



NSW Court Experience Programs

HSC Legal Studies

Booklet 2: The Court Experience



For a labelled poster of the above 'Courtroom Layout' diagram and more, visit <https://www.ruleoflaw.org.au/education/infographics/>



Dear Students,

This workbook has been designed to assist you to reflect on the rule of law principles while you witness open justice in action. We encourage you to make reference to the Rule of Law Wheel (see next page) throughout the experience and identify where you see the principles in action (or not!) in the courts.

The Rule of Law is a foundation of Australian society. At its simplest it requires that we have laws that are followed and enforced.

The Rule of Law wheel demonstrates how different legal principles uphold the rule of law and ensure that no one is above the law and that the law is applied equally and fairly.

In Australia today, the rule of law requires that our legal system and government should provide:

- just outcomes when a person is brought before a court
- consistent, fair and impartial decisions about legal matters
- protection of individuals rights, freedoms, and
- ways to settle disputes between parties according to the law
- laws that are knowable, followable and fit for purpose.

“We can take for granted our relatively peaceful, law-abiding way of life ... We have courts where people will receive procedural fairness where the decision will be made on the merits and where there are rights of review by way of appeal or judicial appeal. It is very easy to take those things for granted, so educating people about what we broadly refer to as the rule of law is important because it means that people understand what binds the community together in a way that which is not necessarily obvious but is there as a constant in our functioning democracy.”

- The Honourable A.S. Bell, Chief Justice of Supreme Court New South Wales in his interview with the Rule of Law Education Centre

Please be respectful and courteous whilst you observe justice in action. Keep in mind that for many people in Court, this is one of the most stressful times of their lives. Please remember to abide by the protocols and security requirements at all times. These are outlined in your information sheet given to you by your teacher prior to this visit.

Self-care is important during and after this experience. If you see or hear anything confronting that bothers you, or that you can't stop thinking about, approach a trusted teacher, your parents or guardians or make an appointment with a counsellor. Alternatively, you can call Kids Helpline on 1800 55 1800 or Beyond Blue on 1300 22 4636.

We hope you enjoy your experience at the courts!

The Team at Rule of Law Education Centre



THE RULE OF LAW

All people should be ruled by just laws
subject to the following principles:



The rule of law must be supported by informed and active citizens





1. As you work your way through the courts, circle the elements of the summarised version of the crime syllabus below that you witness in action, and take notes where you can share with your class later. Remember the Themes and Challenges as well.

HSC Core Topic Syllabus: Crime

Themes and challenges to be incorporated throughout this topic:

- the role of discretion in the criminal justice system
- issues of compliance and non-compliance in regard to criminal law
- the extent to which law reflects moral and ethical standards
- the role of law reform in the criminal justice system
- the extent to which the law balances the rights of victims, offenders and society
- the effectiveness of legal and non-legal measures in achieving justice.

Students learn about:	Notes:
<p>1. The nature of crime</p> <ul style="list-style-type: none">• strict liability offences• causation• categories of crime including offences against the person, offences against the sovereign, economic offences (property/white collar/computer), drug offences, driving offences, public order offences, preliminary crimes (attempts and conspiracy)• summary and indictable offences• parties to a crime including principal in the first degree, principal in the second degree, accessory before the fact, accessory after the fact	



- factors affecting criminal behaviour

2. The criminal investigation process

- arrest and charge, summons, warrants
- bail or remand
- detention and interrogation, rights of suspects

3. Criminal trial process

- court jurisdiction
- the adversary system
- legal personnel: magistrate, judge, police prosecutor, Director of Public Prosecution, Public Defenders
- pleas, charge negotiation
- legal representation, including legal aid
- burden and standard of proof
- use of evidence, including witnesses

4. Sentencing and punishment

- the purposes of punishment: deterrence (specific and general), retribution, rehabilitation, incapacitation
- factors affecting a sentencing decision: aggravating and mitigating circumstances
- the role of the victim in sentencing
- appeals
- types of penalties including: no conviction recorded, caution, fine, bond, suspended sentence, probation, criminal infringement notice, penalty units, community service order, home detention, periodic detention, forfeiture of assets, imprisonment, diversionary programs
- alternative methods of sentencing



2. Tally the number and types of matters you hear in the Local Court.

Number of matters witnessed

Number of matters (total)	Number of matters (finalised – given a penalty/ sentence)	Number of matters adjourned to another date

Types of matters

Traffic Matters	Drug Matters	Bail Matters	AVO Applications	Assault Matters	Property Matters (break and enter, destroy property etc)

Types of outcomes witnessed

Bail granted	AVO given	Fine	Suspended Sentence	Community Service Order	Diversiory program (traffic program, drug court)	Custodial Sentence

4. Identify the features of the courts and the legal system you observe enabling access to justice for various groups (such as victims, offenders, persons with disabilities, people with non-English speaking backgrounds etc) and a fair trial for the accused.



Observation notes

Court (Local, District or Supreme)	Case citation (e.g. R v Smith)	Criminal/ Civil	Type of proceeding (hearing, sentencing, bail etc)	Accused charges or source of dispute	Syllabus Links/ Links to Rule of Law Wheel Principles



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7. After you leave the courts, choose someone who was in a different group and exchange an interesting case you witnessed. What surprised or interested you about it? How does it contrast to your expectations before attending court?