

Extrajudicial Sanctions

Ama ueshiakanu auass muk^{u} itashumakanu tshetshi atusset nete utassit

A program which may be used to deal with a young person alleged to have committed an offence that cannot be dealt with by a warning, caution or referral.

Eyewitness

Kauapatak

A person who saw what occurred.

Failure to Appear

Ama tau auen uaueshiakanit

Where an accused or a witness does not go to court despite being ordered to do so. Unless there is a good excuse such a person may be convicted of a criminal offence. Criminal Code, Section 145(2).

Failure to Comply [see also Breach]

Ama tutam^{u} etashumakanit

Where a person is ordered to follow certain conditions, whether as part of a release document (such as an undertaking) or probation, s(he) must abide by those conditions. If s(he) fails to follow one or more of the conditions, they may be charged criminally for failure to comply.

Failure to Stop at the Scene of an Accident

Etapatau katshi pishtauat auennua

Failing to stop one's vehicle, vessel or aircraft when involved in an accident, to identify oneself or to offer assistance to victims, in order to escape civil or criminal liability. See section 252 of Criminal Code.

False Pretence

Kakatshinaushtau

Willfully making a false representation of fact with the intent to induce the person to whom it is made to act upon it. See section 361 of the Criminal Code.

Family Law

Tanite ka ashtets tshishe-utshimau umashinaikan eshi nakanituenimakanit, ka nakatuts, put auassats e ishi uitshiakanits

An area of law dealing with family matters, including such areas as divorce, adoption, paternity, custody, and support.

Fear

Kushtatshu

The emotion of being afraid.

File (verb)

Minuanu mashinaikana nete kaueshinitunanit

To give the court a copy of any documents relating to a court case, for example, an application or an affidavit. The court keeps a

complete set of documents, and it is up to the lawyers or parties to provide the court with the necessary documents at the required time.

Final Instructions [also called Charge the Jury]

Tshishe-kamakunuesht uauitamueu ka peikunnueshiht ashu nishᵘ (12) etashiniti, tan tshe ishpanits

A jury consists of twelve ordinary citizens who are not expected to know the law. The presiding judge in a jury trial often tells the jury that it and the judge are a team, the jury being responsible for deciding what evidence to accept and the judge being responsible for telling the jury about those parts of the law it needs to know in the case it is judging. That part of the trial in which the judge tells the jury about the law is called the charge to the jury. It always takes place after all the evidence has been heard and after the lawyers have made their final speeches to the jury. When jury decisions are appealed to a higher court it is sometimes on the grounds that the judge made a mistake about the law during the charge to the jury.

Final Submission

Tshishe-utshimau-ukakusseshima mak kauitshinuesht mashten tshika aimuat

What the lawyers say to the court at the end of the court proceeding before a decision is made on a particular issue.

Fine

Tshika tshishikashu eshi anuenimakanit

The punishment of having to pay money to the court.

Fingerprint Expert

Kamishta-tshissenitak eshi mashinatshepaniti utitshia

Everyone's fingerprints are different. In committing a crime, the criminal often leaves her/his fingerprints on various surfaces. These can be seen and studied for comparison with the fingerprints of known criminals, a record of which is kept by the police. The specialists who do this work are fingerprint experts. If fingerprint

evidence is used in court it would be explained by one of these experts.

Fire Expert

Kamishta-tshissenitak eshi ishkuatet

Specialists in determining the cause of fires. Often called as expert witnesses in arson cases.

First Appearance

Ushkat ueshiakanit anite kaueshinitunanits

The first occasion on which a person charged with an offence goes to Provincial Court in connection with that charge.

First-Degree Murder

Uevеshitau tshe ishi nipaiat auennua

Murder is first-degree murder when it is planned and deliberate. It is more serious than second-degree murder. The minimum sentence for first-degree murder is imprisonment for life without the possibility of parole for 25 years. Criminal Code, Section 231.

Fit to Stand Trial

Minushiu tshetshi ueshiakanit

A person is unfit to stand trial who, because of mental disorder, is unable to understand the proceedings, or its consequences, or communicate with a lawyer. All others are fit to stand trial. Criminal Code, Sections 2 & 672.1. See Unfit to Stand Trial.

Foreperson

Utshimakatakanu peikᵘ anite peikunnu ashu nishᵘ (12) ka itaht

A person selected by the members of a jury to act as a chairperson in its deliberations.

Forfeiture

Unitau utapatshitaun put ushuniam

The loss of a right, money, or property, because of one's criminal act, default, or failure or neglect to perform a duty.

Fraud

Ueshimeu tshetshi tshimutit

Wrongful or criminal deception intended to result in financial or personal gain.

Genuine

Nasht an tshekuan

The real thing, not fake. It is a word used in the offence of using a forged document. Criminal Code 1996, Section 368.

Giving Contradictory Evidence

Mishue iatapan issishueu tan katshi ishpanit

The giving of evidence that tends to disprove other evidence already given.

Guilty

Tapuanu eshi ueshiakanit

The finding of a court that the accused is to be blamed for the offence with which s/he was charged. Something done wrong that a person can be blamed for.

Guilty as Charged

Tapuanu eshi ueshiakanit

The verdict that an accused is guilty of the exact offence with which s/he was charged.

Guilty of a Lesser Included Offence [also called Lesser Included Offence]

Tapuanu muk^{u} atshunakanu eshi ueshiakanit

The verdict that an accused is guilty, not of the exact offence with which s/he was charged, but with a less serious offence, all of the essential elements of which are included in the essential elements of the more serious offence. Thus a person might be found not guilty of assault with a weapon, but guilty of common assault.

Handwriting, Expert

Kamishta-tshissenitak eshi mashinaikanits

A specialist who analyzes samples of handwriting to give her/his opinion as to whether it is the handwriting of a certain person, or a forgery.

Hearing

Nanatu-tshissenitakanu anite kaueshinitunanits

A general term for any court procedure in which evidence is taken and legal argument made.

Hearing, Sentencing

Nanatu-tshissenitakanu tan tshe ishi anuenimakanit auen

This is a hearing (court proceeding) before the judge in which both the Crown lawyer and the defence lawyer put forward their recommendations on what sentence should be imposed after an accused has either been found guilty after a trial or plead guilty. Witnesses are often called, and evidence put forward to help the judge decide what sentence should be handed down.

Heat of Passion

Uesham tshishuapu

A loss of self-control involving great anger. Culpable homicide that would otherwise be murder may be reduced to manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation. Criminal Code, Section 232.

Homicide

Nipaiakanu auen

The killing of one person by another.

Homicide, Culpable

Atamenishakanu ka nipaiat auennua kutaka

The criminal law divides homicide into culpable and not culpable. Where homicide is not culpable it is not an offence. For example, it is not a crime to kill another person where this is done in self-defence. Culpable homicide is a criminal offence. It may be murder, or manslaughter, or infanticide. Criminal Code, Section 222. See Homicide.

Homicide, Non-culpable

Ama atamenishakanu ka nipaiat auennua kutaka

The killing of a human being that is not a criminal offence. For example, self defence: When a person kills another person only because it was necessary to do so to save her/himself or someone under her/his protection.

Hung Jury

Ama tshi tapuetatuats anitshenat ka peikunnueshiht ashu nishᵘ (12)

A jury of 12 persons who are unable to decide on the verdict of the case they are judging.

Hybrid Offence [also called Dual Procedure, Crown Election]

Tshishe-utshimau-ukakusseshima tshika uauitamᵘ tan tshe ishi ueueshiakanit, (kamishta-ueueshitunanit put nashuk kaueueshitunanit)

Terms given to those offences where the Crown has a choice, or election, to treat the offence either as a summary conviction or an indictable matter. If the Crown elects summarily, the accused may not have a jury trial but is subject to a lower maximum term of

imprisonment. If the Crown elects to proceed by indictment the accused is entitled to a jury trial (except for absolute jurisdiction offences) but is liable to longer terms of imprisonment. See Absolute Jurisdiction Offence, Crown Election.

Illegal [also called Unlawful]

Pikunakanu tshishe-utshimau umashinaikan ka itashtenit

Contrary to or forbidden by law.

Impact of the Offence

Tan tshe itit auen e pikunak tshishe-utshimau umashinaikan

The consequences of an offence for its victim(s).

Impaired

Ama shuk^{u} tshi tutam^{u} tshekuannu

Reduced ability to perform a task. It is a term most commonly found in the offence of driving a motor vehicle when under the influence of alcohol or a drug. Criminal Code, Section 253(a).

Impartial

Mishue tapishkut iatuakanuat auenitshi

Not favouring one side nor the other; fair.

Implicit

Ama shuk^{u} nishtutakuan muk^{u} enuet tshissenitakuan essishuanut

Implicit: Something that is not clearly stated in a statement or behaviour but is contained within the meaning of the statement or behaviour when properly understood. E.g. "Implicit in the unusually heavy fine imposed by the judge was her/his severe disapproval of the accused's behaviour."

Implied

Ama shuk^{u} nishtutakuan muk^{u} enuet tshissenitakuan essishuanut

Implied: That which is not clearly expressed in words but is, logically, part of the meaning of a statement or pattern of behaviour. E.g., "By making no reference to his son in his will, the testator implied that he had no love for him."

Imprisonment

Makunitun

The act of placing a person in prison (jail/gaol).

Inadmissible Evidence

Ama tapuetakanu tshetshi apatshitakanit mishue tshekuana e tshi uapatinuet put e tshi petakanits

In order to make its decisions a court relies upon evidence, given by a witness or witnesses (a witness is a person who heard, saw, did, or knows something relevant about the case). There are many rules which determine whether or not a piece of evidence will be accepted by a court. Evidence which will be accepted, as conforming to these rules, is called admissible evidence. Evidence which does not conform to the rules will not be accepted and is termed inadmissible.

Incoherent

Ama nishtutakushu e aimit

Unable, because of emotional distress or physical disability, to make sense. E.g., "The witness collapsed in tears and became completely incoherent. The judge took a break for a few minutes while the witness calmed down and was ready to continue answering questions."

Independent

Uin uetashumushu

Able to operate and make decisions without being influenced by others. An important idea with respect to the courts, judges and lawyers. E.g., "The accused was satisfied that her/his lawyer would

not be influenced by what was being said on TV and in the newspapers, and that s/he could expect her/his lawyer to defend her/his without fear of anything other than the law."

Indictable Offence

Akua-itenitakuannu eshi ueshiakanit

An offence which, except in the few absolute jurisdiction offences, can be tried by a jury.

Indictment

Mashinaikan eshi uauitakanit tshe ishi ueshiakanit auen nete mishta-kaueshinitunanits

The document containing the words of the charge against an accused which is given to the jury so that it can see what the Crown has to prove. Also used in Supreme Court trials without a jury.

Infanticide

Ukaumau usht ka nipaiat utauassimisha

A mother purposely killing her newborn child.

Inference

Tshissenitakuan

Where certain facts are known, an inference is a conclusion to which it is reasonable and logical to come, even without direct evidence of the conclusion.

Inferences, Conflicting

Ama tapuetatishuats eshi tshissenitakuak

Where certain facts are known, an inference is a conclusion that it is reasonable and logical to come to, even though there is no direct evidence of that conclusion. For example, it is proved that a person was in a dwelling house and that the people of that house did not know the person. The person gave no explanation for his/her presence there. It is a reasonable inference that the person was there for an unlawful purpose. If different inferences are possible from the same set of facts and these conflict, they are conflicting inferences.

In criminal law, in these circumstances, one would expect the benefit of the doubt principle to allow the innocent explanation to prevail.

Informant

Kamakunuesht ka mashinaushut mashinaikannu put ne auen tshimut ka atushkuat kamakunueshiniti

The person who lays an information, i.e., makes a written complaint of criminal behaviour under oath. Also a person who provides information of criminal activity to the police, secretly. The law provides special protections for such people because it is believed that they are necessary for the suppression of crime.

Information

Mashinaikan eshi uauitakanit tshe ishi ueshiakanit auen nete nashuk kaueshinitunanits

The complaint, in writing and under oath, by an informant, that a criminal offence has been committed. Most often, the information is sworn by the investigating police officer, after her/his investigation gives her/him a reasonable basis to believe that an offence has been committed. It is the beginning of criminal proceedings against an accused.

Injunction

Itashumakanu tshetshi nakak tshekuannu mak tshetshi eka tutak tshekuannu

A judicial order that restrains a person from beginning or continuing an action threatening or invading the legal right of another, or that compels a person to carry out a certain act.

