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2024 Cluedunnit Kids Charges and Sentencing Options

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How do you plead, **guilty or not guilty?**

I plead guilty: **Sentencing**

A reality that surprises many is that most people, adults and juveniles, accused of committing crimes plead guilty.

When an accused person pleads guilty s/he is then referred to as the offender and the matter proceeds to sentencing.

At sentencing the Prosecution presents the material facts and identifies any factors that make the offender more or less responsible for her/his actions.

The Defence then addresses the material facts and any factors that make the offender more or less responsible for her/his actions. Next, the Defence puts before the Court anything and everything of relevance about the offender so that the Court can sentence that person appropriately and suggests suitable sentencing options.

The Prosecution then responds to the Defence's submissions and suggests suitable sentencing options.

The judicial officer, after considering both the Prosecution and Defence submissions, then determines an appropriate sentence for the offender.

I plead not guilty: Trial

A matter only goes to trial if an accused person pleads not guilty.

An accused person who pleads not guilty to a lower level (less serious) criminal offence, will, if they are 18 or older, have a trial before a Magistrate sitting alone in the Magistrates Court of Western Australia.

If the accused is a child (aged 10-17), referred to as a juvenile in the language of the law, at the time of the offence s/he will have a trial before a Magistrate in the Children's Court of Western Australia.

For more serious criminal offences called indictable offences, an adult accused person may have a trial before a Judge and a Jury, or in some circumstances a Judge sitting alone (District and Supreme Court).

For a juvenile, s/he will have a trial before a Judge (called the President) sitting alone in the Children's Court of Western Australia.

In all levels of court, to find an accused person guilty at trial the level of proof required is beyond reasonable doubt (to be sure and have no realistic or sensible doubt) that the accused committed the crime/s.

Juvenile Justice: Sentencing Options

The focus of the Children's Court in criminal matters is to ensure the fair treatment of children who have, or are alleged to have, committed offences.

In comparison to courts that deal with adults, the Children's Court is more focused on diverting children away from the criminal justice system, when and where appropriate, through programmes, supervision and other supports.

Some juvenile offences are very serious and such offenders often need to be detained or given harsh sentences.

However, a lot of juvenile offences are very minor and diversionary sentencing options such as a Caution or Referral to the Juvenile Justice Team are more appropriate and result in better outcomes for the offender and the community.

The Charges: 1 x Common Assault (Related to the spraying of the tomato sauce)

313. Common assault

(1) Any person who unlawfully assaults another is guilty of a simple offence and is liable —

(a) if the offence is committed in circumstances of aggravation or in circumstances of racial aggravation, to imprisonment for 3 years and a fine of \$36 000; or

(b) in any other case, to imprisonment for 18 months and a fine of \$18 000.

Note: A child who is charged with Common Assault may be referred to the Juvenile Justice Team.

The Charges: 1 x Stealing (Related to the theft of the sneaker)

378. Stealing

Any person who steals anything capable of being stolen is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 7 years.

Note: A child who steals property is likely to be cautioned or referred to the Juvenile Justice Team.

Sentencing Option 1: Referred to Juvenile Justice Team

A referral to the Juvenile Justice Team by the Children's Court or the Police can be made when a young person commits an offence and accepts responsibility for the offence. It is an alternative to being formally charged and having to go to court.

The purpose of a Juvenile Justice Team referral is for the young person to accept responsibility for their behaviour and to ensure that they have appropriate support so they do not get into more trouble in the future.

The Juvenile Justice Team is generally made up of:

- The young person who has committed the offence.
- A responsible adult for the young person - usually a parent or a relative.
- A Police Officer.
- A Youth Justice Officer (a person who works with young offenders in the community).
- The victim of the offence if s/he wishes to attend.

The members of the Juvenile Justice Team attend a Family Group Meeting.

At the start of the Family Group Meeting a factual statement about what the young person has done is read out. The young person acknowledges that it is correct and then the police officer talks to the young person about how offending can have serious consequences for the young person (e.g. they might get a serious punishment and be locked up) and how it may affect the young person's ability to get a job or travel in the future.

