

**Education workbook**

# **JUDGE FOR YOURSELF**

**Childrens Court  
of Queensland**

**Assault occasioning bodily harm case**



**Queensland Sentencing  
Advisory Council**

# The Queensland Sentencing Advisory Council

The Queensland Sentencing Advisory Council provides independent research and advice about sentencing, seeks public views on sentencing and promotes community understanding of sentencing matters.

The Council has an authoritative and independent voice when it comes to sentencing in Queensland.

As part of our role, the Council provides a number of learning experiences and resources aimed at high school and university students, such as the popular interactive program *Judge for Yourself*.

To learn more about the Council or view our curriculum aligned resources, visit our website. You can also watch a short video that explains our work.

## About this resource

The Queensland Sentencing Advisory Council has developed this teaching resource to support student learning related to the Council's interactive *Judge for Yourself* program — specifically, a Childrens Court of Queensland case involving assault occasioning bodily harm.

The *Judge for Yourself* series assists the Council to inform and engage students and others in the community about the complex nature of sentencing procedures in court.

It gives Queenslanders the opportunity to hear the facts of court cases based on real life events and determine the sentence — judging for yourself.

While this resource is designed to assist teachers in the classroom, the Council also offers free, interactive *Judge for Yourself* sessions to students and community members within a two hour drive of Brisbane, or via videoconferencing.

Teachers and organisations can [book a \*Judge for Yourself\* session](#) on our website.

## Accessibility



The Council is committed to providing accessible services to Queenslanders from all culturally and linguistically diverse backgrounds.

If you have difficulty in understanding the education resource, you can contact us by phone on (07) 3738 9499, or freecall the Translating and Interpreting Service on 1800 131 450, and we will arrange an interpreter to effectively communicate the education resource to you.

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## Feedback

Feedback is important for improving the value of our future teaching resources. We welcome your comments, which can be made by contacting:

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## Acknowledgement of Traditional Owners

We acknowledge and give our respects to the Traditional Owners and Caretakers of this land, where they have performed age-old ceremonies of storytelling, healing, music, dance and celebration. We would also like to acknowledge and give our respects to Elders, past, present and emerging, for they hold the memories, traditions and knowledge of Aboriginal and Torres Strait Islander culture.

Aboriginal and Torres Strait Islander peoples are advised that the video this publication relates to may contain images and voices, names and descriptions of people who are deceased.

The Queensland Sentencing Advisory Council recognises and prioritises the needs of Aboriginal and Torres Strait Islander peoples to address their over-representation in Queensland's criminal justice system. Our Aboriginal and Torres Strait Islander corporate artwork *Overcoming Obstacles* by Casey Coolwell was commissioned to embody our commitment to understanding the drivers of over-representation in the Queensland criminal system. To view the artwork please visit our website.



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# Judge for Yourself – Childrens Court of Queensland

## Assault occasioning bodily harm case

### Teacher notes

#### WARNING

The *Judge for Yourself* – Childrens Court of Queensland presentation discusses the criminal justice process in a realistic way. This particular program involves a violent assault and a dramatised re-enactment of the offence is shown. You know the lived experience of your students – we encourage you to take care if you believe its contents may be confronting.

Aboriginal and Torres Strait Islander viewers are warned that the video this workbook relates to may contain images and voices of deceased persons.

#### Learning outcomes

Students will:

1. describe key terms using legal terminology, including jurisdiction, code, crime, statute law, sources of law, prosecutor, defendant, the court hierarchy in Australia and the range of sentencing options.
2. describe and explain the relationship of a specialist court, like the Childrens Court, with state and federal jurisdictions.
3. explain the principles that apply to the sentencing of children and young people under the *Youth Justice Act 1992* (Qld).
4. analyse a range of criminal legal issues to determine the nature and scope of the issue and then examine different viewpoints.
5. select legal information and analyse the legal issues concerning court processes as experienced by children and young people.

#### Teacher Tips

The second learning outcome listed comes from Unit 3, Topic 1: Governance in Australia.

All other learning outcomes from this unit relate to Unit 1 topics, but you can still use this resource when teaching Units 1 or 3 (year 11 and 12 units, respectively).



6. analyse the principles of sentencing as they apply to scenarios to predict an outcome.
7. evaluate, using legal criteria, the effectiveness of sentencing and punishment.
8. create responses that communicate meaning to suit the intended purpose in paragraphs and extended responses.

#### Inquiry question

**What sentence should Jessica Brown receive for the criminal offence of assault occasioning bodily harm?**

## Key concepts

Aggravating factors	Discretion	Probation order
Childrens Court	Good behaviour order	Protection
Community service order	Indictable offence	Punishment
Conditional release order	Intensive supervision order	Rehabilitation
Crime	Jurisdiction	Restorative justice order
<i>Criminal Code 1899 (Qld)</i>	Juvenile	Sentence
Defendant	Magistrate	Specialist court
Defence counsel	Mitigating factors	Submission
Detention	Penalty	Young people / Youth
Deterrence	Police prosecutor	<i>Youth Justice Act 1992 (Qld)</i>
Denunciation		

## Curriculum links

**Legal Studies 2019 General Senior Syllabus** Unit 1 — Beyond Reasonable Doubt:

- Topic 1: Legal foundations
- Topic 2: Criminal investigation process
- Topic 3: Criminal trial process
- Topic 4: Punishment and sentencing.

