

The magistrates court



**ASSIGN
BUSTER**

Question 2- Explain the physical differences in the layout of the Magistrates Court and the District Court

The physical layout of the Magistrates Court and the District Court differ. Firstly, in most District Courts there is a space for a jury- whose responsibility is to reach a verdict and state whether the accused is guilty or not guilty. Secondly, there are only three seats at the bar table in a District Court as opposed to the four seats in the Magistrates Court- the prosecutor and the defence barrister sit on both sides of the legal clerk who sits in the middle. The legal clerk's main responsibility is to ensure that all necessary documents are in order for the court and the Judge. The solicitors that would normally sit at the bar table with the defendant, defence lawyer and prosecutor, in a Magistrates Court, sits behind the bar table in the District Court. The solicitor's role is to assist the prosecutor or defence barrister, but not to argue the case. As seen in the diagrams shown, the District Court has a space for an orderly, whose job in court is to keep the order in court and ensure that common court etiquette is applied (Durkin, n. d). Another difference between the District Court and Magistrates Court is the organisation of the bar table. In the Magistrates Court there is a space for the defendant as well as the defence barrister. Furthermore, the witness box and the dock (with the corrective services officer) are on either side of the courtroom in each of the courts. In the Magistrates Court, the witness box is on the left, and the defendant and corrective services officer sits on the right. However, in the District Court, the witness box is positioned on the right hand side, next to the jury, and the defendant and corrective services officer sits on the left hand side. The cases in the District Court are usually

more serious criminal offences, and therefore the defendant would always sit in the dock, unless it is a civil case, in which case, the defendant would sit with the barrister, at the bar table. In conclusion, although generally the courts are very similar, there are important physical differences in the layout of each of the Magistrates and District Court.

Question 3- Formal Procedures Followed in a Court

In the courts, there are formal procedures and regulations that were enforced during the proceedings. Firstly, all personnel in the court addressed the Judge, not the opposition party or their lawyer. One always stood when addressing the Judge, and waited till it was their turn to speak (Anon. 2, 2009). This was for respect and courtesy of the Court. The Judge is always addressed as 'Your Honour', and was never interrupted, even if something needed to be clarified. Furthermore, after the Judge has delivered his verdict, the defendant or the lawyer had to make sure that the Judge signs a written order. If the written order is not submitted during the hearing, the Judge makes both parties sign it, unless the opposition refuses to sign, under which another hearing will be scheduled (Booth, 2008). This is to ensure officialty of the decision, and to confirm that the order has been made. If the Judge doesn't sign the order, then it becomes a doubt as to whether the Judge really made a decision or not. Another procedure that was ensured in court was that all witnesses had to take a solemn oath on the Bible to say that they would state the truth, and nothing but the truth, before they were questioned. In addition, every member of the court personnel wore suitable and appropriate clothing. All lawyers, defendants and even clerks would wear smart business clothing. This is to pay respect to the Court and

everyone within it- especially the Jury and the Judge. All of these procedures help to keep running the court smooth and steady, and helps to keep the law enforced inside of the ' Hall of Justice'.

Question 5- Describe the role of three of the court personnel. Did they fulfil this role from your observations on the day of the excursion?

The Magistrate

The role of the magistrate is to reach a verdict in less serious infractions, and submits more serious cases to the District and Supreme Court. The magistrate also has to ensure that all procedures are followed and all laws and regulations are being kept. In criminal cases, the magistrate has to listen to evidence and determine whether the accused is guilty or innocent if a defendant has pleaded not guilty, and inflict a suitable punishment if the accused person pleads guilty. However, in civil cases, the magistrate decides on an appropriate sentence if the accused party is found guilty (Anon. 1, 2006). The magistrate's role in court is to preside over the court to enforce the law. During the excursion, all of the cases I saw had a magistrate who served his duties well. All of them served appropriate sentences which all of the defendants deserved. I do believe that the magistrates fulfilled their roles at the courts.

The Defence Lawyer

The role of the defence lawyer or barrister is to defend the charges against the defendant (Anon. 4, n. d). Their job is to plead guilty or not guilty based on what the accused has told the lawyer. Then depending on the plea, the defence lawyer tries to find flaws in the prosecution's argument, or to cross-

examine the witness. If the accused pleads guilty, then it is the defence lawyers' responsibility to try to lessen and relax the penalty being imposed on the defendant. At the courts during the excursion, the defence lawyers mostly tried to argue the case, but not many of them tried to find flaws in the prosecution's case by cross-examining the witnesses- but this may have been because the defendant agreed with the witness's account of the details, and pleaded guilty against the charges.

The Prosecutor

It is the prosecutor's role to provide the court with information and evidence about the charges being laid against the defendant. They must try and convince the Magistrate or jury, that the offences were committed by the defendant, and to maximise the penalty imposed onto the defendant (Anon. 4, n. d). They also try to explain the effect of the crime on other people, such as the victims. The prosecutor is responsible for examining the witness on their account of the crime, to prove his case to be correct. At the Southport courts, the prosecutors fulfilled their roles, because the magistrate or Judge mostly found the accused parties guilty of their crimes. This is due to well delivered and backed up arguments from the prosecutor's case.

Question 6- Compare and contrast the adversarial and inquisitorial court systems

The Adversarial and Inquisitorial Court Systems are both used widely all over the world. In Australia, the adversarial system is most commonly used. In some European countries, the inquisitorial system is used. Each system has its advantages and disadvantages, but both systems are different methods to achieving justice.

The Adversarial System is a court system, where the prosecution and defence both present their cases, and the judge or jury makes a decision on whether the accused party is guilty or not (Graham, n. d). The judge has to be disinterested and unbiased as to decide which party is telling the truth. The important feature of this court system is that all parties are equal before the Judge, and each party gets an opportunity to present their side of the case. Despite this, it cannot be ignored that the side with more wealth can gain better legal representation (Anon. 4, n. d)). This type of court system relies on the skill of the court advocates and not on the judge to recover the truth which is like the inquisitorial system. However, cost and efficiency have become an increasingly growing issue in terms of getting suitable legal support for the case. Furthermore, unlike the inquisitorial system, the adversarial court system presumes that the defendant is innocent until proven guilty. Thus, although the adversarial court system is the most common system used in the world- it does have its disadvantages and limitations.

The Inquisitorial System relies on the Judge and members of the court to find the truth themselves by recovering witnesses and victims. The Judge does decide whether the defendant is guilty or not guilty and also presides as the evidence is gathered like the adversarial system. However the Judges also actively gathers evidence to solve the case, in contrast to the adversarial system, where the Judge reaches a verdict on the basis of the evidence that has been presented to the court. The Inquisitorial Court System believes that the defendant is guilty, until proven innocent by the court. The Inquisitorial system is more independent and doesn't depend on the truth of the

statements of the parties (Anon. 3, 2010). However, due to this, in the Inquisitorial system, a lot more time is spent gathering evidence by the court itself, so it takes more time to reach a verdict. This can be a huge issue in terms of efficiency. But, the overall outcome may be more accurate and justifiable.

In conclusion, both the adversarial and inquisitorial court systems are different in terms of the type of method used to find the guilty party. But both of these systems share one common goal- to find the truth and achieve justice.