Glossary Re: Homicide

The following is a list of commonly used legal terms in homicide cases. This list is not exhaustive and the definitions summarize the terms. They are for general information only.

Acquittal:

a finding of not guilty. This is not the same as being found innocent. An acquittal means the Crown did not meet the burden of proof for the jury or judge to find the accused guilty. Once acquitted, a person cannot be tried again for the same offence, unless an appeal is applied for and granted.

Adjournment:

a temporary delay or re-scheduling of court proceedings.

Agreed Statement of Facts:

an agreement between the Crown and defence as to what happened. It may not be an accurate reflection, from the victim's point of view, but it reflects what the Crown believes it can prove and what the defence is willing to admit to.

Appeal:

is a process where either the Crown or the defence ask a higher court to change a lower court's decision or take a second look at a particular decision. A sentence can be appealed, a guilty verdict can be appealed and in limited circumstances, an acquittal can be appealed. Appeal courts are concerned with questions of law, not evidence. Witnesses are rarely required to testify.

Bail hearing:

a hearing held by a judge to decide if a person should be released from jail before a trial. Because an accused person is innocent until proven guilty, he/she will not automatically be held in custody prior to the trial. A judge will consider the risk to the public/victim and the risk that the accused may flee.

Beyond a Reasonable Doubt:

is the standard of proof required to convict someone in a criminal trial. It is the Crown's obligation to prove the accused is guilty beyond a reasonable doubt. The accused does not have to prove his/her innocence. The requirement of guilty beyond a reasonable doubt recognizes that a judge or jury may not be 100% sure of guilt; that they may have some small doubt.

Change of Venue:

generally, cases are tried in the community courthouse nearest to where the offence took place. A change of venue is where the case has been moved to another Courthouse in another place. Such requests are rare and usually limited to high-profile cases that may make it difficult to find a jury of people who have not been influenced by media coverage of the case.

Conditional release:

programs such as day parole, full parole and statutory release that provide an offender with a period of supervised transition from prison to the community. Under the Corrections and Conditional Release Act (CCRA) all offenders must be considered for some form of conditional release during their sentence. Types of release include temporary absences (escorted and unescorted), day parole and full parole.

Conviction:

when a person is found guilty of an offence.

Crown Prosecutor:

a government lawyer who conducts criminal cases, sometimes called a Crown Attorney. In the US, they call prosecutors District Attorneys or DAs.

Defence lawyer:

a lawyer who represents an accused person.

Homicide:

the taking of a life. Culpable homicide is murder or manslaughter. Non-culpable homicide is not an offence.

Judicial review hearing:

more commonly known as the faint-hope clause allows convicted murderers with parole ineligibility periods of over 15 years to apply for a reduction in the number of years they must serve in prison before being able to apply for parole. An application can be made after they have served 15 years of their sentence. Multiple killers are not eligible to apply for such hearings and recent amendments mean future murderers will not be able to apply.

First Degree Murder:

is the most serious type of murder, it is a planned and deliberate act. It also includes (but is not limited to) the murder of a police officer, murders that take place during the commission of another criminal act, such as a sexual assault or criminal harassment or is linked to organized crime or an act of terrorism. First degree murder carries an automatic life sentence without eligibility for day parole for 22 years and full parole for 25 years (from the date of arrest).

Life sentence:

is an indeterminate sentence in which the offender remains in prison or on parole for the rest of his/her life.

Manslaughter:

a homicide is manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation. A maximum sentence for manslaughter is life but there is no minimum. A life sentence for manslaughter is different than for first or second degree murder in that the offender can apply for parole after seven years.

Parole:

a discretionary type of conditional release that allows an offender to serve some of their sentence out of prison under supervision.

Parole Ineligibility Period:

is the period for which an offender must wait before he/she can apply for parole.

Plea-Bargaining:

when Crown and defence come to an agreement regarding a guilty plea and/or a sentence. The guilty plea usually comes in exchange for a benefit such as a reduction of the charge against the accused or where the two sides agree upon a sentence. An example is where the accused is charged with first degree murder but agrees to plead guilty to second degree murder. A Crown may enter into plea negotiations because of concerns about evidence, reliability of evidence, strength of the case, etc.

Preliminary hearing:

like a mini-trial where a judge determines whether there is sufficient evidence to hold an accused person for trial.

Registered victim:

a victim who has registered with either the Correctional Service of Canada (CSC) or the National Parole Board (NPB) to receive information about the offender who harmed them.

Second degree murder:

is an intentional murder but was not planned or premeditated.

Sentencing Hearing:

a hearing before the Judge where the sentence is decided.

Verdict:

a verdict is the finding of guilt or innocence.

Victim Impact Statement:

A victim impact statement is a written account of the personal harm suffered by a victim of crime. The statement may include a description of the physical, financial and emotional effects of the crime. Where a victim impact statement has been prepared, it must be taken into consideration by the sentencing judge. Victims have a right to present an impact statement at sentencing, judicial review hearings and parole hearings.

Voir dire:

is a hearing, held without the presence of the jury, to discuss a question of law or determine whether a piece of evidence will be allowed.