**Australian Curriculum, Year 9 Civics and Citizenship** (ACHCK077): analysis, synthesis and interpretation.

## Materials required

- Sentence type cards/sheets (Appendix 1)
- 1 x post-it note per student
- Writing tools (pen or pencil)
- Laptop and projector connected to the Internet for teacher use (although students are welcome to complete the lesson on individual devices independently at home or in the classroom)
- Learning resources as provided in this education kit
- Supporting information (Appendix 2 – 4)

### Help and support

If something in the program raises concerns for you or your student/s seek help.

- **Kids Helpline** ([kidshelpline.com.au/](http://kidshelpline.com.au/)): 1800 55 1800
- **Lifeline Australia** ([lifeline.org.au/](http://lifeline.org.au/)): 13 11 14
- **Beyond Blue** ([beyondblue.org.au/](http://beyondblue.org.au/)): 1300 22 46 36
- **13 HEALTH**: 13 43 25 84
- **eheadspace** ([headspace.org.au/eheadspace/](http://headspace.org.au/eheadspace/))
- **Mindspot** ([mindspot.org.au/](http://mindspot.org.au/))



# Lesson plan

To get the most out of this collection of learning experiences we recommend *Judge for Yourself* – Childrens Court of Queensland is taught over two lessons.

Lesson	Sequence	Timing	Learning experience	Related education kit resource
1.	Engagement	5-10 minutes	Select an activity to help prepare your students for their virtual courtroom experience.	Getting started
	Judge for Yourself program	50-60 minutes	Follow the steps outlined in the procedural guide provided, consolidating and extending student learning through the use of our learning resources.	How to guide (steps 1 – 11) Comprehending the concepts learning resource Analysing legal issues learning resource Appendix 1 – 4
	Putting it together	5-10 minutes	There will always be debate on the appropriateness of a sentence. Watch Jessica's actual sentence.	How to guide (step 12)
2.	Engagement	5 minutes	Tell students they will be watching Jessica's sentence in action today. Ask students to predict how they think the restorative process will work.	
	Extending	40 minutes	Watch the restorative justice process. Provide students with time to complete the extended writing task. Provide the Queensland Sentencing Advisory Council with feedback.	How to guide (step 13 – 14) Evaluating legal situations extended writing task
	Reflection	15-30 minutes	Ask your students to complete the reflection task, discussing responses if appropriate.	Reflecting task Further resources

## How to guide

This guide provides you with a procedural model to facilitate *Judge for Yourself* — Childrens Court of Queensland.

### Setting up your classroom

Setting up your classroom to allow transition between group and individual work is encouraged. *Judge for Yourself* is designed to be viewed and discussed in a group, with learning resources completed individually.

Before the students arrive, we recommend placing the 'Sentence type' cards (Appendix 1) around the classroom in six different areas.

### Teacher Tips

Have all of the required materials for the lesson(s) printed or uploaded and make sure you have tested the technology beforehand.

*Judge for Yourself* is designed to be interactive and engaging — encourage students to ask questions and share viewpoints in a safe and supportive way.

\* Some students may have been assaulted, or know someone who has been assaulted. It is important that students can step away from the lesson if they are feeling affected by the content.

You might like to provide some guidance about what students can do if they get upset, such as leaving for a drink of water or asking for a break to help calm down. \*



## Procedural guide

### 1. Introduce the objective of the program

Today you are going to put yourself in the shoes of a magistrate sitting in the Childrens Court.

You will sentence 16-year-old Jessica Brown. Jessica has pleaded guilty to the criminal offence of 'assault occasioning bodily harm.'

Just like a magistrate, you will hear all relevant submissions before handing down your final decision.

## 2. Explain the jurisdiction of the Childrens Court

Show students an image of the Queensland Court hierarchy and identify the Childrens Court in relation to other courts (Appendix 2).

### QUESTION

**Identify three criminal offences that would be finalised in the Childrens Court.**

In Queensland, matters involving children are heard by a special court called the Childrens Court of Queensland. The Court consists of two tiers — the Childrens Court of Queensland (at the District Court level) and the Childrens Court (at the Magistrates Court level). Which court a child must appear before to have their case heard depends on the type of offence.

For example, if a child was charged with wilful damage, their case would be dealt with by the Childrens Court, but a matter involving an armed robbery would be heard by the Childrens Court of Queensland.

Very serious offences are heard by the Supreme Court.

## 3. General viewpoint on sentencing

Provide each student with a post-it note. Students to answer the following question on the post-it note.

### QUESTION

**In general, would you say that sentences handed down by Queensland courts are too tough, about right or too lenient?**

Categorise the answers and discuss.

## 4. Introduce the case

### QUESTIONS

**What do you know about crime committed by young people? Where did you get this knowledge from?**  
Most people get information about sentencing from the media — radio, newspapers, online articles, social media or television.

**Do you think Queensland has a youth crime problem? Why or why not?**

**How are young people who commit crime represented in the media?**  
**Do you think this is an accurate representation?**

Together we are going to watch a video about the case you will make a decision on today. The people you will see throughout this program are actors, but it is based on a real court case. At the end of the session the actual sentence will be revealed.