Injuries

Eshi ushikuiakanit

Damages to a person, physical and otherwise.

Inmate [also called Prisoner]

Kamakunakanit

A prisoner in a correctional institution or jail.

Insanity

Tshishkueu

Madness. Insanity used to have a special legal meaning whereby an accused might be found not guilty by reason of insanity. The law no longer speaks of insanity, but rather mental disorder.

Insufficient Evidence

Ama mishkakanu tshekuan tshetshi ueshinikut

See Essential Elements. The Crown must offer proof of each essential element. Where there is no proof of one or more of the essential elements, there is insufficient evidence and the accused cannot be convicted. Even where there is some evidence on each element, the trier of fact, the judge or the jury, may feel that the evidence is insufficient for a conviction, that the evidence is just not enough.

Intent

Itenitam^{u} tshetshi tutak

A person is said to have acted with intent when they take action or fail to take action where there is or should be an awareness of the consequences of their action or failure to act. A person does not necessarily have to want a particular thing to happen, nor does intent refer to a reason or a plan to do wrong. They simply must act in a way that creates a risk of an outcome that could injure another person or their property. Intent can be very important when a judge is trying to determine someone's civil or criminal liability. The government has the power to decide how much intent is required to find someone liable - so for some harmful acts, such as pollution, the government will decide that a lawyer must only prove that a person did not take the proper precautions against pollution, not necessarily that they were aware of a particular danger; for others, such as drunk driving, the lawyer need not prove anything about intent, simply that a person was impaired due to alcohol.

Intention

Itenitam^{u} tshetshi tutak

The mental determination to do something. Not an accident. See Intent.

Intentional [also called Deliberate]

Usht

Deliberate, not accidental.

Intermittent Sentence

Makunakanu muk^{u} mashten atushkan mak minashtakan, nuash kuet tshishtat eshi makunakanit

A jail sentence that does not have to be served all at once but can be broken up to be served, for example, on weekends. Only available for sentences of 90 days or less. Enables people to keep their jobs.

Intoxicated

Matenitam^{u} eminit mak e matshi-natukun ka tshishkushkatsheti

Under the influence of alcohol or a drug.

Investigation

Nanatu-tshissenitakanu

Inquiry. The process of discovering what happened. Used to describe what the police do when someone complains that a crime was committed.

Involuntary Admission

Kushtatshimakanu tshetshi uitak ka tutak tshekuannu

See Police Warning.

Issue

Ne tshekuan ka uauitakanits

Something that is in question, that has to be resolved by a judge, after the lawyers have had an opportunity to say how they suggest it should be resolved.

Jail/Gaol

Kamakunitunanit

Prison. A place where people are confined to serve a prison sentence.

Joyriding

Papamipanu mak mametuatsheu

The criminal offence of taking a motor vehicle without the owner's consent, with intent to drive it. A summary conviction offence. Criminal Code, Section 335.

Judge

Tshishe-kamakunuesht

A legal official whose duty is to decide cases. Supreme Court judges are appointed by the Federal Minister of Justice and Provincial Court judges and Justices of the Peace are appointed by the Provincial Minister of Justice. Judges enjoy security of tenure which means that the government which appointed them cannot dismiss them. Thus judges do not have to fear political interference with their decisions. For the occasional judge who behaves in a disgraceful manner there is a process which can lead to his or her removal.

Judge of the Evidence and the Facts

Uinuau ka peikunnueshiht ashu nish^{u} (12) tshekuannu tshe apatshitats patukatakanits

More usually judge of the facts. This is a reference to the jury. The jury is responsible for deciding what evidence should be accepted, what are the facts of the case. In a jury trial, the presiding judge always tells the jury that the jury is the judge of the facts and the judge is the judge of the law.

Judge of the Law

Tshishe-kamakunuesht uitamueu eshinakuanits ka peikunnueshiht ashu nish^{u} (12) etashtanits tshishe-utshimau umashinaikan

Only the judge, in a jury trial, may say what is the law that is to be applied in the case being tried. The jury, having been told, or instructed on, the law, then decides what are the facts of the case.

Judge, Provincial Court

Nashuk kaueshinitunanit tshishe-kamakunuesht

A judge who has the authority to hear and try cases in the Provincial Court of Newfoundland and Labrador.

Judge, Supreme Court

Tshishe-kamakunuesht kamishta-ueshinitunanit

A judge who has the authority to hear and try cases in the Supreme Court of Newfoundland and Labrador.

Judge's Opening Address

Tshishe-kamakunuesht uitamueu ka peikunnueshiniti ashu nish^{U} (12) tshe tshishipanits umenu tshe ueueshtakanits

A short explanation of trial procedure given by the judge to the 12 people actually chosen to be the jury.

Judgment

Tshishe-kamakanuesht uetashueun

The decision of the judge on the final disposition of the case.

Judicial Interim Release [also called Bail Hearing or Show Cause Hearing]

Tshetshi kukuetshimakanit tshishe-kamakunuesht tshetshi ueuit kamakunakanit

A court proceeding in which a decision is made whether or not a person charged with an offence is to be released before the trial or kept in custody.

Judiciary

Mishue tshishe-kamakunueshits

All judges, collectively.

Jurisdiction

Uin anita uetshimaut tshika ueuetashumitamᵘ anite kaueshinitunanit

A very broad term essentially meaning power. Different courts have different jurisdictions, or powers. The Provincial Court, for example, does not have jurisdiction to conduct a jury trial. Jurisdiction also refers to the place where the court has power. For example, the Provincial Court of Alberta has no jurisdiction to try cases in the Northwest Territories. Jurisdiction can be physical - within a particular territory or province. It can also be legal - within the authority of a particular court or government agency.

Juror

Peikᵘ auen nete peikunnu ashu nishᵘ (12) ka utinakaniht tshetshi apits anite mishta-kaueshinitunanit

One of a group of twelve people from the community in criminal cases and six people in civil cases whose duty is to listen to the evidence of the case and decide what evidence should be accepted. Having done this, the jury, in a criminal case, decides whether the accused is guilty or not guilty. In a civil case, the jury decides in favour of the plaintiff or the defendant. The jury is always instructed on how to apply the law to its decision by a judge who is legally trained.

Jury

Peikunnu ashu nishᵘ (12) ka utinakaniht auenitshi tshetshi apiht anite mishta-kaueshinitunanit

A group of twelve people from the community in criminal cases and six people in civil cases whose duty is to listen to the evidence of the case and decide what evidence should be accepted. Having done this, the jury, in a criminal case, decides whether the accused is guilty or not guilty. In a civil case, the jury decides in favour of the plaintiff or the defendant. The jury is always instructed on how to apply the law to its decision by a judge who is legally trained.

Jury, Hung

Ama tshi tapuetatuats anitshenat ka peikunnueshiht ashu nishᵘ (12)

A jury of 12 persons who are unable to decide on the verdict of the case they are judging.

Jury is Sequestered

Ka peikunnueshiht ashu nishᵘ (12) tshipauakanuat

After a jury has heard all the evidence, the speeches of the lawyers and the charge, it is kept together and apart from other people until it makes a decision. We say then that the jury is sequestered.

Jury List

Ka uinakanits auenitshi tshetshi utinakanits ka peikunnueshiht ashu nishᵘ (12) etashiht

The list of the people ordered to appear in court to perform jury service if selected. The list is compiled by the sheriff.

Keep the Peace

Nakatuenimushu auen

A condition of all probation orders. To stay out of trouble. Do not break any laws.

Kidnapping

Utshipitakanu eka tapuetak auen

A very serious criminal offence in which a person is captured and held against her/his will.

Law [also called Act, Legislation, Statute]

Tshishe-utshimau umashinaikan eshi pimipanit

An Act of Parliament or an act of the Provincial Legislature is a law (or statute).

Lawful [also called Legal]

Ama pikunakanu tshishe-utshimau umashinaikan ka itashtenit

Permitted or allowed by law.

Lawyer

Kauitshinuesht put tshishe-utshimau-ukakusseshima

A professional person authorized to practice law; conducts lawsuits or gives legal advice. Also called an attorney or counsel.

Lawyer, Defence [also Counsel]

Kauitshinuesht

The lawyer representing the accused in a criminal trial or the defendant in a civil trial.

Lawyer, Legal Aid

Kauitshinuesht

Lawyer who is employed by the Legal Aid Commission.

Lawyer, Prosecution [also called Crown Counsel]

Tshishe-utshimau-ukakusseshima

In criminal cases, this is the lawyer who represents Her Majesty the Queen - that is the government, the prosecutor.

Leading Question

Ui itikushiu tshekuannu ua petak

A leading question is one which suggests an answer. Leading questions are characteristic of cross examination. "Where were you on the night of 20th January?" is not a leading question. "Do you agree that on the night of 20th January you were drinking at the Legion?" is a leading question. Normally, a lawyer is not allowed to ask leading questions of her/his own witnesses, but only of the witnesses for the other side.

Leave of the Court

Tapuetakanu anite kaueshinitunanit

Permission of the court.

Legal [also called Lawful]

Ama pikunakanu tshishe-utshimau umashinaikan ka itashtenit

Permitted or allowed by law.

Legal Aid Application

Mashinaikan tshika tutamᵘ auen tshetshi uitshikut kauitshinuesht

A form which must be filled out when a person involved in a court case wants a Legal Aid lawyer to represent him/her throughout the court proceedings. The application has to be approved before a lawyer can be assigned. Sometimes the application is rejected or denied for various reasons.

Legal Aid Commission

Kauauitshinueshits

A government program designed to provide lawyers free, or at reduced cost, to those who cannot afford to pay the full rate.

Legal Aid Lawyer

Kauitshinuesht

Lawyer who is employed by the Legal Aid Commission.

Legislation [also called Act, Law, Statute]

Tshishe-utshimau umashinaikan eshi pimipanit

A law, or piece of legislation, made by the Parliament of Canada or the Legislative Assembly of a Province or Territory, for example, the Child, Youth and Family Services Act.

Lesser Included Offence [also called Guilty of a Lesser Included Offence]

Nashikunakanu nenu ka ishi ueshiakanit

The verdict that an accused is guilty, not of the exact offence with which s/he was charged, but with a less serious offence, all of the essential elements of which are included in the essential elements of the more serious offence. Thus a person might be found not guilty of assault with a weapon, but guilty of common assault.

Liability

Tshipa ueshiakanu put atamenakanu

Legal responsibility. The condition of being answerable in law for doing something or not doing something. See Criminal Liability.

Limitation Periods

Minakanu tshishikunnu eshkᵘ eka tshipanakanu mashinaikan tshetshi tutakanit

In civil law, and to a lesser extent in criminal law, the law provides deadlines, before which a court case must be started. These are calculated from the time of the incident giving rise to a possible lawsuit. They vary from periods of months to years. Some civil limitation periods are listed in the Newfoundland and Labrador Limitations Act. Summary Conviction offences, in criminal law, must usually be prosecuted before six months from the time of the alleged offence.

Maim

Mishta-ushikuieu

To injure a person seriously enough to cripple her/him.

Manslaughter

Ueshamieu e nipaiat

Culpable homicide that is not murder. The killing of another human without justification but also without the intent that makes murder more serious. Criminal Code, Section 234.

Medical Examiners

Natukuashtikushu ka natu-tshissenimat eshi nipiniti auennua

A public official in some jurisdictions responsible for investigating suspicious deaths.

Medication

Natukuna

The medicines taken by a patient, prescribed by a doctor.

Memory

Tshissitamun

The ability to remember things from the past.

Mens Rea

Tshissenitam^{u} e tutak enu eka menuanits

Criminal intention. A criminal offence consists of both a wrongful act and the intention to commit that act. The wrongful act is referred to by the Latin term actus reus. The intention to commit that act is called mens rea. Committing a wrongful act, or actus reus, without the intention of doing so is not a criminal offence. For example, if I take your snowmobile beliving it to be my own, I have not committed theft.

Mental Disability

Ama tau passe

Any condition that causes the sufferer to lack a degree of mental ability.

Mental Disorder

Tshishkueu

A disease of the mind. Criminal Code, Section 2.

Mental Health

Eshinakuanit mitunenitshikan

Health of the mind.

Mischief

Kapikuaitshet

A broad criminal offence, involving interference with, and destruction of property, and ranging in seriousness from very minor to very major matters. Criminal Code, Section 430.

Mistake

Pishtinakanu tshekuan

Where a person believes something to be true that, in fact, is not.

