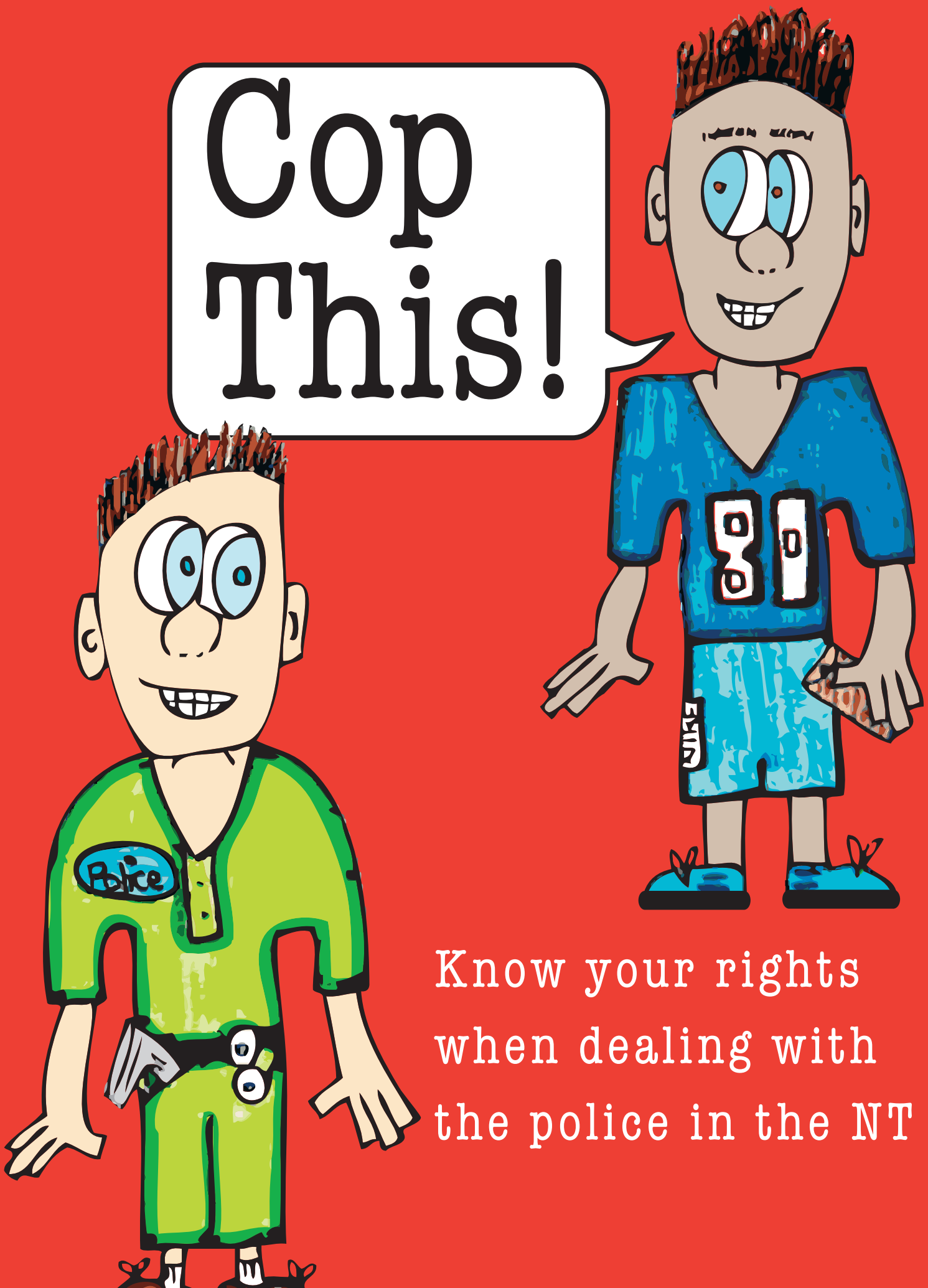
LEARNING SEQUENCE

Cop This!



Know your rights when dealing with the police in the NT

Northern Territory Legal Aid Commission

Northern Territory Government
Department of Employment, Education and Training

This resource is located in Explore NT, part of the NT School Portal https://portal.latis.net.au

LEARNING SEQUENCE

Cop This!

Know your rights when dealing with the police in the Northern Territory

Duration

This teaching and learning sequence can be implemented over a Term.

Learner Context

This teaching and learning sequence has been developed using the Cop This! booklet and DVD. Band 4 outcomes from the Northern Territory Curriculum Framework have been identified and a list of possible links to the outcomes is provided below. The outcomes chosen by an individual teacher will depend on the emphasis taken and the learner context. Outcomes should be directly monitored and Evidence of Learning will need to be gathered. This sequence has been developed for use in both urban and remote schools.

The sequences include

- Rights and responsibilities that affect young people when dealing with police in the NT Justice system.
- Understanding the roles of different agencies and support services in the NT
- A clearer understanding about the process involved in the criminal justice system

Description

In the Northern Territory the criminal justice system consists of the police, the courts (Magistrates and Supreme), and a system in place that imposes sanctions on those who break the law, including police caution and diversion, fines, bonds, suspended sentences, jail and detention centre. This teaching and learning sequence looks at the rights and procedures affecting young people suspected of breaking the law.

In 2004 the NT Legal Aid Commission released a DVD titled Cop This!, which illustrated the legal process, rights and responsibilities of Northern Territory young people when dealing with police. This was based on a book of the same name first published in 1998. The current edition of the booklet was published in 2003.

Culminating Task/s

Choose a specific justice related agency and develop a multi-media medium i.e. power point, movie to explain the role and function of that agency. Include research on the following aspects:

- Geographic boundaries i.e. local or national
- Is a specific client group targeted? Why?
- Aim, role and functions of the agency.
- What and how is the agency linked to other agencies?
- How does the agency promote itself?
- What statistics are maintained?
- Government or Non Government agency and how does that affect the sources of funding?
- Legislative basis?

Exit Outcomes	Indicators	Assessment
EsseNTial Learnings **Collaborative Learner 3** Fulfils their responsibilities as a group member and actively supports other members	● Consider consequences of own actions within groups ● Identify group roles with others and modify to suit different circumstances.	Learners analyse, through a reporting process, and present in groups, the benefits and disadvantages of victim/ offender conferences, in particular the juvenile pre- court diversion scheme.
Constructive Learner 3 Participates in efforts to value diversity and social responsibility through active and informed involvement in chosen areas within their family and community	● Consider different approaches to problems, moral dilemmas and issues of right and wrong. ● Identify influence of people/ groups who can make a difference.	Using the Cop This! DVD and book as a foundation, learners to design and develop their own script to portray an understanding of the legal consequences of criminal behaviour.
Learning Technology Communicating through Presentation, Publication or Performance LT-P	● Select appropriate tools and skills to design and produce a multimedia presentation or performance.	Learners use multimedia mediums to produce their own illustration of legal processes, rights and responsibilities.

