

Judges in the Classroom
Juvenile Justice – Disposition

Source:

Written by Margaret Fisher, Institute for Citizen Education in the Law, Seattle WA. More extensive lesson plans for the teachers' use in preparing students appear in ICEL publications, *Juvenile Justice in Washington State* and *Washington Supplement to Street Law*. Staff at the Washington State Administrative Office of the Courts (AOC) edited the lesson 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/.

Objectives:

1. To list the types of consequences and penalties judges may impose on juveniles.
2. To use the terms of the juvenile process: disposition and offense.
3. To identify the steps in a disposition hearing.
4. To identify disposition possibilities for juvenile offenders.
5. To define and understand the use of disposition options in Washington State.
6. To identify the philosophy of the Washington State juvenile justice process as reflected in dispositional guidelines.
7. To identify the limits on the judges' role in setting dispositions on juveniles.
8. To apply disposition rules to case studies.

Grade Level:

Grades 7-12

Time:

One class period (approximately 50 minutes)

Materials:

One copy of Handout 1 (Juvenile Disposition Case Studies) for each student

Note to judges: You may wish to bring in recent examples of dispositions that you have imposed on juveniles, perhaps substituting some of the ones you have

decided for the case studies here.

Procedures:

1. **Begin the class by introducing yourself** and setting the students at ease. Tell students that today's class will make them all judges and give them a chance to decide what sentence or disposition to impose on a group of juvenile offenders.
2. **Write the word "disposition"** on the board and ask for a definition. Disposition in the juvenile justice system is similar to sentencing in the adult criminal system.

Disposition is the process of deciding what penalties will be given to a juvenile for committing an offense.

3. **Ask students who decides** the disposition of juveniles going to court in Washington for a criminal offense: the juvenile court judge.
4. **Brainstorm with students** the possible penalties that a judge may order. Spend about five minutes on this activity.

Presently, the possible disposition options that a judge may order include:

- **Community-based Rehabilitation.**

This means employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district.

- **Community-based Sanctions may include one or more of the following:**

A fine of no more than \$500;

Community restitution of no more than 150 hours;

Community restitution means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews. An example of community service is cleaning up the litter in a park.

- **Community Supervision** is an order by the court of a juvenile not committed to an institution or granted a deferred disposition.

In Washington State, a community supervision order for a single offense may be for a period of up to two years for a sex offense and up to one year for other

offenses. The court must include a condition that the juvenile refrain from committing new offenses, that the juvenile comply with the mandatory school attendance provisions, and to inform the school of this mandatory attendance requirement.

It may include:

- **Community-based sanctions;**
 - **Community-based rehabilitation;**
 - **Monitoring and reporting requirements:** these can include curfews, requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer and to remain under the officer's supervision and other non-confinement conditions;
 - **Posting a probation bond.**
- **Confinement** means physical custody by the Department of Social and Health Services in a facility operated by the state or any county.

Additionally, the court may order parents of a juvenile in confinement to pay support for the cost of confinement.

- **Submission of DNA.**

Every juvenile convicted of a felony, or any of the following must submit a DNA sample:

- Assault in the fourth degree with sexual motivation;
 - Communication with a minor for immoral purposes;
 - Custodial sexual misconduct in the second degree;
 - Failure to register;
 - Harassment;
 - Patronizing a prostitute;
 - Sexual misconduct with a minor in the second degree;
 - Stalking;
 - Violation of a sexual assault protection order; and
 - Every adult or juvenile individual who is required to register due to a specific sex offense or kidnapping.
- **Legal Financial Obligations** includes fines, penalty assessments, attorneys' fees, court costs, and restitution. This money judgment remains enforceable for 10 years.
 - **Restitution** or the repayment of money to the victim to make up for the loss. In Washington State, restitution is limited to easily ascertainable damages for injury or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages from physical injury, and costs of the victim's counseling reasonably related to the offense.