Mistake of Fact

Pishtinakanu tshekuan

In Criminal Law, this may be a defence. For example, where I take a person's boat, mistakenly believing it to be mine, I am not guilty of theft.

Mistrial

Nakanakanu mekuat e ueshinitunanits

A trial that has to be stopped before resolving the question involved in it. Usually, the process has to begin again. Many things can cause a mistrial. For example, jurors might become sick and unable to continue, a crucial witness might suddenly become unavailable, a piece of evidence that should not have been put before a jury is put before it, the jurors cannot agree on a verdict.

Motion

Natuenitakanu tshishe-kamakunuesht tshetshi tutak tshekuannu

A request by a party in a case, to the judge, to order something to be done.

Motion for an Order not to Publish

Natuenitakanu tshetshi eka uauitakanit mak tshetshi eka uapatakanit tshekuan

Where one of the parties in a case asks the judge to order that the names of the victim/witness, and/or other evidence heard in the case, not be broadcast or published in any way.

Motion for Dismissal

Natuenitakanu tshetshi uepinakanit ka ishi ueshiakanit

A request to the judge that s/he dismiss the charges.

Motion for Mistrial

Natuenitakanu tshetshi nakanakanit mekuat e ueshinitunanits

A request to the judge that s/he declare a mistrial. See Mistrial.

Motion to Discharge a Juror

Natuenitakanu tshetshi nakatishinakanit peikᵘ auen nete ka peikunnueshiht ashu nishᵘ (12)

A request to the judge that a juror should be discharged, or removed from the case.

Motion to Exclude Witnesses

Natuenitakanu pita tshetshi uevepitak kauapatshet

As a rule, it is thought to be desirable that witnesses in a case should not hear what other witnesses in the same case have to say. This is to prevent a witness, deliberately or unconsciously, from changing her/his evidence to match that of the other witnesses. A motion to exclude witnesses is a request to the judge to order witnesses to remain outside the courtroom until they are called in to testify. If the judge agrees with the motion s(he) will make an order to that effect.

Motive

Tshekuannu uet tutak

The reason someone does something. In a murder case, most people tend to ask what was the motive. In other words, why did the person kill the deceased? Was it for money, or because of jealousy? Etc.

Murder

Nipatatsheu

Intentionally causing the death of another human being.

Murder, Attempted

Kutshitau tshetshi nipatatshet

The unsuccessful act of deliberately trying to kill a person. A serious crime, punishable by life imprisonment. Criminal Code, Section 239.

Murder, First-Degree

Ueueshitau tshe ishi nipaiat auennua

Murder is first-degree murder when it is planned and deliberate. It is more serious than second-degree murder. The minimum sentence for first-degree murder is imprisonment for life without the possibility of parole for 25 years. Criminal Code, Section 231.

Murder, Second-Degree

Nipaieu auennua muk^{u} ama ueueshitau

Murder is intentional homicide, and it is divided into first-degree murder and second-degree murder. First-degree murder is the more serious of the two categories. It is planned and deliberate. Second-degree murder lacks the pre-meditation of the more serious offence. The main consequence for an accused convicted of murder is in the punishment. Both kinds of murder carry a minimum punishment of life imprisonment. A person convicted of second degree murder, however, may become eligible for parole after serving 10 years whereas a person convicted of first degree murder only becomes eligible after serving 25 years.

National Parole Board

Utshimauat ute Kanata ka uetashumat kamakunakanit natuenitamutshe tshetshi uipat ueuit

A board that considers applications from prisoners who are seeking parole. See Parole.

Necessity

Nasht ishinakuan tshetshi tutakanit tshekuan

A defence in criminal law. Breaking down someone else's door would normally be an offence of mischief. To do so to save a life would raise the defence of necessity. In other circumstances it would be theft.

Negligence

Ama apatenitamᵘ etutak tshekuannu

Failure to use reasonable care, resulting in damage or injury to another.

Newfoundland and Labrador

Newfoundland mak Napitau

The province of Newfoundland and Labrador.

Non-culpable Homicide

Ama atamenishakanu ka nipaiat auennua kutaka

The killing of a human being that is not a criminal offence. For example, self defence: when a person kills another person only because it was necessary to do so to save her/himself or someone under her/his protection.

Non-publication Order [see also Ban on Publication]

Ama tapuetakanu tshetshi ueueshtakanit tshekuan ka issishuanut anite kauishinitunanits

A court order that prohibits the publication of evidence and/or the names of individuals. Commonly used to protect the identity of victims in sexual assualt cases.

Not Guilty

Ama tapuanu eshi ueshiakanit

A plea and/or a type of verdict. As a plea, it is what an accused tells the court before her/his trial, and it means that s/he is denying the validity of the charge made against her/him by the Crown. As a verdict, it means that the court decides, after reviewing the evidence - or lack of it - that the Crown's charge is not made out (substantiated). The accused is freed after this verdict. See Defence.

Not Guilty on the Basis of No Evidence

Ama tapuemakanu tanite nashtish ama mishkakanu tshipa utsh ueshiakanu

If there is no evidence, or insufficient evidence, before the court in a criminal case, the Accused cannot be found guilty and is therefore not guilty.

Notice of Intention to Seek Greater Penalty

Mashinaikan etashtets tshishe-utshimau-ukakusseshima, etatu tshetshi mishta-ueueshiat, kie etatu tshetshi anuenimakanit

A few criminal offences provide more severe punishments for those who have been convicted of the same offence on a previous occasion. The most common example is that of impaired driving. The court is required to impose the greater punishment if the Crown has given the accused a document which states its intention to seek greater punishment. The judge is not obligated to impose the more severe punishment if the notice document hasn't been served. However, the judge is still permitted to impose the greater punishment if s/he feels it is approporiate in the circumstances.

Oath

Nasht tapueu anita aiamiau-mashinaikan

The solemn declaration by a person, as if made in the presence of Almighty God, that what s/he will say is the truth. Done in court by a witness before s/he gives her/his evidence. Persons who are not religious are allowed to make a solemn affirmation.

Objection

Nakaueu nenu eshi kukuetshimaniti

A submission by a lawyer in court that a question asked of a witness by a lawyer for the other side will bring out an answer that is inadmissible evidence. It is also used when a lawyer opposes certain information which the other side is attempting to enter as evidence. For example, defence might object if the Crown attempts to enter photographs of an injury. The judge will then hear arguments from both lawyers which support their positions before decideing whether the photos will be accepted as evidence.

Offence [see also Crime]

E pikunak tshishe-utshimau umashinaikan

The act of breaking a law.

Offender

Ne auen ka tapuemakanit eshi ueshiakanit

Someone found guilty of a crime.

Only One Possible Verdict

Muk^{u} peik^{u} tshekuan tshika tapuetashuats ka peikunnueshiht ashu nish^{u} (12)

In a jury trial, the judge, in her/his charge to the jury, instructs the jury on the law that applies to the case it is trying. Part of the charge involves the judge telling the jury what verdicts it could make in the case. This varies from case to case. Where the judge tells the jury that there is only one possible verdict s/he is telling it that the law will only allow one possible decision in that particular case. Not common. See Verdict.

Onus of Proof [also called Burden of Proof]

Tshishe-utshimau-ukakausseshima put kauitshinuesht tshika ui tapuemeu tshetshi tapuemakanit

Onus is a Latin word that means a burden, weight or responsibility. The party that has the onus of proof in a case is the party that has the responsibility to prove something. Thus in criminal cases, it is always

the Crown that has the responsibility to prove the charge(s). In civil cases, the party that has the onus of proof is the one that started the action, the plaintiff.

Open Custody

Makunakanu mak nakatuapamakanu muk^{u} ama tshipauakanu e tshishikat

A form of custody for young persons sentenced under the Youth Criminal Justice Act. It is distinguished from secure custody. Open custody is freer than secure custody which is more like regular jail. Open custody facilities are often referred to as "group homes". Young Offenders serving sentences of open custody often go to ordinary schools or jobs during the day and can be given permission to go out in the community for various functions.

Opinion Evidence

Kamishta-natutshissenitak etenimat

As a rule, ordinary witnesses are not allowed to testify about what they think but only about what they saw, did, said or felt. They can give their opinions about those things that anyone might be expected to have a useful opinion about, such as whether they thought a person was drunk. But opinion evidence refers to the evidence of specialists or experts in various areas. In a murder case, the court will hear the opinion of a pathologist as to the cause of death. Before an expert will be allowed to give opinion evidence, it will be necessary to show the court that the witness is an expert in the area in which s/he will give an opinion.

Oral Statement

Muk^{u} apatshitakanu essishuet

Something said and not written down.

Oral Testimony

Kauapatshet uitam^{u} eshi tshissenitak

Spoken Evidence under Oath. By far the most common form of evidence.

Order

Itashumakanu

The decision of a judge requiring that something be done or not done.

Order Excluding Witnesses

Itashumakanu tshetshi kushtinakanits kauapatshets tshetshi pitutshet anite kaueshinitunanit eshkᵘ eka aimit

As a rule, it is thought to be desirable that witnesses in a case should not hear what other witnesses in the same case have to say. This is to prevent a witness, deliberately or unconsciously, from changing her/his evidence to match that of the other witnesses. A motion to exclude witnesses is a request to the judge to order witnesses to remain outside the courtroom until they are called in to testify. If the judge agrees with the motion s(he) will make an order to that effect.

Order for Assessment

Natukuashtikushu kukuetshimakanu tshetshi natu-tshissenimat auennua

Assessment means an assessment by a medical practitioner of the mental condition of an accused and any observation or examination of an accused made in the course of that process. An assessment order is made by the judge having jurisdiction over an accused where s/he has reason to believe that this would provide evidence to determine whether an accused is unfit to stand trial or whether s/he was suffering from a mental disorder at the time of the alleged offence or for sentencing purposes.

Order to Exclude the Public

Tshishe-kamakunuesht itashueu tshetshi eka pitutshet natamikᵘ auen anite kaueshinitunanit

It is an important principle of the law that court proceedings be open to the public. A judge may exclude the public in certain cases if this is necessary in the interest of public morals, the maintenance of order or the proper administration of justice. In those rare cases in which the judge exercises her/his power to exclude the public it is often

done to protect young witnesses in sexual offence cases. Criminal Code, Section 486.

Order to Stand Trial [see also Committed to Stand Trial]

Tshishe-kamakunesht itashueu tshetshi ueshiakanit auen anite kamishta-ueshinitunanit

When the judge determines that there is sufficient evidence following examination of the evidence at the preliminary inquiry to put the accused on trial, s/he orders the accused to stand trial at a later date.

Overrule the Objection

Tshishe-kamakunuesht ama tapuetamᵘ tshetshi uepinakanu ka issishuet

See Objection. Where a lawyer makes the submission that evidence that the lawyer for the other side is trying to put before the court is inadmissible, the judge has to decide who is right. If s/he agrees with the lawyer making the objection, s/he allows the objection or rules in favour of it. If s/he does not agree with the objection, s/he rules against it or overrules it.

Parole

Ka ueuetishinakanit mukᵘ ka nakatuapamakanit kamakunakanit

Various forms of limited freedom granted to prisoners by the National Parole Board. The word has the meaning of "giving one's word."

Pathologist

Natukuashtikushu ka natu-tshishenimat eshi nipinit auennua

Pathology is the study of disease. A pathologist is a physician who specializes in this branch of medicine. Pathologists are often expert witnesses who give opinion evidence in homicide cases.

Peace Bond

Itashumakanu tshetshi eka natat put tshetshi eka nutshikuat auennua

A peace bond is a form of recognizance. Upon an application being made, a judge can order a person to keep the peace towards the person who applied to the court for a peace bond. The judge can also include additional conditions. Such conditions may include that the person named in the peace bond cannot communicate with the applicant and/or must remain a specific distance away from that person or his/her family members. Criminal Code, Section 810.

Penalty

Eshi anuenimakanit

Another word for punishment.

Penitentiary

Kamishta-makunitunanut

A prison.

Peremptory Challenge

Kauitshinuesht mak tshishe-utshimau-ukakusseshima utineuat passe auennua tshetshi tshiueniti eshkᵘ eka utinakanuats ka peikunnueshiht ashu nishᵘ (12)

In a jury trial, both the accused and the Crown are allowed to object, without stating a reason, to a number of the people who are called forward to be jurors. In most of the jury trials taking place in the Newfoundland and Labrador each side is allowed twelve peremptory challenges. The number of peremptory challenges given depends on the type of charge.