The victim then tells the young person how the offending personally affected them or their organisation if they represent a group that has been affected. The young person may apologise to the victim.

The Team then work out an action plan to which all must agree. The action plan contains a number of tasks that the young person must complete, e.g. the young person may have to:

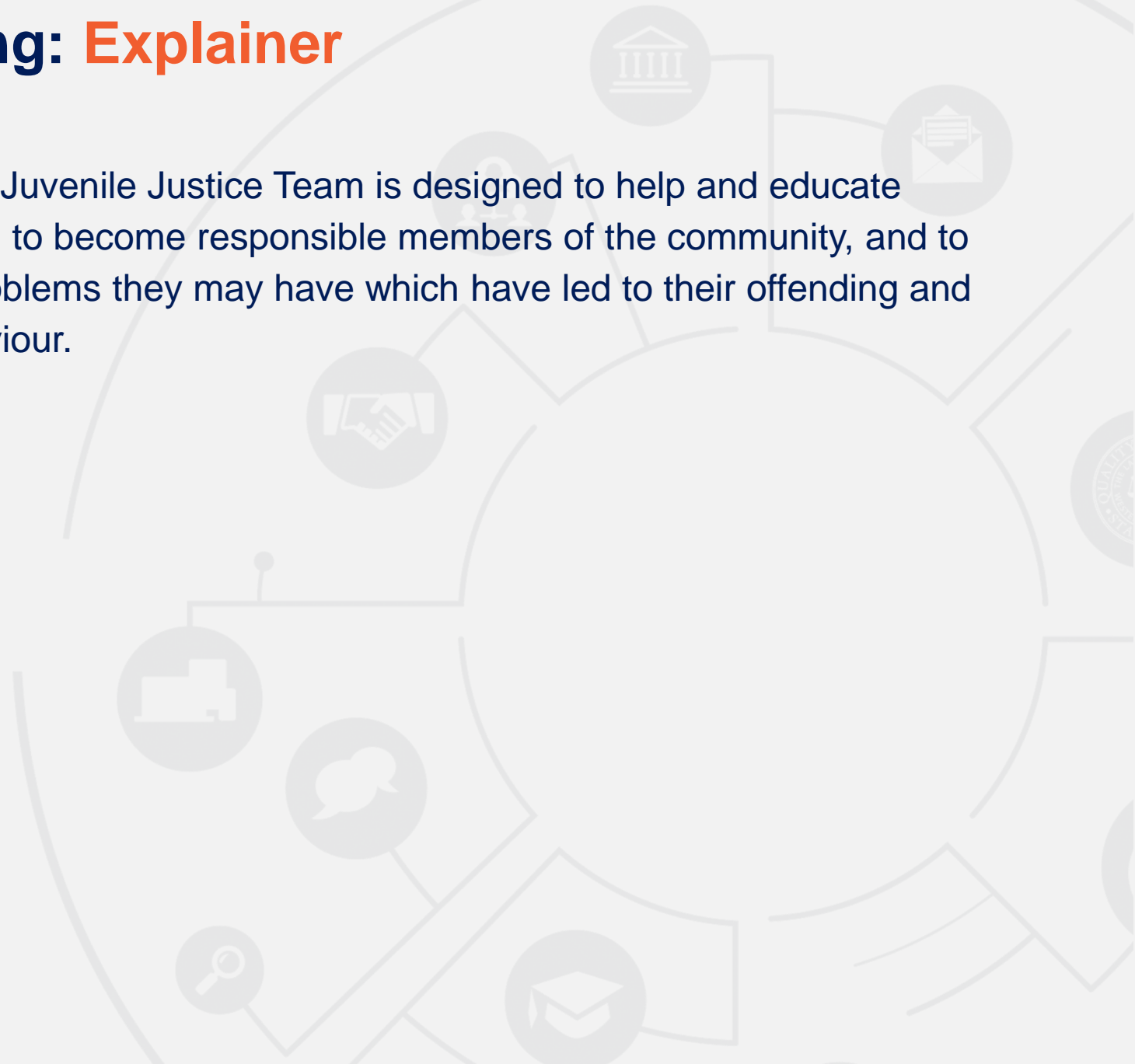
- Write a formal letter of apology to the victim.
- Do some hours of unpaid community work or participate in the graffiti clean-up programme.
- Attend a law lecture for one hour about legal issues that affect young people.
- Make a pocket money donation to the victim's organisation or a charity of the victim's choice.
- Attend drug and alcohol counselling if the young person has a drug or alcohol use problem.

