

Sentencing Scenario for Elementary School Students

R. v. Harry Potter and Ron Weasley



**Charges: Take Motor Vehicle without Owner's Consent (Jointly)
Dangerous Operation of a Motor Vehicle (Weasley only)**

On Monday, September 1st, Messrs. Potter and Weasley were at King's Cross Station at approximately 10:45 a.m. After missing their train, Mr. Weasley suggested that they take Mr. Weasley's parents old Ford Anglia, which was parked outside of the train station. Neither youth had the permission of the Weasley's to take the car. As well, as under-aged wizards pursuant to the Decree for the Restriction of Under-age Wizardry, they were not allowed to use magic while off school property.

Mr. Weasley occupied the driver seat and Mr. Potter was the front seat passenger. Mr. Weasley started the ignition with his wand and the car began to fly. A number of "muggles" (non-magic persons) observed the flying car and many persons became very upset. Eventually, Mr. Weasley activated the car's invisibility booster and he sped away.

They continued to drive for several hours, nearly colliding with the Hogwarts Express and traveling at excessive speeds.

When they finally arrived at Hogwart's School of Witchcraft and Wizardry, they crashed into a valuable Whomping Willow tree. The tree was able to fight back and was only slightly damaged. The Weasley vehicle, however, received significant damage but was able to drive away. The value of the damage is impossible to calculate due to the uniqueness of the car.

Mr. Weasley was an unlicensed driver.

Both Messrs. Potter and Weasley were arrested without incident and both released on a form 11.1 undertaking.

(An undertaking is a form of release which allows the accused to remain living in the community with certain conditions. In other words, they are not held in custody pending completion of their case)



Crown Witnesses:

The Crown does not allege that either Messrs. Potter or Weasley have any prior youth court or criminal record.

The Crown is advised that both young persons are currently 2nd year students at the Hogwarts School of Witchcraft and Wizardry.

Pursuant to the *Youth Criminal Justice Act*, the Notice of the proceedings must be given to a youth's parent or guardian. The Crown brief indicates that Mr. and Mrs. Dursley, guardians for Harry Potter, were very upset to have the police attending at their door and said that they did not want to have anything further to do with "that boy". Mr. and Mrs. Weasley were also upset but wanted to know if their son was hurt and if there was anything they could do to help the police.

The Crown may consider obtaining from these two persons who were indirectly effected by the incident, either victim impact statements in writing or having the witnesses present in court to give oral statements. If the witnesses testify, they will be subject to cross-examination by defence counsel. If they are going to be called to testify, then as the Crown you should meet with them and go through the questions you intend to ask and hear what they will say:

- (a) **Mrs. Hetty Bayliss:** while hanging out her laundry, Mrs. Bayliss observed a flying car over the Old Post Office Tower in Norfolk. She has suffered considerable trauma and the ridicule of her neighbours who think she is crazy.
- (b) **Mr. Angus Fleet of Peebles:** had been drinking at a pub around noon when he looked out the window and saw a flying car. He alerted other patrons in the pub, but he was immediately given his bill and was asked to leave. The bartender believed that Mr. Fleet had consumed too many pints and has refused to serve him since then.

- (c) **Hogwarts Staff:** When contacted by police, secretary for Headmaster Prof. Dumbledore, said that the school had taken the matter in their own hands and were satisfied that the boys had learned their lesson. No restitution is being requested for the damage to the Whumping Willow.

Submissions: based on the relevant sections of the Criminal Code, the principles of sentencing, the background of the offenders, and the circumstances of the offence, the Crown is to make submissions as to the appropriate disposition (sentence) for each of the youths. The new youth legislation is being enacted as of April 1, 2003, and submissions should be made with the principles of the *Youth Criminal Justice Act*, and possible dispositions in mind.

Questions you might want to ask yourself:

1. Are you going to treat the two boys differently because of their respective roles in the incident? Does it matter that Ron Weasley has been found guilty of the additional offence of Dangerous Operation of a motor vehicle?
2. Does it matter that the offence of Taking a Motor Vehicle without the Owner's consent is a straight summary matter?
3. Does it matter that the victim of the offence, Mr. Weasley, is not asking the court to "punish" the boys but to consider it as a foolish prank by two youths?
4. Are the backgrounds of the youths relevant to you when considering what sentence/disposition is appropriate?
5. Does it matter whether the youths are good students?
6. Does it matter to you whether the school and/or the parents have dealt with the incident themselves?
7. Was anyone in danger during this incident? What harm are you trying to address?
8. What is the message that you want sent out to others who might consider committing the same offence(s)?
9. Whether the boys feel badly for what they did, is that important to you?



Defence Submissions:

(These notes should not be given to the Crown in advance of February 25th, 2003. While the defence is not obliged to provide any material prior to the hearing, they might want to show any letters or reports to the Crown prior to the sentencing/disposition hearing in order to see if the Crown objects and to save time in court reading them).