- **Penalty Assessment**, in addition to fines, is an order to pay money that goes to help crime victims and to facilitate witnesses' testimony at court. Juveniles charged under Title 13 of the state code may be given a penalty assessment.

Note: When brainstorming the types of penalties, it is not necessary at this point to include all the details of Washington State law that are included above.

5. **Identify the steps that a judge** follows in entering a disposition, the process of sentencing a juvenile. The judge holds a hearing to consider a variety of facts; listens to arguments from both parties and their counsel; reviews written reports; consults with the juvenile's parent or guardian on the appropriateness of the options being considered; listens to statements on the juvenile's behalf and from the victim (may be made through a representative); determines the amount of any restitution owing; determines the standard range; considers whether chemical dependency disposition or the special sex offender disposition alternative is available; and determines whether manifest injustice would result from standard range.
6. **Pass out Handout 1** (Juvenile Disposition Case Studies) and have students decide what penalty they would impose on these individuals. Put students into small groups of up to five students per group. Students are not being asked to apply Washington State's law, but to determine what seems like a fair penalty.

Later the students will have a chance to learn what penalty was actually imposed. Tell students they have 15 minutes to work in small groups. Ask students if they understand the assignment.

7. **After students have had a chance** to resolve the cases, debrief by getting each group to report back what disposition order it entered. Spend about 10 minutes on this debriefing.
8. **Record these answers** on the board for comparison. After each group has reported back, discuss why the various penalties were given. Make the point to students that the great differences in their outcomes reflect the problem of lack of predictability.
9. **Provide a brief history** on predictability as it relates to juvenile law.

Before the present juvenile law went into effect in 1978, juvenile court judges had the power to give a juvenile almost any disposition, with little restriction on the judge's decision. Studies in the state revealed that juveniles with similar histories, similar ages, and the same offense were getting greatly different penalties depending upon the judge or the particular court. The Legislature and citizens felt this was wrong; rather, there should be predictability as to the consequences of each type of offense.

This was also a similar problem in adult criminal cases. Washington State changed its adult sentencing laws so that more predictability exists for adults.

10. **Ask students what** predictability means.

Predictability is being able to know with reasonable certainty what will happen in the

future, in this case to know what penalty will be given for committing specific offenses.

Predictability was established by the dispositional standards, which set a narrow range for judges in deciding what penalties to impose. The judge now takes into account the severity of the present offense and past history of offenses in deciding what the standard range for the offense is. Give an example.

11. Take about five minutes to report back to students the actual outcomes in the case studies.

Note: Each of the case studies is printed on a separate page to give the judge the option of selecting the most appropriate cases for the students.

Case No. 1: Bryant was charged with two counts of theft. In each case, he fished money out of a parking lot payment box while an adult stood by as a lookout. The adult was also charged with theft. Information was presented to the judge that Bryant habitually engaged in this conduct and that he used the money to support his drug and alcohol habits. According to his caseworker, he has a serious drug and alcohol problem, has not benefited from many opportunities for treatment within the community, and has never completed probation in the past without re-offending.

Disposition for Case No. 1: In this case, the trial judge gave the defendant 21 to 28 weeks of confinement after finding a manifest injustice. A manifest injustice allows a judge to disregard the standard range for the penalty and impose a greater or lesser penalty when the standard range would either be too lenient or too harsh. The standard range for this offense was 8 to 12 weeks of confinement. (Later, in *State v. Alexander Bryant*, 829 P.2d 209 (1992), the Court of Appeals for Division One ruled that the defendant was entitled to a new disposition hearing because his trial judge had retired and a judge who was not present at the disposition hearing wrote the written findings.)

