

# **NYJA— ADVOCACY INSTITUTE**

## **JUVENILE JUSTICE LESSON PLAN**

Description: This unit was created to explain why we have a separate juvenile justice system, and to explore the consequences of placing juveniles in the adult criminal justice system.

### STUDENT OBJECTIVES:

- Know the difference between the juvenile justice system and the adult criminal system.
- Understand the special purposes of the juvenile justice system.
- Understand how the punishments for juveniles are different.
- Explore the reality of juvenile incarceration.

Length of Lesson: 2-3 class periods

Supplies Needed: This packet, handouts included in the packet, and for reference *Youth Justice in America* (CQ Press 2005).<sup>i</sup>

## **PART 1: INTRODUCTION TO JUVENILE JUSTICE SYSTEM**

*Background for teachers:*

This unit seeks to explore some of the difficult issues of the juvenile justice system. As some basic background, “Juvenile” is a term to describe young people under the age of eighteen. The juvenile justice system is the system designed to address violations of the law by young people under the age of eighteen.

A juvenile who is found guilty of breaking the law is called a “juvenile delinquent.” In every state and the District of Columbia, there are special laws have been set up specifically to address what happens when someone under eighteen breaks the law.

Ever since 1899 when the first juvenile court in America was created, people have been asking the same questions about why we should treat juveniles differently and how juveniles should be made accountable for their criminal actions. One thing, however, has remained fairly constant. We as a society treat young people differently than we do adults.

### **EXPLANATION FOR STUDENTS**

**Each of you sits here as part of the juvenile justice system. This unit is to study that system. As we talk about this issue, think about why you are sitting here in a classroom, rather than an adult jail. Think about the thousands of dollars that are spent every week on you being here as part of the juvenile justice system? You are studying yourself and the system around you.**

*Then give the handout of Mos Def’s statement. Have one student volunteer to read the following quotes.*

## QUOTES HANDOUT

**“You do not arrive at justice by punishing a child as a man. In the same way you do not arrive at justice by punishing a man as a child. This type of policy in law does nothing to deter youth from crime, rather it criminalizes youth.”**

-- Mos Def, rapper & actor, Rolling Stone Magazine  
January 17, 2000.

**“When a juvenile commits an act as heinous as the worst adult crime, he or she is not a kid anymore.”**

-- U.S. Senator Orrin Hatch, Republican

## WARM UP EXERCISE

*Question to class:*

**What do you think about Mos Def's comment about charging juveniles as adults in adult court? If you agree with him, why should there be a difference between people under 18 years of age and those over 18 years of age? How do you respond to Senator Hatch's comment?**

*Exercise for Class:*

*Come up with a list of five reasons why juveniles are different than adults and thus why there should be a separate juvenile justice system:*

For Teachers:

Possible Answers:

1. Differences in maturity level, education level, intelligence level, emotional development level.
2. Ability to defend themselves from authority figures, fear, etc.
3. Juveniles are more likely to act impulsively in committing an offense.
4. Juveniles are more likely to act under peer influence.
5. Juveniles are less likely to understand all of the legal consequences of their actions.
6. Juveniles are less likely to weigh the risk of their actions.

7. Juveniles are less likely to weigh the long-term consequences of an action.
8. Juveniles are less familiar with the legal system.
9. Juveniles are less able to consult with their lawyers about the case. This may be because of a lack of understanding legal terms, cultural/age barriers, or general ignorance of the law.
10. Juveniles may have an inadequate understanding of the case against them.

## SECOND WARM UP EXERCISE

*Question to class:*

**Are there other places in which the law treats those under 18 different than adults?**

*Exercise for Class:*

*Come up with a list of four things adults can do legally, but those under 18 years of age cannot do legally.*

For Teachers:

Possible Answers:

1. Voting.
2. Serve in the Military.
3. Drink.
4. Smoke.
5. Marry.
6. Sign contracts.

## **APPLICATION OF DIFFERENCES BETWEEN JUVENILES AND ADULTS**

*To the teachers:*

The next advocacy exercise is to have students think through the different levels of adult and juvenile responsibility with a concrete example. The following handout and advocacy exercise is to have students see the important differences in how the criminal justice system treats adults, juveniles, and those they think too young to be culpable for their actions.