If the young person completes the action plan, then the charge is dismissed and the young person has no conviction recorded.

If the young person does not attend the Juvenile Justice Team meeting or fails to complete the action plan, then the charge is referred back to the Children's Court and the young person may receive a more severe penalty.

Sentencing: **Explainer**

A referral to the Juvenile Justice Team is designed to help and educate young offenders to become responsible members of the community, and to address any problems they may have which have led to their offending and antisocial behaviour.



Appropriate sentencing option: *The prime suspect to be charged with both offences*

For these offences, 313. Common assault and 378. Stealing, the appropriate sentencing option would be referral either by the police or by a Children's Court to the Juvenile Justice Team.

In your creative submission, you should make the following assumptions:

- The prime suspect accepts responsibility, pleads guilty and expresses remorse; and
- Does not have a criminal record.

Creative Submission: **Your Task**

Using the details provided, you and your team must agree on the most appropriate sentencing option for the offender. Include details on your recommended sentence for the offender in your creative submission.

Your presentation should:

- be creative;
- identify the prime suspect with supporting evidence with details on how the other suspects have been eliminated;
- apply legal principles (Presumption of innocence, Burden of proof and Standard of proof); and
- identify appropriate sentencing options.

Limit electronic/digital presentations to a maximum of 5-7 mins.

2024 Cluedunnit Kids creative submissions close at 4pm Fri, 31 May 2024.

Remember: The sentence must be appropriate to the circumstances of the offence and the offender's personal circumstances. Be creative with your sentencing, however do keep in mind that the sentences must be appropriate.

Cluedunnit Kids: Creative Presentation - Advice

Recreating the scenario is fine and many schools do it, however it is important to note the judging criteria and the fact that electronic submissions should be limited to 5-7 mins maximum in length.

The priority is demonstrating the evidence that identifies each suspect as the offender and the corresponding evidence that eliminates the other suspects as well as applying legal principles and appropriate sentencing.

ONLY members of the investigating team can have a speaking role in the submission (classmates can be in the background of any video they make but they cannot talk).

Remember the suspects are thought to be innocent until proven guilty.

The presumption of innocence is a really important legal principle in Australia. Remember the three essential legal principles: presumption of innocence, burden of proof and standard of proof.

Legal Principles: Remember

Presumption of innocence: Everyone accused of a crime is thought to be innocent until proven guilty.

Burden of proof: The prosecution has the responsibility to, and must, prove that the accused person is guilty.

Standard of proof: The level of proof required to find a person guilty of a crime is beyond reasonable doubt. In everyday language, this means that after hearing all of the evidence you are sure that the person did the crime, and you have no real doubts in your mind that the accused did it.

Cluedunnit Kids: Judging Criteria

Each submission is judged on the following criteria:

- Correct identification of suspect – up to 2 points
- Supporting evidence – up to 10 points
- Creativity – up to 10 points
- Application of legal principles – up to 4 points
- Appropriate sentencing – up to 4 points

Total = 30 points

The judging criteria are heavily weighted to supporting evidence, creativity, application of legal principles and appropriate sentencing as most teams correctly identify the prime suspect. The application of legal principles and appropriate sentencing are always the most distinguishing features when creative submissions are judged.

It is expected that the submissions are the work of the Year 6 or Year 5/6 students with teachers and/or older students providing limited assistance and direction.

The judging panel includes representatives from the Children's Court of WA, the Magistrates Court of WA, a WA Police Officer, a lawyer from Legal Aid WA and a representative from Curtin University Law School.

Please note that feedback from the judging panel on submissions is not provided and the judging panel's decisions are final.

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