



Francis Burt Law Education Programme

OUR DEMOCRATIC RIGHTS YEAR 9 STUDENT PRE-VISIT RESOURCE

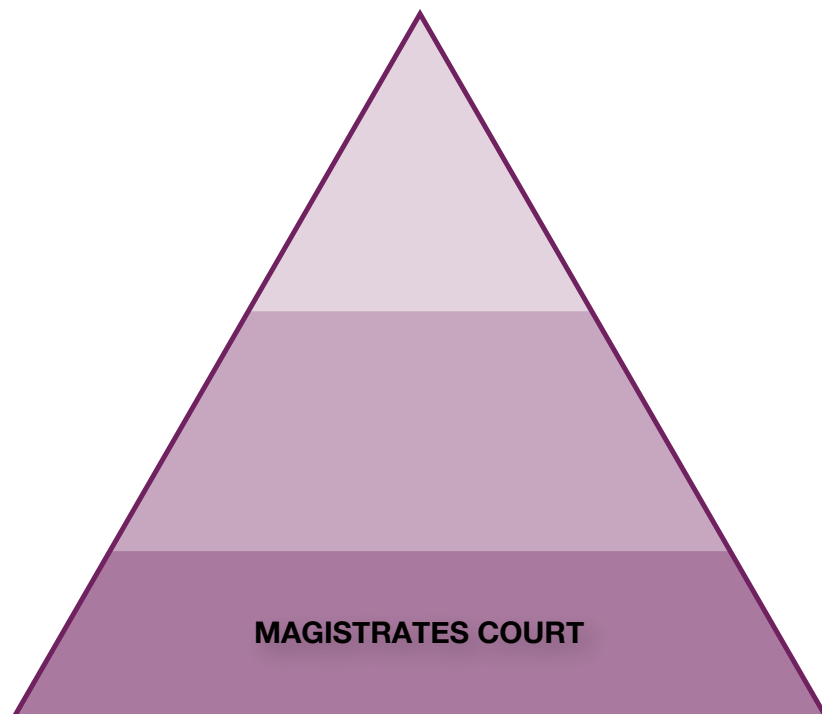
1. COURT HIERARCHY

The 3 main criminal and civil courts in the Western Australian system are named the:

- Supreme Court;
- District Court; and the
- Magistrates Court.

The High Court can review decisions made by all the State Courts.

Complete the chart below showing the names of the other two courts in the Western Australian court hierarchy (levels).



2. WHICH COURT?

Write the following descriptions next to the matching court in the table below:



- Deals with offences which attract a maximum term of imprisonment of 3 years.
- 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.
- 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.

SUPREME COURT	
DISTRICT COURT	
MAGISTRATES COURT	

With a partner, brainstorm three/four types of charges that would go to each of the courts named in the table below:

MAGISTRATES COURT	DISTRICT COURT	SUPREME COURT



Which court would hear each of the following cases?

- a. Tom is accused of threatening Sarah with a pair of scissors and stealing her purse containing \$5.00.

- b. Ben is accused of having a cannabis pipe in his possession with detectable traces of an illegal drug.

- c. Jonathan is accused of reckless driving and driving without license.

- d. Alison is accused of threatening the staff at the National Australia Bank with a gun and stealing \$40,000.

- e. Maria is accused of importing a trafficable quantity of methamphetamine into Western Australia.

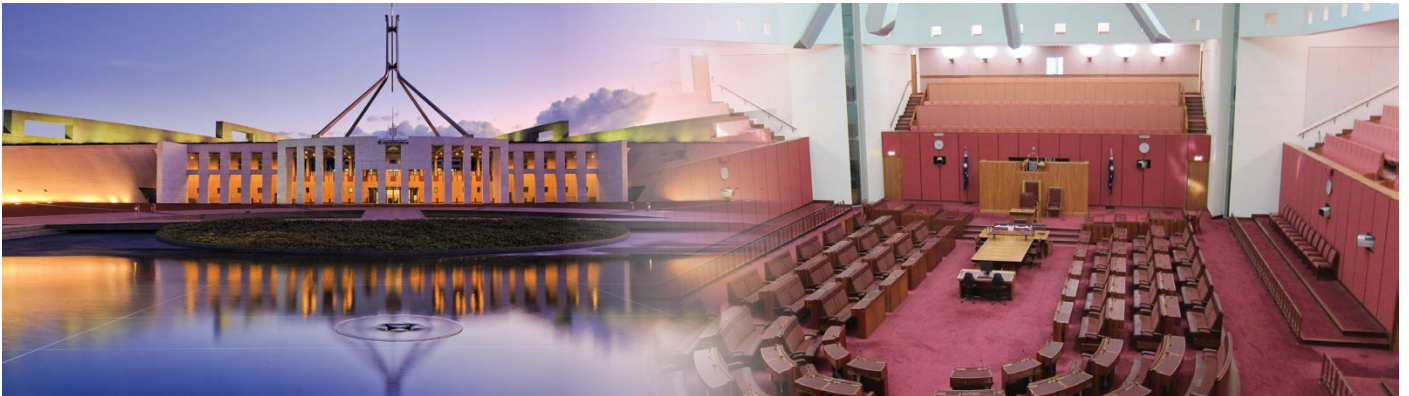
DISCUSSION POINTS

- a. Why do you think the courts in Western Australia are divided into three main levels?

- b. Apart from the three main levels of court in Western Australia, what other courts are you familiar with?

- c. What are some of the most challenging issues that the courts in Western Australia have to deal with in your opinion?

