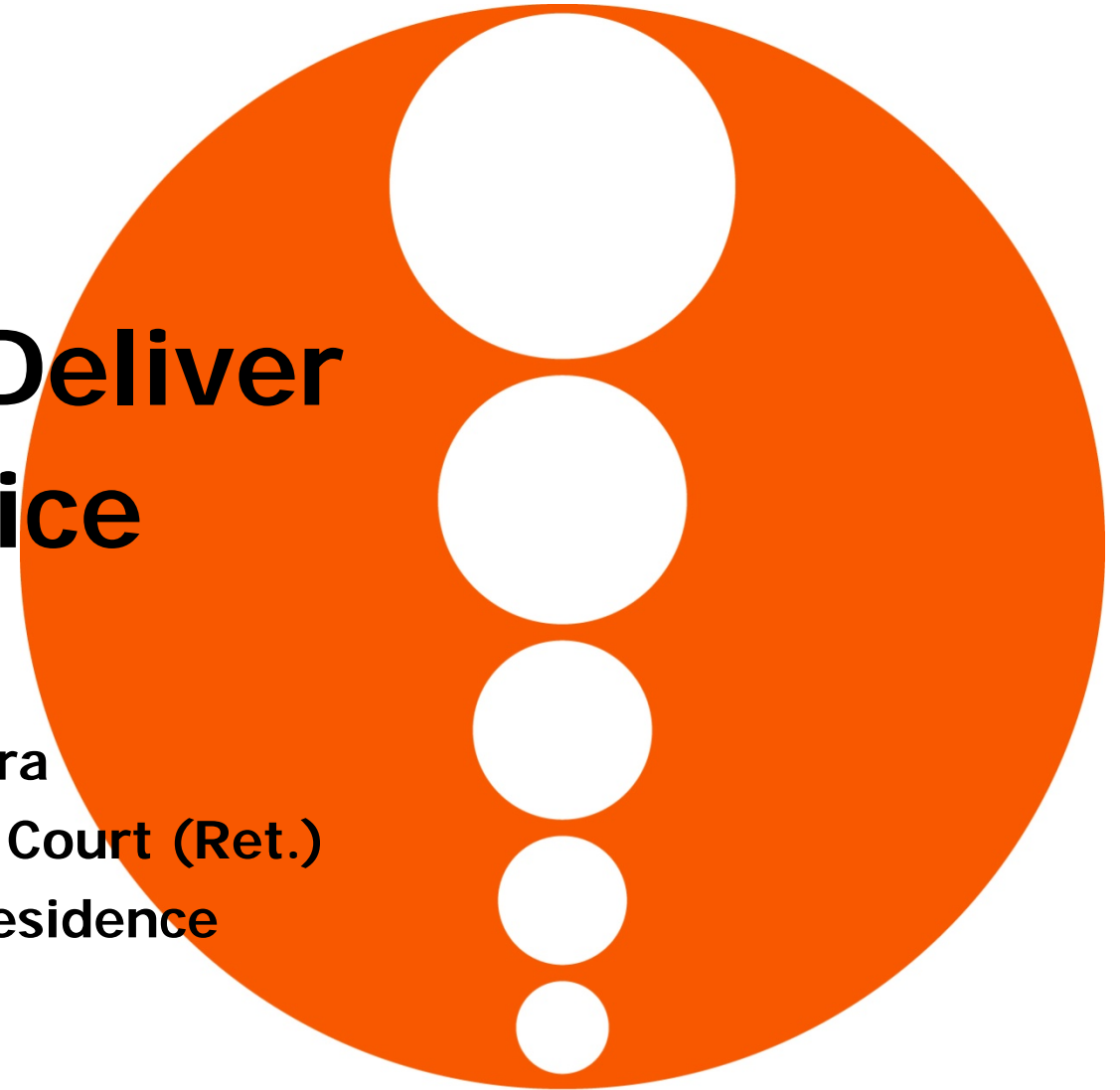


It Pays to Deliver Smart Justice

**Hon. Peggy Fulton Hora
Judge of the Superior Court (Ret.)
Adelaide Thinker in Residence**



thinkers
ADELAIDE
IN RESIDENCE



Adelaide

- ATIR program
- Festival city (400)
- “Festival of ideas”
- City of innovation
- Quality, committed justice professionals
- >800 people booked





Aboriginal Access to Justice



- <2% of SA population
- ~1/4 of adults in custody
- 50% juveniles in custody
- 9xs more likely to be in care than non-Aboriginal children
- 1:10 in mental health system
- Risky alcohol use is higher although overall use lower
- Interpreter issues in court

