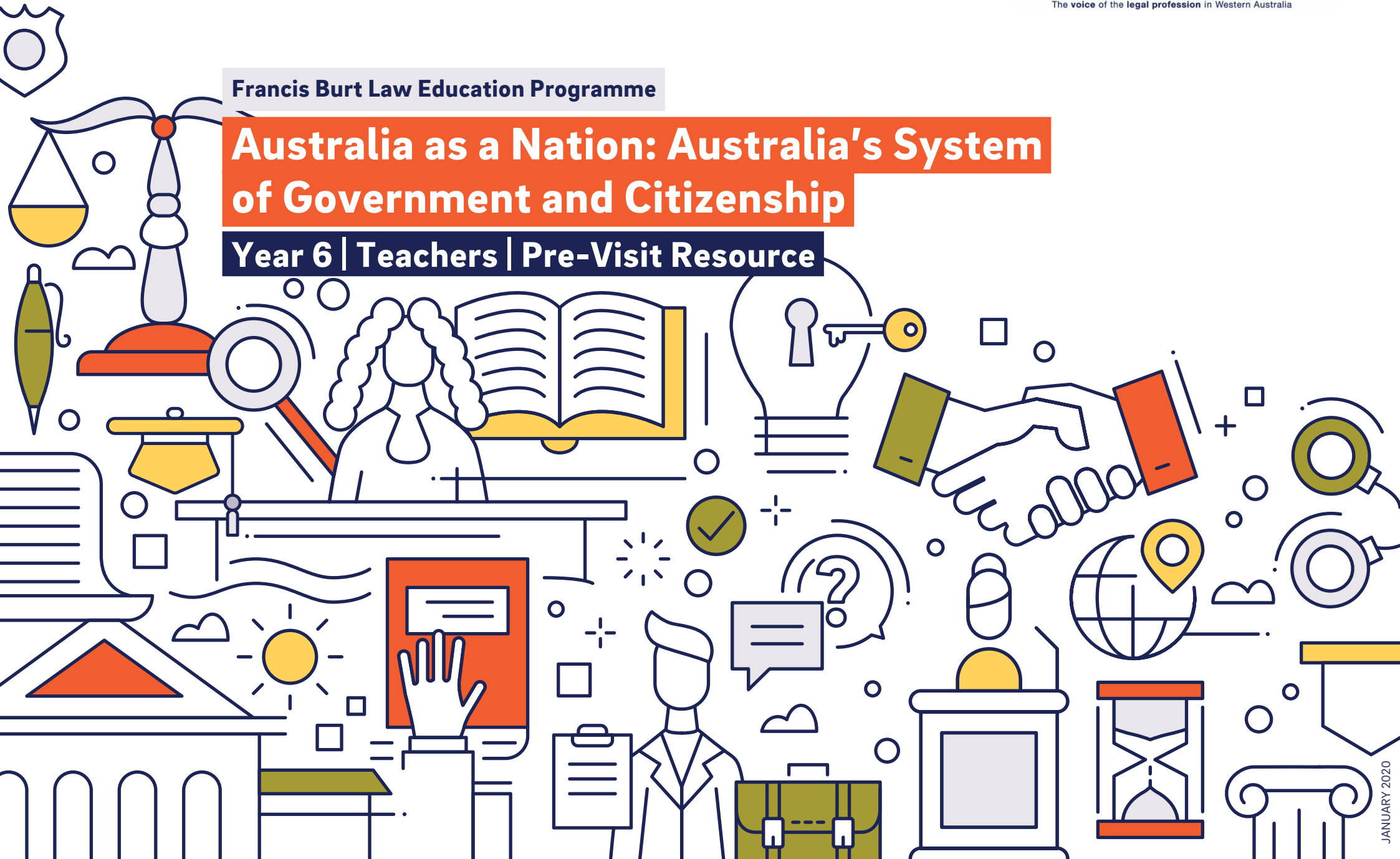


Francis Burt Law Education Programme

# Australia as a Nation: Australia's System of Government and Citizenship

Year 6 | Teachers | Pre-Visit Resource



# Magna Carta

The Magna Carta is described as one of the most important documents in human history. Research the Magna Carta using the hyperlink below and complete the tasks that follow.

## BBC Website

Read the BBC Bitesize on [King John and Magna Carta](#). After reading you may also like to do the online quiz on the Magna Carta

After reading the three pages above you may also like to do the quiz on the Magna Carta on the BBC Website under the Activities section of each page.

