

RIGHTS OF THE ACCUSED

DRAW THE LINE: PUBLIC SAFETY V. AMENABILITY TO TREATMENT

Procedure cont.

3. Students should quickly be divided by counting off by fours. Ones will be the judges. Twos are members of the victim's family/friends. Threes represent the adult and youth interests of the community where the incident takes place and the four juvenile suspects live. Fours are concerned with the needs and best interests of the juvenile suspects.

4. Overnight, students should think about the interests and issues they will represent in the next day's roleplay. Students should frame an imagined person's life, experiences, and attitudes in their heads. For example: How does the judicial experience and attitudes of the judge impact her/his decision? If the student represents a family member of the victim, what are the vital concerns? If the student represents the community, what are their particular interests and issues? What are the concerns of those representing the needs and best interests of the juvenile suspects?

Day Two:

1. To begin the activity, all the ones will get together in one group, all the twos in a second group, etc. Members of each group should collectively identify issues, questions, areas of concern pertinent to the group members' role. Group one (judges), for example, should work together to formulate questions for each of the groups that will help the judge clarify the issue and make a decision about certifying the juveniles to adult court. Students in groups two, three, and four may have multiple areas of concern. For example, some threes (adult and youth interests of the community where the incident takes place) might know the involved juveniles or their families. Other threes may choose to define their roles as not knowing the juveniles. Community members may or may not have known about previous acts of vandalism and/or prior incidents of dropping rocks off the overpass. Students in groups two and four should similarly try to identify various factions/points of view within the group. Students in groups two, three, and four must decide what points of view or areas of concern they will be raising with the judge as they try to influence her/him in making a decision about certifying the juveniles to adult court. This task should take about ten minutes.

2. Next, students are re-configured into new groups, each with a number one, two, three and four. Numbers two, three and four each have five minutes to make a short presentation to the judge. Other group members should listen quietly and perhaps take some notes for later response. During the presentation, the judge may ask questions to clarify. This is **NOT** an appropriate time for debate nor for interaction among group members. The object is, acting within a role, to persuade the judge towards a particular viewpoint and subsequent action.

3. To bring closure to the activity, numbers two, three, and four could respond to remarks of another group member, ask a question of one of the other group members, or make a last **Procedure cont.**

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statement to the judge. Students could be given the option of seeing if they can form some type of coalition or reach some sort of settlement to be presented to the judge for consideration. Judge may ask one question of each of the three group members. This part of the activity should take no more than 5-8 minutes.

4. The judge has a minute or two to decide whether or not to certify the juveniles to adult court and to determine reasons for the decision. The entire class is re-united, and each of the judges gives the decision and reasons. A tally/list of reasons could be kept on the board. This should take about 7-10 minutes.

5. To debrief, students and teacher should determine the most often chosen course of judicial action and the most often repeated reasons for such a choice. Reasons could be rank ordered based on frequency. Students should be asked to evaluate how the judges' choices balanced the community's desire to rehabilitate the juveniles and their amenability to successful treatment in the juvenile system against the need for public safety and stopping violent juvenile crime. Students could be asked: If all of you represent the community's interests, how many would recommend certification to adult court? How many would not? If you represent the victim's family and friends, how many would recommend certification? How many would not? If you represent the juvenile offenders, how many would recommend certification? How many would not? Students could be asked what will be gained for the individuals concerned and society as a whole by each viewpoint.

6. As a concluding activity, each student could pretend to be the judge and, as homework, write a decision and provide reasons. A more challenging end activity is for each student to resume their assigned role (1,2,3,4) and write a page or two on what would be the *worst* possible decision that could be made for their particular role's interests and concerns, outlining why it is the most harmful choice and perhaps to which other roles it might be most appealing.

7. A twist to this activity would be to have the victim be a community member in some of the roleplays and in other roleplays, have the victim be from out-of-town or out-of-state. Depending on the outcomes, the students and teacher might want to explore differences in the judges' decisions that seemed to be based or influenced by the home location of the victim. For example, if the victim lived in the same neighborhood, perhaps her children are friends with the accused juveniles.

8. If available and practical, this activity lends itself to the use of outside resource persons working with small groups. A judge, crime victim advocate or crime victim, former juvenile offender and community activist/representative would all be good choices.

