



## You be the Judge: **Transcript - Criminal Damage**

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This is a transcript for the Criminal Damage case on the You be the Judge interactive guide to sentencing.

### **INTRO VIDEO**

Have you ever wondered how judges and magistrates decide on the sentences they pass? The sentence should fit the crime. But what else should it achieve? Our guide to sentencing shows how the decision-making process works, and then gives you an opportunity to pass sentence yourself.

These offenders have each been charged with a criminal offence and are waiting to hear their fate. The scenarios are based on real-life cases, and last about five minutes. You will hear the evidence and then decide on the sentence. Afterwards, we'll tell you exactly what sentence they actually received, and why. How will your sentence compare? You be the Judge.

**Before we start, please tell us:  
What do you think about sentencing?**

**It's too lenient / It's about right / It's too harsh**

# CRIMINAL DAMAGE VIDEO 1

## Sentencing hearing: Robert Horton

### *Magistrate*

Mr Horton, at your trial you were found guilty of criminal damage. We will now consider your sentence.

### *Legal adviser*

In magistrates' courts, cases are generally heard by three magistrates, who are members of the community. People like you and me. They oversee the trial and decide the sentence. My job is to advise them about legal matters, including the sentencing guidelines.

But before we go any further, let's find out about the facts of this case...

## Four weeks earlier: The trial

### *Legal adviser*

Robert Horton, on the 23rd of March without lawful excuse you damaged three vehicles and a garage door. Do you plead guilty or not guilty?

### *Defendant*

Not guilty.

### *Witness in the stand*

I was woken in the middle of the night by some man shouting at the top of his voice. I looked out of the window and saw him staggering down the street. Then he looked like he was scratching something on the bonnet of a car. After that, he did the next one along.

### *Prosecution*

So what did you do then?

### *Witness in the stand*

He looked like he was heading straight for my car so I opened the window and shouted at him to stop. At that point he ran off. My husband and I went down to inspect the cars and saw scratches on the bonnets. That's when I called the police.

### *Police officer in the stand*

We arrived at the scene at 2:37 am and found the defendant spraying graffiti on a garage door. On searching him we found a key marked with paint. He'd clearly had a considerable amount to drink. We arrested him. The defendant was subsequently identified by the witness in an identity parade. We estimate the cost of the damage at £1,500.

## Present day: Sentencing hearing

### *Legal adviser*

Having heard the evidence, the magistrates found Mr Horton guilty of criminal damage. At this hearing, the prosecution and defence solicitors will

highlight factors which they think should affect his sentence. The magistrates will need to weigh up all these factors when considering their sentence.

*Prosecution*

Mr Horton has a previous conviction for damaging property. He's clearly not learned any lessons from this and your worships should take this into account in sentencing for this offence.

*Defence*

My client's previous conviction was seven years ago and was committed when he was a juvenile. He has not re-offended since. In my submission it is neither recent nor relevant and should not be given any weight in your deliberations.

**Do you think Robert's previous conviction is significant?**

**Yes / Not sure / No**

## **CRIMINAL DAMAGE VIDEO 2**

*Prosecution*

I would remind your worships that the fact that Mr Horton was drunk is neither a defence nor a mitigating factor in this case. As you are well aware, the guidelines state that committing an offence while drunk makes it more serious, not less.

*Defence*

I put it to you that this is not characteristic behaviour. He was drunk on this occasion because of a traumatic break up with his girlfriend. I am not suggesting that Mr Horton being drunk should act in his favour, I am asking you to consider, as a mitigating factor, the personal issues that led him to get drunk in the first place.

**Do you think the fact that Robert was drunk is significant?**

**Yes / Not sure / No**

## **CRIMINAL DAMAGE VIDEO 3**

### *Defence*

Your worships will have seen a letter from Stephen Bryant, Mr Horton's employer, about his good character. Mr Horton has had a steady job as a delivery man for over a year. If he received a prison sentence, he would lose his job, which would do nothing to help his prospects of rehabilitation.

**Would the prospect of Robert losing his job influence your sentence?**

**Yes / Not sure / No**

## **CRIMINAL DAMAGE VIDEO 4**

### *Magistrate*

Is there anything you want to say?

### *Defendant*

My girlfriend broke it off that night. I was gutted. I'd been with her nearly two years. I don't know what happened, I just lost it. It definitely won't happen again.

### *Legal adviser*

You've heard the arguments. Now it's time for you to be the judge.

The sentencing guidelines for criminal damage set out three main options: a fine, a prison sentence or a community sentence (which can include things like a curfew or unpaid work to offer payback to the community).

There's another thing that will help you make your sentencing decision. Once a defendant has been found guilty, the magistrates often ask for a Pre-Sentence Report, to be prepared by the probation officer. The report provides background information that will help them decide the most appropriate sentence. The probation officer will have assessed the risk of harm that Robert Horton represents to the public plus the likelihood of him committing crimes in future. The report would generally recommend a sentence. But I don't want to influence your decision...

### *Legal adviser to defendant*

Please stand Mr Horton.

*Magistrate to defendant*

You have been convicted of criminal damage. We consider this a serious offence. The sentence of this court is...

**What sentence should Robert get?  
Choose from the following options:**

- Fine: £500
- Community sentence: 100 hours unpaid work + curfew (7pm to 7am) for 2 months monitored via an electronic tag
- Community sentence: 200 hours unpaid work + curfew (7pm to 7am) for 4 months monitored via an electronic tag + weekly supervision meetings with a probation officer for 2 years
- Prison: up to 3 months

*After selecting their sentence, users are shown what sentence other people chose, with their own choice highlighted in orange.*

## **CRIMINAL DAMAGE VIDEO 5**

### **Sentence explained**

*Magistrate to offender*

For the offence of criminal damage, we can impose a maximum sentence of three months in prison. The sentencing guidelines categorise this offence as 'significant damage up to £5,000' and 'damage caused as part of a spree'. The starting point for that is a medium-level community sentence, and up to a short custodial sentence. Although the damage was deliberate and significant, we don't consider your offence so serious that only a prison sentence is justified.

We do consider your offence serious enough to impose a community sentence. We have taken into account your previous conviction but noted that this was for a single offence and committed some time ago. We took into account that you were drunk, which is no excuse for your actions. However, we have also borne in mind that your behaviour was uncharacteristic and prompted by the break up of your relationship, and that you have shown genuine remorse.

Weighing up these factors, we felt your behaviour would be better tackled by way of a high-level community sentence. It will give you the opportunity to put something back into your community.

Given that you are employed, we have also added compensation to the victims of your crime to the sentence.

**Sentence given:**

**Community sentence: 200 hrs unpaid work + 4 mths curfew + weekly supervision (option 3)**

*Legal adviser*

So how did this compare to your own sentence? The magistrates obviously thought this was a serious crime. Unpaid work is punishment as well as a way to make amends, which is why it's often called community payback. Cleaning up graffiti, for example, will be a good way for Robert to give back to the community.

Robert will have to fit in his 200 hours of unpaid work on top of his day job, so he'll lose his weekends for some time. And for a young person, a 12 hour curfew puts a serious damper on his social life. Finally, having to pay compensation to his victims for the damage he caused will put a big strain on his entertainment budget.

And that concludes this case. I hope we've shed some light on the thinking behind sentencing decisions. As you've seen, it's rarely clear cut!

**Having viewed this case, please tell us:  
How do you feel about sentencing?**

**It's too lenient / It's about right / It's too harsh**