Learning Area Outcomes	Indicators	Assessment
SOSE **Band 4.3 Civics Governance and Social Justice** Explain the roles, rights and responsibilities of citizens on the existing structure of Australia's political and legal systems, and their formation, evaluate how these structures protect the rights of individuals and societies.	● Research current legal issues in relation to rights and responsibilities of citizens. ● Explain the purpose, roles and functions of law agencies in Australian society. Eg Police, Legal Aid, Ombudsman	● Learners to research roles of criminal justice agencies in the community and present in a multi media format
English **R/V 4.3 Strategies** Use strategies to identify and respond to the way conventions shape meaning in a range of text	● Use textural information to support opinion, including reference to techniques in everyday texts ● Analyse information for clarity, relevance and point of view.	In small groups learners consider: What is the view of people in the community regarding property crime? Collect examples of publications or media coverage that expresses a view about this issue. i.e. letters to the editor. Consider, how does the media portray juvenile crime? How does this influence public perception?
W 4.1 Texts and Contexts Plan, compose and edit a range of sustained and developed texts appropriate to audience, purpose and context. **L/S 4.1 Texts and Contexts** Identify ideas, opinions and information in structured spoken texts, present and support ideas in a variety of contexts.	● Locate articles online ● Write texts for familiar audiences providing a personal viewpoint supported by factual or textual information ● Experiment with a variety of language activities, eg debates	Learners to choose an example statement from the list below and provide written arguments either individually/pairs. Use the arguments to form the basis for an oral debate. Example statements ● Young people who break into houses are stupid ● Boys are more likely to break the law than girls ● Young people under 18 are more likely to be victims of crime than perpetrators ● Curfews should be imposed on under 16 year olds ● Shop lifting doesn't really hurt anyone

Teaching/Learning Sequence

Resources/Notes

Setting the Scene:

Key Terms

In small groups and then as a whole class brainstorm and define key terms that learners will be using.

Key Terms

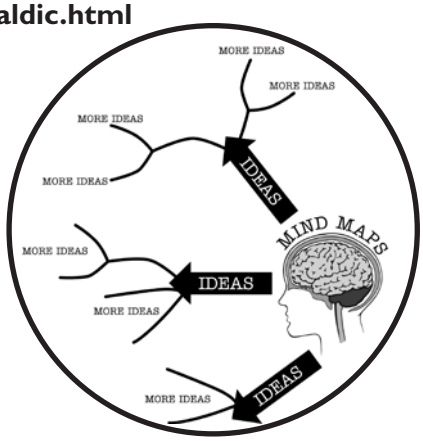
bail, charged, detention, magistrate, juvenile diversion, warrant, arrest, record of interview, arrested, licensed premises, ombudsman, lawyer, court, justice, evidence, offence, unlawful entry, guilty, innocent, caution

Refer weblink to online legal dictionaries http://www.lib.flinders.edu.au/resources/sub/law/legaldic.html

Mind Map

A mind map consists of a central word or concept. Around the central word you draw the main ideas that relate to that word. You then take each of those words and again draw the main ideas that relate to each of those words. In this way a large number of related ideas can be produced and retained very quickly and easily.

- Ask learners to create an individual/group mind map using 'youth crime' as the central concept.
- Have each group present their maps to the class, explaining the words and symbols contained in their diagram. Display the mind maps. Allow time for learners to view all the mind maps, informally interacting with each other as they do so.
- Present learner's Mind Maps on the walls.



Refer Attachment: Mind Map

For more information on mind maps see. http://www.peterussell.com/MindMaps/HowTo.html

Mind Map resources:

- A range of coloured pens and markers
- Blank paper – enough unlined A4 sheets for several for every student
- Sheets of butchers paper or large poster size pieces of card for small groups
- An example of a mind map on an unrelated topic

Role Play

Several small groups of learners to Role Play "*James gets nabbed and the boys break in*". Teacher to introduce concept of providing name and address.

What do I do when approached by police?

— give my name and address

— stay calm

— go with the police

Extension activity

- Design own role-play to present to the class.

Refer Attachment: Role Play "*James gets nabbed and the boys break in*".

Teaching/Learning Sequence

The Police Caution

Learners to consider and discuss as a whole class the "Right to Silence" in:

- A school setting
- When police are involved
- Should it be done in Languages Other Than English (LOTE)?

Role Plays

Learners to engage in the following role-plays:

- "Glen knows his rights"
- "What happens at the Police Station'"

Review

Learners to design a poster illustrating understandings relating to three key terms examined.

The rights of and procedures for, dealing with young people in the NT justice system.

- Learners to undertake a research project based on the roles of agencies in the community. Consider: Police, Legal aid, ombudsman, Aboriginal legal aid, and women's legal service.

Resources/Notes

The Police Caution — wording

A member, before questioning a person who is suspected of committing an offence should inform the person of the nature of the allegations and caution the person in the following manner:

"*I am going to ask you certain questions about (state briefly nature of inquiry) which will be recorded. You are not obliged to say anything unless you wish to do so, but whatever you do say will be recorded and may be given in evidence. Do you understand that?*"

It is not necessary for the caution to be administered verbatim.

Refer Attachment: Role Play "Glen knows his rights"

Refer Attachment: Role Play What happens at the police station

Choose a specific agency and develop a multi-media medium i.e. power point, to explain the role and function of that agency. Include research on the following aspects:

- Geographic boundaries i.e. local or National
- Is a specific client group targeted? Why
- Aim, role and functions of the agency.
- What and how is the agency linked to other agencies?
- How does the agency promote itself?
- What statistics are maintained?
- Government or Non Government agency and how does that affect the sources of funding?
- Legislative basis?

Teaching/Learning Sequence

- Learners to view the Cop This! DVD.
- After viewing the DVD, learners to complete the Y Diagram individually/groups and then discuss findings.

The 'Y' diagram

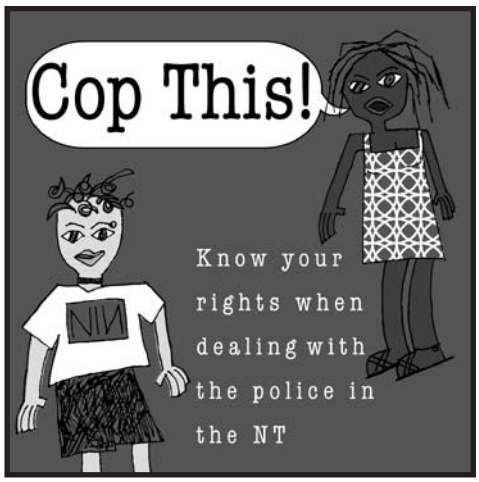
- **+** What did you like/learn about this DVD?
- **–** What did you dislike/disagree with in the DVD?
- **!** What was interesting or surprising?

