

## KEY LEGAL TERMS

Understanding the key terms associated with Topic 4: Punishment and sentencing will underpin your ability to comprehend legal concepts, principles and processes.

### Learning outcomes

Students will:

- describe key terms using legal terminology including concurrent and cumulative sentencing, custodial and non-custodial sentences, obiter dicta, ratio decidendi, customary law, deterrence, retribution (punishment), rehabilitation, incarceration, denunciation, prevention, restorative justice, and recidivism
- describe the range of sentencing options including fines, good behaviour bonds, probation, suspended sentences, community service orders, intensive correction orders, and imprisonment
- select legal information

### Focus question

What key terms underpin  
Topic 4: Punishment and sentencing?



### Curriculum links

This learning resource has been developed for students studying Legal Studies 2019 (General Senior Syllabus) in Year 11.

It ties in with Unit 1: Beyond reasonable doubt, Topic 4: Punishment and sentencing.

### Getting started

Write the following key terms on a whiteboard: concurrent sentence, customary law, denunciation, deterrence, non-custodial sentence, probation and recidivism.

In small groups, ask students to identify which words they can't describe.

Ask students to explain the words they know to the members of their group.

### Further resources

The following websites may further enhance the learning outcomes associated with this resource:

[Queensland Sentencing Advisory Council, Sentencing definitions](#)

[Queensland Sentencing Advisory Council, Queensland Sentencing Guide](#)

## Your turn on the next page!

Once students have completed the activity on the following pages, ask them to:

1. Place the completed cards into the categories: custodial sentence, non-custodial sentence, theory of punishment (*note: some will be uncategorised*).
2. Explain the difference between:
  - a concurrent and cumulative sentence
  - a custodial and non-custodial sentence
  - *obiter dicta* and *ratio decidendi*
3. Locate examples of where Aboriginal and Torres Strait Islander customary law is integrated into our legal system.
  - Write an extended paragraph explaining your findings.

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### Your turn

Understanding key terms is important because it allows you to engage with some of the complex key concepts central to this topic.

For this learning activity, identify or describe the correct key term. If you need assistance, use the resources listed on the first page. Try and use your own words as much as possible. Once you have completed each card, create a flash card to help you study.

Extend yourself and don't forget to try the three questions on the first page.

| Key legal term                        | Description  |
|---------------------------------------|--|
| <p><b>Probation</b></p>               | <p>A sentence of imprisonment of one year or less ordered to be served in the community and including intensive supervision, community service and treatment programs.</p> |
| <p><b>Cumulative sentence</b></p>     | <p>A sentencing order that does not involve the person being sentenced to imprisonment (other than a monetary penalty).</p>  |
| <p><b>Community service order</b></p> | <p>To establish conditions to help the offender be rehabilitated.</p>  |

| Key legal term              | Description   |
|-----------------------------|---|
| <p><b>Customary law</b></p> | <p>A court order to appear before the court if called to do so and to 'be of good behaviour' (not to break the law) for a set period (up to three years). The offender and anyone acting as a 'surety' is required to pay an amount of money if the offender breaks the law or does not comply with other conditions.</p>   |
|                             | <p>Individual sentences ordered for each charge in a case that are to be served at the same time. This means the shortest sentence is subsumed into the longest sentence (also called the 'head sentence').</p>   |
| <p><b>Fine</b></p>          | <p>To denounce (indicate disapproval of) the offending behaviour.</p>   |
| <p><b>Incarceration</b></p> | <p>A sentence of imprisonment of five years or less suspended in whole (called a 'wholly suspended sentence') or in part (called a 'partially suspended sentence') for a period of time (called an 'operational period'). If further offences punishable by imprisonment are committed during the operational period, the offender must serve the period suspended in prison (unless unjust to do so), plus any other penalties issued for the new offence.</p> |



| Key legal term                         | Description   |
|--|---|
| <p><b>Ratio decidendi</b></p>          |   |
| <p><b>Obiter dicta</b></p>             |   |
| <p><b>Prevention</b></p>               | <ul style="list-style-type: none"> <li>An approach in which the victim/survivor and offender (and in some cases other persons affected by a crime) participate actively together in the resolution of matters arising from the crime – generally with the help of a facilitator.</li> </ul> |
| <p><b>Retribution (punishment)</b></p> |   |
| <p><b>Imprisonment</b></p>             | <ul style="list-style-type: none"> <li>To deter the offender or other members of the community from committing the same or a similar offence.</li> </ul>  |