### WATCH

**View the news item on the *Judge for Yourself* website.**

### QUESTIONS

After watching the news item, consolidate the key facts of the case by asking students:

**Who is the defendant?**

**What gender is the defendant?**

**How old is the defendant?**

**What did the defendant do?**

**Did the defendant commit the offence alone?**

**Was there a weapon used in the attack?**

**Where is the case being heard?**

**Did the defendant plead guilty or not guilty?**

**Is there a victim? Were they injured?**

**Any other comments?**



## 5. Types of sentences and purpose of sentencing

Discuss the different types of sentences that the students (acting as the magistrate) can impose for an offence of this nature (Appendix 3).

Discuss the sentencing purposes in Queensland (Appendix 4).

## 6. What sentence would you give Jessica?



### ACTIVITY



Ask students to move to the part of the room that displays the sentence type they would give Jessica based on the information contained in the news story (community service order, good behaviour order, probation order, conditional release order, detention, restorative justice court order or referral to Youth Justice for a restorative justice process).

### QUESTION

**Why did you give Jessica that sentence? Justify and/or explain your decision.**

Further questions may include:

**Why did you select this sentence rather than the other options?**

**Does anyone want to select more than one penalty?**

**Did anyone feel detention was appropriate?**

After discussion has finished, students can move back together.

## 7. A magistrate's toolbox

### WATCH



Let's recap the jurisdiction of the Childrens Court on the *Judge for Yourself* [website](#).

### QUESTION

**Magistrates don't just pull sentences out of thin air. What tools help the judiciary form their decision?**

Answers may include:

- legislation (also called statute law or an Act)
- precedents (also called common law or case law)
- submissions made by legal counsel
- reports
- victim impact statements
- references or letters of support.

In this case the magistrate may consult *Youth Justice Act 1992* (Qld) and *Victims of Crime Assistance Act 2009* (Qld).

### LEARNING RESOURCE

Students complete 'Comprehending the concepts' learning resource.



## 8. The police prosecutor's submission

In a moment we will take a look at what the police prosecutor has to say.

The police prosecutor's role is to provide the magistrate with information about the facts and circumstances of the offence, the offender's criminal history, the impact of the offence on the victim, relevant case law and legislation, and the appropriate sentence.

Aggravating factors are details about the offence, victim, or the offender that may increase the sentence received.



### WATCH

View the police prosecutor's submission on the *Judge for Yourself* [website](#).

### LEARNING RESOURCE

Students complete 'Analysing legal issues' learning resource.

Key points may include:

- the offence was committed 'in company'
- the offence was committed late at night
- the victim was isolated and alone
- the defendant breached the victim's trust
- the defendant did not assist the victim
- the injuries suffered by the victim
- no prior involvement with the youth justice system
- made admissions to the offence at the earliest opportunity.



### Teacher Tip

You may have to pause the video when the different parties introduce themselves to give the students time to draw the court layout – see page 16 of this workbook.



### QUESTION

Given what you have just heard, what purpose of sentencing do you believe is most relevant in this case? Why?

- Punishment
- Rehabilitation
- Deterrence
- Denunciation
- Protection.

## 9. The defence submission

Now we will listen to Jessica's legal representative speak.

The role of the defence is to represent the offender and provide the magistrate with information about their client's personal circumstances, any background information about the offence, any steps taken towards rehabilitation relevant case law and legislation, and the appropriate sentence.

### WATCH

View the defence submission on the *Judge for Yourself* [website](#).



## LEARNING RESOURCE

Students complete 'Analysing legal issues' learning resource.

Key points may include:

- her age
- no previous involvement with the police
- lives in stable accommodation
- parents have health concerns
- influenced by a negative peer group
- was drinking and smoking to manage stress
- she was acting on incorrect information — the co-offenders told her the victim had sexually assaulted a relative
- Jessica did not participate in the assault
- is committed to finishing her education
- pleaded guilty early and showed remorse
- wishes to apologise.



### 10. Jessica's story

#### WATCH

We will now listen to Jessica speak on the *Judge for Yourself website*.



#### QUESTION

What factors contributed to Jessica's poor decision? What could she have done differently?

Answers may include:

- she feared the co-accused
- she believed Nick had sexually assaulted someone
- she was drinking and smoking cannabis.

### 11. Revise your sentence

#### WATCH



View some of the typical penalties for this offence on the *Judge for Yourself website*.



#### ACTIVITY



Ask students to move to the part of the room that displays the sentence type they would now give Jessica after watching *Judge for Yourself* – Childrens Court of Queensland (community service order, good behaviour order, probation order, conditional release order, detention, restorative justice court order or referral to Youth Justice for a restorative justice process).

#### QUESTION

Those who changed your mind — why?

Further questions can include:

- How long should the orders be?
- What impact will this sentence have on Jessica?

## 12. The actual sentence

Magistrates determine an appropriate sentence in accordance with the law. They have to provide reasons for the sentence imposed.

### WATCH

We will now watch the actual sentence the magistrate handed down in this case on the *Judge for Yourself* [website](#).



### QUESTION

What do you think about the sentences received by Jessica's co-offenders?

## 13. Restorative justice process

### WATCH



We will now watch a restorative justice conference on the *Judge for Yourself* [website](#).

This is an abridged representation of a much longer and complex restorative justice process.