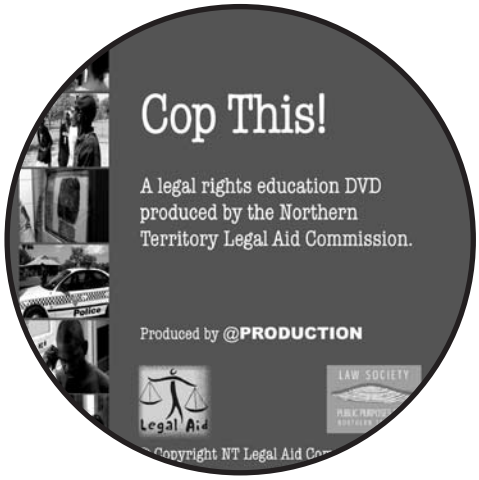
In small groups ask each group to compile a list of their responses in the 'I' section. Groups to identify in their list any issues or topics about which they would like to find out more.

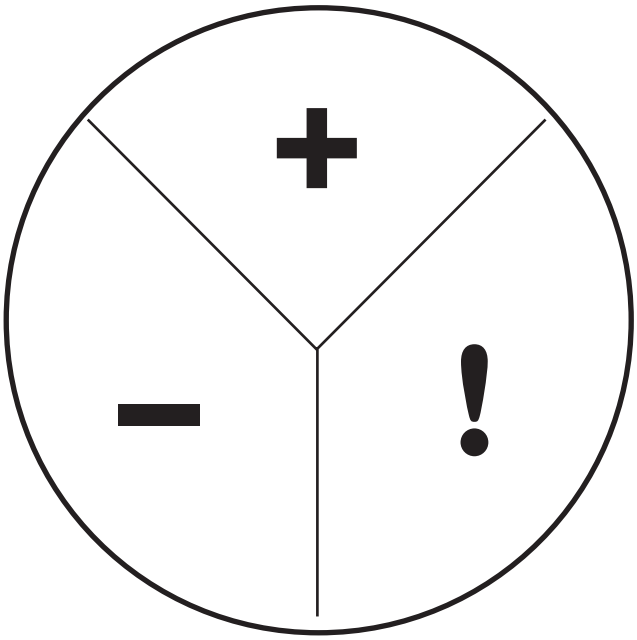
Compile a list of questions that arise from this feedback. How could answers to these questions be found? This could be undertaken as group or individual work, for discussion or written responses. This list could be used to generate a list of topics for further research.

Resources/Notes

Resource: Cop This DVD (22 minutes)







Teaching/Learning Sequence

Resources/Notes

Potential outcomes of involvement in illegal activities and strategies to avoid involvement.

True/False Questionnaire for learners

[This could be implemented as a knock out quiz]

1. Police can question anyone at any time.
2. You have to answer any question asked by a police officer.
3. Police can only question an under 18 year old when another independent adult is present.
4. Police can search a residence at any time.
5. Any young person found guilty of breaking into private property will go into detention.
6. Bail means being suspected of committing a crime, but there is not enough evidence to be found guilty.
7. More than 75% 80% of those in jail in the NT are Indigenous.
8. At least 20 juveniles are in gaol in the NT on any given day.
9. Police can stop and search you at any time.
10. Your lawyer has to tell police if you confess to a crime.

Community resource — Guest Speaker

Invite a guest speaker to come and address the class. Learners to identify two questions for each guest speaker and keep a journal of responses. Possible topics include:

- Youth crime
- oung people's rights and responsibilities
- Young people in detention
- Court procedures
- Youth in the media
- Working with young people in contact with the law

Refer Attachment: True/False Questionnaire

Refer Attachment: Community resources

Possible guest speakers could include

- School based constable or other Police officer
- Lawyer or other officer from a legal aid organization, e.g. NT Legal Aid Commission, Regional Aboriginal legal aid such as NAALAS, Darwin Community Legal Service
- Youth worker from local youth service agencies such as Anglicare, Mission Australia Youth Beat, ASYASS, etc.
- Juvenile Detention Centre staff
- Juvenile Diversionary program provider
- NT Ombudsman

Teaching/Learning Sequence

Extension Activity

- Learners present a report on the content of the guest speaker's input.
- Learners conduct further research on the topic and present a report.

Conceptual Discussion

Learners to discuss the concept of Breaking in to a house, their options and subsequent consequences.

A friend suggests breaking into an empty house. What options do you have? Each option probably has a number of possible outcomes. List these in a diagram, for example:

Option: Assist in the break in
Outcomes

- steal some useful household items
- parents ask where you got the new
- equipment
- get recognized by neighbour
- resident comes home and catches you
- get reported to police
- friend wants you to do it again

Discuss a variety of scenarios using the options and outcomes model. For example:

- Violence — fighting with another gang.
- Gatecrashing a party /violence
- Shoplifting
- Offered drugs at a party.
- Stealing a car.

Learners to role play strategies for avoiding involvement in illegal activities.

Resources/Notes

www.nt.gov.au/dcm/youth_affairs/safe/law.shtml

www.nt.gov.au/pfes/police/community/jdu/faq.html

www.aic.gov.au/research/jjustice/police/powers.html

www.nt.gov.au/dcm/youth_affairs/pdf/factsheet_diversion.pdf

Teaching/Learning Sequence

Resources/Notes

Aspects of the NT justice system, including sentencing processes and the juvenile diversionary scheme.

Learners to read Handout 1: *Court System*

Refer Attachments: Handouts 1, 2 and 3.

Guest speakers from the legal profession may also be useful to further explain each handout.

Engage in Activity "Judgement Day"

Refer Attachment: 'You be the Judge'

Exercises

Put the class into 4 small groups. Each group is to undertake one of the following exercises. Small groups could report their findings in writing, or in a presentation to class. Alternately, each exercise could be undertaken buy the whole class in small groups.

Exercises: Management, Role Play and Your Views – either written up or handed out to small groups

Learners to read Hand Out 2: *Juvenile Diversion Scheme*

Management

Do you think the Juvenile Pre Court Diversion Scheme is a good way to deal with criminal offences? Why or why not?

Your Views

- Which option would you choose if you were the victim of theft or vandalism? Why?
- Which option would you choose if you were involved in an offence and offered the option by the police?
- Some people in the community think that options such as conferencing are "soft", that is, they do not have the serious sanctions available to courts. What do you think?
- Considering the purpose of sentencing (punishment, rehabilitation, deterrence, community protection), which method is likely to be most effective in reducing offences committed by young people?

Role play

You are a friend of Glenn, who tells you he has been involved in the break in portrayed in the Cop This! DVD. The police have offered him the option of a conference with the victim, or going to court. He asks your advice. What would you say?

Refer Attachment: Hand out 3

Learners complete the activityHand Out 3: *Comparing Conferencing and the Court.*

Young People in trouble with the law. Why do some young people become involved in illegal activities?

Agree/Disagree Continuum

Set up a line in the room, with AGREE at one end and DISAGREE at the other. The line could be straight or curved. Participants can be expected to stand or sit. When a statement is read, learners move to a point on the line that expresses their position, e.g. strongly disagree to 'disagree' at the end of the line, somewhat agree would be towards the 'agree' end, but not right at the end. Positioning in the middle of the line means undecided. Learners are then asked to express why they are where they are. As they listen to each other, they may wish to change their position on the continuum.