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Case No. 2: B.E.W., a 13-year-old, pled guilty to two counts of taking a motor vehicle without permission and one count of second degree burglary. The probation counselor informed the court at the disposition hearing that B.E.W. had 14 referrals to court and had still continued to offend. He had been under parole supervision but had made no progress. He was detained (arrested) three times for violating conditions of parole and continued to commit new offenses. The counselor had attempted in the past to work out educational programs and counseling programs in the community but these programs had no effect and B.E.W. continued to offend. His mother asked the court to confine her son for two years because "we just can't go through this anymore."

Disposition for Case No. 2: The standard range for confinement for each offense was 10 to 20 days, thus giving a total standard range of 30 to 60 days. The judge found a manifest injustice and committed him to 103 weeks of confinement. On appeal, the Court of Appeals for Division One affirmed his disposition, ruling that it was not excessive. *State v. B.E.W.*, 828 P.2d 87 (1992)

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Case No. 3: At the age of 13, E.H. was charged with and convicted of possession with intent to deliver cocaine, based upon his participation in a sale of cocaine to an undercover officer. At the disposition hearing, the State presented a written evaluation of the juvenile; a psychologist performed the written evaluation. The report indicates that E.H.'s full scale I.Q. is 76, which is borderline retarded. Several test results suggest that he may be brain damaged and possibly subject to autism and childhood schizophrenia. It also indicates that he is hyperactive, suffers from an attention deficit disorder, and is "given to uncontrollable rages."

The prosecutor described E.H.'s numerous other convictions, his failure to comply with other recent disposition orders, and the danger he presented to the community and himself.

Disposition for Case No. 3: The judge declared a manifest injustice and imposed 52 weeks of confinement. The standard range is 21 to 28 weeks of confinement. The Court of Appeals affirmed this disposition in *State v. E.J.H.*, 1992 Wn. App. LEXIS 229 (1992)

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Case No. 4: Eddie was adjudicated for possessing marijuana and hydrocodone, as well as fourth degree assault against a school security officer and resisting arrest, after being arrested in the high school parking lot. *State v. Cortez*, No. 2884-6-III, (Div. 3, 2011).

Disposition for Case No. 4: The trial court ordered six months of community supervision. Including these conditions:

- curfew;
- mandatory participation in counseling, outpatient substance abuse treatment programs, outpatient mental health programs, sex offender, and/or anger management classes;
- refrain from using illegal drugs and alcohol;
- random urinalysis; and
- reside in an approved placement.

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Case No. 5: Anthony Escoto pled guilty to theft in the second degree. Although he was only 12 years old at the time of this offense, he had convictions for three burglaries, five thefts, four simple assaults, one possession of stolen property, one malicious mischief, and one theft in the second degree. Eight of these convictions were in the last two years. The caseworker described the juvenile as "extremely dangerous" and requested a psychological evaluation. This psychological report indicated that he lacked remorse or understanding of the impact on the victims and expressed a belief that there was a high risk that he would re-offend.

Disposition for Case No. 5: With his criminal history, the standard range was 21 to 28 weeks of confinement. The court imposed an 80-week sentence after finding a manifest injustice. The Supreme Court affirmed the sentence after it determined the juvenile's right to remain silent was not offended by requiring him to participate in a predisposition psychological evaluation. *State v. Escoto*, 108 Wn.2d 1 (1987).

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Case No. 6: A 16-year-old youth is charged with burglary in the second degree and cruelty to animals. One night he and two friends, aged 18 and 20 years, entered a children's park that featured farm animals. They chased the park's star attraction (a donkey named Pasado) into a barn, dragged it outside, tied it to a tree and beat it for 45 minutes with sticks and a metal bar. In attempting to get away, the donkey choked to death on a rope, which had been tied into a hangman's noose, and its skull had been broken from a blow to the head.

Disposition for Case No. 6: The teenager was given an exceptional sentence on September 2, 1992, after being convicted of cruelty to animals and second-degree burglary. He received 30 days of detention, 12 months of court supervision, and 150 hours of community service for the cruelty-to-animals charge. He was also sentenced to 6 additional months of court supervision and 40 more hours of community service on the burglary charge. The judge recommended that the community service involve caring for animals. In addition, a restitution hearing will determine the amount the boy must pay to help replace the donkey. The city has requested \$1,800.

