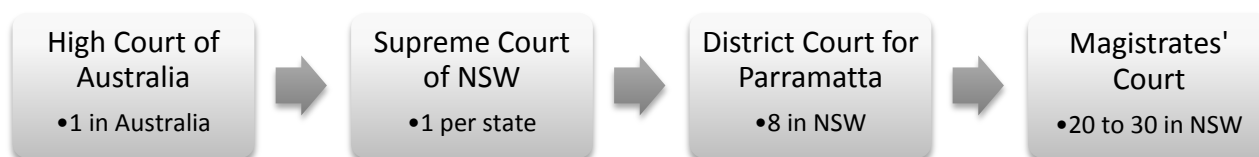


LAW AND SOCIETY

THE LEGAL FRAMEWORK

- Law is needed for:
 - o **Protection** of people and property from others
 - o **Freedom** of speech, assembly, religion, property
 - o **Dispute resolution** – criminal and civil disputes
- There are two legal systems:
 - o **Adversarial** – 2 barristers
 - UK, Australia, Canada, NZ, Singapore, India, HK
 - o **Inquisitorial** – directed by judge, with solicitor and attorney
 - Indonesia, France, Holland, Germany
- The **adversarial** legal system splits into **common** and **statute** law.
 - o **Common** – decided by judge, when no existing law is available, called a **precedent**
 - o **Statute** – legislation made by **parliament**, called **Acts of Parliament** or **Statutes**. **Outweighs common law**.

COURT HIERARCHY



- **High Court of Australia** – In Canberra, **constitution interpretation**, deals with **appeals** from the **Lower Federal** and **State Supreme** courts.
- **Supreme Court** – **Murder** and all **appeals** from the District Court
- **District Court** – **Major** crimes (other than murder), **appeals** from Magistrates Court
- **Magistrates' Court** – **All cases initially sent** to this court

COURT STRUCTURE

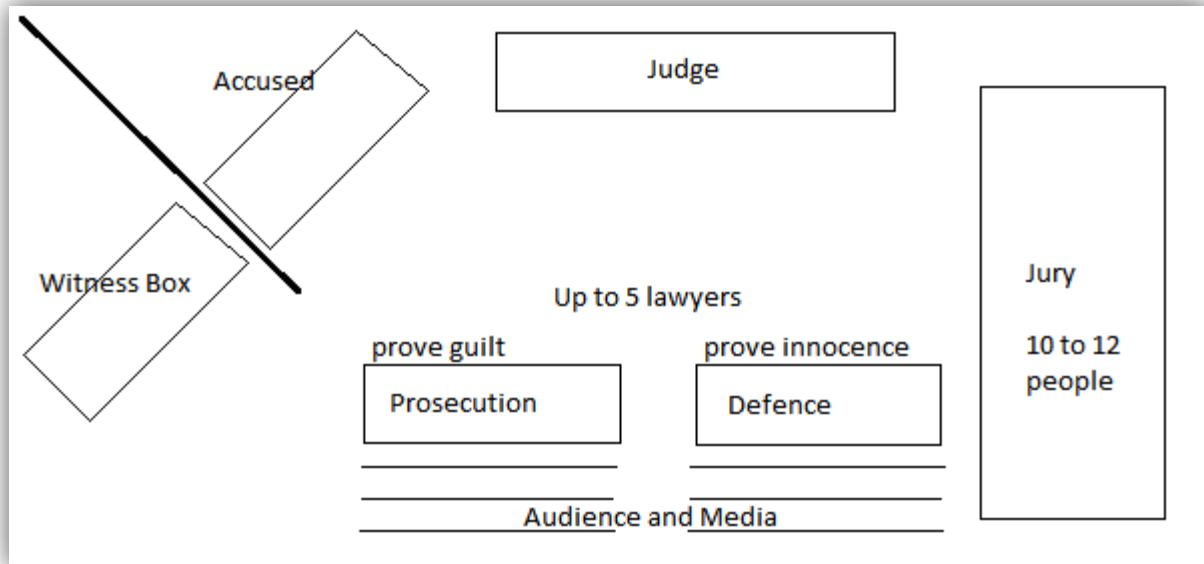
- A **legal team** consists of a solicitor, principle and assistant, barristers, lead council and assistant.
 - o A **solicitor** deals with the public in legal matter and a **barrister** pleads a case in court.
- A normal court layout consists of:
 - o The **jury**, anyone on the electoral roll, helps **decide the verdict** for a single case.
 - **“Beyond reasonable doubt”** – **all 12 jurors** must agree.
 - o The **judge** listens to the argument, and if person is guilty, **decides** on the **sentence/punishment**
 - o The **tipstaff helps keep order** of the court
 - o **Prosecutor asks questions** to witnesses to convince the jury the person is guilty, **barrister** replaces prosecutor in civil cases and presents reasons of compensation.
 - o In civil cases, the **plaintiff** takes the **defendant** to court.

AREAS IN LAW

- Laws are categorised as **civil** or **criminal** law.
 - o **Civil/Private Law** – against other individuals (torts)
 - Negligence, trespass, defamation, nuisance

- **Criminal/Public Law** – against society
 - Drink Driving, speeding, assault, drugs, theft and fraud

TYPICAL COURT LAYOUT



THE AUSTRALIAN CONSTITUTION

- Constitution **outlines** and **defines commonwealth powers**.
 - Commonwealth laws **outweigh state** laws.
- Separation of Powers:
 - **Legislature** – makes laws, Senate and House of Representatives
 - **Executive** – carries laws out, Cabinet (Prime Minister and ministers)
 - **Judiciary** – interprets laws, High Court
- To amend constitution, a **referendum** is required, where **4/6 states** and **majority of population** say yes.

CHANGING LAWS