Defence counsel are free to prepare for sentencing/disposition in any way they feel may be advantageous to their client. Usually in court especially in youth matters, the parents or guardians of the young person are present in court. Also prior to court, the lawyers usually obtain letters from teachers, religious leaders, or other persons who know their clients well and these letters will be filed as exhibits on the hearing. Some of these witnesses may wish to testify in court.

The lawyers may also want to obtain copies of report cards or other material that might assist their client. Any written material should be presented to the Crown for review, and then if it is not opposed, the material can be passed to the Clerk of the Court who will mark it as an "exhibit". The defence should be prepared to provide copies of whatever materials they plan to introduce to the Crown, the lawyer for the other boy, and an extra one for themselves. The original document (report card, letter, etc.) should be given to the Judge.

The lawyers should speak to their clients' parents or guardians to see if the family imposed any additional punishment at home. Particularly with youth, the court is interested in how the parents dealt with the situation; perhaps little if any further punishment is necessary by the court.

Defence counsel should be creative and thorough in their preparation.



Some further background facts:

As a result of the incident, neither boy was expelled but headmaster, Professor Dumbledore wrote to each of their families. They were also warned that if there was any further trouble, they would be expelled.

Ron Weasley

He is 12 years old and lives with his parents and siblings at The Burrows. He has 5 older brothers – Bill, the eldest works at the Gringotts bank; Charlie is currently studying dragons in Romania; Percy, George and Fred are all students at Hogwarts; and a younger sister, Ginny is a first-year student at Hogwarts.

His best friends are Harry Potter and Hermione Granger. They are all in the Hogwart's house of Gryffindor.

The next day at breakfast in the Great Hall, Ron Weasley also received a Howler, a red envelope delivered by the Weasley owl, Errol. A Howler is a talking letter and it was a message sent to Ron by his very distraught mother. He was severely scolded and chastised in front of the whole school by his mother through this letter.

Also, Ron Weasley's father who works for the Misuse of Muggles Artefacts Office, was subject to an inquiry.

Harry Potter

He is 12 years old and lives with Vernon and Petunia Dursley, his maternal aunt and uncle, and their son, Dudley. Harry has lived with this family at number 4, Privet Drive, since his parents were both killed when he was age one.

Harry has no particular bond with his aunt and uncle and feels that he is mistreated. He enjoys attending Hogwarts School of Witchcraft and Wizardry where he is a good student. He met his best friends, Ron Weasley and Hermione Granger, while attending Hogwarts last year when they were all first year students. When living with the Dursleys, Harry had no other real friends. Harry claims that he is often locked in a closet under the stairs and is punished constantly by his aunt and uncle. He has a pet owl, Hedwig, and he takes great pride in caring for her.

While at school and amongst other Wizards, Harry is greatly admired and well known. He has a slight scar on his forehead which he received from an evil source who killed his parents.

He also is an active Quidditch player as seeker for his house, Gryffindor.

As a result of the incident, neither Harry Potter or Ron Weasley were expelled but headmaster, Professor Dumbledore wrote to each of their families. They were also warned that if there was any further trouble, they would be expelled.

Here are some areas that you might want to consider:

1. *Was there any actual harm or damage caused? If so, how can it best be addressed?*
2. *Your client (either Harry or Ron) does not have any prior youth court record or involvement with the law. What does that say about him?*
3. *How does your client feel about he did? What has he learned from the situation? Does he appreciate the risk that he created for himself and others?*
4. *Did the school do anything to punish him? Any loss of privilege? Status?*
5. *What would be a “meaningful consequence” to your client? In other words, the Y.C.J.A. talks about imposing a sentence that will directly impact on a particular youth. How can the message that this is a serious offence be best brought home to Ron/Harry?*
6. *What did the youth’s family do? How has this affected your client? Was the family affected, and if so, what impact does it have on your client?*
7. *How does your client do at school? Attendance, performance, remarks and comments from teachers, are they important? What does it say about your client?*
8. *Does your client do anything to contribute to his community? Community service work, volunteer work, sports, clubs, extra-curricular activities – are these important and why?*

9. *Has your client been in trouble since his arrest?*
10. *The parents/guardian will likely be asked if they have anything to say before sentencing. Do you know what they are going to say? Should you find out?*
11. *The judge will likely ask your client if he has anything to say before sentencing, does he have anything to say? If so, would he prefer to say it or read it aloud from a letter or note?*

For those students who have read the books, there is obviously room for a lot more detail. Be creative and have lots of fun!!



THE INFORMATION

CRIMINAL COURT OF JUSTICE
(MUGGLES DIVISION)

HER MAJESTY THE QUEEN

AND

H.P.

AND

R.W.