Perjury

Kakatshinanu katshi issishuet kaueshinitunanit

The criminal offence of deliberately making a false statement under oath, punishable by up to fourteen years in prison.

Physical Abuse / Physical Cruelty

Piuenimakanu mak ushikuiakanu

Assault. Usually this term refers to a partner in a spousal relationship or to a child in a home who is assaulted on a regular basis.

Physical Disability

Massiun

An activity limitation or a participation restriction associated with a physical condition or a health problem.

Physiological

Uiat

To do with the body as opposed to the mind. Compare physiological and psychological.

Physiological Assessment

E natu-tshissenitamuat uianu auennu natukuashtikushu

An assessment by a medical practitioner of the physical condition of a person and any observation or examination of that person made in the course of that process.

Planned

Tshishatishtau

Thinking something out in advance of doing it. Evidence of planning in a criminal case provides evidence of intent. A component in the crime of first degree murder which is murder that is planned and deliberate.

Plea

Tshetshi tshissenitak tshetshi tapuemakanit: tapuanu put ama tapuanu

The formal statement by an accused that s/he is guilty or not guilty. There are three other pleas in criminal law which are called special pleas and are encountered infrequently. These are the pleas of autrefois acquit, autrefois convict and pardon. These special pleas

mean, respectively, "I have been tried for this offence before and found not guilty", "I have been tried for this offence before and found guilty", and "I have been pardoned for this offence".

Police

Kamakunuesht

A policeman or policewoman.

Police Warning

Kamakunuesht uauitamueu auennua utipenitamunua

The right to remain silent is of special importance to an accused. When an accused chooses not to exercise her/his right to remain silent, and instead gives a statement to the police, the courts may accept that statement, which is often a confession of guilt, as evidence, but will first want to be sure that the accused made the statement voluntarily. The police warning is what the police are supposed to say to an accused, before they take a statement from him/her, if they hope to use the statement in evidence. It usually goes something like this: "You need not say anything. You have nothing to hope from any promise or favour and nothing to fear from any threat whether or not you do say anything. Anything you do say may be used as evidence." In addition to this traditional warning, the police in Canada today are expected to tell the accused that s/he has the right to call a lawyer and that, if s/he can't afford a lawyer, Legal Aid will pay for the lawyer.

Polling the Jury

Papeik^{u} kukuetshimakanuat peikunnu ashu nish^{u} (12) ka apiht

In a jury trial, after the jury has returned with a verdict, the judge has the power, if s/he wants, to poll the jury. This means that each individual juror is asked if s/he agrees with the verdict just given by the foreperson of the jury. Usually the judge does this upon the request of one of the lawyers.

Possession of Property Obtained by Crime

Tatam^{u} mak tshissenitam^{u} tshekuannu tshemutinanits

The criminal offence of possessing property knowing that it was obtained through the commission of a crime. For example, if you buy or otherwise acquire a gun from someone, knowing that person stole the gun, you are guilty of this offence. Criminal Code, Section 354.

Possible Verdicts

Tan tshe ishi tapuetakanits

In a jury trial, in her/his charge to the jury, the judge must tell the jury what options it has in returning a verdict. Very often the possible verdicts will just be guilty or not guilty of the offence charged. Sometimes the possible verdicts will include guilty of a lesser included offence. For example, a person may be charged with assault causing bodily harm. The evidence might be clear that there was an assualt, but less clear that bodily harm resulted from the assault. In such a case, a possible verdict would be not guilty of assault causing bodily harm, but guilty of common assault.

Postponement [also called Adjournment]

Nakanakanu apishish

The suspension or putting off of the hearing of the case until a later time (often on a different date).

Precedent

Shash tshishi-uetashutakanu

The rule of precedent is the rule that cases should be decided according to the principles established in cases that preceded (or went before) it. The common law system is based on the principle that cases with similar facts raising similar legal issues will be decided alike. A case that has already occurred is a precedent when it had similar facts and dealt with a similar legal issue to a case that is being decided by a judge. Precedent becomes law because judges are required to follow earlier cases unless they can find a way to show that the case they are deciding is different in a meaningful way.

Prejudice

Etatu peikᵘ ama itutuakanu auen

Prejudice, in its ordinary meaning, is a word everyone is familiar with as indicating that state of mind which tends to be racist, sexist etc. The word is used in law in a rather technical manner. In a criminal trial, for example, it is expected that the Crown will present evidence that tends to operate to the prejudice of the accused, meaning that the evidence tends to show that s/he is guilty. Frequently, a judge will consider whether a piece of evidence can be admitted by applying a test which considers whether the prejudicial effect of the evidence outweighs its probative value. For example, when an accused chooses to give evidence the Crown can often cross-examine the accused on her/his criminal record. Often, the defence will ask the court to prohibit the Crown from doing this. Consider, for example, a case in which the accused is charged with sexual assault and her/his record shows that s/he has previously been convicted of similar offences. The judge may say that the Crown cannot bring up the record because, although the record might suggest to the jury that the accused may not be credible, and in this sense have probative value (tend to prove something in the case), the prejudicial effect of the jury knowing that the accused has done this sort of thing before may cause them to lose sight of the case before them and convict her/him because of her/his record.

Preliminary Hearing / Preliminary Inquiry

Natu-tshissenitakanu eshkᵘ eka ueueshtakanit

Where an accused is charged with an offence which allows her/him to choose to be tried in the Supreme Court, with or without a jury, a hearing called a preliminary hearing is sometimes held first in the Provincial Court. The purpose of this hearing is for the judge of the Provincial Court to determine whether the Crown has sufficient evidence to justify sending the case to the Supreme Court. The preliminary hearing, which is the same thing as a preliminary inquiry, is also an opportunity for the accused to find out more about the case against her/him by listening to and questioning the witnesses that the Crown calls.

Preliminary Matters / Preliminary Motion

Tshekuan tshe uauitakanit, mamu tshishe-kamakunuesht mak kauitshinuesht mak tshishe-utshimau-ukakusseshima eshkᵘ eka ueueshtakanit

Often, at the beginning of a trial, the judge will ask the lawyers if there are any preliminary matters or issues to be addressed before the trial gets underway. These might include motions for the exclusion of witnesses, or of the public, or evidentiary points. In a jury trial, especially, courts like to get such matters dealt with in an organized way so as to inconvenience the jury as little as possible. It should be remembered that many of these matters are dealt with in the absence of the jury.

Premeditated

Mamitunenitamᵘ uipats tshe ishi tutak

Thought out in advance. Planned.

Pre-Sentence Report

Uauinakanu e ishpanit petshinniut

A report by a social worker on an accused who has been found guilty, based on interviews with the accused, her/his family and others who know her/him, for the assistance of the judge in sentencing the accused.

Presumption of Innocence

Eshkᵘ eka tshissenimakanit tshetshi tapuemakanit

A principle of criminal law. It is a principle of huge importance. It is always explained to juries with great care by the presiding judge. It means that unless an accused is proved to be guilty by the Crown beyond a reasonable doubt, the law treats her/him as if s/he were innocent. This means that, in a criminal trial, the accused does not normally have to prove anything. The accused starts the trial presumed innocent and, unless the Crown succeeds in proving its accusation beyond a reasonable doubt, s/he ends it innocent also.

Prima Facie

Ushkat uiapatakanit

A Latin term meaning 'at first sight.' We often speak of a prima facie case, meaning that it looks, at first glance, as if someone, the Crown in a criminal case or the plaintiff in a civil case, has at least the barebones of a case, and should be allowed to take up the time of the court in attempting to prove it.

Primary Ground

Ama tshika tau anite kaueshinitunanit

When the Crown wants to ask the court to keep an accused in jail while awaiting her/his trial a show cause or bail hearing is held. Because of the presumption of innocence, courts do not like to lock up an accused before s/he has been found guilty. However, this can be done in certain circumstances. The court that considers the matter has to follow the procedure set out in the Criminal Code. This procedure involves the court looking at what is called the primary, secondary and tertiary grounds. The primary ground involves the question of whether it is necessary to detain or remand the accused until her/his trial in order to make sure that s/he shows up for her/his trial. This ground comes into play most frequently when the accused lives in another province or country and might not come back to the jurisdiction in which s/he is to be tried, or when her/his criminal record shows that s/he has a history of not going to court when required to do so. Criminal Code, Section 515.

Prison [also called Jail/Goal]

Kamakunitunanuts

A place where people are confined to serve a prison sentence.

Prisoner [also called Inmate]

Kamakunakanit

A prisoner in a correctional institution or jail.

Probation

Nakatuenimakanu

A punishment sometimes imposed. If offenders are put on probation, they are supervised in the community and subject to conditions which must be followed.

Probation, Breach of

Pikunamᵘ eshi nakatuenimakanit

The breaking of one or more conditions of a probation order. This is a criminal offence.

Probation Order

Mashinaikan eshi nakatuenimakanit

A court order, in criminal cases, directed towards an accused who has been found guilty of an offence, requiring her/him to keep the peace and be of good behaviour and, usually, imposing on her/him other conditions as well, such as community service work. A probation order may be made where sentence is suspended (that is, where the accused is not sent to jail), or it may follow a jail term that does not exceed two years.

Progress Report

Etenitakushit auass umashinaikan

Under the Youth Criminal Justice Act (YCJA), a report prepared by the custodial authorities on a young person who was committed to custody, for the assistance of the Youth Court where the young person's disposition is being reviewed by the court.

Prohibition, Driving

Kushtinakanu tshetshi pimipanitat tshekuannu epimipanits

Where a person is convicted of impaired driving the court must prohibit that person from driving for a period of time. In other offences involving motor vehicles the court may prohibit a convicted person from driving for a period. Criminal Code, section 259.

Promise to Appear

Tshika minakanu auen mashinaikannu nasht tshe ui tapuet tshetshi tat kaueshinitunanit

A written promise, made before a peace officer, by an accused, that s/he will attend court on a specified day.

Proof of Service [see also Affidavit of Service]

Mashinaushu mashinaikannu eshi tapuet manakanit mashinaikannu auennua

When an peace officer or party in a court case serves a court document on a person, the person who served it must return to the court a written declaration certifying that the document was in fact given to the person to whom it was intended.

Proof, Onus of / Burden of

Tshishe-utshimau-ukakausseshima put kauitshinuesht tshika ui tapuemeu tshetshi tapuemakanit

Onus is a Latin word that means a burden, weight or responsibility. The party that has the onus of proof in a case is the party that has the responsibility to prove something. Thus in criminal cases, it is always the Crown that has the responsibility to prove the charge(s). In civil cases, the party that has the onus of proof is the one that started the action, the plaintiff.

Property

Utapatshitaun

That which is owned by a person, corporation or government.

Prosecutor [also called Crown Counsel, (Prosecution) Lawyer]

Tshishe-utshimau-ukakusseshima

In criminal cases, this is the lawyer who represents Her Majesty the Queen - that is the government, the prosecutor.

Prove

Auen ui pakutshimeu tshishe-kamakunueshiniti

To demonstrate the truth or existence of (something) by evidence or argument.

Proven

Pakutshimakanu tshishe-kamakunuesht

When the truth or existence of something is proven by evidence or argument.

Provincial Court

Nashuk kaueshinitunanut

The Provincial Court is the Court of first instance for all criminal and regulatory offences. Trials of the vast majority of such offences are concluded there. The Court serves as the Youth Court, Traffic Court, Small Claims Court for most civil claims up to $5,000.00, and - outside of those areas covered by the Unified Family Court Division of the Supreme Court - deals with most family law matters other than divorce or division of property under the Family Law Act. The Court also conducts inquiries into accidental or mysterious deaths or fires.

Provincial Court Judge

Nashuk kaueshinitunanut tshishe-kamakunuesht

A judge who has the authority to hear and try cases in the Provincial Court of Newfoundland and Labrador.

Provocation

Tutakanu auen tshekuannu tshetshi tshishuapit

The conduct of a person, including, but not limited to, blows, words and gestures, that tends to excite feelings of anger in another person. It is a limited defence in the law of murder, capable of reducing the crime of murder to manslaughter.

Psychiatric Assessment

Natukuashtikushu nanatu-tshissenitamᵘ umitunenitshikannu auennua

Assessment done by a psychiatrist.

Psychiatric Institution

Ka akushitusht ushtikuan natukunitshuap

A hospital for patients suffering from psychiatric illnesses. Some of these hospitals have facilities like jails, where patients can be locked up and placed under guard. The Waterford Hospital in St. John's is an example of a psychiatric institution.