- d. Traditionally judges and lawyers in the Supreme Court and District Court wore wigs for criminal matters, however this tradition stopped in January 2010. In your opinion, was stopping this tradition a good or bad thing? Explain with reasons.



3. SEPARATION OF POWERS: THE THREE ARMS OF GOVERNMENT

The Roles of the Three Arms of Government

Click on the hyperlinks below to the [Parliamentary Education Office](#) website and the [Supreme Court of Western Australia website](#) and complete the tasks below.

[Separation of Powers](#) – Parliamentary Education Office

[Separation of Powers](#) – Supreme Court of Western Australia

TASKS

- a. What are the three arms of government?

b. What is Parliament responsible for?

c. What is the Executive responsible for?

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



Security of Tenure for Judges

Security of tenure ensures the independence of the judiciary from the other arms of government in Australia. Research what security of tenure means and complete the following tasks: [Separation of Powers](#), Supreme Court of Western Australia website.

e. What does security of tenure for judges mean?

f. Why is security of tenure for judges important?

- g. Describe a fictional scenario between a politician and a judge which could occur in a legal system where security of tenure does not exist.

4. LEGAL VOCABULARY

Match the vocabulary to the correct definition.

statutory interpretation, judgment, verdict, dispute resolution, precedent, appeal, adjourn, jurisdiction.



DEFINITION	TERM
The process by which a court interprets and applies legislation. Sometimes the words in legislation have a plain or straightforward meaning, however where the meaning is unclear the meaning of the words in the legislation will be determined by the judge.	
The decision of a court of law or a judge. This term tends to be more commonly used for civil and appeal matters rather than criminal matters.	
The final decision of whether a person is guilty or not guilty of a criminal offence. This term is used for criminal matters	
A process to work towards resolving disputes between two or more parties without the need for a court determined judgment. The most common method tends to be mediation	
A previous legal case or legal decision that must be followed in similar circumstances.	
A complaint to a higher court about an alleged error of fact or error of law by a lower court. Appeal hearings are only granted when either the State or the Defence (criminal matter) or Plaintiff or Defence (civil matter) has satisfied the court that an alleged error of fact or error of law exists.	
When the court ends either for the day or in its entirety or when the court takes a break.	
The official responsibility of a court to deal with particular types of matters.	

5. THE GOLDEN PRINCIPLES

The three principles that follow are often described as the golden principles of the Australian legal system for criminal matters and were inherited from the British legal system:

1. The Presumption of Innocence;
2. The Burden of Proof; and
3. The Standard of Proof.



TASK

Research the meaning of each of the principles and note in your own words what they mean.

a. The Presumption of Innocence

b. The Burden of Proof

c. The Standard of Proof

6. FACTORS UNDERMINING THE PRINCIPLES OF JUSTICE: SOCIAL MEDIA



In recent years the use and abuse of social media by jurors has become an issue. When performing jury duty it is essential that jurors decide whether the accused is guilty or not guilty on the evidence, and only on the evidence, presented in court. In addition jurors must not speak about the case nor the evidence with other people outside of the jury.

TASKS

a. Why is it important that jurors decide whether the accused is guilty or not guilty on the evidence, and only on the evidence, presented in court?

- b. Why is it important that jurors not speak about the case nor the evidence with other people outside of the jury?



Use and Abuse of Social Media by Jurors

In recent years there have been several examples of issues related to social media use and abuse by jurors in several criminal trials in Western Australia as outlined below:

2016: Supreme Court of Western Australia

- Murder trial
- First trial abandoned after one of the jurors was found to have been posting details on Facebook regarding the matter.
 - Note: Jurors are told by judges throughout the trial not to communicate about the matter on social media.

2015: District Court of Western Australia

- Possession of prohibited drug with the intention to sell or supply (Drug dealing) trial
- Re-trial abandoned after one of the jurors was contacted by his/her partner who advised that the accused had been found guilty in the original trial and the court of appeal had ordered that a re-trial take place.
 - Note: Jurors are told by judges throughout the trial not to communicate about the matter on social media.

At this point in time contempt of court charges haven't been brought against jurors in Western Australia, however it would seem that it is just a matter of time before this happens.



TASKS

c. Identify how the use of social media by jurors can undermine the principles of the criminal justice system.

d. Identify ways for the courts to address the use and abuse of social media by jurors.

e. Would you support mandatory penalties for jurors using and abusing social media during the hearing of a matter in which they are involved? Why? If yes, what would be an appropriate penalty in your opinion?

7. POINTS TO THINK ABOUT BEFORE YOUR VISIT

Think about the correct answers to the points below before you visit the Francis Burt Law Education Programme. You will review your answers after your visit.



Instructions:

Read the sentences below and mark them true or false.

a. Generally speaking there are two types of law in WA; civil and criminal law.	True	False
b. If you are accused of a crime in WA you must prove to the court that you are not guilty.	True	False
c. The Federal Court is the highest court in Australia.	True	False
d. Jury duty is a civic responsibility of everyone who has their name on the electoral roll in WA except in special situations and except for people in special types of jobs.	True	False
e. You have the right to trial by jury if you are accused of a crime in WA.	True	False
f. Everyone must swear an oath on the Bible when giving evidence in WA courts.	True	False
g. Everyone in Australia is treated equally by the courts and the law except for the Prime Minister and the Queen who have special privileges.	True	False
h. The government can remove a judge from his/her position at anytime.	True	False
i. An accused person must give evidence if s/he pleads not guilty and the matter goes to trial.	True	False
j. The verdict of a jury must always be unanimous in WA.	True	False



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