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Summer had turned "*boring*." Four local juveniles gathered late Saturday night on the overpass west of town to drop rocks, obtained from a nearby landscap company, on cars and trucks passing on the freeway below. Questioned later, the juveniles said it was "fun" to hear the rocks hit and bounce off the passing vehicles. The prank turned tragic when a passing motorist, Susan White Smith, was killed when a 30 lb. rock came crashing through the windshield of her car, striking her in the chest and killing her. White Smith's husband, riding in the passenger seat, was able to bring the car to a stop along the shoulder of the road. He administered CPR until an ambulance, called by a passing motorist, arrived. White Smith was pronounced dead at the scene.

According to police reports, there had been several motorist calls that night during the half hour preceding White Smith's death. Motorists reported rocks and unidentified objects being dropped from the overpass. Police were on their way to the overpass when the call for the ambulance for White Smith was received. Police found no one on or near the overpass. The only witness was White Smith's husband who said the rock came through the windshield without any warning. White Smith's two teenage children, age thirteen and sixteen, were at home at the time of the accident.

Close to the overpass is a residential neighborhood. Police, in door-to-door questioning of over one hundred residents, received multiple reports of vandalism and thefts over the past month. Many of the residents making these reports named the same four teenagers. None of the residents had made any reports to the police before this. Residents indicated that they weren't "*100% sure*," didn't want to cause trouble for the juveniles' parents and families, or feared reprisals from the four teenagers. A number of the persons questioned said they had heard "*neighborhood rumors*" that the four teenagers had been dropping rocks off the overpass during the last month. According to the neighbors, there had been no or only minor damage from such incidents and no one had called the police. White Smith's death scared and disturbed a number of those questioned.

The four named juveniles were questioned by police, following all appropriate procedures. Two of the juveniles were 16, one was 15 and the fourth was 17. All admitted to being involved, although the stories were conflicting. One of the 16-year-old juveniles claimed she left the overpass before the dropping of the rock that killed White Smith. She did admit to gathering and helping to carry rocks to the overpass. Upon inspection, police found about two dozen rocks, weighing five to forty pounds each, on the roadway below the overpass.

Three of the juveniles were held in a juvenile detention facility by police. The County Attorney considered charges and whether or not to try to have the cases moved to adult court. The fourth juvenile, according to the Assistant County Attorney, wasn't on the overpass when the rock was dropped on White Smith, although she had admitted being there earlier, dropping other rocks. The other three juveniles, two males and one female told conflicting stories about

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the fourth juvenile's participation. Criminal charges are pending for the 16 year-old female.

A hearing has been set for three weeks from today. All the juveniles have been placed on home detention. They cannot leave their homes unless accompanied by an adult. Parental supervision must be 24 hours a day, and unannounced checks will be made to make sure the rules are being followed by the four juveniles.

Student Handout: STATUTE INFORMATION

Laws vary from state to state as to what age a juvenile may be certified to adult court. In addition to age, the court usually considers public safety and the juvenile's suitability for treatment in the juvenile system. Below is a list of some other factors that might be a consideration in a particular state. The list is not meant to be exhaustive or to fit the laws of every state. It represents some of the circumstances that might be taken into account in deciding whether or not to certify to adult court. MN Statute 260.125 and Rule 32.05 (Minnesota Rules of Court) provide more detailed information about the process and consideration.

It must be demonstrated by clear and convincing evidence that the child is not suitable for treatment or the public safety is not served. Circumstances considered (but not limited to) include:

1. Seriousness of the offense in terms of community protection.
2. Circumstances surrounding the offense.
3. Was the offense committed in an aggressive, violent, premeditated or willful manner.
4. Whether the offense was directed against persons or property with the greater weight being given to a crime against persons, especially if personal injury resulted.
5. The reasonably foreseeable consequences of the act.
6. The absence of adequate protective and security facilities available to the juvenile treatment system.
7. The sophistication and maturing of the child as determined by consideration of a child's home, environmental situations, emotional attitude and pattern of living.
8. The record and previous history of the child.
9. Whether the child acted with particular cruelty or disregard for the life or safety of another.
10. Whether the offense involved a high degree of sophistication or planning by the child.
11. Whether there is sufficient time available before the child reaches age nineteen to provide appropriate treatment and control.