### **EXPLANATION FOR STUDENTS**

**Each of you is about to be a judge in an important case. Read the following handout, and then we will discuss it.**

**HANDOUT:**  
**ADVOCACY DEBATE: THE BUGS BROTHERS**

*The Bugs Brothers*

It is the day before the town's big Fourth of July barbeque when everyone cooks outside. The Bugs brothers, Oliver (age 18), Mickey (age 16), and Yogi (age 6) go to the grocery store.

Oliver explains to Yogi that they are going to play a game of hide-and-seek with food items. Oliver takes several steaks from the meat counter and slips them under his jacket. Yogi, who wants to play too, hides some hamburger buns under his shirt. Mickey stares at his two brothers and then looks to the meat counter. After waiting for a while, and then being glared at by Oliver, Mickey reluctantly stuffs some chicken inside his jacket. Oliver tries to lead his brothers out of the store, but all are stopped by store security and arrested by the police for shoplifting.

- What happens? What should happen to each of the Bugs brothers – Oliver, Mickey, Yogi? Should they each go to the same criminal justice system?

## **Bugs Brothers Advocacy Debate**

*For The Teachers:*

*Divide the class into three groups, each group represents a judge making a determination about what happens to each of the boys.*

### **EXPLANATION FOR STUDENTS**

**Each of you is a judge. Your job is to decide what legal system your “brother” should be tried in. The options are (1) adult court, (2) juvenile court, or (3) no court – meaning that the case should be dismissed.**

**As you make your decision, think about the differences we discussed about adults and juveniles. After you have discussed your answer, choose a leader to make the argument to the class.**

*Answer for teachers:*

In most states, each brother will face a different system of justice. Oliver, the oldest, will face adult criminal charges in adult criminal court. Mickey, because he is only sixteen, will go through the juvenile justice system. Yogi, because of his very young age, will likely avoid any criminal sanction at all.

Why should this be so? Why should their ages matter when each of them committed the same criminal act?

## Possible Arguments

Oliver (age 18): On one extreme, we have the older brother Oliver—at 18, legally an adult and supposedly aware of what is right and wrong and that stealing is against the law. Because he is legally an adult, he likely will be tried in a court of law with all of the protections and punishments available in our constitutional system. If convicted he will have an adult criminal record.

On the other hand, why should there be a magical cut-off from age 18? What if he was only a day over 18, or a day under 18? Students (who may be 18 themselves but still committed in a juvenile facility) should ask why we would commit someone until 21, but treat them as an adult at 18.

In addition, aren't there lots of adults who are unfamiliar with the legal system, do not know their rights, are unable to help their lawyers and make bad decisions? Why would we not treat them like juveniles if they act like juveniles?

Yogi (age 6): On the other extreme is young Yogi. Courts have decided that most young people under a certain age (historically seven or below) can never have the "intent" required to commit a crime and thus cannot be tried in the criminal justice system. Basically, the reasoning is that at such a young age, kids cannot tell the difference between right and wrong. In the case above, Yogi may have thought he was playing a game, not committing a crime. Yogi may not even know what a crime is. He most certainly would not know what laws are, or about his constitutional rights, or the role of the police, judges or prosecutors. Thus, we have decided that some children are simply too young to be tried for their criminal actions.

However, on the other side, make the students think about a cut off age. Why if instead of 6, Yogi was 9 or 11? Would they still feel the same way?

Mickey (age 16): In the middle is Mickey – at 16 he is a juvenile who likely knows right from wrong, but is not considered an adult by the courts. In the case above, he was caught for a minor offense under pressure from his older brother.

The arguments that the students should be wrestling with are: Should he be put in a juvenile detention center? Should he be put in jail? Should he be required to stand trial? Should he be given a criminal conviction that will affect his chances of going to college, getting into the military, being a politician, or lawyer, or becoming a law enforcement officer? Or should he be given services to rehabilitate him so that he does not break the law in the future?

On the other hand there are arguments about why Mickey should not be treated differently than an adult. He probably knew what he was doing was wrong (as seen in his hesitation), so why should he be treated any different than Oliver?

Do the students know young people who withstand peer pressure, who correctly weigh risk and the long-term consequences? If they do, doesn't this undermine the rationale of the juvenile justice system?