Harry Potter and Ronald Weasley, young persons within the meaning of the *Youth Criminal Justice Act*, are jointly charged that on or about the 1st day of September 2002, in the County of Norfolk, did take a motor vehicle, to wit a Ford Anglia, without the consent of Arthur Weasley, the owner thereof, with intent to drive it contrary to section 335(1) of the Criminal Code,

And further that Ronald Weasley, a young person within the meaning of the *Youth Criminal Justice Act*, on or about the 1st day of September 2002, in the County of Norfolk, did operate a motor vehicle on a public place, to wit the airspace above this county, in a manner that was dangerous to the public contrary to section 249(1) of the Criminal Code.

Dated this 15th day of September 2002, at the Town of Norfolk, in the said county.

Sworn before a Justice of the Peace



Here are the specific duties of the Court Clerk/Registrar:

1. Announce the Opening of the Court

When all participants have taken their places, you will usher in the judge and announce:

Court Clerk/Registrar: *“Order, All Rise”*

“The Honourable Mr./Madam Justice _____ presiding”

Please be seated.

2. Read the Charges to the Accused

After the crown and the defence lawyers identify themselves, you will read the charge as it is set out in the indictment, which is included in these materials. You will stand and say:

- (a) *“Harry Potter and Ronald Weasley, both young persons within the meaning of the Youth Criminal Justice Act, are charged that on or about the 1st day of September in the year 2002, in the County of Norfolk, did take a motor vehicle to wit, an old Ford Anglia without the consent of Arthur Weasley, the owner, with intent to drive it contrary to section 335(1) of the Criminal Code of Canada*
- (b) *Harry Potter, how do you plead to this charge? Guilty or not guilty?*
- (c) *Ronald Weasley, how do you plead to this charge? Guilty or not guilty?*
- (d) *And further that Ronald Weasley, a young person within the meaning of the Youth Criminal Justice Act, are charged that on or about the 1st day of September in the year 2002, in the County of Norfolk, did operate a motor vehicle on a public place, to wit the airspace above this county, in a manner that was dangerous to the public, contrary to section 249(1) of the Criminal Code*
- (e) *How does the Crown elect to proceed? (Crown elects to proceed either by summary conviction or by indictment)*
- (f) *Ronald Weasley, how do you plead to this charge? Guilty or Not Guilty?*

3. Swear in the Witnesses

After the accused pleads “guilty” to the charge, the Crown will begin by reading in facts in support of the guilty pleas. After the facts are read in, the Judge asks the youths if the facts they have heard are the truth. If the youth answer “yes”, then the Judge can make a finding of guilt.

In a sentencing hearing, lawyers usually do not call witnesses to give evidence in court. However, if they choose to call a witness or witnesses, then it is the Clerk’s job to swear in the witness.

When the lawyer calls the witness, you can invite the person to enter the witness box and advise them to remain standing until they are sworn in.

You then say:

“Will you please state your name for the court? Please spell your first and last name”.

Ask them: *“Do you wish to affirm or take an oath on the Bible?”*

If the witness chooses to **affirm**, you ask: *“Do you solemnly affirm to tell the truth as you know it concerning this matter?”*

If the witness chooses to swear an **oath**, you ask: *“Do you swear that the evidence that you are about to give in this matter is the whole truth so help you God?”*

4. Announce Adjournments and the Closing of the Court

After both the Crown and the Defence have made the closing arguments, the Judge may recess before giving his reasons for sentence.

When the judge is ready to adjourn, s/he will announce that the Court is going to recess for _____ minutes (usually 10 or 15 minutes but the Judge will say the length of the break).

When ready to adjourn, you will rise and say:

“All Rise. Court will now adjourn for _____ minutes”.

When the Judge is ready to return, you will enter the courtroom and say:

“All Rise. Court is now resumed. Please be seated”.

After the Judge has delivered his/her Reasons for Sentence, then court is closed.

“All Rise. Court is now adjourned”.

5. Marking and Filing Exhibits

During the trial, the Crown and the Defence may show a witness and object or some written material and they ask the witness if they have seen it before. If the witness can identify it as something they recognize or obtained, then the lawyer usually asks the Judge to “mark it as an exhibit”. Typically, items seized by police at the crime scene (photographs of the location or injuries to the victim); from the accused or other witnesses (weapons, drugs, clothing, etc); reports (medical or hospital reports); or a number of other things can be introduced and marked as exhibits.

It is the clerk’s job to mark each exhibit as it is entered using a filing system, usually beginning with “exhibit 1” and then “exhibit 2” and so on. If the clerk can write on the object, such as the back of a photograph, then simply writing “exhibit 1” will do. If the object is a weapon or an item in a police identification bag, then the clerk will have to be more creative and find a way to attach a tag or an adhesive piece of paper and mark it that way.

