

Francis Burt Law Education Programme



Cluedunnit Kids

Charges and Sentencing Resource

Mission Investigate: Have Fun, Ask Questions and Get Creative

Principal Partner





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.



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

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.



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

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.



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

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.



Cluedunnit Kids: **The Charge/s**

The prime suspect in the 2025 Cluedunnit Kids scenario would be charged with the following.

Damaging Property (s445 Criminal Code)

445. Damaging property

A person who unlawfully destroys or damages the property of another person without that other person's consent is guilty of an offence and is liable to imprisonment for 2 years and a fine of \$24,000.



Cluedunnit Kids: Sentencing Option 1

Juvenile Caution

A Juvenile Caution is a way for the police to deal with a young person who has committed an offence, without charging her/him.

A Juvenile Caution is like a written warning. It can be used when the circumstances of the offence are not serious.

A Juvenile Caution does not count as a criminal conviction, and it does not show up on a criminal record or a court record. It does, however, show up on the police database.

Getting a Juvenile Caution means that the young person does not have to go to court for that offence.



Cluedunnit Kids: Sentencing Option 2

Referred to the Juvenile Justice Team by Police

A referral to the Juvenile Justice Team by the Police can be made when a young person commits an offence and accepts responsibility. 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 supports in their family and in the community, 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;



Cluedunnit Kids: Sentencing Option 2

- A Youth Justice Officer (a person who works with young offenders in the community).
- The victim of the offence if they wish to attend.

The Juvenile Justice Team (the Team) has a meeting and the members of the Team talk about what the young person has done. If the victim attends, they can tell the young person how the offence affected and hurt them.

The team members then agree on an action plan which needs to be completed by the young person to show they have taken responsibility for their behaviour and have learned from their experience.

The action plan might include actions such as:

- an apology (saying sorry) to the victim (either written, or in-person, if the victim attends the Team meeting).
- repairing or replacing damaged property.



Cluedunnit Kids: Sentencing Option 2

- making a donation to a charity.
- doing some unpaid community work.
- talking to a counsellor.
- doing something for the victim to make up for the offence.

The young person has time to complete the action plan. If the plan is completed, then the offence is finished and dismissed and there is no record of it on any criminal or court record. It does, however, show up on the police database.

If the action plan is not completed, then the young person gets a Notice to Attend the Children's Court and a formal charge is created which needs to be dealt with by the court.



Cluedunnit Kids: Sentencing Option 3

Referred to the Juvenile Justice Team by the Court

A referral to the Juvenile Justice Team by the Court can be made when a young person:

- commits an offence, and
- is formally charged, and
- has no prior record or a very limited history of offending, and
- accepts responsibility for the offence.

The process is the same as when a young person is referred to the Juvenile Justice Team by the Police.



Cluedunnit Kids: Sentencing Option 3

Once a Juvenile Justice Team referral is made, if the young person attends the Team meeting and completes their action plan, they do not need to return to court. The offence is dismissed by the court.

There is no criminal record, but the Juvenile Justice Team referral does, however, show up on the police and court database.

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.



Cluedunnit Kids: **Your Task**

Creative Submission

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 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/reference legal principles (Presumption of Innocence, Burden of Proof and Standard of Proof); and
- identify appropriate sentencing options.



Cluedunnit Kids: Legal Principles

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.