Note: it is not the intention of this exercise to have right or wrong answers. The intention is to engender discussion of the issues. Participants are expected to respectfully listen to others' point of view. Teachers/facilitators should not impose their own viewpoint.

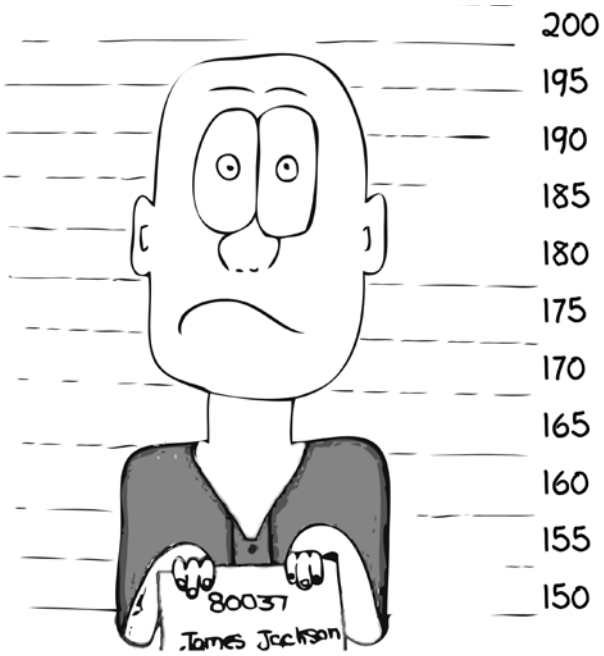
Example statements:

- Young people who break into houses are stupid
- Boys are more likely to break the law than girls
- Young people under 18 are more likely to be victims of crime than perpetrators
- Curfews should be imposed on under 16 year olds
- Shop lifting doesn't really hurt anyone

Learners to choose an example statement from the list and provide written arguments either individually/pairs.

Use the arguments to form the basis for an oral debate.

- AGREE and DISAGREE signs. Perhaps a length of rope to outline the continuum
- Role play handout
- This activity assumes that learners are familiar with the DVD Cop This!



Teaching/Learning Sequence

Role Play

Choose learners to Role Play and then in small groups answer the following questions – in small groups:

- What does Glenn want? Why?
- What does Andy want? Why?
- What does Andy fear? Why?
- What is Glenn feeling, not saying out loud?
- What is Andy feeling, not saying out loud?
- What do the other boys want?

Record your group's responses

Report responses

Learners record and verbally report responses to these questions. Consider this question from the viewpoint of the different people involved. What are the advantages and disadvantages of diversionary conferencing from the perspective of the:

- Victim?
- Police?
- Offender?
- Offender's family?

Community Views – youth and crime

Consider a range of views in the community regarding young people in contact with the legal system.

Brainstorm

Brainstorm reasons why young people commit crimes such as breaking and entering, car stealing, shop lifting, graffiti (tagging), vandalism. Collect newspaper clippings and look at a comparative i.e. Darwin/Alice Springs/National.

Resources/Notes

Young People In Trouble With The Law

Role-play this scene from the DVD:

A group of boys are walking down the street. They see a car leave a nearby driveway. Some of the boys sign to each other to break in.

Glenn: *"Andy, you wanna break into this house with us?"*

Andy: *"No way! Do it yourself, I don't wanna get into trouble."*

Glenn: *"Let's go."*

Others run into the driveway. One acts as lookout.

Andy walks away down the street.

Teaching/Learning Sequence

Discussion question:

Are there any characteristics or factors that are more likely to apply to people involved in such illegal activities?

- Ethnicity/cultural background
- Gender
- Family/household type (biological parents, single parent, blended family, extended family)
- Family/household income
- Age

Community views — property crime

In small groups, consider: What is the view of people in the community regarding property crime? Collect examples of publications or media coverage that expresses a view about this issue. i.e. letters to the editor. Consider, how does the media portray juvenile crime? How does this influence public perception?

The Ripple Effect

In small groups, consider: Who are the individuals affected or involved when someone breaks the law?

Scene

A young person is caught after breaking into a house. Put them in the centre of the diagram (X). Place others affected in the surrounding circles according to their level of emotional involvement likely as a result of X's action.

- How are these people likely to become involved?
- How much are they affected by the incident?
- What are their feelings?

Examples of other characters:

- Mother of X
- Father of X
- Siblings of X
- Other family members of X e.g. grandparents
- Individuals living in the house (victims)
- Property owner
- Friends of the victims
- Police
- Friends of X
- Friends of X's parents
- Teacher of X
- Sporting coach of X

Resources/Notes

- Range of print media — variety of newspapers, magazines, access to internet news sites
- Stakeholder map handout
- Blank paper for individual stakeholder maps

Teaching/Learning Sequence

Resources/Notes

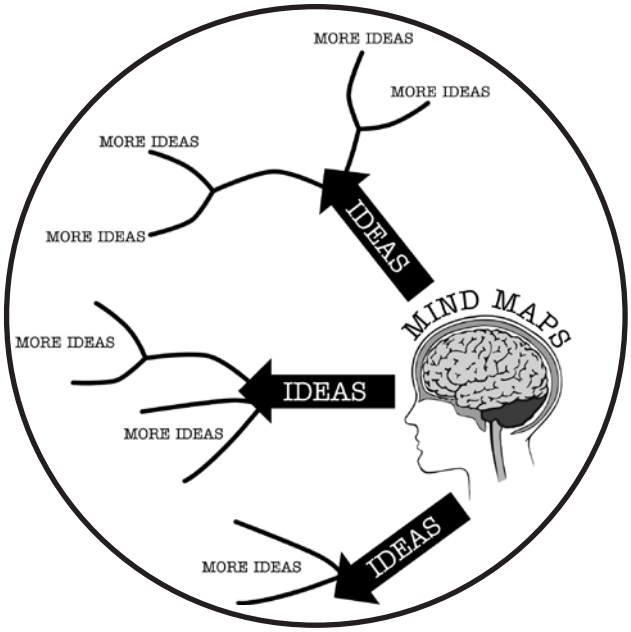
Mind Maps

This activity will provide the opportunity for learners to:

- Clarify what they know about the rights and procedures affecting young people in the NT justice system.
- Appreciate potential outcomes of involvement in illegal activities.
- Identify topics for further research on this issue.

Ask learners to create an individual mind map using 'youth crime' as the central concept.

In small groups create group mind maps, combining the maps of the individuals in each group. Have each group present their maps to the class, explaining the words and symbols contained in their diagram.