You may wish to research further details using the 'More to Explore' hyperlinks on the BBC Website:

[King John and the Magna Carta](#)

[King John \(c.1167 – 1216\)](#)

## Other useful websites:

- › [Australian Human Rights Commission](#)  
(Teaching Resource: Magna Carta)
- › [ABC Behind The News](#)  
(Magna Carta)
- › [Parliamentary Education Office:](#)  
A Written Agreement: Magna Carta

## Task

1. Why were the Barons very unhappy with King John?

- › **The Barons became very unhappy about John exploiting their loyalty and belief in his complete power.**

*The Barons had been very heavily taxed over a long period and they thought it was unfair.*

*There were no tax laws at this time as we know them today. The King/Queen was the law at this time and his/her word was the law. This period is often referred to as the rule of man.<sup>1</sup>*

2. When was the Magna Carta signed?

- › **19 June 1215.<sup>2</sup>**

3. What does Magna Carta mean?

- › **This means Great Charter.<sup>3</sup>**

4. What happened to the power of a King/Queen in Britain after the Magna Carta was signed?

- › **A King had to follow the laws of the land and it guaranteed the rights of individuals against the wishes of the King.<sup>4</sup>**

*The Magna Carta established the principle that the people of England, at this stage represented by the Barons, could limit the power of a King, if he was doing things that were not good for the country.<sup>5</sup>*

1 BBC, British History: The Magna Carta <[http://www.bbc.co.uk/schools/primaryhistory/british\\_history/magna\\_carta/](http://www.bbc.co.uk/schools/primaryhistory/british_history/magna_carta/)>.

2 Ibid.

3 Ibid.

4 Ibid.

5 Ibid.



# Rule of Law

The Rule of Law is a principle where everyone is subject and answerable to the law. This includes the Queen, the Government and ordinary citizens. This is known as the supremacy of law and under the Rule of Law everyone has clear rights and responsibilities.

## Watch

Watch 'Video 1: What is the Rule of Law?' on the [Legal Studies page](#) of the Rule of Law Institute of Australia website and complete the Western Australia worksheet.

### Useful websites:

- › [Rule of Law Institute of Australia](#)
- › [Attorney-General's Department: Rule of Law](#)
- › [Museum of Australian Democracy: Rule of Law](#)

# Citizenship

Up until January 1949 people born in Australia were regarded as British subjects. When the Nationality and Citizenship Act 1948 (now known as the Australian Citizenship Act 2007) came into place on 26 January 1949 it meant that everyone born in Australia became Australian citizens. Nowadays, for people who are not born in Australia, it is possible to become an Australian citizen if:

- one of your parents is an Australian citizen,
- you have been adopted by an Australian citizen,
- your partner or spouse is an Australian citizen,
- you are a migrant with permanent residence,
- you are a refugee.

There are different requirements depending on which category you fall into above however generally you need to be a permanent resident, be of good character and intend to live or maintain a close and continuing association with Australia.

A person who is eligible to become an Australian citizen must complete an application form, sit the citizenship test and then attend a citizenship ceremony where they will make their citizenship pledge.

### Useful websites:

- › [Crime Stoppers WA: Active Citizenship](#)
- › [Department of Immigration and Border Protection: Citizenship](#)

### Other great resources are:

- › an article and podcast on the SBS website entitled ["What Does Australian Citizenship Mean?"](#)
- › [History in the Making](#) which deals with immigration and journeys to Australia. It explores the experiences of people who have migrated to Australia.

## Tasks

- Complete the Australian citizenship pledge by filling in the missing words in the table below:

From this time forward, under God, I pledge my **loyalty** to Australia and its people, whose **democratic** beliefs I share, whose **rights** and liberties I respect, and whose **laws** I will uphold and obey.

[laws, democratic, rights, loyalty]

- Take the test - [Australian citizenship – What is it all about?](#)
  - › [This animated quiz is a fun way of learning about the privileges and responsibilities of being an Australian citizen. The answers to the questions are either 'fact' or 'fiction'. Level 1 has 5 questions and Level 2 has 10 questions.](#)
- Some of the values that are important to people living in Australia include respect, equality, fairness and freedom. Number the list below in order of priority of importance to you. Give reasons for your order of priority.

Order of Priority	Value	Reason for Order of Priority
	Respect	
	Equality	
	Fairness	
	Freedom	

- › **All efforts and answers should be encouraged. There is no right or wrong answer to the order of priority of the values.**

- Research more about the [Citizenship Ceremony](#). Why do you think the Australian Government requires new citizens to go to a ceremony?

