



**Equipment Needed:**

A desk and chair for the Magistrate

A desk and chair for the court officer - placed in front of the Magistrate

2 desks pushed together and 2 chairs for the Police Prosecutor and Defence Lawyer

1 chair for the defendant placed behind the lawyers

**People:**

The Magistrate - **Magistrate Spector** - listens to the evidence and makes a decision according to law

The Court Officer - **Officer Litt** -keeps order in the court, swears in witnesses and hands paperwork to the Magistrate

The Police Prosecutor - **Sergeant Fabulous** - Presents and argues the case on behalf of the State

The Defence Lawyer - **Mr/Ms Magnificent** -Represents the defendant in proceedings before the Magistrate

The Defendant - The person who is alleged to have committed the crime

The Public Gallery - Members of the public and supporters of the defendant

To see a picture of a court layout and for more details on the personnel see this link: <http://www.courts.sa.gov.au/Community/ForSchools/Resources/CourtsChallenge/Pages/Whos-who-in-a-Magistrates-Court-criminal-hearing.aspx>

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Magistrate to Prosecutor:

Sergeant I have the papers in the matter of JOHNSON.  
Are you appearing?

Prosecutor to Magistrate:  
the

Yes Your Honour, I'm **Sergeant Fabulous** and I represent  
interests of the Police.

Magistrate to Prosecutor:

Thank you.

Magistrate to Defence lawyer:

Are you appearing in this matter?

Lawyer to Magistrate:

Yes Your Honour. My name is **Ms/Mr Magnificent** and I  
appear for and with the defendant.

Magistrate to Defence Lawyer:

How does your client plead?

Defence Lawyer

Guilty your Honour.

Magistrate to Prosecutor:

Do you have the facts Sergeant?

Prosecutor to Magistrate:

Yes Your Honour. If it pleases Your Honour I will now read  
them.

Magistrate nods

Prosecutor

Your Honour - On Friday 13 October 20xx the defendant was seen entering JB HiFi in the Strand Arcade, Sydney

The defendant was wearing jeans, a T-Shirt, and carried a jacket over his/her arm.

Security noticed the defendant acting suspicious in the 'Popular Music' section looking at Michael Jackson and Dolly Parton CD's.

As the defendant was heavily tattooed, the security officer thought that the music choice was most odd and the defendant warranted further attention.

The defendant walked past a number of cashiers and did not offer to pay.

He/she was stopped and spoken to and police were called and he/she admitted taking 2 CDS and not paying for them.

The total value of the items was \$40 - no compensation is sought as the property was recovered.

Magistrate to Defence Lawyer:

What would you like to say **Mr/Ms Magnificent**?

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Students may stop the role play here and think about if they were the magistrate, what sentence they might give on the **objective** facts provided so far.

Once the defence has made its submissions on the **subjective** circumstances of the defendant, the students can then consider if they might wish to change their sentence, in light of that information.

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Defence Lawyer to Magistrate:

My client has pleaded guilty at the first available opportunity - this is an indication of his/her sincere remorse and regret.

He/she has just turned 18 years - in fact this theft occurred on his/her birthday Friday 13 September 20xx

As your Honour can appreciate, had these items been taken the day before he/she turned 18, he/she would be facing a different jurisdiction, that is the Children's Court.

The sentence for this matter, would not be, in all probability, as severe.

Nor is it likely that my client would be 'convicted' of this criminal offence as he/she would be considered a 'child'.

Now sadly, at 18, he/she is considered an adult in the eyes of the world.

I say this, Your Honour, because the ultimate aim of my submission is that you give this young woman/man an opportunity of not having a criminal conviction that could adversely affect the rest of his/her life.

My client's behaviour, is not be excused but was very much out of character on this day.

It was his/her mother's birthday the following week and he/she found himself/herself without the means to buy her a present.

He/She loves his/her mother dearly and there was to be a party to celebrate the occasion. The rest of the family was to be in attendance and he/she felt it would be embarrassing to attend without a gift.

As you know the plan ended badly!

His/her arrest and court appearance is far more embarrassing for the family and my client is thoroughly ashamed.

He/she is currently working for a world renowned chef and hopes to travel throughout the world to pursue his/her career. Any criminal conviction will seriously jeopardise that travel.

He/she cooperated with the store security and police ... and I can assure you, my client has learnt a very valuable lesson.

I ask you to please consider dealing with my client pursuant to Section 10 of the Crimes (Sentence Procedure) Act either by way of a bond or outright dismissal, but please do not record a conviction.

Magistrate to Defendant

I would like to hear what you have to say - Defendeant can ad-lib

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## Class to Consider Possible Sentences

Conviction + Fine (\$2,000 max)

Conviction + Bond to be of good behaviour (up to 5 years)

Conviction + Community Service Order (500 hours max)

Conviction + Imprisonment (2 years max)

Non Conviction = 'Dismissed'

Non Conviction = 'Discharge' on Good Behaviour Bond (2 years max)

## If you were the Magistrate.

For this defendant - what penalty would you impose after hearing from the defence lawyer?

What would you say to the defendant when handing down your sentence? What do you think is important for him/her to hear?

If the defendant had been stealing property for other people - what sentence would you impose?

What is the purpose of sentencing? Why not just forgive and forget?

## Statement from the Magistrate when Delivering the Sentence (optional)

Magistrate

The accused is charged with stealing ... [identify the property].  
What amounts in law to stealing? The essential elements of that offence are —

1. that the property must belong to someone other than the accused;
2. it must be taken and carried away; and
3. the taking must be without the consent of the owner of the property.

Beyond those three elements or requirements, there are an additional three elements which relate to the accused's mental state at the time of the taking, namely —

4. the property must be taken with the intention of permanently depriving the owner of it;
5. the property must be taken without a claim of right made in good faith; and
6. the property must be taken dishonestly.

[To the Defendant] Please stand up

I will now deliver my decision. I hereby find you guilty of the offence of larceny.

Outline how the defendant has committed the elements of the offence and then announce the penalty