Psychiatric Remand

Natukunitshuapit matshi-mannakanu mekuat tshetshi nanatu-tshissenitak natukuashtikushu umitunenitshikannu auennua

Where the court orders an assessment of the mental condition of an accused, under the provisions of Part XX.I of the Criminal Code, this can be termed a psychiatric remand.

Psychiatric Report

Etashtet mashinaikan natukuashtikushu ka nanatu-tshissenitak umitunenitshikannu auennua

Report written by a psychiatrist.

Psychiatrist

Natukuashtikushu ka nanatu-tshissenimat ka akushiniti ushtikuanua

A physician who specializes in the treatment of mental illness.

Psychological Assessment

Kamishta-tshissenitak e natu-tshissenitak anite ushtikuanit auennua

An assessment of the mental state of a person, conducted by a psychologist.

Psychological Report

Eshi mishkak kamishta-tshissenitak katshi natu-tshissenitak anite umitunenitshikanit auennua

A psychological report is simply the report that is made following an assessment.

Psychologist

Kamishta-tshissenitak mitunenitshikannu

A scientist who studies the human mind. Some psychologists do work very similar to that done by psychiatrists, but, unlike psychiatrists, are not medical doctors. Psychiatrists and psychologists, in criminal cases, sometimes work as a team.

Pure Accident

Ama atamenimakanu

See Accident. A pure accident would be an accident for which no one is to blame in any way, in which no one was negligent.

Qualifications

Eshi atusset mak eshi tshishkutamashut

That which qualifies a person to do or be something. A very broad term that would include everything from High School graduation to various degrees of specialized training. The basic qualifications for an Aboriginal interpreter, for example, would be fluency in English and the Aboriginal language s/he interprets into. In the law of evidence this term is used when a party wants an expert witness to give opinion evidence. Before the expert can give such evidence s/he must be qualified. This means that the court will hear details of the witness' training in the area in which s/he has been called to give opinion evidence. If satisfied that the witness is qualified in that area, the court will then allow her/him to give her/his opinion evidence. If the court is not satisfied that the prospective witness has the necessary qualifications, s/he will not be allowed to give opinion evidence.

Quash the Information

Uepinakanu passe nenu eshi ueshiakanit

A declaration by the court that the information is invalid. If the information is invalid, if, for example, it has not been sworn, the case cannot proceed and the Crown would have to begin the process over again.

Reading the Facts into the Records

Muk^{u} tshitapatakanu mashinaikan etashtanits

Often, where there is no dispute between the lawyers on evidence, it is unnecessary to call a witness to give that evidence. In such cases the lawyers simply state the evidence to the judge or the jury. Where an accused pleads guilty, the facts of the case are usually recited by the Crown and no witnesses are called at all.

Reasonable Doubt

Tshekat tshitshue tapuetatishun

It is a fundamental principle of the criminal law that, to obtain a finding of guilt against an accused, the Crown must prove the charge beyond a reasonable doubt. When a court, whether it be a judge alone or a judge with a jury, has such a doubt it must acquit the accused. The law does not require the court to be absolutely certain, but sure that the evidence called by the Crown proves the charge beyond a reasonable doubt. Judges sometimes describe a reasonable doubt as an honest and fair doubt, not a trivial or frivolous doubt that an irresponsible juror might come up with to avoid the unpleasant duty of making a finding of guilt.

Reasons

Tshekuan ishi tutak tshishe-kamakunuesht

When a judge makes a decision s/he is expected to give her/his reasons for that decision. These may be useful to an appeal court if there is an appeal.

Rebuttal Evidence

Mishue iatapan issishueu tan katshi ishpanit

The party that begins a case, i.e., the Crown in a criminal case and the plaintiff in a civil case, calls evidence first. If the other party calls evidence it does so after the first party has called all its evidence. Depending on the evidence called by the second party, the first party may call evidence again, in reply to the evidence of the second party. This is called rebuttal or reply evidence.

Reckless

Ama apatenitamᵘ e itit

See Intent, Intention, Mens Rea, Actus Reus. To commit a crime one must have the intention to do the act which is prohibited. Thus, taking an item from a store and not paying for may not be considered a crime if one simply forgot to pay. It is the crime of theft only if one deliberately avoided paying. In the latter circumstance we can say that the person had the intention to deprive the store of its property. The mens rea of theft is therefore present as well as the actus reus of taking the item that did not belong to the person. Since both the mens rea and the actus reus are present, a crime has been committed. In some crimes a person may not desire the consequences of her/his act but can see there is risk to what s/he is doing and consciously takes that risk. In such a case, the mens rea of the offence consists of recklessness. Consider, for example, the case of a man who, in a rage, attacks another man in a crowded room. He is trying to stab A but misses and stabs B, who dies. He can be guilty of murder because, although he did not intend to kill B, and in fact killed B by accident, his behaviour was so reckless that it satisfied the requirement of intention.

Recognizance

Tapuetatishu e ueuetishinakut mukᵘ tshika ui tshishikashu

A technical word that simply refers to one of the procedures whereby a person is released from custody, before trial, by a police officer or a court. Sometimes it involves the accused or a surety paying money that will be returned when s/he has appeared for her/his trial, or

agreeing to pay money if s/he does not appear for her/his trial. Like an undertaking.

Recognizance, Breach of

Ka pikunak ka ishi tapuetatishut anite kaueshinitunanit e ueuetishinakut muk^{u} tshika ui tshishikashu

Undertakings and recognizances are official documents allowing a person in custody to be released until the trial date. Both will state when the person has to go to court and usually involve other conditions. A breach of one of an undertaking or recognizance is a criminal offence and can lead to the person being taken back into custody where s/he might remain until the conclusion of the trial.

Recommendation

Nanatuapatakanu (tshetshi atusset put tshetshi tshishkutamashut)

The act of suggesting that it would be a good idea to do something. For example, it was the defence counsel's recommendation that the accused be sentenced to probation, rather than jail time.

Re-election

Mishkutinam^{u} tanite tshe ishi ueshianit

See Election. An accused, in most indictable offences, has the choice of which court s/he wants to be tried in, Provincial Court, Supreme Court with a jury or Supreme Court without a jury. Sometimes, the accused later wishes to change her/his original choice. s/he wants to re-elect. In some circumstances s/he can do this as of right. In other words, s/he does not need anyone else's agreement. In other circumstances, the consent of the Crown is required.

Re-examine

Minuat kau kukuetshimakanu

See Examination-in-chief, Cross-examination, Direct Evidence. A witness is first questioned by the lawyer who called him/her. This is called examination-in-chief or direct examination. The witness may then be cross-examined by the lawyer for the opposing side.

Following that, if anything new arises in the cross-examination, the witness can be re-examined by the lawyer who called him/her, but only on the new points that arose in cross-examination.

Refusing to Take a Breathalyzer Test

Ama tapuetamᵘ tshetshi natu-tshissenimakanit e ishipish minit shitakanapunu put ishkuteuapunu

Where a peace officer believes on reasonable and probable grounds that a person has committed the offence of driving a motor vehicle while impaired by alcohol within the preceding three hours, s/he may demand that the person submit to a breathalyzer or data master test. Unless the person has a reasonable excuse to refuse this demand s/he commits an offence for which the penalties are the same as those for impaired driving itself.

Rehabilitation

Uauitshiakanu auass tshetshi minu-inniut

Helping a young person with problems or issues so that he/she does not re-offend.

Reintegration

Auass uauitshiakanu tshetshi minupanit anite utassit katshi makunakanit

Bringing the young person back into the community safely and successfully after an offence has been committed. A reintegration plan will be used for this purpose.

Reintegration Plan

Tan tshe ishi uauitshiakanit auass tshetshi minupanit anite utassit katshi makunakanit

A plan devised to ease the young person back into the community safely and securely after an offence has been committed.

Release Hearing

Natu-tshissenitakanu tshetshi ueuetishinakanit

A court proceeding in which a decision is made whether or not a person charged with an offence is to be released before the trial or kept in custody.

Release [also called Bail]

Ueuetishinakanu kamakunakanit

To let go, to discharge from custody.

Remand

Matshi-mannakanu

The most common use of this word indicates that an accused is kept in custody until the conclusion of her/his court matter. It can also be said that an accused is remanded to another date.

Report

Etashtet mashinaikan

A written record or summary; an account of something.

Respond

Tshishtu katshi aimakanitshi

To answer.

Respondent

Ne auen ka tshishtut katshi aimakanitshi

The person who answers an application, or the person who an application is against.

Restitution

Kau pikushinaitsheu kaueshiakanit

The accused is ordered to pay back money to the victim as a part of punishment. See Restitution Order.

Restitution Orders

Kauitshinitunanit tshika itikut auen tshetshi kau pikushinaitshet

Restitution involves the restoration to a person who has lost property that property which s/he lost or money of equivalent value. In criminal law, an accused who has stolen or in some other criminal manner caused property loss to another is often ordered to make restitution to the victim. This may be a condition of a probation order, or it may be ordered in a restitution order.

Reverse Onus

Kauitshinuesht tshika ui tapuemeu tshetshi tapuemakanit

See Onus of Proof. In criminal law, it is usually the Crown that has to show why an accused should be deprived of her/his liberty. There are exceptions to this rule. Where an accused has been charged with a very serious offence such as murder, s/he will be remanded or detained in custody before her/his trial, unless s/he can persuade a court that s/he should be released. This is called reverse onus. Where an accused was released on bail for a less serious offence and then breaches one of the conditions of her/his release and is arrested again, s/he puts herself/himself in a reverse onus situation.

Review of Crown and Defence Positions

Tshishe-makunuesht minuat uauitamueu nenu ka peikunnueshiht ashu nish^{u} (12) e issishueniti nenua tshishe-utshimau-ukakusseshiminu mak nenu kauitshinueshiniti

This is one of the components of the charge to the jury in a jury trial. The judge summarises, for the jury, why the Crown says the Accused should be found guilty and why the defence says s/he should be found not guilty.

Review of Evidence

Tshishe-makunuesht minuat uauitamueu nenu ka peikunnueshiht ashu nishᵘ (12) e issishueniti nenua tshishe-utshimau-ukakusseshiminu mak nenu kauitshinueshiniti

This is one of the components of the charge to the jury in a jury trial. The judge surveys the evidence of the case in summary form for the benefit of the jury. The judge usually points out to the jury, when s/he does this, that it is the jury's recollection of the evidence that is important and that, if the jury does not agree with her/his summary of the evidence, it is expected to act on its own recollection.

Revoke

E utinakanit kau tshekuan

To cancel an earlier order or decision, or a right or privilege. For example, "Because he failed to return the books he had borrowed, his library privileges were revoked."

Right to be Kept Apart from Adult Accused and Offenders

Passe anite makunakanuat auassat mak tshishennuat

Generally, a young person under the age of 18, who has to be in custody, is to be kept in a place apart from adult (over 18) offenders.

Right to Counsel

Ishinakuannu tshetshi natuenimat tshetshi uitshikut kauitshinueshiniti

Everyone has the right on arrest or detention to retain and instruct counsel without delay and to be informed of that right. These are the words of Section 10(b) of the Charter of Rights. They mean that a person who has been arrested has the right to consult with a lawyer, without delay. The courts have considered this provision of the Charter many times. It is now clear that the police have a duty to make it possible for a person in this situation to contact a lawyer. Where the police effectively block a person's wish to consult with a lawyer, the courts will often refuse to allow the Crown to use any statement obtained from an accused whose right to speak to a lawyer has been interfered with. See Police Warning.

Right to Privacy

Ishinakuan tshetshi eka pitukakut kamakunueshiniti

Section 8, Charter of Rights and Freedoms, says that everyone has the right to be secure against unreasonable search or seizure. The courts have reviewed this section extensively and the Supreme Court of Canada has said that a person in Canada has a reasonable expectation of privacy. Essentially, this means that the government, whether it is the police or Revenue Canada or some other government agency, cannot enter a person's home or read a person's mail or otherwise investigate a person's affairs unless it is authorized to do so, by the person or by a law or by a court that gives the government agency a search warrant to do so. See also Seizure.

Right to Remain Silent

Ishinakuan tshetshi eka issishuet tshekuan e makunakaniti

See Police Warning.