The clerk must keep track of the exhibits on a separate sheet of paper and indicate the nature of each exhibit. For example, “exhibit 1 – knife”, “exhibit 2 – photograph of accused car”. In this way, the clerk will be able to easily locate an exhibit when one of the lawyer or the judge asks to see a particular exhibit. *“May I see Exhibit 4, please”*. The clerk should be able to find it and present it.





Mock Trial – Harry Potter and Ron Weasley **Guilty Pleas and Sentencing**

1. Call to order, introduction of parties, read charges (arraignment), young persons enter pleas of “guilty”. (5 minutes)
2. Crown read in facts to support the guilty pleas (2 minutes)
3. Defence acknowledges the facts as true (1 minute)
4. Judge makes a finding of guilty (1 minute)
5. Crown calls two witnesses to give victim-impact statements
 - (a) Mrs. Hetty Bayliss - direct examination (3 minutes)
- cross examination (2 minutes)
 - (b) Mr. Angus Fleet - direct examination (3 minutes)
- cross examination (2 minutes)
6. Judge inquires if Defence Counsel wish to call any witnesses
7. Counsel for Harry Potter - calling possible witnesses
 - direct examination (3 minutes each)
 - cross examination (2 minutes each)
8. Counsel for Ron Weasley – calling possible witnesses
 - direct examination (3 minutes)
 - cross examination (2 minutes)
9. Submissions on behalf of the Crown (5 to 7 minutes)
10. Submissions on behalf of the Defence (5 to 7 minutes)
11. Judge asks family of Harry Potter and parents of Ron Weasley if they have anything to say (2 minutes)
12. Judge asks Harry Potter and Ron Weasley if they have anything to say (2 minutes)
13. Judge - delivers reasons for sentence (7 to 8 minutes)



RELEVANT LEGISLATION

Offences:

Taking motor vehicle or vessel or found therein without consent (Criminal Code)

335. (1) Subject to subsection (1.1), every one who, without the consent of the owner, takes a motor vehicle or vessel with intent to drive, use, navigate or operate it or cause it to be driven, used, navigated or operated, or is an occupant of a motor vehicle or vessel knowing that it was taken without the consent of the owner, is guilty of an offence punishable on summary conviction.

Dangerous Operation of a Motor Vehicle (Criminal Code)

249. (1) Every one commits an offence who operates

- (a) a motor vehicle in a manner that is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the place at which the motor vehicle is being operated and the amount of traffic that at the time is or might reasonably be expected to be at that place;
- (b) an aircraft in a manner that is dangerous to the public, having regard to all the circumstances, including the nature and condition of that aircraft or the place or air space in or through which the aircraft is operated

Punishment -- s. 249(2)

(2) Every one who commits an offence under subsection (1)

- (a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years; or
- (b) is guilty of an offence punishable on summary conviction.



YOUTH CRIMINAL JUSTICE LEGISLATION

DECLARATION OF PRINCIPLE -- s. 3

3. (1) The following principles apply in this Act:

- (a) the youth criminal justice system is intended to
 - (i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,
 - (ii) rehabilitate young persons who commit offences and reintegrate them into society, and
 - (iii) ensure that a young person is subject to meaningful consequences for his or her offence in order to promote the long-term protection of the public;

Committal to custody -- s. 39(1)

39. (1) A youth justice court shall not commit a young person to custody under section 42 (youth sentences) unless

- (a) the young person has committed a violent offence;
- (b) the young person has failed to comply with non-custodial sentences;
- (c) the young person has committed an indictable offence for which an adult would be liable to imprisonment for a term of more than two years and has a history that indicates a pattern of findings of guilt under this Act or the Young Offenders Act, chapter Y-1 of the Revised Statutes of Canada, 1985; or
- (d) in exceptional cases where the young person has committed an indictable offence, the aggravating circumstances of the offence are such that the imposition of a non-custodial sentence would be inconsistent with the purpose and principles set out in section 38.

DISPOSITIONS:

Sections 42 (2)

- (a) reprimand the young person
- (b) absolute discharge
- (c) conditional discharge
- (d) fine – not to exceed \$1000
- (e) compensation
- (f) restitution
- (g) personal service order
- (h) community service
- (i) prohibition or forfeiture
- (j) probation – not to exceed 2 years
- (k) intensive support and supervision (super-probation)
- (l) attendance centre – maximum of 240 hours not to exceed 6 months
- (m) custody and supervision orders – not to exceed 3 years
- (n) deferred custody and supervision order – not to exceed 6 months
- (o) for first degree murder – a 10 year sentence with a maximum of 6 years in custody and 4 years of conditional supervision
- (p) for second degree murder – a 7 year sentence with a maximum of 4 years in custody and 3 years of conditional supervision
- (q) intensive rehabilitative custody and supervision order