More information about restorative justice conferencing is available [here](#).

### LEARNING RESOURCE

Students complete the table on the 'Extended writing task' learning resource.

You may like to discuss the students' observations before they begin writing their response.



### Teacher Tip

You can use the 'Extended writing task' as a formative task in preparation for an exam.

You could also have students mark their own, or each other's responses, using the Instrument-specific marking guide (ISMG) on page 35 of the [syllabus](#).



## 14. Feedback

As a group, provide feedback to the Queensland Sentencing Advisory Council at the end of the *Judge for Yourself* — Childrens Court of Queensland presentation (it helps to make this program better).

Email: [info@sentencingcouncil.qld.gov.au](mailto:info@sentencingcouncil.qld.gov.au)

# Getting started

## Read

Share the Queensland Sentencing Advisory Council's web page on Sentencing child offenders with your students beforehand. Did they know children and adults are treated differently by the court system?

## Watch

Watch the Queensland Sentencing Advisory Council's video **Myth #3** — Judges just don't get it. They're out of touch. Have you heard someone say this before? Why do you think people hold this opinion?



## Quick quiz

(Answers are bolded in green)

1. What is the minimum age in law that a child can be held legally responsible for committing an offence?

- a. 8
- b. **10**
- c. 14
- d. 17

**Note:** A child under 10 is not criminally responsible for any act or omission (Criminal Code 1899 (Qld) s 29(1)). A child under 14 can only be held criminally responsible if the prosecution shows the child had the capacity to know they should not do the act or make the omission at the time of doing it (s 29(2)).

2. Prior to 2018, at what age were you treated as an adult in the justice system?

- a. 16
- b. 21
- c. 18
- d. **17**

**Further information:** Read about the changes for 17-year-olds [here](#).

3. In 2018-19 which court level heard the most cases with child defendants?

- a. Supreme
- b. District
- c. **Magistrates**

**Note:** According to the Childrens Court of Queensland Annual Report 2018-19 (pg. 12) the Magistrates Court of Queensland heard 8,332 matters (92.4%) involving child defendants. The District Court and Supreme Court heard 5 matters (0.1%) and 12 matters (0.1%) respectively.



# Childrens Court of Queensland

## Assault occasioning bodily harm case

### Comprehending the concepts

#### Student learning resource



#### Youth Justice Act 1992 (Qld)

The *Youth Justice Act 1992* (Qld) (YJA) is the key legislation that guides the sentencing of children (people under 18 years of age).

Locate a copy of the YJA (using either the [Office of the Queensland Parliamentary Counsel](#) or [Austlii](#)) and answer the following questions:

1. Summarise the principal objectives of this Act.

### Sentencing child offenders

Special considerations and principles apply to the sentencing of children, including:

- A child's age is a mitigating factor in deciding whether or not to impose a penalty and the nature of the penalty.
- A non-custodial order (a sentence served in the community) is better than detention in promoting a child's ability to reintegrate into the community.
- The rehabilitation of a child is greatly assisted by the child's family and opportunities to engage in educational programs and employment.
- A detention order should be imposed only as a last resort and for the shortest appropriate period.

Subject to the operation of the Act, the general sentencing principles that apply to the sentencing of adult offenders under the common law also apply to children.

1. Identify the section number in the YJA in which the 'sentencing principles' that guide magistrates and judges can be found.
2. Read some of the sentencing principles used for adults provided in the *Penalties and Sentences Act 1992 (Qld)* s 9(2). For each selected sentencing principle, identify whether there is a similar one in the YJA. The first one has been done for you as a guide.

<i>Penalties and Sentences Act 1992 (Qld)</i>	<i>Youth Justice Act 1992 (Qld)</i>
<i>Sentences already imposed on the offender that have not been served, s 9(2)(l)</i>	<i>A sentence imposed on the child that has not been completed, s 150(1)(i).</i>
The nature of the offence and how serious the offence was including any physical, mental or emotional harm done to a victim, s 9(2)(c)(i).	
A sentence of imprisonment should only be imposed as a last resort, s 9(2)(a)(i).	
The offender's character, age and intellectual capacity, s 9(2)(c)(f).	
The past record of the offender, s 9(3)(g).	

3. Read the YJA, s 183 and s 184. What is the first consideration for a court on whether a conviction should be recorded? Why do you think this is the case?

# Analysing legal issues

## Student learning resource

In terms of layout, Childrens Courts do not look very different to courts that sentence adult offenders. While listening to the police prosecutor and defence speak:

- sketch the layout of the courtroom in the space below
- identify the different people in the courtroom and where they sit
- for the police prosecutor and defence, draw a speech bubble and write down the different factors the court may take into account when making a decision about the sentence Jessica should receive.

## Extended writing task

### Part 1

Watch the re-enactment of the restorative justice process. Write down your observations about the benefits and limitations of this approach. Think about the:

- verbal responses and non-verbal body language displayed by both parties
- role of the facilitator
- emotional or physical impact of the conference process
- outcome of the conference.

Benefits	Limitations

After the video is finished, take a moment to think further about the benefits and limitations of the restorative justice conference approach. Add any additional thoughts to the table above.