Right to Speak to Parents

Ishinakuannu auass tshetshi aimiat nenua unitshikua tshinishtipa uetinakaniti

See Police Warning. An adult accused has the right, on arrest or detention, to consult with a lawyer without delay, and to be informed of that right. A young person has the same right and also some additional rights. First, where a young person is arrested or detained, the police are required to tell one of her/his parents, as soon as possible, that the young person has been arrested, why s/he has been arrested, and where s/he is. Second, if the police want to obtain a statement from the young person, they must advise her/him in terms s/he can understand that s/he does not have to give them a statement, what use can be made of a statement, that s/he can consult with a lawyer or with a parent or other adult relative or friend before making a statement.

Rights

Utipenitamuna

A right is something which a person is entitled to have or to do. For example, a person in Canada has the right to consult with a lawyer upon arrest.

Robbery

Kushtikunu eshi tshimutit

Robbery is theft with violence or threats of violence. Robbery is a very serious criminal offence carrying a maximum penalty of life imprisonment. Criminal Code, Section 344.

Résumé / Curriculum Vita

Mashinaikan ka ishi atusset mak ka ishi tshishkutamashut auen

Two terms, one French and the other Latin, meaning the same thing, namely a summary of a person's personal circumstances, academic or vocational qualifications and work experience, prepared usually for the review of a prospective employer or educational institution where the author of the résumé hopes to study. A witness who is seeking to be qualified as an expert witness normally provides the court and lawyers with a curriculum vita for review to show his/her qualifications.

Search and Seizure

Nanatuapatakanu mak makunakanu

See Right to Privacy.

Search Warrant

Tshishe-kamakunuesht mineu kamakunuesht mashinaikan tshetshi natuapasseniti

See Right to Privacy. As a general rule, peace officers and other government officials may not enter people's residences and places of work, or probe into their affairs and records unless they believe, on a reasonable basis, that doing so will reveal evidence of a crime. As a protection for the reasonable expectation of privacy that the law says

we all have, the law often requires that such officials, before they make a search, obtain from a judicial official, sometimes a justice of the peace, sometimes a judge of a higher court, a search warrant. This is an authorization by a judge, to the peace officer, to conduct a search. In order to obtain it, the peace officer has to first persuade the judge that s/he does have a proper basis to make a search. A search warrant, therefore, is a judicial control over police action.

Secondary Ground

Etatu put tshika tutamᵘ tshekuannu eka minuat

See Primary Ground. In a bail or show cause hearing, in which a judge has to decide whether an accused is to be released or kept in custody while awaiting her/his trial, the judge has to consider three factors. First, s/he considers the primary grounds. If s/he decides that it is not necessary to keep the accused in custody on that ground, s/he then proceeds to the next step which is the secondary ground. The question for the judge here is whether s/he thinks it is necessary for the accused to be kept in custody for the protection or safety of the public. Really, the judge is asking herself/himself if s/he thinks there is a substantial likelihood that the accused will commit another offence if s/he is released. Criminal Code, Section 515(10)(b).

Second-Degree Murder

Nipaieu auennua mukᵘ ama ueueshitau

Murder is intentional homicide, and it is divided into first-degree murder and second-degree murder. First-degree murder is the more serious of the two categories. It is planned and deliberate. Second-degree murder lacks the pre-meditation of the more serious offence. The main consequence for an accused convicted of murder is in the punishment. Both kinds of murder carry a minimum punishment of life imprisonment. A person convicted of second degree murder, however, may become eligible for parole after serving 10 years whereas a person convicted of first degree murder only becomes eligible after serving 25 years.

Section

Ka itashtet

Paragraph of a law which is related to a specific subject and is preceded by a number, and sometimes a letter.

Section 9(2) Application

Kauitshinuesht put tshishe-utshimau-ukakusseshima kukuetshimeu kauapatsheniti kau tan eshpanit

This refers to Section 9(2) of the Canada Evidence Act. As a rule, the lawyer who calls a witness expects that witness to give evidence that supports the case the lawyer is arguing. Often, the witness has spoken to the lawyer or someone working with her/him before the trial and has made a statement which has been written down. It is normal procedure for Crown witnesses to have made such statements. It happens frequently, however, that the witness gives evidence that is inconsistent with, different from, what s/he said in her/his statement. When this happens the lawyer can ask the judge for permission to cross-examine the witness on her/his statement. Usually a lawyer is not allowed to cross-examine her/his own witness. This is an exception to that rule.

Secure Custody

Makunakanu

There are two forms of custody for young offenders, open custody and secure custody. Secure custody is more like a real prison than open custody. Sometimes called closed custody.

Seizure

Makunakanu

When police conduct an investigation they are looking for evidence. Evidence comes in various forms. In one case the evidence might be the statement of the accused. In another, for example a drug case, it might be cannabis. If the police found cannabis they would seize it. In other words, they would take it away and keep it safe until a trial. Illegal substances seized in this way are usually destroyed after a trial. But it is not only illegal substances that are seized. If my

television set is stolen and discovered in the house of a suspected thief, that too would be seized.

Self-Defence

Ui tshishpeuatishu

A defence in criminal law. Where a person is accused, for example, of murder, and s/he says that s/he only did what s/he had to do to protect her/himself from the deceased, we say that s/he pleads self-defence. But there is a very important limitation to this defence. That is that the force used in self-defence must be only what is reasonably necessary for one's protection. See Defence of Self and Defence of Property.

Sentence / Punishment

Eshi anuenimakanit

The punishment imposed by a judge on a person who has been found guilty after a trial, or has pleaded guilty to an offence.

Sentencing

Tshe ishi anuenimakanit auen

The imposition of a sentence, or punishment, by a judge, on an accused who has been found guilty of a criminal offence.

Sentencing Hearing

Uauitakanu tshipa tshi anuenimakanu auen

This is a hearing (court proceeding) before the judge in which both the Crown lawyer and the defence lawyer put forward their recommendations on what sentence should be imposed after an accused has either been found guilty after a trial or plead guilty. Witnesses are often called, and evidence put forward to help the judge decide what sentence should be handed down.

Sequestered

Ka peikunnueshiht ashu nish^{u} (12) tshipauakanuat

After a jury has heard all the evidence, the speeches of the lawyers and the charge, it is kept together and apart from other people until it makes a decision. We say then that the jury is sequestered.

Serve an Application

Mashinaikannu minakanu

In the practice of law there are many documents that have to be given to various people involved in cases before the courts. Witnesses have to be given subpoenas ordering them to attend court at a certain time, sometimes an accused has to be given a notice of intention to seek greater penalty, the plaintiff has to give the defendant a copy of the statement of claim, jurors have to be given the summons that tell them they have to attend court on a certain day to be available for jury duty and so on. This giving of documents is referred to as service and the person who gives the document, often a peace officer, is said to serve the document. Thus, to serve an application is just one example among many of the giving of a court document by one party to another.

Sex Offender Information Registry

Kamatshi-tutuat auennua umashinaikanuau ka uinakanits (anite tshishe-utshimau umashinaikan)

The National Sex Offender Registry is a national sex offender database, which is maintained by the RCMP. Persons convicted of a designated sex offence as defined by the Sex Offender Information Registration Act (SOIRA) may be ordered by the court to register within a specific period of time. There are various reporting requirements which must be met by the offender. The public does not have access to the National Sex Offender Registry. It is a database that provides Canadian police services with important information that will improve their ability to investigate crimes of a sexual nature.

Sexual Activity

Matshi-tuteu

Any activity of a sexual nature. In criminal law the term is often used in sexual cases when the court is asked to decide whether any reference can be made to sexual activity other than the incident in the actual charge. For example, A is accused of sexually assaulting B on a certain day at a certain place. A tells her/his lawyer that s/he and B used to have a consensual, or agreed upon, sexual relationship and that what happened on the occasion for which s/he is charged was just the same as what used to happen. Can evidence of the previous sexual activity be put before the jury? This cannot be done unless the judge allows it. Criminal Code, Section 276.

Sexual Assault Causing Bodily Harm

Mashikueu ua matishituat ekue ushikuiat

A sexual assault in which the victim suffers bodily harm. A criminal offence carrying a maximum penalty of 14 years. Criminal Code, Section 272.

Sexual Assault Involving Co-Accused

Mamukuakanu auen ka ui natuni-tutuakanit

A sexual assault committed by more than one person.

Sexual Assault with a Weapon

Apatshitau tshekuannu ka ui natuni-tutuakanit auen

A sexual assault in which a weapon is used. A criminal offence carrying a maximum punishment of 14 years. If the weapon used in such an assault is a firearm there is a minimum punishment of 4 years. Criminal Code, Section 272.

Sexual Assault [see also Sexual Abuse]

Ka ui natuni-tutuakanit auen

An assault of a sexual nature. A criminal offence carrying a maximum punishment of 10 years. Criminal Code, Section 271.

Sexual Exploitation

Ka matshi-tutuat auennua ka nakatuenitamutinakanit

A criminal offence in which a person in a position of trust touches a young person (defined as a person between 14 and 17 inclusive) for a sexual purpose, or invites that young person to engage in sexual touching.

Sexual Interference

Ka natuni-tutuat auassa eka peikunnu ashu neu tatipuneshiniti (14)

Touching a child under 14 for a sexual purpose.

Sexual Offender

Kamatshi-tutuat auennua

Person convicted of sexual offence(s).

Sexual Touching

Matshi-tatshinakanu auen

Touching someone for a sexual purpose.

Sheriff's Summons

Mashinaikannu ka petutuakanit auen tshetshi tat kaueshinitunanit tshetshi apit anite ka peikunnushiht ashu nishᵘ (12)

Also called a jury summons. The document by which people who have been called to be selected for service on a jury are notified that they must appear in court.

Show Cause Hearing [also called Bail Hearing or Judicial Interim Release]

Tshetshi kukuetshimakanit tshishe-kamakunuesht tshetshi ueuit kamakunakanit

A court proceeding in which a decision is made whether or not a person charged with an offence is to be released before the trial or kept in custody.

Social Services

Mitshim-utshimau

Provincial Division of Child, Youth and Family Services.

Standard of Proof

Tan eshi takuats tapueun

See Reasonable Doubt, Balance of Probabilities. These are the two standards of proof in the Canadian legal system. Proof beyond a reasonable doubt is the standard of proof in criminal matters and proof on a balance of probabilities is the standard of proof in civil matters. A striking example of the practical effect of these different standards is to be found in the criminal and civil trials of O.J. Simpson. In the criminal trial, where the standard is so high, Simpson was found not guilty. In the civil trial, where the jury only had to be persuaded of his responsibility for the murders on a balance of probabilities, Simpson was found to be responsible.

Standing Aside

Peikᵘ auen nete ka peikunnueshiht ashu nishᵘ (12) ashuapatamᵘ minuat tshetshi uishamakanit

A procedure in the selection of a jury where a potential juror is not selected the first time s/he comes forward but, instead of being sent away, is required to wait in case s/he is picked the second time around. Called variously 'stand aside' and 'stand by'.

Statement

E issishuet auen

A broad term referring to what a person says about something. In legal practice it is customary to talk to witnesses before they are called to court to testify and to have them write out, or have someone else write out for them, that which they can say about some event that will be considered by a court.

Statute [also called Act, Law, Legislation]

Peikᵘ tshishe-utshimau umashinaikan eshi pimipanit

See Statute Law.

Statute Law

Mishue tshishe-utshimau umashinaikana eshi pimipanit

Law that is made by Parliament or the Legislature. An act of Parliament or an act of the Legislature is a statute. Statute law is different from common law, which is judge-made law. When statute law and common law conflict, statute law prevails. See Common Law, Act.

Stay of Proceedings (Crown)

Matshiminakanu mashinaikan peikupipun nenu ka ui ishi ueshiakanit

The Crown has the power to bring criminal proceedings to a stop at any time before judgment. This is called a stay of proceedings. The law allows the Crown to start the prosecution up again within one year. Criminal Code, Section 579.

Submission

Mishue tshekuana ka issishuets kauitshinuesht mak tshishe-utshimau-ukakusseshima nenu ka peikunnueshiniti ashu nish^{u} (12) put tshishe-kamakunueshiniti

A technical term for what a lawyer says to a judge or jury.

Submissions, Closing

Tshishe-utshimau-ukakusseshima mak kauitshinuesht mashten tshika aimuat

These refer to the speeches made by the lawyers to the jury after all the evidence has been heard. Closing submissions generally consist of the theories of the two sides to the case, together with references to the evidence that supports the theories.