Good News: Disproportionate positive impact of reforms



Alcohol Policy

- Very alcohol permissive society +18 drinking age
- 24/7 availability
- 25% people don't feel safe because of drunks on street
- 35% road fatalities involve alcohol
- 56% men; 41% women arrestees in Adelaide admit heavy alcohol use within the 30 days





Illicit Drugs

- 40% of SA have used an illicit drug
- Slightly larger rates of cannabis and meth; smaller use of ecstasy, cocaine
- 23% drivers test + for illicit drugs
- Meth seizures in Sydney
- Bias against mandated treatment





Trial delay/case management

- Victims wait up to four years for a major case to be finalised
- Courtrooms are empty when cases fold on first day of trial
- People are remanded in custody for too long



Children wallow in foster care

- Children in care are seldom adopted
- Since 1996, 4-6 children were adopted each year. None was older than 12 months.
- Can have multiple placements
- Disproportionate number of Aboriginal children in care
- 13 times as likely to be found in need of care as non-Indigenous children



Incomplete or erroneous information about the justice system

- Loss of public trust, confidence and respect for the courts and justice system
- 70% SA have no or not very much confidence in the courts and legal system
- Lack of civics education; lack of understanding about how government runs
- 20th Century communication in the 21st



Four Approaches

1. Building Safer Communities
2. Fair, Timely and Economical Justice
3. Protecting the Next Generation
4. Understanding Third Branch of Government



Four Approaches

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1. Building Safer Communities

- Incarceration/Rehabilitation/Reintegration
- Criminal Law Reforms, New Statutes
- Integrated Criminal Justice Response to Alcohol and Other Drugs, Mental Health, Family Violence
- Evidence-informed sentencing

"...[P]unishment must be...public, prompt, necessary, the minimum possible, proportionate to the crimes and established by law." Cesare Beccaria, On Crimes and Punishment, 1764



“Tough on Crime”

- U.S. “War on Drug” 1980’s
- 2.3 million prisoners in U.S
- 5% world’s populations; 25% of its prisoners
- 1:23 adults 18-65 under supervision (parole or probation)



"Tough on Crime"





Incarceration/rehabilitation philosophy

- We need to punish the ones we're afraid of and treat the ones we're just mad at
- SA prison = \$82,000 per year (\$225/day)
- ~1/3 prisoners return within 2 years
- Treatment saves \$12 for every dollar spent in the U.S.; \$17 including medical costs



"Smart on Crime"

- **Drug treatment courts**
- 66% men, 86% women test + for drug other than alcohol at arrest in Adelaide
- High-risk offenders helped most with up to 35% reduction in crime in several U.S. studies



Four Approaches

1. Building Safer Communities
- 2. Fair, Timely and Economical Justice**
3. Protecting the Next Generation
4. Understanding the Third Branch of Government



2. Fair, Timely and Economical Justice

- Judicial leadership for Effective Case Management
- Trial Court Delay Reduction
- Civil Law Reform
- Appropriate Dispute Resolution
- Interpreters

"We are what we repeatedly do. Excellence, then, is not an act, but a habit." Aristotle



Case Management

- Referee vs. Manager
- Control case flow, not content
- Impose existing management rules
- Apply monetary sanctions for non-compliance
- List oldest first





Identify “soft spots”

- Swifter justice
- Reduce adjournments
- Statutory right to speedy trial
- Save \$2.7 million/year by identifying 30% of major indictable cases that don't get convicted



Four Approaches

1. Building Safer Communities
2. Fair, Timely and Economical Justice
3. **Protecting the Next Generation**
4. Understanding the Third Branch of Government



3. Protecting the Next Generation

- Child Protection – Healing Families
- Delinquency – Youth Court with restorative focus and family involvement
- Design and Philosophy of the Youth Training Centre. Rehabilitative focus rather than retribution-focused

“Our greatest natural resource is the minds of our children” Walt Disney



Child Protection – Healing Families

- Only about half of children removed from their parents are ever returned
- Children are not adopted, in care
- About 80% of parents unable to care have substance abuse or other mental health issues



Cost of current system

- Care/child protection costs SA \$136 million/year





Child Protection Philosophy

- Move more quickly to find permanent placement for children who will never be returned and provide treatment for the parents we're just mad at so their children will be returned
- Unified Family Treatment Court in collaboration with the Commonwealth
- "One judge, one family"



Four Approaches

1. Building Safer Communities
2. Fair, Timely and Economical Justice
3. Protecting the Next Generation
- 4. Understanding the Third Branch of Government**



