

Legal Argument

I. What is a Lawyer?

A. What is a Lawyer?

- Definition: A person who practices law. (tautological definition)
- An advocate using legal arguments to represent a client's interest
 - Origin of laws goes back to ancient Greece when there were people who could speak in public who had public speaking skills when other people did not so they could rely on those people to defend them if they were charged with some kind of crime.
 - Practice of being a lawyer goes back to ancient civilizations
- Legal Arguments are one part of a lawyer's practice.
 - Legal arguments are an important part if not the most important part of a lawyers practice. Because a lawyer is making arguments in court that suggest you are not guilty of the crime you have been charged with or the evidence presented against you is inadequate, insufficient, or inadmissible.
 - In a way lawyers are having a debate with prosecutors and the jury and the judge get to decide who wins the debate.

II. Legal Argument

A. Tools of Legal Argument

- **Constitution:** Foundational legal document.
 - We have 51 constitutions
 - Depending on what kind of trouble you are in different constitutions depending on the state you live in or if it is a federal charge will apply
 - U.S constitution always applies but if you commit a crime in a specific state then that state constitution may offer separate protections for you
- **Statutes:** Legislation passed by the legislature.
 - When people in congress either at the state or federal level pass legislation that creates new restrictions they get added to a specific code
 - **Penal Code** is for criminal law
 - **Family Code** is for things like custody, divorce, child support
 - **Vehicle Code** is for speeding tickets, reckless driving, failing to obey traffic signals.
- **Case Law:** Law created by judges who rule on cases by interpreting constitution or statutes.
 - When a judge decides on a case it sets a precedent
 - So if someone commits the same crime the defense lawyer can say that in a previous case the court ruled it wasn't "trespassing" so they didn't commit a crime.

Nature Of Legal Argument

Scott C. Dulebohn



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