Submissions, Crown's Opening

Tshishe-utshimau-ukakusseshima ushkat tshika aimu

In a jury trial, the lawyers are allowed to tell the jury, before the jury hears the witnesses called by them, what they expect their witnesses to say. The Crown always calls evidence first. The Crown's opening submissions provide an outline to the jury of what the Crown hopes

to prove through the witnesses and help the jury to follow the evidence.

Submissions, Defence Opening

Kauitshinuesht ushkat tshika aimu

In a jury trial, the lawyers are allowed to tell the jury, before the jury hears the witnesses called by them, what they expect their witnesses to say. Defence has an opportunity to call evidence after the Crown closes its case. Sometimes, no evidence is called by defence. However, if defence does call evidence, it will usually make opening submissions before doing so. The defence's opening submissions provide an outline to the jury of what the defence hopes to prove through the witnesses and help the jury to follow the evidence.

Subpoena

Mashinaikannu minakanu auen tshetshi tat anite kaueshinitunanits tshetshi minuet eshi tshissenitak put eshi uapatak

A court order requiring a person to attend court to give evidence.

Summary Conviction Offence

Ama shuk^{u} mishta-ueueshiakanu muk^{u} peikuan iapit makunakanu auen

A less serious type of offence, as compared with an indictable offence. Where an accused is charged with such an offence s/he does not have the right to be tried by a jury. On the other hand, s/he is liable to a lower range of punishments than is the case where s/he is charged with an indictable offence. Some offences can only be proceeded with by summary conviction. But in many instances, the Crown decides, at the beginning of a prosecution, whether the matter will be proceeded with summarily or by indictment. This is one of many considerable powers that Parliament has invested in the Crown. See Dual Procedure/Hybrid Offence, Indictment, Election (Crown).

Summons

Minakanu mashinaikan tshetshi tat anite kaueshinitunanits

A court order to a person to attend court.

Supreme Court

Kamishta-ueshinitunanit

The Supreme Court of Newfoundland and Labrador is the superior court of civil and criminal jurisdiction in the province. It was created by the Judicature Act and has two divisions: Trial Division and Court of Appeal. The Chief Justice of Newfoundland and Labrador and five other justices make up the Court of Appeal. The Chief Justice of the Trial Division and nineteen other justices make up the Trial Division. It deals with civil claims, probate, administration and guardianship, and family and criminal matters. It is also the appeal court for summary conviction and small claims matters heard in the Provincial Court.

Supreme Court Judge

Tshishe-kamakunuesht kamishta-ueshinitunanit

A judge who has the authority to hear and try cases in the Supreme Court of Newfoundland and Labrador.

Supreme Court of Canada

Kanata kamishta-ueshinitunanit

Canada's highest court and final court of appeal. This court consists of 9 judges and sits in Ottawa. The Supreme Court building is situated next to the Parliament buildings. The judges are drawn from across the country.

Surety

Uitshiakanu auen tshetshi eka pikunak etashumakanit

A surety is a person who is not an accused, but is willing to guarantee in some form that s/he will be responsible for ensuring that an accused, who would otherwise be kept in custody prior to her/his trial, will appear for her/his trial and will stay out of trouble before her/his trial. Usually, a surety puts money in the court which s/he

could lose if s/he does not take her/his responsibility seriously. The surety has her/his money to protect and so will be inclined to make sure that the accused abides by the conditions of her/his release.

Suspended Sentence

Nakatuenimakanu mak mishkutinakanu e makunakanit muk^{u}; put pikunatshe kau tshika makunakanu

A suspended sentence is a sentence that is imposed in a case where the offender might have been sent to jail but instead is released on the conditions contained in a probation order. If the offender, while on probation, commits another offence, there is a procedure whereby s/he can be brought back to court and sent to jail instead.

Sustain the Objection

Tshishe-kamakunuesht tapuetam^{u} tshetshi uepinakanu ka issishuet

It refers to the decision of a judge, when asked to rule on the admissibility of a piece of evidence, agreeing with the lawyer that submitted that the evidence was inadmissible.

Swear

Nasht tapueu anita aiamiau-mashinaikan

When a party or any witness swears on a holy book, such as the Bible or the Qur'an, to tell the truth. The process of swearing to tell the truth is often referred to as "being sworn". A person who does not want to swear on a religious document makes an "affirmation".

Tertiary Ground

Tshipa tshishuapinanu ueuetishinakanitshe

When the Crown wants to ask the court to keep an accused in jail while awaiting her/his trial a show cause or bail hearing is held. Because of the presumption of innocence, courts do not like to lock up an accused before s/he has been found guilty. However, this can be done in certain circumstances. The court that considers the matter has to follow the procedure set out in the Criminal Code. This procedure involves the court looking at what is called the primary,

secondary and tertiary grounds. The tertiary ground involves the question of whether it is necessary to detain or remand the accused until her/his trial in order to make sure that confidence is maintained in the justice system. Criminal Code, Section 515.

Testify

Kauapatshet uauitamᵘ eshi tshissenitak anite kaueshinitunanits

To give evidence under oath or affirmation.

Testimony

Essishuet kauapatshet

What is said by a person who testifies. The evidence of a person given under oath or affirmation.

Testing Credibility

Nanatu-tshissenitakanu tshetshi tapuet kauapatshet

One of the main objectives of cross-examination is the testing of credibility, or believability, of witnesses. Under the pressure of adversarial questioning a witness's credibility is tested. If her/his evidence is weak the cross-examination will show this; if it is strong, cross-examination often enhances the credibility of the witness.

Theft Over $5000

Mishta-tshimutu etatu $5,000 ishpish

An indictable offence. Criminal Code, Section 334(a).

Theft Under $5000

Ama shukᵘ mishta-tshimutu nashuk $5,000 ishpish

Theft under $5000 is a dual procedure/hybrid offence. The Crown, therefore, may elect to proceed by indictment. If the Crown does so elect, however, the offence is an absolute jurisdiction offence and the accused does not have the right to trial by jury. Criminal Code, Section 334(b).

Threat

Kushtatshimueu

An expression of an intention to inflict damage or injury.

Time to Pay

Eshpish minikut tshetshi tshishikashut

When a person is punished by a fine, the court that imposes the fine is supposed to set out clearly the time by which the fine must be paid.

Toxicologist

Kamishta-tshissenitak matshi-natukuna

An expert in the study of poisons.

Toxin

Matshi-natukun

A poison.

Transcript

Kassinu mishinaikana etashteti anite kaueshinitunanit

The written record of exactly what was said, usually in a court. What is said in court is captured by a court clerk using an audio-recording device. If there is an appeal, or if a record of what was said in the court is needed for any other reason, a transcript is ordered and it becomes possible to read exactly what was said.

Transition House / Safe House

Ka nakanituenimakaniht ishkueuat mitshuap

A safe house for the victims of family violence.

Treatment

Uauitshinushu

The caring for a person with medical or other problems such as alcoholism.

Treatment Centre

Kashtapanits mitshuap

A place designed to help people with problems of alcohol or other substance abuse.

Trespassing

Ama tapuetakuan tshetshi pimutet kutaka auennua utassinits

Historically, the generic name for intentional torts, that is, civil legal actions which were intended to provide a remedy to someone who has suffered a forcible injury to themselves, or their property. Trespass could include battery (intentionally bringing about harmful or offensive contact with someone); false imprisonment (forcibly keeping somone in captivity); and trespass to land. Trespass to land can include any intentional interference with another person's possession of land, or can be the remedy for any material damage suffered by someone occupying land when another person undertakes activities on it (for example, if someone has the right to my land, I can sue them for trespass to land if they do not clean up their waste products properly).

Trespassing at Night

Ama tapuetakuan tshetshi pimutet kutaka auennua utassinits e tipishkaniti

It is a criminal offence under section 177 of the Criminal Code to loiter or prowl at night near a dwelling house on another person's property.

Trial

E natu-tshissenimakanit tshe ishi pimipaniakanit

The process whereby a criminal complaint or a civil dispute is placed before a court for that court to decide the issues between the parties. The popular view of a trial is that part of the overall process that involves the courtroom, and people professionally involved with the courts use the word in this way too. It can also be used to describe the entire process from charge to conviction or acquittal, in the criminal context.

Trial by Judge Alone

Ueshinueu tshishe-kamakunuesht muk^{u}

There is no jury for the trial.

Trial by Judge and Jury

Kamishta-ueshinitunanits tshishe-kamakunuesht, mamu ka peikunnueshiht ashu nish^{u} (12) ishi ueshiakanu

There is a jury for the trial.

Trifling and Transitory

Ama ishpitenitakuan

Of very slight importance and short duration. It is a term that might be used in the context of an assault causing bodily harm where it is alleged by the Crown that the bodily harm consists of a red mark on the skin. Such an injury would be too trifling and transitory to constitute bodily harm.

Unanimous

Mishue ka peikunnueshiht ashu nish^{u} (12) tapuetamuat

A word used of a decision in which all who make the decision agree. The verdict of a jury in a criminal trial in Canada must be unanimous. All 12 jurors must agree.

Undertaking

Tshika uinushu auen mashinaikannu tshetshi tutak ka itashumakanit

1. A promise to the court to appear in court when required to do so and to comply with any conditions imposed by the court in order to be released from custody before trial. Breach of undertaking is a criminal offence. Criminal Code, Section 145(3). 2. A term used for a promise made by a lawyer to another lawyer or to a court to do something or not to do something. It is a serious matter for a lawyer to fail to honour her/his undertaking and new lawyers are often advised to think carefully before they enter into undertakings.

Undertaking, Breach of

Ka pikunak ka tapuetatishut ka mashinataushut mashinaikannu tshetshi ueuetishinakanit

Undertakings and recognizances are official documents allowing a person in custody to be released until the trial date. Both will state when the person has to go to court and usually involve other conditions. A breach of one of an undertaking or recognizance is a criminal offence and can lead to the person being taken back into custody where s/he might remain until the conclusion of the trial.

Undetermined Death

Ama tshissenitakanu tshekuan ut nipit

Better understood as undetermined cause of death. A death the reason for which is not known.

Unfit to Stand Trial

Ama ishinakushu tshetshi ueshiakanit

A person is unfit to stand trial who, because of mental disorder, is unable to understand the proceedings, or its consequences, or communicate with a lawyer. All others are fit to stand trial. See Fit to Stand Trial.

Unlawful Confinement

Tshipauakanu eka tapuetak

Keeping someone in a place without their consent.

Unlawful [also called Illegal]

Eka tapuetakanit etashtet tshishe-utshimau umashinaikan

Contrary to or forbidden by law.

Unsworn Evidence

Apatshitakanu enu essishuet auass

1. A person under the age of 14 or of limited mental capacity who does not understand the nature of an oath or solemn affirmation, but who is still able to communicate the evidence, may be permitted to

give evidence on promising to tell the truth. Canada Evidence Act, Section 16. 2. The Supreme Court of Canada, has made it possible for unsworn evidence to be received by a court when the court is of the opinion that the unsworn evidence meets tests of necessity and reliability.

Uttering Threats

Nanatu-shetshimeu

Communicating a threat to cause harm to a person or thing.

Vague

Aimu muk^{u} ama nishtutakushu

Uncertain, without definition, unsure, without detail, unclear.

Venue

Nete kaueshinitunanits

The place where a trial is held. Usually this is the place where the offence is alleged to have taken place. See Change of Venue.

Verdict

Etakanit auen ka tshishi-ueshiakanit

The judgment of a judge or jury, for example: guilty, not guilty.

Victim

Eka minu-tutuakanit auen

The person or business who has suffered harm or loss as a result of an offence.

Victim Fine Surcharge

Minuat anite nakashtakanu eshi ueshiakanit

A penalty imposed by the judge in addition to any other punishment and the proceeds of which serve to provide assistance to victims.

Victim Impact Statement

Mashinataikanu eshi akuiakakanit auen

A victim impact statement is a written statement that describes the harm or loss suffered by the victim of an offence. The court considers the statement when the offender is sentenced. The preparation and submission of a victim impact statement is the victim's choice. The victim may also choose to read their victim impact statement aloud at the sentencing hearing if they wish.