## **PART II: GOALS & REALITY OF THE JUVENILE SYSTEM**

### *Background for teachers:*

This section analyzes the “goal” of the juvenile justice system to offer “care and rehabilitation” to youth. It is meant to have students react and challenge the success or failure of those goals as they live it.

### *Historical background for teachers:*

The juvenile justice system was created because of the hopeful belief that all children could be rehabilitated into law-abiding, productive citizens. Before 1899, juveniles and adults were treated pretty much the same in courts of law. Thus, if a child committed an adult offense, they faced adult punishment. Starting at the end of the nineteenth century, a movement of progressive child-centered activists began thinking about the need for special, child-centered courts. Intended to “save” young children, the idea was that the government could be the guardians of these children. As guardians, the courts would give them individualized treatment to change their negative influences, in an effort to prevent them from turning into adult criminals. Courts focused on what was in “the best interests of the child” rather than concerning themselves with guilt or punishment. The underlying principal was that children were different and could be rehabilitated if given a second chance. It was because of these beliefs that the juvenile courts system that we know today was created.

## **EXPLANATION FOR STUDENTS**

**You now know that there is a different system for juveniles. You are part of that system. Let's talk about some basic principles of the juvenile justice system.**

### *Questions for Class:*

- (1) What is the goal of the juvenile justice system?**
- (2) What does "care and rehabilitation" mean in real terms?**
- (3) As a committed youth, who is responsible for meeting the goal of providing care and rehabilitation?**

### *Exercise for Class:*

*Now using those ideas, let's talk about the following handout.*

## HANDOUT

### ADVOCACY EXERCISE ON REHABILITATION OF JUVENILES

Judge Julian Mack, one of the first judges on the newly created juvenile court stated:

**“Why is it not just and proper to treat these juvenile offenders ... as a wise and merciful father handles his own children whose errors are not discovered by the authorities? Why is it not the duty of the state, instead of asking merely whether a boy or girl has committed a specific offense, to find out what he is physically, mentally, morally, and then if it learns that he is treading the path that leads to criminality, to take him in charge, not so much to punish as to reform, not to degrade but to uplift, not to crush but to develop, not to make him a criminal but a worthy citizen.”**

-- Julian W. Mack, The Juvenile Court, 23 Harv. L. Rev. 104, 106 (1907).<sup>1</sup>

## HANDOUT

### ADVOCACY EXERCISE ON REHABILITATION OF JUVENILES

#### “SPEAKING YOUTH TO POWER”

Based on Judge Mack’s idea, our juvenile justice system was created to focus on your “care and rehabilitation.” Today, your job is to prepare an argument to the current judges on the juvenile court about whether the D.C. Juvenile Justice System is living up to that ideal.

Make a list of your top three complaints, that you would tell to a judge about your “care and rehabilitation” within the juvenile justice system. Be specific.

List under that top three, three other examples of what you mean. Talk about your real stories and real concerns. Then take the time to put several ideas together. Now get together in small groups and compare your arguments.

The goal is to put the best groups of arguments together and present them in teams. See who can organize and synthesize the argument for improved “care and rehabilitation.”

As a class, then, you are going to write a one page proposal as the record of your views.

## **PART III: JUVENILES TREATED AS ADULTS**

*Introduction to subject for teachers:*

Juveniles for purposes of the juvenile justice system are generally defined by their age (under 18 at the time of the offense). However, in certain circumstances with certain serious crimes or serial offenders, the cases can be transferred to adult court.

### **EXPLANATION FOR STUDENTS**

**This part of the discussion is about when juveniles are no longer treated like juveniles. In Washington D.C., if you are 16 or 17 and charged with crimes like murder, rape, assault with the intent to kill, armed robbery, carjacking or other serious offenses you will likely be charged as an adult in adult court. The transfer happens when the prosecutor decides. No matter how well you are doing in school, or at home, or in juvenile court, if you commit an adult crime you will wind up in adult jail in D.C.**

**In legal language this is called a waiver, because the juvenile court is waiving its jurisdiction and control over you. It means D.C. Jail.**

#### Background for teacher

Generally, there are three ways a juvenile can be “waived” into adult court to be tried as an adult: (1) statutory waiver, (2) judicial waiver, or (2) prosecutorial waiver.