# Establishment of British Law in Western Australia

## Instructions

[Captain James Stirling](#) established British law in Western Australia when he proclaimed the foundation of the Swan River Colony on 18 June 1829. A [proclamation ceremony](#) was later held on 12 August 1829. The ceremony is thought to have taken place near where the Perth Town Hall is now located in central Perth. A statue of Captain James Stirling now stands on the pavement outside the City of Perth Library at 573 Hay Street, Perth.

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Additional online resources on the establishment of British Law in WA and the colonisation of WA can be accessed via the [Museum of Australian Democracy: Documenting a Democracy website](#).

[West Australian specific documents](#)

[Timeline 60,000 BC–1836](#)

[Picture Album](#)



## Task

Compare the [George Pitt Morrison painting](#) entitled “The Foundation of Perth” with the photo of the statue of Captain James Stirling which commemorates the cutting of the tree on 12 August 1829.

1. Can you see many differences that have taken place around the location where the proclamation ceremony took place?
  - › **A lot of differences have taken place in that area and nowadays it is hard to believe that the area was as depicted in the painting by George Pitt Morrison.**
2. What are some of the differences you can identify around the location where the proclamation ceremony took place?
  - › **The differences that students may identify are numerous and may include: there is no longer any bushland around the site, that area is now the city centre, the clothes people wear around that area nowadays differs greatly to those worn by the people in the George Pitt Morrison painting and many many others.**

**Note: The statue of Captain James Stirling referred to above was funded and erected in 1979 to celebrate WA's 150th anniversary.<sup>1</sup> Initially, the statue was in front of the former R&I Bank office in Barrack Street, then it was moved to Riverside Drive, next it shifted close to the Town Hall site in Barrack Street and more recently outside the City of Perth Library.**

<sup>1</sup> Monument Australia website - <http://monumentaustralia.org.au/themes/people/government---colonial/display/98998-captain-james-stirling>

## Other great resources are:

Additional online resources on the establishment of British Law in WA and the colonisation of WA can be accessed via the [Museum of Australian Democracy: Documenting a Democracy website](#).

› [West Australian specific documents](#)

› [Timeline 60,000 BC–1836](#)

› [Picture Album](#)

Further resource material on the establishment of British Law in Western Australia is available via the [Supreme Court of Western Australia: History](#).

# Impact of British Law on Aboriginal People in Western Australia

## Instructions

The establishment of British law had a big impact on the Aboriginal Peoples in Western Australia.

Click on the hyperlink to the [Kaartdijin Noongar – Sharing Noongar Culture website](#) below. Read about the impacts of laws on Noongar people before 1905 and complete the tasks.

[The Impacts of Laws on Noongar People Before 1905](#)

## Task

1. In May 1829 did the Noongar people agree to let the British claim Western Australia?
  - › **No, an agreement or treaty was never signed by the Noongar people. The Noongar people refer to May 1829 as the time when the British invaded Western Australia.**  
*In June 1829 Stirling proclaimed that Aboriginal Peoples were under the protection of British Law.*
2. Did Aboriginal Peoples in WA have established Aboriginal customary lores (laws) at this time?
  - › **Yes, Aboriginal Peoples in WA had established Aboriginal customary lores (laws) for tens and thousands of years prior to June 1829.**
3. What was the Noongar people's understanding of British Law?
  - › **At this time the Noongar people would have thought that British Law was totally irrelevant to them as they had their own established legal system and WA was their country, i.e. Who were the British to tell them what to do? It was their land after all. Moreover communication between the Noongar people and the British would have been extremely limited due to language barriers.**  
*Customary Aboriginal Lore concepts and processes differ greatly from British Law concepts and processes and this would have severely limited both the Noongar people's and the British people's understanding of their respective legal systems.*

### Other great resources are:

The following extension resources which teachers may find useful are available on the [Kaartdijin Noongar – Sharing Noongar Culture website](#).