The youth's attorney is not appealing the disposition but he is appealing the conviction for burglary, claiming that the fenced pasture where Pasado was kept did not constitute a "building" under terms of the burglary law. His lawyer said the youth had already begun community service at an animal shelter, and that the boy had been forced into a kind of exile due to the case's notoriety, had lost friends, and was forced to quit his last quarter as a junior at a Bellevue high school because of threats.

The two adults face as much as 10 years in prison for the burglary charge, and 90 days and a \$5,000 fine on the cruelty charge.

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Case No. 7: A 10-year-old girl was convicted for making a bomb threat. She had written a note on a stall in the girls' bathroom at school that read that a bomb is set for 20 minutes, we're going to die. The school was evacuated and a bomb squad searched unsuccessfully for a bomb. Later that night, Guevara woke and went crying to her mother. She explained that she was feeling very sad because of problems at her house with her dad in jail, her sister away at school, and her grandfather being sick. Her mother called the police. *State v. Guevara*, No. 26943-4-III, (Div. 3, 2010).

Disposition for Case No. 7: The appeal focused on whether she had the capacity to understand the wrongfulness of her actions and could be prosecuted for her crime. The appeals court affirmed the finding of capacity. Her deferred disposition with a 12-month term of community supervision was affirmed.

12. **If time permits**, continue with this description of the juvenile disposition process. If not, jump to procedure 14 for the conclusion.
13. **Inform students** that they are now going to learn some of the details of the Washington State law for juvenile disposition. Explain that, in Washington, the Legislature has set out the penalties for juvenile offenders. The judge's choices are limited by the law to certain consequences.

Judges determine what the **standard range** is by using a sentencing grid that charts the seriousness of the current offense with prior adjudications. The resulting standard range sets the limits for the judge's penalties.

The judge may determine that the standard range would impose a **manifest injustice** and then impose a disposition outside the standard range.

Manifest injustice means a standard range disposition would either (1) impose an excessive penalty on the juvenile, or (2) impose a serious and clear danger to society. In other words, if the standard range disposition is too harsh or too easy on the juvenile because of particular circumstances, the judge has the right to declare a manifest injustice and then to go outside the standard range. The judge can give less or more than the standard range. When this is done the juvenile then has a right to appeal the disposition.

Suspended disposition is available for certain offenders who are subject to a standard range disposition involving confinement. The court can suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. If the offender fails to comply with the suspended disposition, the court may impose sanctions, or revoke the suspended disposition and impose the original disposition. Offenders convicted of certain types of offenses are not eligible for suspended sentences.

If the offender is **chemically dependent** and is willing to undergo treatment and otherwise qualifies, the court may order the chemical dependency disposition alternative. The juvenile offender must be subject to a standard range disposition of 15 to 36 weeks of confinement and cannot have committed any of the most serious offenses. The judge awards, but then suspends, the standard range and places the juvenile on community supervision. As a condition of the suspended disposition, the offender is required to undergo available outpatient drug/alcohol treatment and/or inpatient drug/alcohol treatment.

The judge considers when special **sex offender disposition alternative** is available. Offenders who have committed a sex offense other than a sex offense that is also a serious violent offense and has no prior sex offense history, may determine that the offender is amenable to treatment. In this case, the court imposes a disposition with the standard range or a manifest injustice and then suspends the execution of the disposition and places the offender on community supervision for two years. As a condition, of the suspended disposition, the court may order conditions, including 30 days of confinement, time in school or work, participation in outpatient or inpatient sex

offender treatment, remain within a certain geographical area, report changes in the treatment provider, report to the court and probation counselor, pay all legal financial obligations, perform community service, make restitution, comply with probation bond, have restrictions on school attended.