Attachments

- How to Mind Map
- Role Play: James gets nabbed and the boys break in
- Role Play: Glen knows his rights.
- Role Play: What happens at the Police Station
- True/False Questionnaire
- Community Resources
- The Criminal Justice System and Indigenous People
- Managing Prisoner Growth in the Northern Territory
- Hand out 1: The Court System
- Handout 2: Juvenile Pre-Court Diversion Scheme
- Hand out 3: Comparing Conferencing and the Court
- Judgement Day

Resources

- Community Resources
- The Criminal Justice System and Indigenous People
- Managing Prisoner Growth in the Northern Territory

Developed By:

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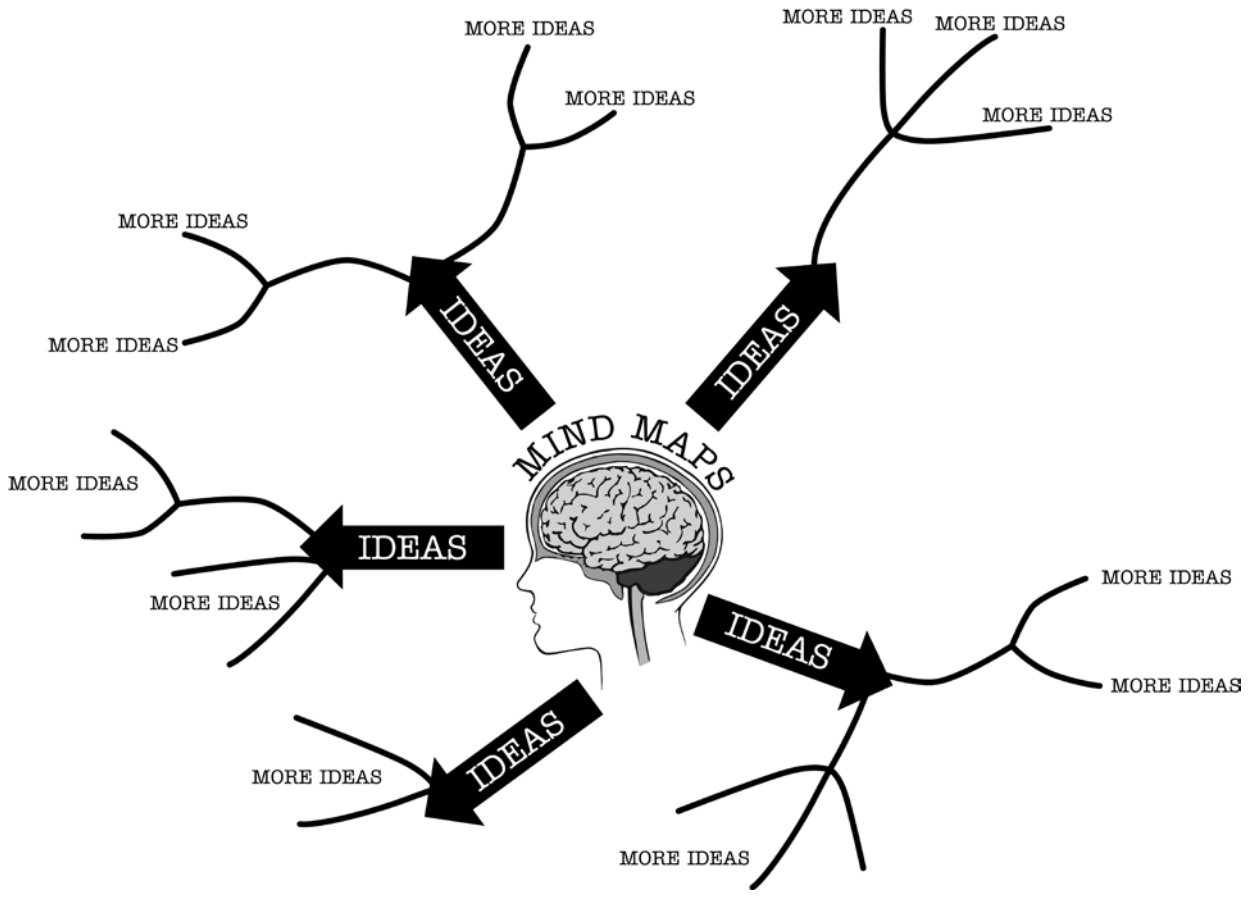
April, 2006

Attachment 1:

How to Mind Map

- Use just key words, or wherever possible images.
- Start from the centre of the page and work out.
- Make the centre a clear and strong visual image that depicts the general theme of the map.
- Create sub-centres for sub-themes.
- Put key words on lines. This reinforces structure of notes.
- Print rather than write in script. It makes them more readable and memorable. Lower case is more visually distinctive (and better remembered) than upper case.
- Use colour to depict themes, associations and to make things stand out.
- Anything that stands out on the page will stand out in your mind.
- Think three-dimensionally.
- Use arrows, icons or other visual aids to show links between different elements.
- Don't get stuck in one area. If you dry up in one area go to another branch.
- Put ideas down as they occur, wherever they fit. Don't judge or hold back.
- Break boundaries. If you run out of space, don't start a new sheet; paste more paper onto the map. (Break the 8x11 mentality.)
- Be creative. Creativity aids memory.
- Get involved. Have fun.



Attachment 2:

Role Play: *James gets nabbed and the boys break in*

Andy and some friends were at a party one night. They were sitting in the back yard when two police officers came up to them.

Police "Right, we want to know your names"

Andy "Why do you want to know our names?"

Police "Somebody stole a car and left it a couple of streets away"

Andy "We don't know anything about it"

Police "Doesn't matter, we still want to know your names"

Andy "Yeah OK, my name's Andy Wilson"

The police wrote Andy's name in their notebooks. Andy's friends told the police their names too but his mate, James, wouldn't tell them his name and started swearing at the police.

James "You can get stuffed, I'm not telling you my name"

Police "Look, just shut up and tell us your name or we'll take you to the police station and charge you"

James "You pigs can go to hell"

Police "OK, you wanna be a smart-arse you can come with us"

James "I don't want to go with you"

Police "Too bad, we told you that we'd take you to the station and charge you if you didn't tell us your name. Now get up and come with us or do we have to handcuff you and drag you out to the car?"

James "Nah, I'm coming"

Police "Well, hurry up"

When the party finished Andy realised that none of them had any money so they had to walk home. On the way home Andy, Glenn, Rick and Scott walked past a house and saw the people from the house leaving. When the people had left, Glenn asked Andy if he wanted to break into the house and get some money to catch a taxi home.

Glenn "Hey Andy, you wanna break into this house with us?"

Andy "No way, I'm not getting into any trouble and my Mum would kill me if she found out"

Glenn "Well, you gonna wait for us?"

Andy "Nah, I'm going to go home"

Glenn "See ya then"

Andy "Yeah man, see ya tomorrow"

Attachment 3:

Role Play: *Glen knows his rights*

Glen was at home when the police came and told him that they wanted to speak to him.