- › [Aunty Doolann Leisha Eatts tells of her grandmother's story of contact with Europeans](#)
- › [Yagan's Biography](#)

## Watch

### [Online video Weewar](#)

In 1842 the Crown prosecuted Weewar, a Binjareb Noongar warrior, for carrying out tribal payback by spearing Dyung of the Mooro Group. When Weewar heard that Dyung, a member of the tribe responsible for the death of his son, was moving through Binjareb Territory he was governed by one law - Traditional Aboriginal Law. Weewar's trial became the test case in Western Australia which determined that British Law took precedence over traditional law.<sup>1</sup>

**Note:** This trial really took place in the Old Court House where the Francis Burt Law Education Programme is based.

<sup>1</sup> Kaartdijin Noongar – Noongar Knowledge, Sharing Noongar Culture, South West Aboriginal Land and Sea Council, In 1842 Weewar, a Noongar, was convicted under British Law for carrying out payback. <<http://www.noongarculture.org.au/in-1842-weewar-a-noongar-was-convicted-under-british-law-for-carrying-out-payback/>>.



# Separation of Powers

## Read

Click on the hyperlinks below to the Parliamentary Education Office website and the Supreme Court of Western Australia website and complete the tasks opposite.

### [Separation of Powers](#)

– Parliamentary Education Office

### [Separation of Powers](#)

– Supreme Court of Western Australia

## Mythbusters

- › The gavel (hammer) has never been used in Australian courts. It is not featured in the United Kingdom court system either.
- › The gavel is an American legal tradition.
- › Judges and lawyers in Western Australian courts do not wear wigs. This tradition stopped in 2010.
- › In the majority of circumstances the prosecution and defence lawyers do not hate each other, do not constantly shout out “objection” and do not walk around the court room while examining a witness.

### Great resource:

There is a short interactive video called [“Playing Fair”](#) on the Parliamentary Education Office website which deals with the balance of power between the 3 arms of government.

## Task

1. What are the three arms of government?

- › **The Parliament, the Executive and the Judiciary.**

***The Parliament: The politicians elected to the WA parliament and the Federal parliament, in both houses, are the Legislature, i.e. the State Legislature and the Federal Legislature.***

***The Executive: The Governor, Premier and the State Ministers are the WA State Executive. The Governor General, Prime Minister and the Federal Ministers are the Federal/Commonwealth Executive.***

***The Judiciary: The Justices in the Supreme Court of Western Australia, the Judges in the District Court and the Magistrates in Magistrates Court are the WA Judiciary. The Justices in the High Court and Federal Court are the Federal/Commonwealth Judiciary.***

2. What is Parliament responsible for?

- › **Parliament is responsible for making laws and for changing laws.**

3. What is the Executive responsible for?

- › **The Executive is responsible for putting new laws and changed laws into action.**

4. What is the Judiciary (Judges) responsible for?

- › **The Judiciary is responsible for making judgements about the law.**

5. What does security of tenure for judges mean?

- › **Security of tenure means that a judge cannot be removed from his/her position except in exceptional circumstances. A judge must retire when s/he reaches the age of 70. The only other situation in which a judge can be removed from his/her position is after addresses calling for the judge’s removal in both houses of parliament (Note: this has never happened).**

6. Why is security of tenure for judges important?

- › **Security of tenure is important because it helps to ensure that the judiciary cannot be influenced by the government and its policies. For example if the government could remove a judge from his/her position at anytime the government could pressure the judiciary and this may influence a judge’s decision. This would be unjust as a judge’s decision must be based only on the law and the evidence before him/her in court.**



# How Laws are Initiated and Passed Through Federal Parliament

## Instructions

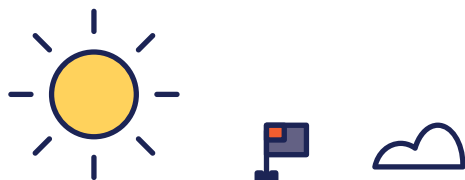
In a democracy, laws are formal rules which society uses to define how people and organisations are expected to behave. Australia is a representative democracy, which means people are elected to Parliament to represent Australians and make laws on their behalf.<sup>1</sup>

Laws are rules that help manage our society; they define how people and organisations are expected to behave. In Australia, the federal Parliament is responsible for making and changing laws about national issues such as defence, immigration and pensions. The Parliament aims to make laws that reflect the needs of the community. The government puts laws into action.<sup>2</sup>

1 Parliamentary Education Office website <http://www.peo.gov.au/learning/fact-sheets/bills-and-laws.html>

2 Parliamentary Education Office website <http://www.peo.gov.au/understand-our-parliament/how-parliament-works/bills-and-laws/>

3 Parliamentary Education Office website <http://www.peo.gov.au/understand-our-parliament/how-parliament-works/bills-and-laws/>



# How Laws are Made - Commonwealth

## Task

In Australia generally speaking there are two main kinds of laws – (1) State/Territory laws and (2) Federal/Commonwealth laws. Use the Parliamentary Education Office website hyperlink [Making a Law](#) to research how Federal/Commonwealth laws are made and complete the tasks. You might also like to read the [‘Making a Law’](#) and the [‘Bills and Laws’](#) Fact Sheets.