### Part 2

Now, in an extended paragraph of 400-500 words:

- evaluate two options for youth sentencing in Queensland: one custodial order (e.g. detention) and one community based order (e.g. restorative justice order)
- make a decision about which sentence is most appropriate in cases like the one you have viewed
- justify your decision by stating how it best meets legal criteria (i.e. the principles of youth sentencing from the YJA)
- discuss the implications of your decision (i.e. how do you hope the offenders and the Queensland community will benefit from your decision?).

**Extended paragraph answer:**



## Reflecting task

An important part of the inquiry process is reflecting on your own learning. This helps you grow and develop as a student.

Select and respond to two questions from the list below.

Each response should be 50-100 words in length.

1. What did you gain by participating in the *Judge for Yourself* – Childrens Court of Queensland program?
2. Which questions were you most and least confident in answering?
3. Do you believe children and adults should be treated the same or differently in the criminal justice system? Why or why not?
4. Did *Judge for Yourself* – Childrens Court of Queensland challenge or change your point of view about youth offenders? Explain.
5. Do you think Jessica regretted her actions? How could she turn this experience into something positive?
6. What are two strategies that you can put in place to enhance and build your analysis, evaluation or writing skills?
7. Is it important for members of the community to learn more about penalties and sentencing? Why or why not?

**Response 1 to question # \_\_\_\_\_**

**Response 2 to question # \_\_\_\_\_**

## Further resources

- Australian Institute of Criminology, [\*Restorative justice in the Australian criminal justice system\*](#)
- Caxton Legal Centre Inc, [\*The Childrens Court\*](#)
- Caxton Legal Centre Inc, [\*Sentencing Regime and other Orders for Child Offenders\*](#)
- Kelly Richards, [\*Youth Justice, Restorative Justice and Gendered Violence -Oh My! The Rise and Rise of Offender 'Accountability' in Contemporary Penalty\*](#)
- Legal Aid Queensland, [\*What to expect when you go to the Childrens Court\*](#)
- Legal Aid Queensland, [\*Youth justice conferencing\*](#)
- Masahiro Suzuki and William R Wood, [\*Is restorative justice conferencing appropriate for youth offenders?\*](#)
- Pamela Snow, [\*Restorative justice may not work for all young offenders\*](#)
- Queensland Courts, [\*Childrens Court\*](#)
- Queensland Courts, [\*Youth Justice Bench Book\*](#)
- Queensland Curriculum & Assessment Authority, [\*Legal Studies General Senior Syllabus 2019\*](#)
- Queensland Government, [\*The Childrens Court\*](#)
- Queensland Government, [\*Sentence options under the Youth Justice Act\*](#)
- Queensland Government, [\*Restorative justice conferencing\*](#)
- Queensland Government, [\*Restorative justice conferences\*](#)
- Queensland Government, [\*Youth Justice Strategy\*](#)
- Queensland Sentencing Advisory Council, [\*About sentencing\*](#)
- Queensland Sentencing Advisory Council, [\*Queensland Sentencing Guide\*](#)
- Queensland Sentencing Advisory Council, [\*Sentencing child offenders\*](#)
- Youth Advocacy Centre, [\*Childrens Court of Queensland\*](#)



## Legislation

- [\*Criminal Code 1899 \(Qld\)\*](#)
- [\*Youth Justice Act 1992 \(Qld\)\*](#)
- [\*Victims of Crime Assistance Act 2009 \(Qld\)\*](#)

## Further resources

### Case law

Some examples to share with your students.

- [MOJ v The Queen \[2019\] QChC 45](#) — The case was heard in Cairns.
- [R v EOA; R v WQP \[2019\] QChC 29](#) — The case originated in Atherton and Mareeba.
- [R v BWR \[2019\] QChC 15](#) — The case originated in Atherton and Mareeba.
- [O v Commissioner of Police \[2018\] QChC 8](#) — The case originated in Chinchilla.
- [P v The Queen \[2014\] QChC 1](#) — The case originated in Emerald and was heard in Beenleigh.

### Teacher Tip

These cases have been de-identified, but because they were heard and originated in different places, and because you know your students, please review any possible identifying features before sharing with the students to ensure they are suitable.



# APPENDIX 1


## Sentence type cards/sheets



Ask students to move to the part of the room that displays the sentence type they would give Jessica based on the information contained in the news story.

### Teacher Tip

In preparation for Lesson 1, print the following A4 'Sentence type' sheets out and place them around your room in six different areas



## Sentence options – Youth Justice Act 1992



### Detention order

The *Judge for Yourself* Childrens Court of Queensland video involving assault occasioning bodily harm does not include detention as a sentencing option, however the Queensland Sentencing Advisory Council has decided to include it in this resource as an opportunity to encourage you and your students to discuss [sentencing options available to the court](#) as contained in Part 7, Division 4 of the *Youth Justice Act 1992*.

If a young person is sentenced to a detention order they will be sent to a youth detention centre. A young person under a detention order must serve 70 per cent of their sentence in a detention centre, unless the court directs otherwise. The remaining 30 per cent of the detention order is spent in the community on a supervised release order.

For more information about sentencing options available to the court check out the Department of Children, Youth Justice and Multicultural Affairs information sheet – [Sentencing options – Youth Justice Act 1992](#).

