

Who Does What in the Criminal Justice System

[Professor Kathleen Daly](#) describes the Australian criminal justice system as a 'collection of interdependent agencies' that enact, enforce and administer criminal laws.

The system certainly has its flaws, and the public perception appears to be that its outcomes are seldom just.

Wheels of 'Justice'

Criminal laws, processes and procedures are embodied in countless pieces of legislation, cases, bench books, practice directions, policy manuals and the like – but 'the criminal law does not enforce itself' – it needs people with specific roles and responsibilities to facilitate outcomes.

That's where the agents of the system come into play – performing their duties interdependently to keep the wheels of 'justice' rolling.

Some of the main agents are:

Police

Police are public servants tasked with preventing crime, protecting members of the community and maintaining public order.

They are required to investigate crime – liaising with the complainant and witnesses, and gathering evidence. Where they suspect on reasonable grounds that there is sufficient evidence against a suspect, they are able to arrest, detain, charge and prosecute.

Police are responsible for preparing the 'Court Attendance Notice' which contains the allegations against a defendant.

They also take witness statements and prepare the evidence.

There are many different 'departments' in the police force – from General Duties Officers, to more specific departments such as the Highway Patrol and Public Order and Riot Squad.

Prosecutors

Prosecutors run cases in court. They include police prosecutors – who prosecute matters in the Local Court – and DPP solicitors – who are qualified lawyers that prosecute more serious cases. They are supposed to present all of the admissible evidence fairly in order to assist the court in arriving at the truth, rather than to secure a conviction at all costs.

Some prosecutors also prepare case for court – which can involve liaising with defence lawyers, police and witnesses. DPP lawyers may also be called on to decide whether cases go ahead or are discontinued.

The Judiciary

The Judiciary is comprised of Magistrates in the [Local Court](#), [Judges in the District Court](#), and [Justices in the Supreme and High Courts](#).

Members of the judiciary preside over all types of court cases – from short court dates called 'mentions', to bail applications, defended hearings and jury trials.

They are required to act fairly and apply the law impartially, and ensure that court processes are conducted in a timely and efficient manner.

Magistrates decide whether a defendant is guilty or not guilty in the Local Court, while District and Supreme Court Judges and Justices assist juries to decide guilt or innocence by directing them about the law.

The judiciary is also responsible for imposing penalties upon those who are guilty.

Prison Staff

Prison staff are responsible for supervising and controlling those in custody. They deal with people whose cases are yet to be finalised, as well as sentenced prisoners.

Prison staff are required to maintain appropriate custodial conditions whilst maintaining discipline and order within prisons. They are also meant to assist in preparing inmates for release into the wider community.

Criminal Defence Lawyers

[Criminal defence lawyers](#) represent those who are suspected or accused of crimes, ensuring that their rights and interests are protected. Their role includes advising clients about the strength of the case against them, the applicable law, the options, best way forward and the likely outcome.

Unlike police prosecutors who often receive cases on the day of court, criminal defence lawyers will be experienced at conducting cases from start to finish – including preparing and issuing subpoenas for evidence, preparing ‘representations’ for the withdrawal of charges, fighting for withdrawal, scrutinising briefs of evidence, engaging medical and forensic experts, preparing cases for court and, of course, defending criminal charges inside the courtroom.

The courtroom work of a defence lawyer is broad and varied – from short court mention dates, to bail applications, sentencing hearings, defended hearings and the independent conduct of jury trials for more experienced advocates.

Defence lawyers need to be familiar with a wide range of counselling and rehabilitation programs which can assist their clients. Where a client wishes to plead guilty, undertaking

rehabilitation can serve a dual role of reducing the likelihood of reoffending – which benefits the community – and demonstrating to the court that the client has taken responsibility and taken steps to overcome any issues, such as drug or gambling addiction, anger management issues and so on.

So there you have it – a thumbnail sketch of some of the main agents in our criminal justice system.