1. What is a bill? (Hint: The Parliamentary Glossary will help you)
  - › **A bill is a proposal for a new law or to modify an existing law that is presented to a parliament.<sup>3</sup>**
2. Who makes Federal/Commonwealth laws?
  - › **The Federal Government makes Federal/Commonwealth laws. The Federal Parliament is made up of the House of Representatives and the Senate.**
3. Who signs on behalf of the Queen before a Federal/Commonwealth bill becomes an Act of Parliament, i.e. a new law?
  - › **The Governor General of Australia.**

## Great resource:

There are a couple of short interactives on the Parliamentary Education Office’s website relating to making laws and bills. See the Parliamentary Quiz and Pass the Bill.

# The Court Hierarchy

The highest Australian Court is the High Court of Australia which is a Federal or Commonwealth Court. The High Court is the final court of appeal from the State and Territory Supreme Courts.

## Great resource:

Teachers may find the resources on the [High Court of Australia website](#) useful:

› [Resources for Primary, Secondary and Tertiary Students.](#)



## Tasks

In Western Australia there are three main levels to the State Court hierarchy. Complete the table below listing the three main courts in Western Australia with the highest court being at the top of the table and lowest court being at the bottom.

<b>Supreme Court of Western Australia</b>	Deals with homicide and serious breaches of Commonwealth drug enforcement laws. As the highest Western Australian court, any matters that are particularly serious or complex can be dealt with by this court.
<b>District Court of Western Australia</b>	Deals with crimes where a possible sentence is more than 3 years imprisonment, except for homicide offences and serious breaches of Commonwealth drug enforcement laws.
<b>Magistrates Court of Western Australia</b>	Deals with offences with a maximum possible term of imprisonment of 3 years.

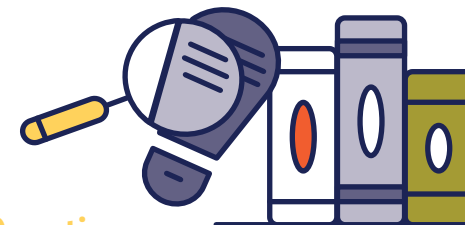
An additional online source of information specific to the Western Australian court hierarchy is available via the hyperlink below on the Supreme Court of Western Australia website: [Court Structure.](#)



## Vocabulary

**Jurisdiction:** a court's authority to hear a case, e.g. The Supreme Court of WA has jurisdiction over crimes where a life sentence is sentencing option.

If the students identify crimes and you are unsure which court has the jurisdiction for that charge encourage the students to ask the Education Officers about the jurisdiction of those crimes during their visit to the FBLEP



## Discussion Questions

- What kinds of crimes do you think are heard by the Magistrates Court of Western Australia?  
**The Magistrates Court hears crimes such as simple drug possession, stealing (under \$50,000 in value), criminal damage (under \$25,000 in value and not by fire), drink driving, disorderly conduct and assaults. Remind the students that the least serious crimes are still serious and there are consequences to having a criminal record, e.g. having a criminal record is likely to reduce your employment opportunities and it may limit your overseas travel options.**
- What kinds of crimes do you think are heard by the Supreme Court and the District Court of Western Australia? lia?  
**The Supreme Court hears crimes such as murder, armed robbery, Commonwealth drug smuggling and arson. The District Court hears crimes such as possession of drugs with intent to sell and supply, criminal damage by fire, stealing (over \$50,000 in value), all sexual offences, serious assaults, burglary on a dwelling and serious fraud offences (over \$50,000 in value).**
- Why do you think we have three main levels of court in Western Australia?  
› **A hierarchy of courts allows cases to be dealt with more efficiently, i.e. each court specialises in particular crimes and civil matters and that specialization ensures the matters are dealt with appropriately.**  
**The court hierarchy also provides opportunities for the hearing of appeals against decisions of lower courts and tribunals.**
- What is your image of a court room in Western Australia? Is a court room big or small? Is a court room a scary place or a comfortable place? Do the people in the court room wear casual clothes or formal clothes? Write down whatever you imagine when you think about a court room in WA.  
› **Expect and encourage a variety of ideas from the students.**

# Points to Think About Before Your Visit to the Francis Burt Law Education Programme (FBLEP)



## Think

Think about the correct answers to the points below before you visit the FBLEP. You will review your answers after your visit to the FBLEP.