Police "Are you Glenn Smith"

Glenn "Yeah, that's me"

Police "We want you to come to the station with us so we can speak to you about an unlawful entry"

Glenn "I'm not going anywhere with you cops"

Police "Well, Glenn, we are arresting you so you have to come with us whether you like it or not"

Glenn "Yeah if you say so"

Police "How old are you?"

Glenn "Sixteen"

Police "Is your Mum home?"

Glenn "Yeah, why?"

Police "We want her to come and sit with you during the interview"

Glenn "Hang on, I'll go get her"

G's Mum "Why do you want me to come?"

Police "We want to interview Glenn and we have to get an adult to come to the police station because he is only sixteen"

At the start of the interview the police told Glenn that he didn't have to tell them anything if he didn't want to, but that anything he did say could be used against him.

Police "Glenn, can you tell us your full name?"

Glenn "Glenn Smith"

Police "OK Glenn, you don't have to tell us anything if you don't want to, do you understand that?"

Glenn "Yeah"

Police "Do you have to talk to me about anything?"

Glenn "No"

Police "Are you happy to talk to me"

Glenn "No"

Police "Can you tell us anything about a break-in that happened on Friday night?"

Glenn "I don't want to say anything"

Police "Did you break into the house?"

Glenn "I don't want to answer any of your questions"

Police "OK, we'll end the interview now then"

After the interview the police gave Glenn a copy of the interview tape to give to his lawyer and charged him with breaking and entering. They gave him bail to go home to his Mum.

Attachment 4:

Role Play: *What happens at the police station*

Rick gets interviewed

When Rick arrived at the police station with the police he was taken into a room with a tape recorder on the desk.

Police "How old are you Rick?"

Rick "Fourteen"

Police "OK, now Rick because you are only fourteen and we are investigating a crime we have to get an adult to sit with you during the interview, who would you like to come?"

Rick "My mum"

Police "Where is she?"

Rick "At work"

Police "Give me her number and I'll go and phone her"

The police officer came back a short time later.

Police "Rick, we rang your Mum and she can't come so we'll get someone from Welfare is that's all right with you?"

Rick "Yeah, that's fine"

A bit later the officer came back with a woman and turned the tape on.

Police "Rick, because your mother couldn't come here today, we have Miss Greene here to help you during the interview, is that OK with you?

Rick "Yeah"

Police "Miss Greene, do you have any problems being here?"

Miss Greene "No"

Police "Right, let's get started. Now Rick, do you understand that you don't have to say anything if you don't want to"

Rick "Yes"

Police "Do you have to talk to me about anything?"

Rick "No"

Police "Are you happy to talk to me?"

Rick "Yeah, but I would like to talk to a lawyer first"

Police "All right, we'll just take a break so you can do that"

Attachment 5:

True/False Questionnaire

1. Police can question anyone at any time.
2. You have to answer any question asked by a police officer.
3. Police can only question an under 18 year old when another independent adult is present.
4. Police can search a residence at any time.
5. Any young person found guilty of breaking into private property will go into detention.
6. Bail means being suspected of committing a crime, but there is not enough evidence to be found guilty.
7. More than 75% 80% of those in jail in the NT are Indigenous.
8. At least 20 juveniles are in gaol in the NT on any given day.
9. Police can stop and search you at any time.
10. Your lawyer has to tell police if you confess to a crime.

Answers

1. True. While police can ask questions, there is no obligation to answer these questions, except to provide a name and address.
2. False. You are only required to provide your name and address.
3. True.
4. False. Police require a document (a warrant) signed by a Magistrate to search any premises.
5. False. There are a number of options available to police and courts, such as diversion programs and conferences, that do not involve detention.
6. False. Bail means agreeing to particular conditions which may include paying money, but which always include attending court, to avoid being locked up.
7. True. Indigenous people made up 79% of the prisoner population in the NT in 2005 even though indigenous people represent around 30% of the NT population.
8. False. The daily average number of detainees held in custody during 2004-05 was 18, which is higher than the previous year (16).
9. False. Police can search you if they think you are carrying something illegal.
10. False. Everything you tell your lawyer is confidential and can't be disclosed to police or a court.

Attachment 6:

Preamble to the Caution

The following extract is taken from Cooke, M, *Indigenous Interpreting Issues for the Courts, 2002*, Australian Institute of Judicial Administration, p 32. The entire publication can be found at http://www.aija.org.au/ac01/Cooke.pdf

This *Preamble to the administration of the Police Caution* was an initiative instigated in 1996 by the NT Government through its Office of Aboriginal Development and Attorney-General's Department. The English text, from which translations into 15 Aboriginal languages were generated, was prepared by myself and lawyer, Ms Jenny Hardy (then of the North Australian Aboriginal Legal Aid Service, NAALAS), and then refined during meetings of an 'Aboriginal Interpreters Working Party' conducted by the Attorney-General's Department. Translations were complete by 1999 and the tapes were trialled by police on Groote Eylandt and in Alice Springs in 2000/1 (the results of the trial are not yet known).

The following is an excerpt taken from the Kriol version (which is translated here back into English). It is a portion of the explanation regarding interpreting assistance. The full text includes an explanation of the interpreter's role. This portion explains to the suspect their responsibility for determining their own need:

What does this law say for you?

This law says that if you understand English and talk English properly, well you yourself can talk English to the police.

But sometimes the police can use hard English words. Sometimes when the police ask you questions, maybe you cannot understand what he is talking about. Maybe you do not understand the meaning of what they are saying. But maybe, if you do not understand English properly, or maybe you only talk a little bit of English, well that's OK. Just ask the police to find someone who can talk English and your language properly.

If you do not know how to talk English properly, you can ask the police to find an interpreter for you.

When this tape is finished maybe you will say, "No. I do not want an interpreter." But later when the police talk to you, maybe you do not understand what they are saying. Well, at that time, you can ask them to get an interpreter and they must wait until the interpreter comes to help you.

Attachment 7:

Handout 1: The Court System

Law courts are established to enable magistrates and juries (in serious criminal matters) to determine the guilt or innocence of those accused of having committed crimes, and for judges and magistrates to determine appropriate sentences if offenders are found guilty. Lawyers are involved in the process to represent the community (and the victim as part of the community) and to protect the interests of the accused.

Purpose of sentencing

Magistrates and judges have to balance a number of interests when determining sentences for people found guilty of crimes. In summary, these are:

- Punishment of the offender
- Rehabilitation of the offender
- Deterrence from further offences
- Protection of the community from the offender

Sentencing options

Magistrates and judges have a number of options when determining sentences for offenders found guilty. These include:

- Fine
- Community service
- Good behaviour bonds
- Home detention
- Imprisonment
- Suspended sentence – sentences can be fully or partially suspended with other conditions, eg. 6 months imprisonment suspended immediately upon entering a bond to attend counselling for 12 months.
- Restitution order – paid to the victim, attached to any other sentence.