# Community service order

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Queensland Sentencing  
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*Inform. Engage. Advise.*



# Conditional release order



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# Good behaviour order



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# Probation order



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# Referral to Youth Justice for a restorative justice process



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# Detention order



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# Restorative justice court order



Queensland Sentencing  
Advisory Council  
*Inform. Engage. Advise.*



# **Community service order**

An order to do unpaid community service for between 40 and 240 hours, usually within 12 months, and to comply with reporting and other conditions.

# **Conditional release order**

A suspended detention order that requires a young person guilty of an offence be involved in an intensive structured program for up to three months.

# **Good behaviour order**

An order that the child be of good behaviour (not break the law) for a period of up to one year.

# **Probation order**

An order served in the community with monitoring, supervision and program conditions. The order can be for up to 12 months (if sentenced by a magistrate), 2 years (if sentenced by a judge), or 3 years (if for a serious offence).





Queensland Sentencing  
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*Inform. Engage. Advise.*

# **Referral to Youth Justice for a restorative justice process**

The police or court may refer the child to a youth justice or restorative justice conference.

# **Detention order**

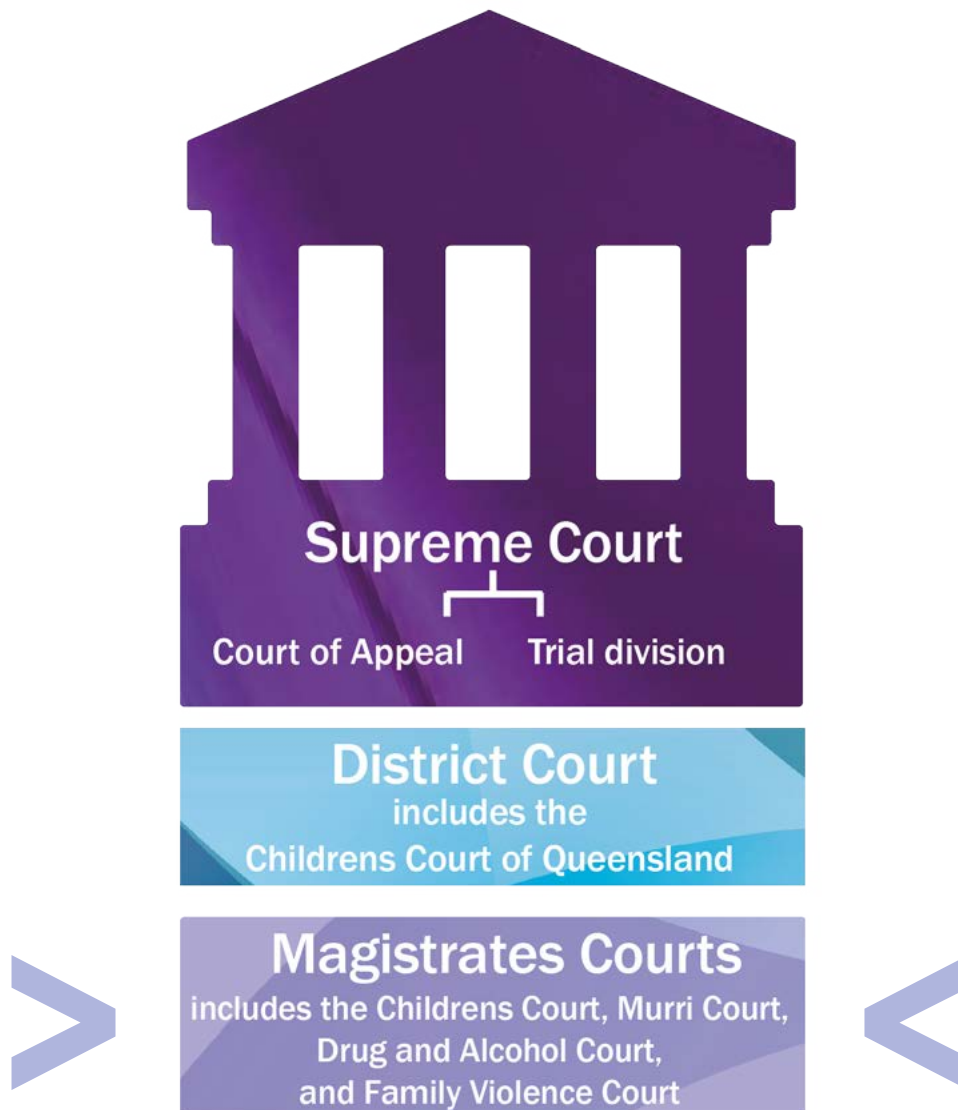
Detention in a  
youth detention centre.

# **Restorative justice court order**

An order for the child to take part in a facilitated conference with a victim or a victim's representative, to think about and deal with the offence in a way that benefits everyone involved.

## APPENDIX 2

# The Queensland Court hierarchy



In Queensland, matters involving children are heard by a special court called the Childrens Court of Queensland.

The Court consists of two tiers — the Childrens Court of Queensland (at the District Court level) and the Childrens Court (at the Magistrates Court level).

## APPENDIX 3

### Types of penalties and sentences

#### Teaching idea



Use the table on the next page and ask students to rank the different sentence options from most appropriate to least appropriate (1 being the most appropriate and 7 being the least appropriate) under the following headings:

- to support Jessica's rehabilitation
- to deter others in the community from committing a similar offence.