### Kahoots Quiz:

[Year 6 Kahoots Quiz](#)

## Tasks

Read the sentences below and mark them True or False.



	✓	✗
1. The accused person must prove to the court that s/he is not guilty of the crime. <b>&gt; A very important legal principle is the burden of proof. That is, the onus/ responsibility is on the State to prove that that the accused is guilty. The State must prove the accused person's guilt beyond reasonable doubt. That is the standard of proof.</b>	True	False
2. Jury duty is a responsibility of everyone who can vote in Western Australia except in special situations and except for people in special types of jobs. <b>&gt; Significant amendments were made to the Juries Act WA in 2011. Those amendments included deferring jury duty for six months on request, increasing the minimum fine to \$800 for failing to respond to a jury duty summons and reducing the number of occupations which make a person ineligible for jury duty.</b>	True	False
3. The British colonists lived under customary Aboriginal lore (law) in the early days of the colony. <b>&gt; The British legal system was brought to WA in 1829. British law from that point onwards applied to everyone in WA and traditional Aboriginal lore (law) was not recognised by the British colonists. It is important to note the resulting clash of laws which occurred and the significant problems and injustices that this created for Aboriginal Peoples. Also important to acknowledge is the fact that traditional Aboriginal lore still exists today and the clash of legal systems is an on-going issue.</b>	True	False
4. The law for the Queen and Prime Minister is different to the law for everyone else. <b>&gt; An essential element of our legal system is that everyone must be treated equally and that everyone is answerable before the law.</b>	True	False
5. The government can remove a judge from his/her position at any time. <b>&gt; A judge can only be removed from his/her position if s/he breaks the law and a possible sentence is imprisonment. When a judge reaches the age of 70 s/he must step down. This system is referred to as security of tenure. Security of tenure is important for judges as it helps to ensure that they act without fear or favour in their role.</b>	True	False
6. The Australian Constitution describes what laws and courts for which the Federal Government is responsible and what laws and courts for which the State Governments are responsible. <b>&gt; The Australian Constitution is the legal framework for governance in Australia. After completing the pre-visit activities it would be worthwhile discussing the standard of behaviour expected when the group visits the FBLEP.</b>	True	False

# Points to Think About Before Your Visit to the Francis Burt Law Education Programme (FBLEP)



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7. If you are not born in Australia you cannot become an Australian citizen. › <b><i>There are a number of ways a person can become an Australian citizen including if one of their parents is an Australian citizen, if they have been adopted by an Australian citizen, if their partner or spouse is an Australian citizen, if they are a migrant with permanent residence or if they are a refugee.</i></b>	True	<b>False</b>
8. One privilege of being an Australian citizen is that you do not have to vote in government elections. › <b><i>Every Australian citizen over the age of 18 years must vote in government elections.</i></b>	True	<b>False</b>
9. Captain James Stirling established British law in the Swan River Colony (now known as Western Australia) when he proclaimed the Swan River Colony on 26 January 1788. › <b><i>Captain James Stirling claimed the Swan River Colony as part of the British Colony on 18 June 1829. It was Captain James Cook who arrived with the First Fleet of British ships in New South Wales on 26 January 1788.</i></b>	True	<b>False</b>
10. The three main courts in Western Australia that deal with civil and criminal matters are the Supreme Court of Western Australia, the District Court of Western Australia and the Magistrates Court of Western Australia. › <b><i>There are many other courts in Western Australia but they don't deal with both civil and criminal matters, for example Federal Court of Australia, Children's Court of Western Australia, Coroner's Court.</i></b>	<b>True</b>	False

Write down a question you have about the Old Court House or the Western Australian legal system that you might like to ask the Education Officers during your visit.

› ***A variety of different questions should be encouraged.***

After completing the pre-visit activities it would be worthwhile discussing the standard of behaviour expected when the group visits the FBLEP.

## SCRIPTED MAGISTRATES COURT TRIAL

Teachers may like to re-enact a Magistrates Court trial with the students prior to attending the FBLEP. The State v James Smart Magistrates Court trial script is available online on the FBLEP Legal Education Resources page of the Law Society of WA website.