Voir Dire

Tshekuan eka minupaneniti anite kaueshinitunanit, nanatu-tshissenitakanu tan tshe tutakanit

A voir dire is often called 'a trial within a trial'. In the course of a trial issues frequently arise, especially concerning what is admissible evidence, which have to be resolved before the trial can continue. The court holds an inquiry into the issue and makes a decision before the trial proper is resumed. In a jury trial the jury is sent out of the courtroom until the judge has decided what to do. This ensures that, if it is not correct to admit the evidence being considered on the voir dire, the jury will not hear it. If it is correct to admit the evidence being considered it will be repeated in the presence of the jury. A common example of a voir dire is when the Crown wishes to enter into evidence a statement made to the police by the accused. The evidence of the police officers and, often, the accused concerning the circumstances under which the statement was given is first heard by the judge in the absence of the jury. If the judge decides that the statement meets the tests of the law, much of the evidence is then given all over again, but in the presence of the jury. If the judge decides the statement does not meet these tests, the jury never hears it. See Police Warning.

Voluntary Intoxication

Ui matenitamunushu

The state of being intoxicated by alcohol or drugs, consumed willingly in the knowledge that intoxication could result. In some circumstances extreme intoxication can result in a state of automatism. The law does not allow automatism to be a defence

when it comes about as a result of voluntary intoxication. But if a person entered into a state of automatism as a result of having been fed an intoxicating substance unknowingly, the defence of automatism might be available to him.

Waive

Eka apatenitak

To dispense with the necessity of doing something. Often, in court, one may hear a lawyer waiving the reading of the charge, or waiving the irregularity of something being done in her/his client's absence. What s/he is saying is that the court need not bother to read the charge or wait until the client gets to court and s/he will not complain about it later.

Wanton or Reckless Disregard

Ama apatenitam^{u} e itit

These are the words used in the offence of criminal negligence, Criminal Code, Section 219, which states: Everyone is criminally negligent who a) in doing anything, or b) in omitting to do anything that it is her/his duty to do, shows wanton or reckless disregard for the lives or safety of other persons. The words "wanton" and "reckless" are separated by "or" rather than "and", which implies that they mean different things. In fact, the courts have said that to be found guilty of this offence, an accused's conduct has to be wanton or reckless, but not necessarily both, which means that the courts do think there is a distinction, although it is difficult to understand just what it is. Mr. Justice Cory of the Supreme Court of Canada said, in the case of R. v. Waite when he was a member of the Ontario Court of Appeal: "The word 'wanton' means 'heedlessly'. 'Wanton', coupled as it is with the word 'reckless', must mean heedless of the consequences or without regard for the consequences." Both words describe a high degree of negligence. It is important to distinguish between the negligence which gives rise to a civil case and the negligence which involves criminal liability. Criminal negligence involves negligence of such a high degree of fault that a person can be said to have committed a crime.

Warrant, Arrest

Itashtenu mashinaikannu tshetshi makunakanit auen

There are situations in which an arrest can be made without a warrant. There are even situations in which an ordinary citizen, not a peace officer, can make an arrest. But in some cases a peace officer is not supposed to make an arrest unless s/he has a written authorization from a justice of the peace to make the arrest. This written authorization is called an arrest warrant.

Warrant, Discretionary

Mashinaikan tshe itashtets tshika tshi utinakanu put ama tshiak tshi utinakanu auen (eka takushinit kauishamikut kaueshinitunanits)

Where an accused or a witness does not appear in court when required to do so, the judge may issue a warrant, or order, for the arrest of that person. If it is unclear why the person did not appear, and if the person may have had a good excuse, the judge may ask that discretion be used by the police in executing the warrant. The idea is that a person should not be taken into custody except for very good reason.

Warrant, Search

Mashinaikan ka itashtets tshetshi natuapatashunanuts uitshits

See Right to Privacy. As a general rule, peace officers and other government officials may not enter people's residences and places of work, or probe into their affairs and records unless they believe, on a reasonable basis, that doing so will reveal evidence of a crime. As a protection for the reasonable expectation of privacy that the law says we all have, the law often requires that such officials, before they make a search, obtain from a judicial official, sometimes a justice of the peace, sometimes a judge of a higher court, a search warrant. This is an authorization by a judge, to the peace officer, to conduct a search. In order to obtain it, the peace officer has to first persuade the judge that s/he does have a proper basis to make a search. A search warrant, therefore, is a judicial control over police action.

Weapons Prohibitions

Passikana kushtinakanu

Many offences involving violence or the use of firearms require or allow the judge who finds an accused guilty of such an offence to make an order prohibiting the accused from possessing firearms. Depending on the circumstances such a prohibition can be for varying periods of time.

Weigh the Evidence

Minu-uauapatamᵘ eshi ueshiakanit

To weigh the evidence is just an expression that means to consider carefully the evidence. It is what a judge or a jury is expected to do before making a decision.

Willful Blind

Ama ui tshissenitamukashu

Willful blindness is an important idea in criminal law. For example, it is an offence to possess property that has been stolen if the person knows that it has been stolen. If a person sells me a boat for a very low price I may well have a suspicion that s/he stole it and that is why I am being offered such an attractive price. Because I want the boat for a low price I take care not to ask too many questions so that I can persuade myself that I have done nothing wrong. But the law will not let me get away with that. The law will say that I was willfully blind, which has the same effect as if I knew the boat was stolen, and I will be found guilty of a criminal offence.

Withdraw Charges

Uepinakanu umashinaikan

Charges are brought to the court by the Crown. It sometimes happens that, upon closer scrutiny, the Crown decides that charges should not proceed and the decision to withdraw charges is made. Where the Crown withdraws charges before a plea is entered, no explanation to the court is necessary. After a plea is entered, the Crown has to seek permission from the judge if they seek to withdraw charges.

Witness

Kauapatshet

A person who is called to court to give evidence about something s/he heard, saw or did that is relevant to the case being dealt with in court.

Wound

Tuneshtenu etauakanit

An injury done by stabbing or cutting or shooting, etc. The word is used in two criminal offences, discharging a firearm with intent to wound and aggravated assault. One would usually understand wound as more serious than simple bodily harm. A bad bruising might be bodily harm but not wounding.

Written Statement

Mashinataikanu nenu ka issishuet

Statement that is written down.

Young Offender

Auass mak ussinitshishu mak ussinitshishkuess ka anuenimakanit

A person over the age of 12 but under the age of 18 who is convicted of a criminal offence.

Young Person

Auass mak ussinitshishu mak ussinitshishkuess

A person over the age of 12 but under the age of 18.

Youth Court

Nete auassat ka ueshiakanit

The court which hears criminal cases involving young persons charged with offences.

Youth Criminal Justice Act

Auassats eshi pimipaniakanits tshishe-utshimau umashinaikannu

The Youth Criminal Justice Act (YCJA) is a federal law that applies to Canadian youth ages 12 to 17 inclusive who encounter the law, or persons 18 or older who are alleged to have committed an offence as a youth. There is also a provincial law called the Young Persons Offence Act which applies when young people are charged with offences under provincial laws.

Youth Justice Committee

Mamunakanuats auenitshi tshetshi apits tshetshi uauitshuiats auassa ka uauishiakaniti

A committee drawn from the community that helps with any aspect of the adminstration of the Youth Criminal Justice Act, or with any programs or services for young people.

Terms Commonly Used in Sexual Assault Cases

Mushuau Dialect

Anal Sex

Matshi-tutueu ushkatshinit

Anal sex.

Anus

Makatshi

His/her anus.

Assault, Sexual [see also Sexual Abuse]

Ka ui natuni-tutuakanit auen

An assault of a sexual nature. A criminal offence carrying a maximum punishment of 10 years. Criminal Code, Section 271.

Bestiality

Ka natuni-tutuat aueshisha

Having sex with an animal.

Breast(s)

Mitini

Her breast(s).

Buttock(s)

Mishukan

Her/his buttock.

Cunnilingus

Nukuatauakanu ishkueu

Oral sex given to a woman.

Digital Penetration

Tshakatshinakanu put tshakuatitshinakanu

Digital penetration (putting finger(s) inside).

Fellatio

Nushanituakanu napeu

Fellatio (oral sex given to a man).

Fondle

E tatatshinakanit auen

Touching a lot.

Hand / Fingers

Utitshia

Her/his hand or fingers.

Intercourse

Matshi-tutueu

Sexual intercourse.

Kissing

Shuenimeu

Kissing.

Kissing

Tshipuatam^{u}

Kissing on the lips.

Licking

Nukuatam^{u}

Licking.

Oral Sex

Nukatanitsheu

Oral sex.

Penis

Mitakai

His penis.

Rape

Mushekatepiteu (ua natuni-tutuat)

Rape is a term that is commonly understood to mean a person is forced to have sexual intercourse against his/her will.

Sex Offender Information Registry

Kamatshi-tutuat auennua umashinaikanuau ka uinakanits (anite tshishe-utshimau umashinaikan)

The National Sex Offender Registry is a national sex offender database, which is maintained by the RCMP. Persons convicted of a designated sex offence as defined by the Sex Offender Information Registration Act (SOIRA) may be ordered by the court to register within a specific period of time. There are various reporting requirements which must be met by the offender. The public does not have access to the National Sex Offender Registry. It is a database that provides Canadian police services with important information that will improve their ability to investigate crimes of a sexual nature.

Sexual Abuse [see also Sexual Assault]

Ka ui natuni-tutuakanit auen

To abuse means to use in a bad way. Sexual abuse, therefore, means to use sexually in a bad way. If the abuse is criminal the charge would

be sexual assault or one of the other sexual offences contained in the criminal code. There is not a criminal offence specifically called sexual abuse.

Sexual Activity

Matshi-tuteu

Any activity of a sexual nature. In criminal law the term is often used in sexual cases when the court is asked to decide whether any reference can be made to sexual activity other than the incident in the actual charge. For example, A is accused of sexually assaulting B on a certain day at a certain place. A tells her/his lawyer that s/he and B used to have a consensual, or agreed upon, sexual relationship and that what happened on the occasion for which s/he is charged was just the same as what used to happen. Can evidence of the previous sexual activity be put before the jury? This cannot be done unless the judge allows it. Criminal Code, Section 276.

Sexual Assault Causing Bodily Harm

Mashikueu ua matishituat ekue ushikuiat

A sexual assault in which the victim suffers bodily harm. A criminal offence carrying a maximum penalty of 14 years. Criminal Code, Section 272.

Sexual Assault Involving Co-Accused

Mamukuakanu auen ka ui natuni-tutuakanit

A sexual assault committed by more than one person.

Sexual Assault with a Weapon

Apatshitau tshekuannu ka ui natuni-tutuakanit auen

A sexual assault in which a weapon is used. A criminal offence carrying a maximum punishment of 14 years. If the weapon used in such an assault is a firearm there is a minimum punishment of 4 years. Criminal Code, Section 272.

Sexual Assault [see also Sexual Abuse]

Ka ui natuni-tutuakanit auen

An assault of a sexual nature. A criminal offence carrying a maximum punishment of 10 years. Criminal Code, Section 271.

Sexual Exploitation

Ka matshi-tutuat auennua ka nakatuenitamutinakanit

A criminal offence in which a person in a position of trust touches a young person (defined as a person between 14 and 17 inclusive) for a sexual purpose, or invites that young person to engage in sexual touching.

Sexual Interference

Ka natuni-tutuat auassa eka peikunnu ashu neu tatipuneshiniti (14)

Touching a child under 14 for a sexual purpose.

Sexual Offender

Kamatshi-tutuat auennua

Person convicted of sexual offence(s).

Sexual Touching

Matshi-tatshinakanu auen

Touching someone for a sexual purpose.

Sucking

Nushanitam^{u}

Sucking.

Thigh

Upuam

Her/his thigh.

Thigh, Lower

Nashuk upuamekut

On her/his lower thigh.

Thigh, Upper

Ishpimit upuamekut

On her/his upper thigh.

Touching

E tatshinakanit auen

Someone is touched.

Touching Over Clothes

E tatshinakanit auen uss utakupit

Someone is touched over her/his clothes.

Touching Under Clothes

E tatshinakanit auen naitunakanu

Someone is touched under her/his clothes.

Trust Relationship

Shutshenimitun

A trust relationship is one where the law imposes a duty on one of the persons in the relationship, usually the older person, to treat the other person in the relationship, who is in some way vulnerable or weak, or simply younger, with special care. A common example of such a relationship is that between a teacher and a student. An example of the special care that the law would require the teacher to take of the student would be in the area of sexual relationships. The age of consent for sexual relationships is 14. A 20-year-old person could legally have a sexual relationship with a person between the ages of 14 and 18. But if the 20-year-old person is the other person's teacher the law could regard him as having committed the offence of sexual exploitation. It is by no means only teachers who are in this

situation. It applies to many others such as doctors, lawyers, social workers, babysitters, etc.

Vagina

Matshiss

Vagina.