Factors to be taken into account

Magistrates and judges must take a complex set of factors when determining appropriate sentences:

- Maximum and mandatory penalties for the offence (the maximum applies to the theoretical worst case)
- Nature and seriousness of the offence. Why did the offender commit the offence? How serious is the offence compared to other similar offences?
- Damage, loss or injury. Did the victim suffer harm? Have they recovered?
- Character, age and intellectual capacity. Offenders aged under 18 (juveniles) are treated differently – there is more focus on rehabilitation and imprisonment is traditionally used as a last resort. Do the offender's personal circumstances warrant leniency due to hardship or social disadvantage? Has the offender committed similar offences? Are they relevant? Was the offender solely to blame or were others involved?
- Prevalence of the offence. If offences are common, should a more serious sentence be imposed as a deterrent?
- Assistance given to police. If the offender helped police this is in their favour.
- Plea – guilty or not guilty. A guilty plea saves time and money, and perhaps shows remorse. Guilty pleas attract a substantial sentencing discount.
- Time in custody since apprehension.
- Any previous sentences. Does the offender have a current court order in force which makes them liable to a particular sentence now it has been broken, for example, a suspended sentence?

Attachment 8:

Handout 2: Juvenile Pre-Court Diversion Scheme

This scheme is used for 14-18 year olds who admit involvement in particular offences such as theft or vandalism. Sometimes, but not often, the scheme may also be used for 10-14 year olds. More serious offences such as armed robbery or sex offences are ineligible. The scheme is managed by the NT Police.

The scheme provides for different levels of response to juvenile offending: verbal and written warnings, formal cautions, and victim/offender conferencing which may result in offenders agreeing to participate in formal community based programs such as drug education, life skills and community assistance. Withdrawal from, failure to participate in these programs or further offending means the matter returns to court prosecution.

Victim/Offender Conferences

This is a meeting between the offender and their family/supporters and the victim and their supporters. The conference is organized by a trained facilitator who is generally a police officer. The investigating police officer may also be present to verify details of the incident. The conference process is:

- Hearing the victims' and offenders' stories
- Discovering who has been affected and how
- Repairing the harm
- Deterring and preventing further offending

An agreement is developed, allowing input from all participants. It may include an apology, partial or full restitution, direct service to the victim, and/or referral to a community program, for example, drug education, life skills, education programs etc.

Attachment 9:

Handout 3: Comparing Conferencing and the Court

Compare diversionary conferencing and prosecution through the court. What are the advantages and disadvantages of each approach?

Court		Conference	
Advantages	**Disadvantages**	**Advantages**	**Disadvantages**

Attachment 10:

You Be the Judge! Hand Down Your Own Sentence

Introduction

This is designed to be a fun way for you to learn how judges and magistrates decide what sentences to give people found guilty before them in court.

This participant's kit includes case materials for a case you will watch as well as copies of the victim impact statement that could be tendered in court.

Learners read the information in the kit. As an extension exercise schools could request help of the legal profession to act out the case. Learners may wish to act out cases themselves.

When the case has been read/performed, learners break into workshop groups. The group consider the basic principles of sentencing to each group and then the group will decide on an appropriate sentence for the accused.

On the following pages you will find the rules and guidelines that must be followed by judges and magistrates when sentencing people. These rules and guidelines are binding and cannot be overlooked or ignored. When you are in your workshop groups you must take these rules and guidelines into account.

You may be surprised with the result at the end of the day. It's not as straight forward as is commonly thought and we encourage you to discuss your experiences with others so that they can share this knowledge.

We hope you enjoy the experience of being a judge for the day!

Case 1: Rick Jones

- The offender is a 16 year old male. He was born at Jabiru and grew up at various remote communities and outstations in the western Arnhem region.
- His father died when he was a young child and his mother was a heavy drinker who spent much of her time in Darwin.
- He was brought up by various family members, but mostly lived with his Grandmother. All of his family speak an Indigenous language as their main form of communication.
- He attended school on and off until he was 14. At the time of finishing school he could speak basic English and could read and write a little.
- As a juvenile he was apprehended by police for breaking and entering at the Jabiru store while drunk and resist arrest. He expressed a desire to give up grog.
- Rick participated in juvenile diversion which he used as an opportunity to give up Grog and return to school in Darwin.
- Rick had been doing well in school for the last year.
- If Rick is imprisoned he will have to leave school.

Offences

- In March 2006 Rick was staying with Glenn in Palmerston and they went to a party in Nightcliff. They got a lift to the party with their friend James.
- James was questioned by the police and arrested for failing to give his name or address.
- Rick, Andy Glenn and Scott started walking home. After about an hour they reached Anula and some cars from a rival youth gang drove past and yelled out threats.

- They had no money for a taxi, so decided to try to get some money by breaking into a house. Andy decided not to join in and kept walking home.
- Rick, Glen and Scott saw some people leaving a house in Berrimah so they broke in through an unopened window and took $50 from a wallet on the fridge. They were hungry so they also took a cooked chicken and a carton of milk.
- Rick, Glen and Scott took a taxi to Glen's house in Palmerston.
- The next morning the police turned up. The taxi driver told the police that he had picked them up from Anula Shops and dropped them in Palmerston.
- Rick admitted that he had broken into the house and stolen the money and food.
- Rick was charged with:
    - Unlawful entry (maximum penalty 7 years); and
    - stealing (maximum penalty 7 years)
- Rick pleaded guilty to the charges.

VICTIM IMPACT STATEMENT

NAME OF VICTIM: Jane Smith

NAME OF OFFENDER: Rick Jones

Harm Suffered As a Result of the Crime

I went to the shop on Saturday night to get some bread. I did not properly secure the house as I was just going around the corner. When I returned, I noticed that the front door was opened. I then went into the house and saw that my husband's wallet was missing from the fridge.

I rang the police and while I was waiting for them to come I found my husband's wallet in the driveway. $50 was missing. I then looked around and noticed a chicken and milk missing from the fridge.

When the police arrived they door knocked the area and got a description of 3 young men who were seen walking up the street.

My house has been broken into three times before, once when I was asleep inside. I am usually very careful with security, but I left a window opened because I was only going out for 5 minutes.

Since the first time my house was broken into I have begun to feel unsafe in my home. Every time something like this happens I feel more nervous at home. I would like to be able to trust the people who live in the community and when a random event like this happens, it makes you realise you can't trust anyone.

I would like to meet with these young boys and tell them how their actions have made me feel, but I think I'm just too emotional to do that at the moment. I'ts just too distressing.

I consent to the presentation of this Victim Statement in Court.

NAME: Jane Smith

SIGNATURE: Date:

The Criminal Justice System and Indigenous People

The Royal Commission into Aboriginal Deaths in Custody

The *Report of the Royal Commission* into Aboriginal Deaths in Custody remains one of the most comprehensive surveys of Indigenous law and justice issues and the underlying causes which bring Aboriginal people into excessive contact with the justice system.

In October 1987 the Commission was established to find out why so many Aboriginal people were dying in prison. The Commission examined the circumstances of the deaths of 99 Indigenous people who had died in Australian prisons between January 1980 and May 1989.