The judge determines what restitution must be paid to persons who have suffered loss or damage.

14. **Conclude with some discussion** about whether or not students believe these restrictions on judges are a good idea or whether judges should be free to fashion whatever penalty seems appropriate for the individual offender.

Handout 1

Juvenile Disposition Case Studies

Directions: Read each of the case studies and then, in small groups, decide what penalty you would impose. Your choices include confinement, restitution, community service, community supervision, monetary fine, educational and rehabilitative classes, counseling, and notification and movement restrictions.

Case No. 1

Bryant was charged with two counts of theft. In each case, he fished money out of a parking lot payment box while an adult stood by as a lookout. The adult was also charged with theft. Information was presented to the judge that Bryant habitually engaged in this conduct and that he used the money to support his drug and alcohol habits. According to his caseworker, he has a serious drug and alcohol problem, has not benefited from many opportunities for treatment within the community, and has never completed probation in the past without re-offending.

Disposition:

Case No. 2

B.E.W., a 13-year-old, pled guilty to two counts of taking a motor vehicle without permission and one count of second degree burglary. The probation counselor informed the court at the disposition hearing that B.E.W. had 14 referrals to court and had still continued to offend. He had been under parole supervision but had made no progress. He was detained (arrested) three times for violating conditions of parole and continued to commit new offenses. The counselor had attempted in the past to work out educational programs and counseling programs in the community, but these programs had no effect and B.E.W. continued to offend. His mother asked the court to confine her son for two years because "we just can't go through this anymore."

Disposition:

Case No. 3

At the age of 13, E.H. was charged with and convicted of possession with intent to deliver cocaine, based upon his participation in a sale of cocaine to an undercover officer. At the disposition hearing, the State presented a written evaluation of the juvenile; a psychologist performed the written evaluation. The report indicates that E.H.'s full scale I.Q. is 76, which is borderline retarded. Several test results suggest that he may be brain damaged and possibly subject to autism and childhood schizophrenia. It also indicates that he is hyperactive, suffers from an attention deficit disorder, and is "given to uncontrollable rages."

The prosecutor described E.H.'s numerous other convictions, his failure to comply with other recent disposition orders, and the danger he presented to the community and himself.

Disposition:

Case No. 4

Eddie was adjudicated for possessing marijuana and hydricodone, as well as fourth degree assault against a school security officer and resisting arrest, after being arrested in the high school parking lot.

Disposition:

Case No. 5

Anthony Escoto pled guilty to theft in the second degree. Although he was only 12 years old at the time of this offense, he had convictions for three burglaries, five thefts, four simple assaults, one possession of stolen property, one malicious mischief, and one theft in the second degree. Eight of these convictions were in the last two years. The caseworker described the juvenile as "extremely dangerous" and requested a psychological evaluation. This psychological report indicated that he lacked remorse or understanding of the impact on the victims and expressed a belief that there was a high risk that he would re-offend.

Disposition:

Case No. 6

A 16-year-old youth is charged with burglary in the second degree and cruelty to animals. One night he and two friends, aged 18 and 20 years, entered a children's park that featured farm animals. They chased the park's star attraction (a donkey named Pasado) into a barn, dragged it outside, tied it to a tree and beat it for 45 minutes with sticks and a metal bar. In attempting to get away, the donkey choked to death on a rope which had been tied into a hangman's noose, and its skull had been broken from a blow to the head. If the youth is convicted, what disposition would you impose?

Disposition:

Case No. 7

A 10-year-old girl was convicted for making a bomb threat. She had written a note on a stall in the girls' bathroom at school that read that a bomb is set for 20 minutes, we're going to die. The school was evacuated and a bomb squad searched unsuccessfully for a bomb.

Later that night, Guevara woke and went crying to her mother. She explained that she was feeling very sad because of problems at her house with her dad in jail, her sister away at school, and her grandfather being sick. Her mother called the police.

Disposition: