



## Judges in the Classroom

### Juvenile Justice – Decline Hearing

#### **Source:**

Written by Margaret Fisher at the Washington State Administrative Office of the Courts (AOC) and updated in 2012. For more information, contact AOC Court Services, 1206 Quince Street SE, PO Box 41170, Olympia, WA 98504-1170. For an electronic copy of this lesson, or to view other lesson plans, visit Educational Resources on the Washington Courts Web site at: [www.courts.wa.gov/education/](http://www.courts.wa.gov/education/).

#### **Objectives:**

1. Students will be able to describe issues related to juvenile justice.
2. Students will be able to articulate reasoned opinions regarding a specific case.
3. Students will be able to understand the Kent Criteria.

#### **Essential Academic Learning Requirements:**

As a result of this lesson, students will gain competence in the following Essential Academic Learning Requirements:

- Explain key ideals of the United States' democratic form of government such as individual *human dignity, liberty, justice, equality, and the rule of law* and discuss their application in specific situations. (*Civics EL 1.2 Bench 2*)
- Identify individual rights and the responsibilities they imply. (*Civics EL 4.1 Bench 1*)
- Participate in civic discussion pertaining to public issues at school and in the community. (*Civics EL 4.2 Bench 1*)

#### **Grade Level:**

Grades 9-12

#### **Time:**

One class period (approximately 50 minutes)

#### **Materials:**

Trigger Video  
Overhead PowerPoint Slides (or Handouts) 1 and 2 (optional)

**Note:** This lesson requires the use of a VCR and monitor.

**Procedures:**

- 1. Begin the class by introducing yourself** and telling a little bit about what you do, if this is your first visit. Let students know that a judge hears each case individually in order to determine the facts of the case and the law that applies. In criminal cases, the judge attempts to craft a sentence that holds the individual accountable for their crime, and in addition, best protects society in the future. *You may wish to give an example at this point.*
- 2. Tell the students** that young people, juveniles, who commit crimes, present a special challenge. On the one hand, they have a whole life in front of them, and as a society, we don't want it to be a life of crime. Historically, the law has attempted to solve the problems leading to criminal behavior. On the other hand, we need to hold juveniles accountable for their current behaviors. An even more complicating factor is recent brain research that demonstrates that the brains of juveniles do not fully develop until they are 25 years of age. [See for example, "What are the Implications of Adolescent Brain Development for Juvenile Justice?" by the Coalition for Juvenile Justice, at [www.criminaljusticecoalition.org/files/userfiles/juvenilejustice/info\\_about\\_tx\\_system/Wh\\_at\\_Are\\_the\\_Implications\\_of\\_Adolescent\\_Brain\\_Development\\_for\\_Juvenile\\_Justice1.pdf](http://www.criminaljusticecoalition.org/files/userfiles/juvenilejustice/info_about_tx_system/Wh_at_Are_the_Implications_of_Adolescent_Brain_Development_for_Juvenile_Justice1.pdf).]  
**Today's lesson will focus on the question: What should we do about juveniles who commit serious crimes?** Today's lesson will:
  - Ask you to express what you think,
  - Give you a difficult case to consider,
  - Tell you what a judge must consider when a juvenile commits certain crimes, and
  - Ask again what you think.
- 3. Assure students** that all opinions are okay—there are no right or wrong answers. Let students know that as the lesson progresses, they may change their opinion or the reasons for their opinion. This is okay—in fact, it's a strong sign that learning is taking place. **HINT:** *Direct students to put their books and papers under the desk at this point. Tell them that they will move around and will not need to take their stuff.*
- 4. Poll students.** Designate an area of the room for each opinion and ask students to move to the locale that most reflects their stand on these issues. Repeat the statements two or three times as students move. Encourage students to sit in the area that **best** expresses their point of view. **HINT:** *Give all directions and read through the opinion statements once before allowing students to change seats. You may even consider putting the statements in a PowerPoint after reading through them. (A PowerPoint slide can be made from Handout #1.)*

**Opinion #1:** The law should not distinguish between adults and juveniles (young people under 18 years of age who commit crimes). Two persons committing the same crime should be subject to the same legal proceedings and the same sentence, regardless of how old they are.

**Opinion #2:** A judge should be allowed to consider the circumstances of each individual when making decisions. This would include the person's age, prior crimes, and life experience.

These factors should make a difference in what sentence is given.

**Opinion #3:** As with certain adults, some juveniles who commit particularly violent offenses should be locked up for life.

**Opinion #4:** Adults and juveniles should be kept separate. Society should purposely try to help young people create a crime-free future by designing legal proceedings, sentences, and treatment and education programs for young persons who have broken the law.

5. **Give students two-three minutes** to share their opinions—and reasons for their opinions—with others in the same group. Circulate among the groups during this time; they may have questions or need direction.
6. **Ask students to report**, rotating among the groups for about five minutes. Question students or rephrase in order to elucidate their thinking. Ask students in the other groups to respond. Tell students they can change groups if they are persuaded by the argument made by a peer.
7. **Inform students that the U.S. Supreme Court** has decided that juveniles are different from adults, and therefore there are some penalties for extremely serious offenses that cannot be given to persons who commit their crimes when they are younger than 18.

Describe this case to students. Fourteen-year-old Evan Miller, along with a friend, beat Miller's neighbor and set fire to his trailer after an evening of drinking and drug use. The neighbor died. Miller was at first charged as a juvenile, but later his case was removed to adult court, where he was charged with murder in the course of arson.

A jury found Miller guilty. Under the state law, the trial court had no choice. It gave Miller a sentence of life imprisonment without the possibility of parole. The Supreme Court agreed with Miller's claims that automatically giving a life sentence to a person who commits a crime when under the age of 18 is a violation of cruel and unusual punishment, in the Eighth Amendment to the U.S. Constitution. Do you agree?

The U.S. Supreme Court in a series of decisions has recently decided that it is a violation of the Eighth Amendment to sentence persons who commit their crime while younger than 18 to:

- Mandatory life term in prison without parole in murder cases. (*Miller v. Alabama*, --- S.Ct. ----, 2012 WL 2368659 (2012).
  - Life term in prison without parole for non-murder cases. (*Graham v. Florida*, 130 S.Ct. 2011 (2010).
  - The death penalty. (*Roper v. Simmons*, 125 S.Ct. 1183 (2005).
8. **Introduce the video.** Tell students that the current law does distinguish between juveniles and adults. There are special laws and procedures for persons under 18. The court can sentence an individual to confinement, but may also impose a fine, community service, community supervision, or counseling for mental health reasons or for addiction, and may require the payment of restitution. Under certain circumstances, the court can maintain jurisdiction over the youth until age 21. Also note that legal financial obligations that a juvenile might have for fines, penalty assessments,

attorneys' fees, court costs and restitution can be enforceable for ten years after they turn 18 or after the end of juvenile court jurisdiction, whichever occurs later.

The law also requires that certain individuals under age 18 to be automatically treated as adults because of their age and the seriousness of their crime. Other cases, such as the one featured in the videotape, allow a judge to consider whether or not to decline jurisdiction--in other words, to declare that a person under 18 needs to be treated like an adult because of age or the nature of the crime, or to be kept in the juvenile court system. Justin, the main character in this video, is 15 and is accused of robbery in the first degree. Because robbery is considered a violent offense, the court must decide whether to decline jurisdiction or not.

**Instruct students to watch the video as if they had to make a decision about Justin's future.**

8. **Show video.**
9. **Facilitate discussion.** You may want to start by stating Opinion #1: everyone who commits the same crime should experience the same consequence. Did Justin and his friend in fact commit the same crime? Should they be treated exactly the same? If not, what should the court consider?

Or, you may want to restate the penalties. The standard range for a juvenile for robbery in the first degree (see RCW 13.40.0357) is 103-129 weeks of confinement and a six-month firearm enhancement, plus restitution. Points are not considered in sentencing Class A and A+ offenses. Standard range for an adult for robbery in the first degree is 31-41 months for a first offense, with a five-year firearm enhancement, plus a possible fine from \$0 to \$50,000 and restitution. Does this sentence represent adequate "punishment?" What would happen to Justin's future if he spent 8+ years in confinement? Should we be concerned with that?

10. **Tell students what a judge must consider by describing the *Kent* Criteria.** These criteria were established by the U.S. Supreme Court in the 1966 case *Kent v. United States*. Explain that judges must consider these issues when deciding a decline case. (You may wish to display these on the overhead. See PowerPoint/Handout #2.)
  - The seriousness of the alleged offense to the community and whether the protection of the community requires the juvenile to go to adult court.
  - Whether the charged offense was committed in an aggressive, violent, premeditated, or willful manner.
  - Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.
  - How strong the prosecutor's case is.
  - In cases where the juvenile has adult associates charged in the same offense, the desirability of having the trial and disposition of the entire offense in one court.
  - The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.

- The record and previous history of the juvenile, including previous contacts with law enforcement, juvenile court, prior periods of probation, or prior commitments to juvenile institutions.
  - The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile, provided he is found to have committed the alleged offense, by use of procedures, services, and facilities currently available to the juvenile court.
11. **Apply criteria to the case to the degree possible** by stating the criteria and asking for a show of hands. E.g., “How many of you feel that Justin’s crime is very serious, that he is a risk to the community?” If time allows, you may want to ask one or two students whose hands are up for the reasons behind their opinion.
12. **Debrief.** Ask students if Justin’s case has changed their opinion about the treatment of juveniles. Do the Kent Criteria satisfy students in Group #1? How about Group #4? Should we take a different public policy approach? Listen to several opinions before summarizing and thanking the group for their participation.

## PowerPoint Slide or Handout #1

### **Opinion #1:**

The law should not distinguish between adults and juveniles (young people under 18 years of age who commit crimes). Two persons committing the same crime should be subject to the same legal proceedings and the same sentence, regardless of how old they are.

### **Opinion #2:**

A judge should be allowed to consider the circumstances of each individual when making decisions. This would include the person's age, prior crimes, and life experience. These factors should make a difference in what sentence is given.

### **Opinion #3:**

As with certain adults, some juveniles who commit particularly violent offenses should be locked up for life.

### **Opinion #4:**

Adults and juveniles should be kept separate. Society should purposely try to help young people create a crime-free future by designing legal proceedings, sentences, and treatment.

**PowerPoint Slide or Handout #2**  
**The *Kent* Criteria**

- The seriousness of the alleged offense to the community and whether the protection of the community requires the juvenile to go to adult court.
- Whether the charged offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.
- How strong the prosecutor's case is.
- In cases where the juvenile has adult associates charged in the same offense, the desirability of having the trial and disposition of the entire offense in one court.
- The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.
- The record and previous history of the juvenile, including previous contacts with law enforcement, juvenile court, prior periods of probation, or prior commitments to juvenile institutions.
- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile, provided he is found to have committed the alleged offense, by use of procedures, services, and facilities currently available to the juvenile court.