ACTIVITY



Discuss whether each ranking activity had the same order.  
Why or why not?

#### Sentence options – Youth Justice Act 1992



##### Detention order

As mentioned in Appendix 1, The *Judge for Yourself* Childrens Court of Queensland video involving assault occasioning bodily harm does not include detention as a sentencing option, however the Queensland Sentencing Advisory Council has included it in this activity as an opportunity to encourage you and your students to discuss [sentencing options available to the court](#) as contained in Part 7, Division 4 of the *Youth Justice Act 1992*.

For more information about sentencing options available to the court check out the Department of Youth Justice information sheet – [Sentencing options – Youth Justice Act 1992](#).

# Types of penalties and sentences

Rank the different sentence options from most appropriate to least appropriate (1 being the most appropriate and 7 being the least appropriate) under the following headings:

- to support Jessica's rehabilitation
- to deter others in the community from committing a similar offence.

Sentence option	To support Jessica's rehabilitation	To deter others in the community from committing a similar offence
	Ranking	Ranking
<b>Community service order</b> An order to do unpaid community service within 12 months (or within less time for orders of under 50 hours). The child must agree to the order and be at least 13 years old. At least 20 hours must be ordered. The maximum hours are: <ul style="list-style-type: none"> <li>• 100 hours for children aged 13 or 14</li> <li>• 200 hours for children aged 15 or older.</li> </ul>		
<b>Conditional release order</b> An option used instead of actual detention where the court suspends the detention order and immediately releases the child on conditions, including engagement in a structured program of up to 3 months. The program aims to address a child's offending behaviour through participation in counselling and programs, while enabling them to maintain their existing study and work commitments. The child must agree to the order.		
<b>Good behaviour order</b> An order that the child not commit another offence during the period of the order (up to one year).		
<b>Probation order</b> An order up to a maximum of one year where the child is allowed to remain in the community with supervision. This includes taking part in offence-focused programs and reintegration activities. The child must agree to the order.		
<b>Referral to Youth Justice for a restorative justice process</b> Referring the child to Youth Justice without passing a sentence to either: <ul style="list-style-type: none"> <li>• A conference: the child meets the victim and makes an agreement regarding how they can repair the harm they caused. The agreement cannot be more severe than the sentence the court could impose.</li> <li>• An alternative diversion program: programs designed to help the child understand the harm they caused and take responsibility for the offence.</li> </ul>		
<b>Restorative justice court order</b> A sentence order made by the court. It is either an order to participate in a conference or alternative diversion program, or an order to comply with a restorative justice agreement made after a pre-sentence referral.		
<b>Detention order</b> Detention in a youth detention centre. Generally children must spend 70 per cent of their sentence in detention before being released in the community under supervision.		

# APPENDIX 4

## Sentencing purposes & Youth justice principles

Under Section 9(1) of the *Penalties and Sentences Act 1992* (Qld) these five reasons (which apply to the sentencing of adult offenders) are the only purposes for which sentences can be imposed:

- **Punishment**
- **Rehabilitation**
- **Deterrence** — this can be targeted at the offender (specific deterrence) and/or the wider community (general deterrence)
- **Denunciation** — saying the offender's actions were wrong
- **Protection**; or
- a combination of these purposes.

While some of these purposes may also apply in the sentencing of children, the Youth Justice Act sets out special principles courts must apply when sentencing children.

### Youth justice principles

The charter of youth justice principles underpins the *Youth Justice Act 1992*. There are 21 principles that include:

- the community should be protected from offences
- young people should be held accountable and encouraged to accept responsibility for what they have done
- consideration should be given to a child's age, maturity and, where appropriate, cultural and religious beliefs and practices
- the youth justice system should uphold the rights of children, keep them safe and promote their physical and mental wellbeing.

More information about the youth justice principles can be found [here](#) or at the end of this workbook.

## Teaching idea



### ACTIVITY



Use the infographics on the following pages to discuss the sentencing purposes in Queensland that apply to the sentencing of adult offenders with students.

Alternatively, use the list of youth justice principles at the end of this workbook to discuss with students.

# Sentencing purposes

Under Section 9(1) of the *Penalties and Sentences Act 1992* (Qld) these five reasons are the only purposes for which sentences can be imposed:

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## Punishment

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To punish the offender to an extent, or in a way, that is just in all the circumstances.



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## Rehabilitation

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To establish conditions to help the offender be rehabilitated.



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# Deterrence

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To deter the offender, or other members of the community, from committing the same or a similar offence.