4. Understanding the 3rd Branch

- Education of public and media about justice system
- Civics education that aims to increase knowledge about process and structure of government
- A-Team recommendations
- Use of new media

"Law: The only game where the best players get to sit on the bench" Anonymous



Executive, Legislative, Judicial Branches of Government





Three Branches of Government

- 1. Executive** -- Premier, Cabinet, Public Sector that administers and enforces the law
- 2. Legislative** -- Parliament that makes the law
- 3. Judicial** -- Judiciary interprets the law and adjudicates disputes



A Misunderstood Judiciary



- What's to complain?
- Complex issues in headline format
- Public actually "softer" on crime



Judicial independence

"...[T]he people must have confidence that the judiciary applies the law neutrally... and is not afraid of making unpopular decisions against powerful interests."

Former High Court Justice Michael Kirby



Judicial independence

- Basic principle of democratic, representative government
- Essential to the Rule of Law
- What separates us from other countries
- But it does not mean inefficiencies shouldn't be eliminated or streamlining and modern methods cannot be adopted



Building trust, confidence and respect for justice system

- Media and public education
- Civics education
- Better communication from the bench
- Community input about justice system planning
- Transparency

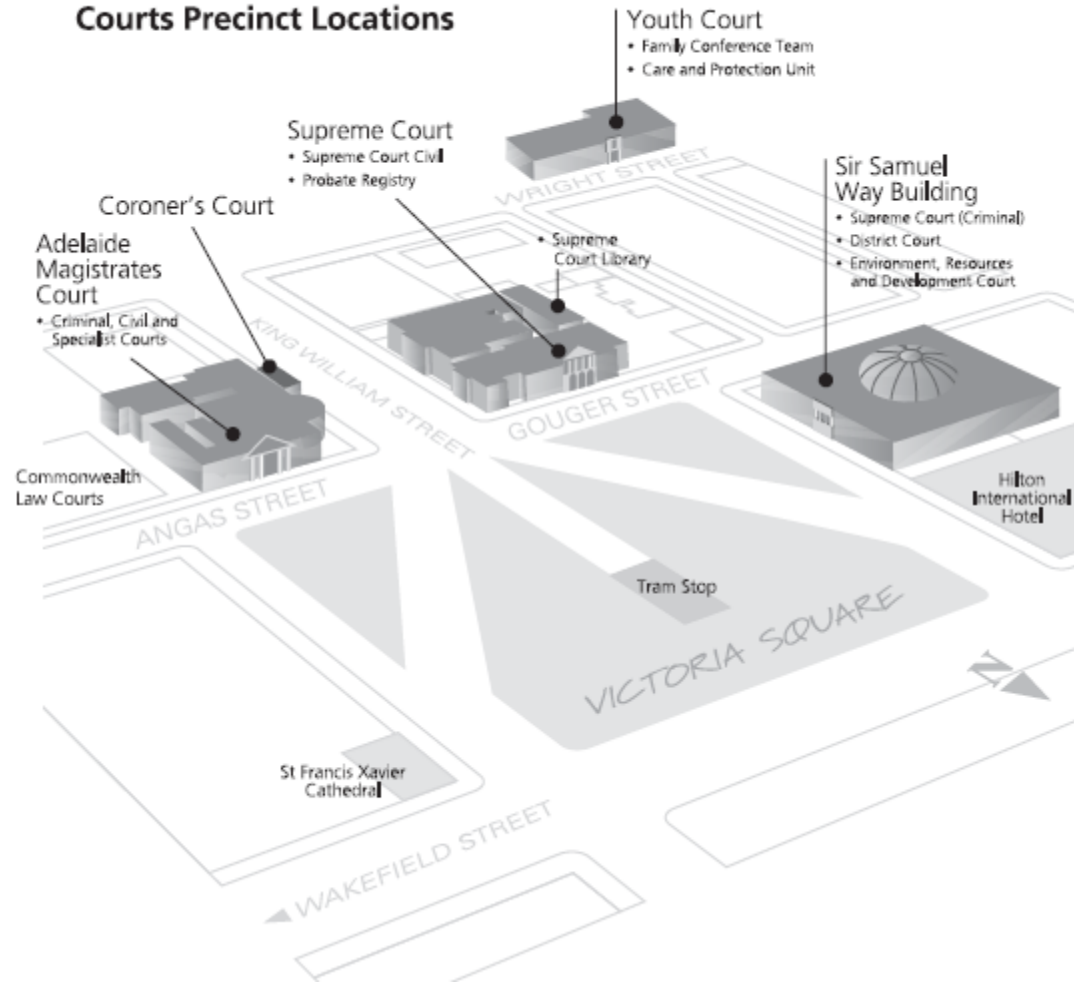


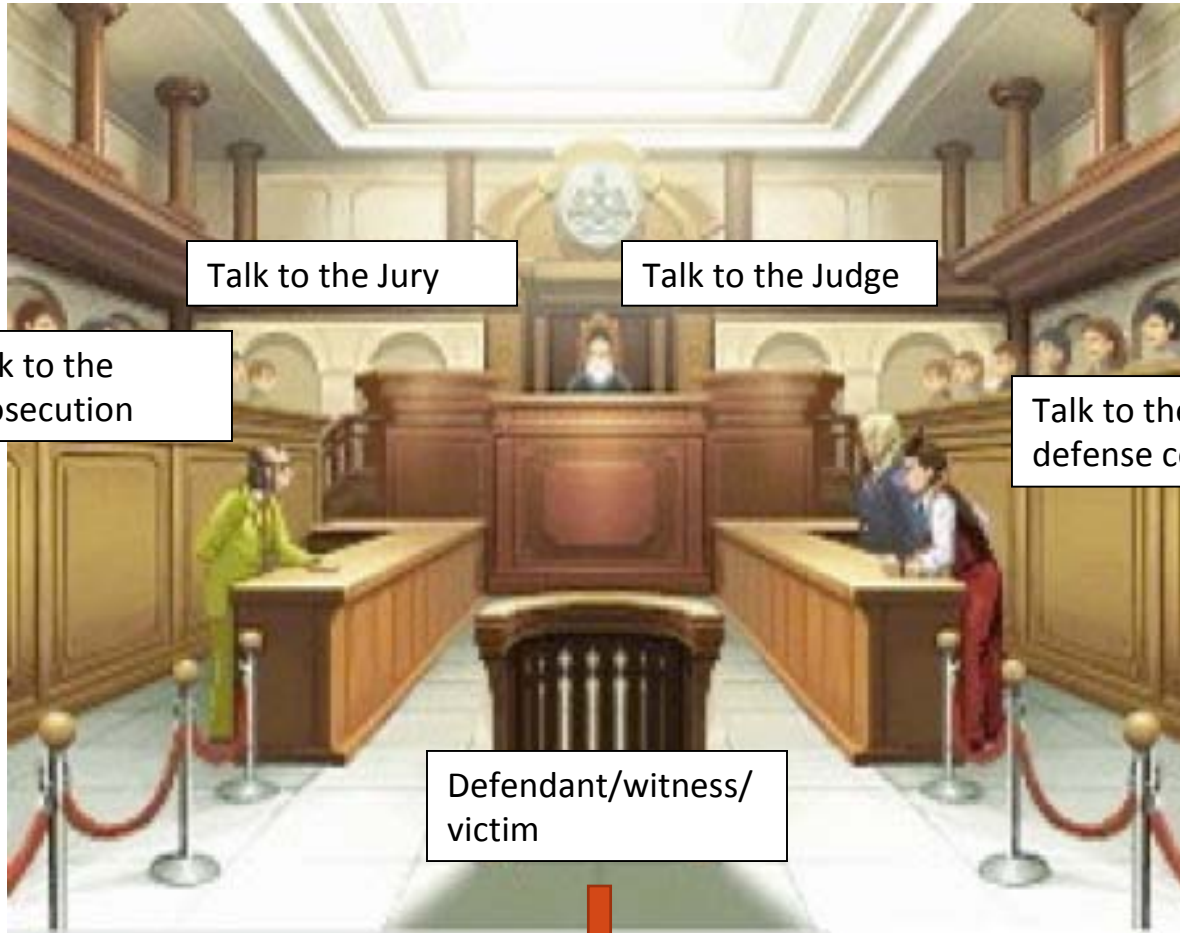
The A-Team:



- **Suggests the courts research, redesign and refresh their website to reflect the needs of courts users**
- **Examples follow:**

Courts Precinct Locations





Talk to the Jury

Talk to the Judge

Talk to the prosecution

Talk to the defense counsel

Defendant/witness/victim



Back to lobby



How can I help you?

What is your job?

What is the criteria that you have to follow to pass down a sentence?

How do you become a judge?

If there are any further questions please [click here](#).



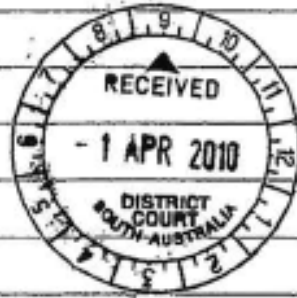
**Who can be chosen?
How are they selected?
What is the role of a
jury?
Why is a jury needed?
What verdict can the
jury pass down?**



A Thinker's Job:



*"When we are no longer able to change a situation,
we are challenged to change ourselves." Victor Frankl*



Port Augusto Prison
PO Box 6
Port Augusta
South Australia 5700.
29th March 2010.

