

## Francis Burt Law Education Programme

# OUR DEMOCRATIC RIGHTS

## YEAR 9 STUDENT POST-VISIT RESOURCE

### 1. POINTS TO THINK ABOUT AFTER YOUR VISIT

Review your answers to the points below after your Francis Burt Law Education Programme 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



## 2. COURT HIERARCHY REVIEW

In your own words describe the differences between the Supreme Court, the District Court and the Magistrates Court of Western Australia.



### The Family Court of Western Australia

Research the jurisdiction of the Family Court of Western Australia and complete the following task:  
[Family Court of Western Australia](#).

- a. Note down the jurisdiction of the Family Court of Western Australia.

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### The Children's Court of Western Australia

Research the jurisdiction of the Children's Court of Western Australia and complete the following task:  
[Children's Court of Western Australia](#).

- b. Note down the jurisdiction of the Children's Court of Western Australia

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## 3. THE GOLDEN PRINCIPLES REVIEW

1. The Presumption of Innocence;
  2. The Burden of Proof; and
  3. The Standard of Proof.
- a. After your visit to the Francis Burt Law Education Programme, note down anything that you saw or experienced that demonstrated any of the golden principles.



### The Presumption of Innocence

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### The Burden of Proof

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### The Standard of Proof

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#### **4. THE STANDARD OF PROOF REVIEW**

Rewrite the following text in *italics* in your own words.

- a. The Standard of Proof for Criminal Matters in WA: *to find someone guilty of a crime you must be satisfied beyond reasonable doubt.*

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The standard of proof for criminal matters in WA and Australia, as shown above, is often described as the highest standard known to the law.

- b. Why do you think the standard of proof is so high for criminal matters in WA?

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## 5. LEGAL VOCABULARY

Match the vocabulary below to the descriptions in the table.

Criminal Law, Common Law, The Australian Constitution, Statute Law, Civil Law



VOCABULARY	DEFINITION
	Law which is created by judge's decisions. Those decisions set precedents which all the lower courts must follow. This type of law is created when there is a gap in the existing legislation.
	Law which focuses on formal disagreements between two or more people in our community.
	The document which identifies the fundamental principles of how Australia is governed. It includes details on what laws and courts the Federal Government is responsible for and what laws and courts the State Governments are responsible for.
	Law which aims to stop anti-social behaviour, harm and danger in our community.
	Law which is created by Parliament through legislation.

## 5. FACTORS UNDERMINING THE PRINCIPLES OF JUSTICE: ACCESS TO JUSTICE

All Australians have, under the law, the right to seek justice. But this right doesn't count for much if it cannot be exercised.



Each year, one in four Australians will experience a legal problem substantial enough to require a lawyer, yet a lawyer may not always be within reach.

Less than one-tenth of people account for approximately two-thirds of legal problems.

More than 13 per cent of Australians live under the poverty line, while legal aid is available to just eight per cent. Many impoverished people are considered too wealthy to get basic legal help.

Legal issues compound other social and economic challenges creating a dire situation for those in need of assistance<sup>3</sup>.

### Task 1

- How important is equality of access to legal assistance in your opinion? Why? Low importance / Medium importance / High importance

Access to justice might include:

- getting the right information about the law and how it applies to you
- understanding when you have a legal problem and knowing what to do about it
- getting the right help with a legal problem, including from a lawyer

- being able to deal with your legal problem and being able to understand the outcome
- making sure your voice is heard when laws are made<sup>4</sup>

Australians who experience disadvantage can find it more difficult to get access to justice for a multitude of reasons, including but not limited to:

- education and literacy levels
- language barriers
- financial constraints
- lack of accessibility
- access to information and digital technology
- past traumas and hesitation to engage in legal processes
- lack of knowledge around rights and where to go for advice or assistance<sup>5</sup>

Research the Law Council of Australia's [Justice Project](#) and complete the following tasks.



## Task 2

- a. What is the aim of the Justice Project?

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b. What are the guiding principles of The Justice Project?

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c. What will the Justice project identify?

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#### Task 4

##### Fact Sheet 2: Why Should I Care About Legal Aid?

d. Summarise how cuts to legal aid funding have the potential to affect many people in the community.



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## Task 5

### Fact Sheet 3: Massive Federal Cuts to Legal Aid

- e. Document the changes to legal aid funding using the table below.

YEAR	EVENT
1996	
2014	
2016-2017	

## Task 6

Community legal centres (CLCs) are not-for-profit community-based legal services that provide free and accessible legal and related services. Almost 200 CLCs across Australia help hundreds of thousands of people each year, but are also forced to turn away hundreds of thousands of people<sup>13</sup>.

- a. Summarise what CLCs are and how they help the community.

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- b. Summarise what Community Law Australia has identified as being needed to resolve access to justice issues in Australia.

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### **Discussion Point**

- a. How does reduced access to legal assistance resulting from reduced funding cuts to legal aid services undermine the application of the principles of justice (equality before the law, independent judiciary and right of appeal) in Australia?

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- b. Discuss the following principles of justice related issues in Australia and place them in a hierarchy of priorities for the State and Federal Governments to address. Explain the reasons for prioritising your top two issues over the others.

Funding of legal aid services, Use and abuse of social media by jurors, Mandatory sentencing, Bill of rights, Political attacks on the judiciary, Mandatory detention and off-shore processing of asylum seeker

JUSTICE ISSUE	WHY IS THIS A PRIORITY?
1.	
2.	
3.	
4.	
5.	
6.	

## Appendix 1

# Our Democratic Rights

## Year 9 Multimodal Presentation



### TASK

Complete one of the following tasks and create a multimodal presentation

#### TASK A

- a. Identify the key features of Australia's court system from 1901

Include:

1. A brief history of the establishment of the Australian court system
2. Which courts the Federal government has responsibility for and which courts the Western Australian government has responsibility for and from where that authority originates
3. The key features of Australia's court system with the focus on the separation of powers, security of tenure, legal principles, open courts and the jury system

#### TASK B

- a. Identify the role of a particular Western Australian court; Supreme Court of WA, District Court of WA, Magistrates Court of WA, Children's Court of WA or Family Court of WA

Include:

1. A brief history of that court
2. The jurisdiction of that court
3. Details on one of the past or present judicial officers of that court
4. Details on a topical case or topical cases heard by that court within the last 3 years

#### Criteria for Assessment

- a. Relevance to topic.
- b. Present your multimodal report to the class in digital format.
- c. Accuracy of grammar and spelling.
- d. Creativity of presentation: graphics, pictures, formatting.
- e. Referencing of sources used either with footnotes or endnotes.



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