In 1991 the report of the Royal Commission was tabled in Federal Parliament. One of the more important findings was that Aboriginal inmates and detainees were no more likely to die in custody than were non-Aborigines.

What was overwhelmingly different was the rate at which Aboriginal people came into custody, compared to the rate of the general community. The Commission found that their *Aboriginality played a significant and in most cases a dominant role in their being in custody and in dying in custody (Report of the Royal Commission into Aboriginal Deaths in Custody 1991, p1.)*

In the Report, Commissioner Elliot Johnston QC, looked at the importance of history when examining the reasons for the over-representation of Aboriginal people in custody. He points to the partial destruction of Aboriginal culture and a large part of the Aboriginal population and also the disadvantage and inequality of suffered by Aboriginal people in all areas of social life where comparison is possible between Aboriginal and non-Aboriginal people. The other consequence of the considerable degree of breakdown of many Aboriginal communities was that many Aboriginal people resorted to excessive drinking and with that violence which all contributed to community breakdown.

Many of the Commission's 339 recommendations addressed some of this historical disadvantage. The Australian Institute of Criminology was given the task of monitoring National Deaths in Custody Monitoring and Research Program. One of the key recommendations of the Royal Commission was that imprisonment be used as a measure of last resort, and that alternatives to custody be considered.

- View the *Report of the Royal Commission into Aboriginal Deaths in Custody* at: http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/rciadic/

Since the Royal Commission

Since the findings of the Royal Commission were presented, many of the recommendations have been adopted. However the figures for Indigenous deaths in custody have barely changed. Between 1990 and 1999, a total of 115 Indigenous people died in custody. This compares to 110 Indigenous people who died in custody between 1980 and 1989.

- View *Deaths in Custody 10 Years on from the Royal Commission* at: http://www.aic.gov.au/publications/tandi/ti203.pdf (PDF document).

Resources:

Northern Territory Figures

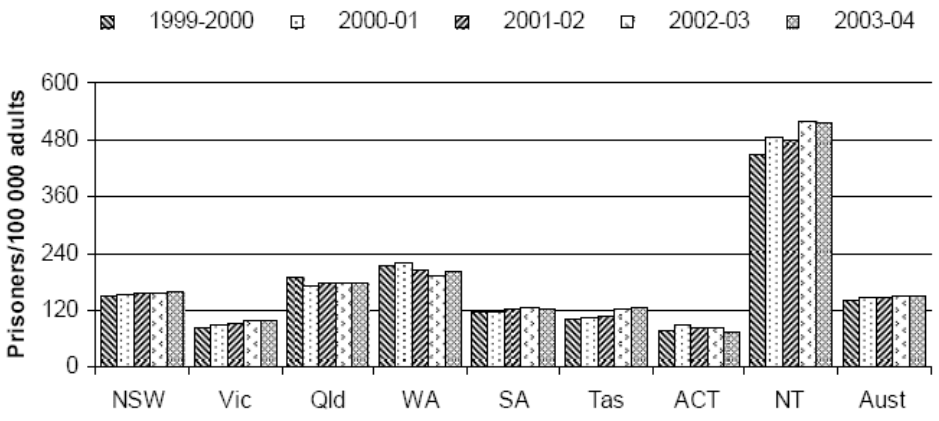
The following is an extract from a Report by the NT Legal Aid Commission, Managing Prisoner Growth in the NT, January 2006.

Imprisonment Rates

In 2004 the Northern Territory recorded the highest imprisonment rate of 513 prisoners per 100,000 adult population, representing three times the national rate[1]. This is one of the highest imprisonment rates in the world. The rate in the NT is far higher than the 58% of countries which have rate below 150 per 100,000. The Territory rate is higher than Cuba, which is 487 per 100,000 and South Africa which is 413 per 100,000[2].

The graph below illustrates the difference between the Northern Territory and other jurisdictions in 2003-04.[3]

Figure 7.2 **Imprisonment rates[a, b]**



[a] Based on the daily average prisoner population numbers supplied by States and Territories, calculated against adult population estimates (ABS data supplied by the National Centre for Crime and Justice Statistics). [b] ACT rates include prisoners held in the ACT and ACT prisoners held in NSW prisons. NSW rates exclude ACT prisoners held in NSW prisons as of 2002-03.

Source: State and Territory governments (unpublished); table 7A.5.

This rate has grown in 2005 to 550 per 100,000. The NT has had an 8% proportional increase in imprisonment rates since the September quarter 2004. which was one of the highest nationally. [4]

Indigenous prisoners

In the Northern Territory the proportion of Indigenous prisoners continues to increase. The Indigenous prisoner population has grown from 63% of the prisoner population in 2000 to 79% in July 2005. This figure is disproportionate to the 28% of Indigenous people living in the Territory. [5] Given the projected growth in the Indigenous population in the Northern Territory, an increase in the incarceration levels of this group is a particular concern.

[1] ABS, Prisoners in Australia, Ausstats, 2004 http://www.abs.gov.au/Ausstats/abs@.nsf/0e5fa1cc95cd093c4a256811 0007852b/8d5807d8074a7a5bca256a680081 1054!OpenDocument

[2] Kings College London, International Centre for Prison Studies, World Prison Population List, 6th Edition, 2005 http://www.prisonstudies.org/

[3] Australian Productivity Commission, Report on Government Services 2005, Corrective Services, p 5

[4] ABS, Corrective Services Australia, 451.20, Dec 05 http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/9B3F80C43A73AF6CCA2568B7001B4595

[5] A Statistical Overview of Aboriginal and Torres Strait Islander peoples in Australia – Human Rights and Equal Opportunities Commission Website - May 2005 http://www.humanrights.gov.au/social_justice/statistics/index.html

Resources:

Community Resources

Northern Territory Legal Aid Commission

Darwin Office
6th floor, 9-11 Cavenagh Street
Darwin
Telephone: 8999 3000

Katherine Office
Government Centre
First Street, Katherine
Telephone: 8973 8704

Alice Springs Office
77 Hartley Street
Alice Springs
Telephone: 8951 5377

North Australian Aboriginal Justice Agency

Darwin Office
1 Gardiner Street
Darwin
Telephone: 8982 5100

Katherine Office
32 Katherine Terrace
Katherine
Telephone: 8972 1133

Nhulunbuy Office
Franklyn Street
Nhulunbuy
Telephone: 8987 1300

Central Australian Aboriginal Legal Aid Service

55 Bath Street
Alice Springs
Telephone: 8952 2933

Darwin Community Legal Service

Cnr Manton and McMinn Streets
Darwin
Telephone: 8941 3394

Ombudsman of the Northern Territory

12th Floor, NT House
Cnr Bennett & Mitchell Streets
Darwin
Telephone: 8999 1818

Aboriginal Interpreter Service

1st Floor, Palm Court
Cavenagh Street Darwin
Telephone: 8999 6656

NT Interpreter and Translator Service

83-85 Smith Street
Darwin
Telephone: 8999 8353

Northern Territory Legal Aid Commission