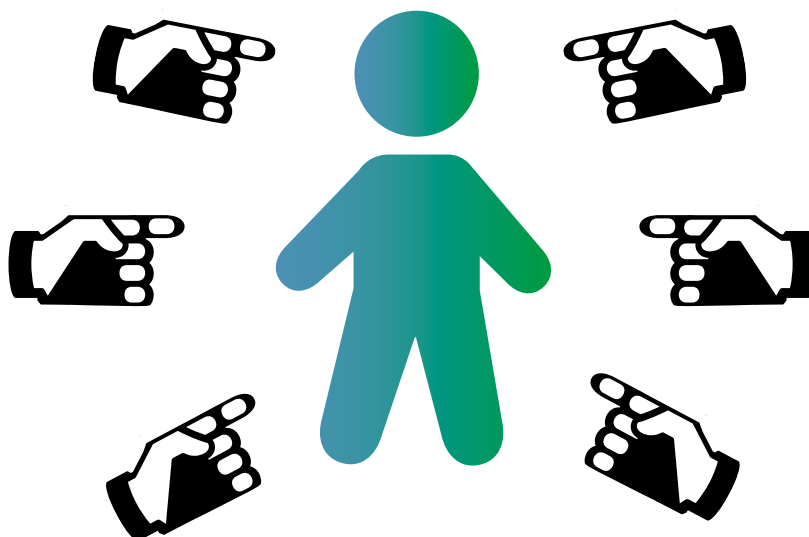


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# Denunciation

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To denounce — indicate disapproval of — the offending behaviour.





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# Protection

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To protect the Queensland community  
from the offender.



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## A combination of all sentencing purposes

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# Youth justice principles

The charter of youth justice principles underpins the *Youth Justice Act 1992*.

## **YOUTH JUSTICE ACT 1992 - SCHEDULE 1**

### **SCHEDULE 1 – Charter of youth justice principles**

1. The community should be protected from offences.
2. The youth justice system should uphold the rights of children, keep them safe and promote their physical and mental wellbeing.
3. A child being dealt with under this Act should be —
  - (a) treated with respect and dignity, including while the child is in custody; and
  - (b) encouraged to treat others with respect and dignity, including courts, persons administering this Act and other children being dealt with under this Act.
4. Because a child tends to be vulnerable in dealings with a person in authority, a child should be given the special protection allowed by this Act during an investigation or proceeding in relation to an offence committed, or allegedly committed, by the child.
5. If a child commits an offence, the child should be treated in a way that diverts the child from the courts' criminal justice system, unless the nature of the offence and the child's criminal history indicate that a proceeding for the offence should be started.
6. A child being dealt with under this Act should have procedures and other matters explained to the child in a way the child understands.
7. If a proceeding is started against a child for an offence —
  - (a) the proceeding should be conducted in a fair, just and timely way; and
  - (b) the child should be given the opportunity to participate in and understand the proceeding; and
  - (c) the proceeding should be finalised as soon as practicable.
8. The youth justice system should give priority to proceedings for children remanded in custody.
9. A child who commits an offence should be —
  - (a) held accountable and encouraged to accept responsibility for the offending behaviour; and
  - (b) dealt with in a way that will give the child the opportunity to develop in responsible, beneficial and socially acceptable ways; and
  - (c) dealt with in a way that strengthens the child's family; and
  - (d) dealt with in a way that recognises the child's need for guidance and assistance because children tend to be dependent and immature.
10. A victim of an offence committed by a child should be given the opportunity to participate in the process of dealing with the child for the offence in a way allowed by the law.
11. A parent of a child should be encouraged to fulfil the parent's responsibility for the care and supervision of the child, and supported in the parent's efforts to fulfil this responsibility.
12. A decision affecting a child should, if practicable, be made and implemented within a timeframe appropriate to the child's sense of time.
13. A person making a decision relating to a child under this Act should consider the child's age, maturity and, where appropriate, cultural and religious beliefs and practices.
14. If practicable, a child of Aboriginal or Torres Strait Islander background should be dealt with in a way that involves the child's community.

# Youth justice principles con't

15. Programs and services established under this Act for children should —
- (a) be culturally appropriate; and
  - (b) promote their health and self respect; and
  - (c) foster their sense of responsibility; and
  - (d) encourage attitudes and the development of skills that will help the children to develop their potential as members of society.
16. A child being dealt with under this Act should have access to legal and other support services, including services concerned with advocacy and interpretation.
17. A child should be dealt with under this Act in a way that allows the child —
- (a) to be reintegrated into the community; and
  - (b) to continue the child's education, training or employment without interruption or disturbance, if practicable; and
  - (c) to continue to reside in the child's home, if practicable.
18. A child should be detained in custody for an offence, whether on arrest, remand or sentence, only as a last resort and for the least time that is justified in the circumstances.
19. A child detained in custody should only be held in a facility suitable for children.
20. While a child is in detention, contacts should be fostered between the child and the community.
21. A child who is detained in a detention centre under this Act —
- (a) should be provided with a safe and stable living environment; and
  - (b) should be helped to maintain relationships with the child's family and community; and
  - (c) should be consulted about, and allowed to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about—
    - (i) the child's participation in programs at the detention centre; and
    - (ii) contact with the child's family; and
    - (iii) the child's health; and
    - (iv) the child's schooling; and
  - (d) should be given information about decisions and plans about the child's future while in the chief executive's custody (having regard to the child's age or ability to understand and the security and safety of the child, other persons and property); and
  - (e) should be given privacy that is appropriate in the circumstances including, for example, privacy in relation to the child's personal information; and
  - (f) should have access to dental, medical and therapeutic services necessary to meet the child's needs; and
  - (g) should have access to education appropriate to the child's age and development; and
  - (h)\* should receive appropriate help in making the transition from being in detention to independence.

*\*Example for paragraph (h) — help in gaining access to training or finding suitable employment.*



# Queensland Sentencing Advisory Council

*Inform. Engage. Advise.*

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**JUDGE  
FOR  
YOURSELF**