Judge Peggy Fulton Hora
Thinker in Residence
c/o The Registrar
District Court of South Australia
Victoria Square
Adelaide 5000.

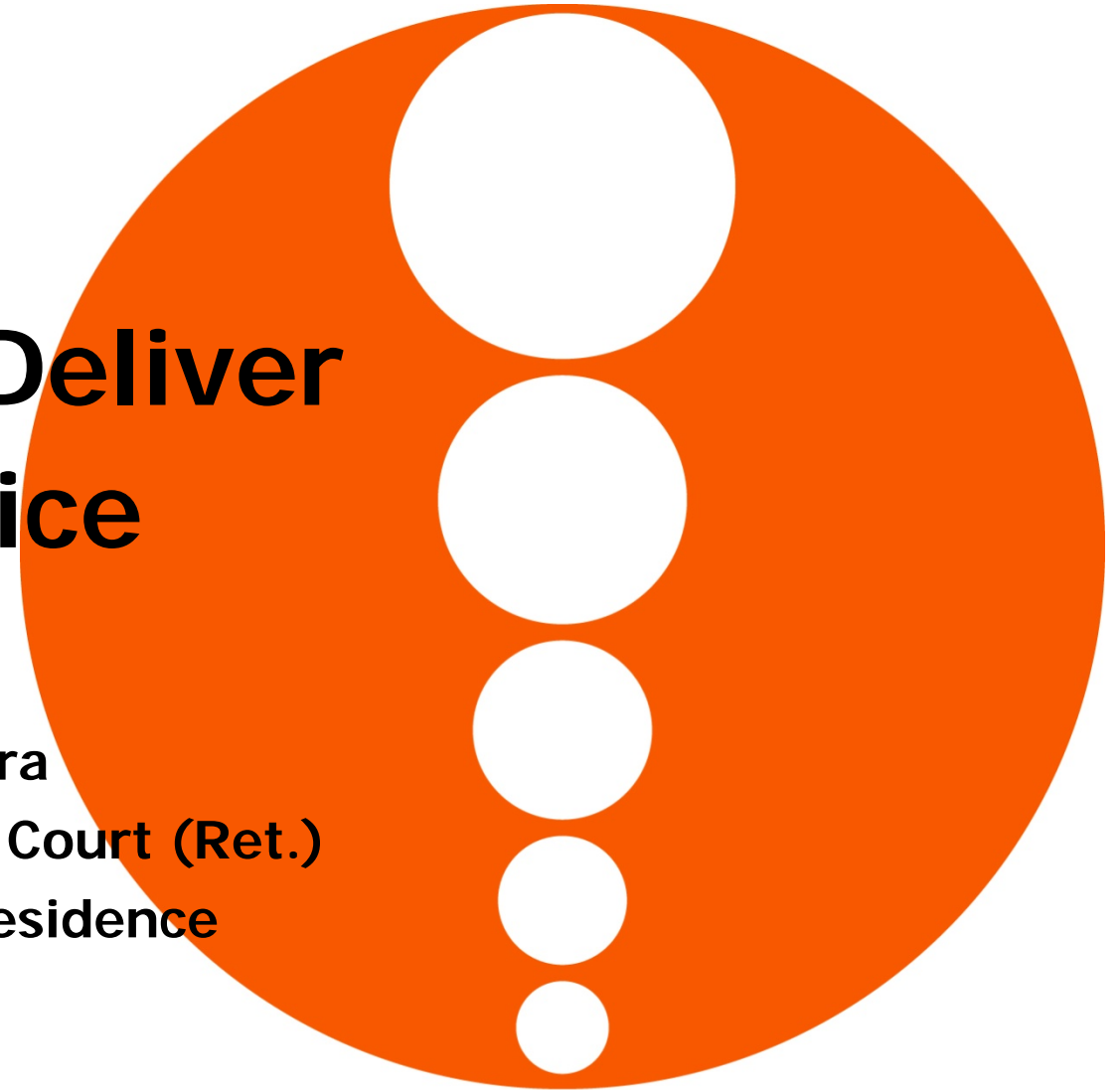
Dear Judge Peggy,

What a breath of fresh air to read of your ideas for changes to the justice system in South Australia.

But I do ask myself, have we a government creative enough to adopt your recommendations?

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Contact us:

www.thinkers.sa.gov.au