Statutory Waiver: some states provide in their statutes (their laws) that certain serious crimes automatically trigger an adult prosecution. Usually these crimes are the most serious types of crimes: murder, arson, rape, or aggravated assault.

Judicial Waiver: some states allow judges to decide whether or not a juvenile will be tried as an adult. Usually, these states have statutory provisions that allow for trial of juveniles as adults, but leave it to the judge to make a final determination based on the particular individual circumstances of the case and the child.

Prosecutorial Waiver: some states have allowed prosecutors to decide whether to bring the case in juvenile or adult court. With a prosecutorial waiver, individual prosecutors can decide whether or not a juvenile can be tried as an adult in adult court.

## **CLASS POLL – JUVENILES CHARGED AS ADULTS**

*Class Questions Exercise:*

*Ask the students to vote in the following poll: yes or no.*

- 1. Should a juvenile ever be charged as an adult and forced to face adult prosecution?**
- 2. Should it depend on the crime?**
- 3. Should it depend on the criminal record of the juvenile?**
- 4. Should there be an age cutoff where one is too young to be tried as an adult?**
- 5. Are there any juveniles for which the purposes of rehabilitation just will not work?**

## **ADVOCACY EXERCISE**

**Let's look at a real life case of waiver, in which an eleven year old was charged with first-degree murder and waived into adult court.**

## HANDOUT

### *THE NATHANIEL ABRAHAM CASE<sup>ii</sup>*

At age eleven, Nathaniel Abraham shot and killed Ronnie Green outside a Michigan liquor store. It was a random act of violence. According to official reports prepared for trial, Nathaniel functioned at the level of a six-year old, both intellectually and emotionally. At the time of the murder, he was enrolled in special education classes. When arrested he was brought to the police station in his Halloween costume and even during his trial asked his lawyer when he would get to go home.

However, according to prosecutors he had told classmates that he planned to shoot someone and practiced shooting at targets before he shot and killed Ronnie Green. Even though he was only eleven, Nathaniel had already had between ten to twenty previous run-ins with local law enforcement. His mother had repeatedly but unsuccessfully sought help from officials for her son before the murder.

Michigan law allows for the transfer of any juvenile charged with murder to adult court. The local prosecutors office requested a transfer and charged Nathaniel with first degree murder in adult court. Thus, at age thirteen, Nathaniel went to trial facing life in prison without parole for the murder. At the time of his trial, Nathaniel was the youngest child in the United States to be tried for murder.

## ADVOCACY EXERCISE – WRAP UP DEBATE

*Classroom Exercise:*

*Divide up the students into two debating teams. You might want to divide them up by vote for those who think 11 year old Nathaniel should be tried as an adult or a juvenile. If it is an even number have them divide up and have them argue about whether in this case Nathaniel should be tried in adult court.*

In making their arguments, students should focus on covering two major points:

### **1. What factors are important in making that decision?**

*a. Possible factors.*

- i. The seriousness of the offense.
- ii. Was it premeditated, willful?
- iii. How mature is Nathaniel?
- iv. What about Nathaniel's background, family, or living situation would you need to know?
- v. His past criminal record.

### **2. What are the consequences of having Nathaniel charged in adult court?**

*a. Possible consequences.*

- i. Safety in adult jail with other adults? Do you think it is safe for them? Do you think they might be taken advantage of?

Abused? Do you think they will come out of jail as productive citizens?

- ii. Concern that they will be around the wrong role models?
- iii. Concern they will develop poor social habits. Prison creates defiance, bitterness, and frustration – traits that are counterproductive when you get to the outside.
- iv. An adult conviction means it is hard to get a job out of prison.

Within the discussion, you should change some of the facts of the real life case. What if Nathaniel was 14 and not 11? What if he had no prior record? What if he had not made the statement? If these things change people's views, ask them whether they can come up with a standard for trying juveniles as adults for murder.

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<sup>i</sup> Written by A.G. Ferguson, Esq. This lesson plan was written specifically to be used in conjunction with *Youth Justice in America* (CQ Press 2005) because much of the lesson is protected by the *Youth Justice in America* copyright. Please do not distribute without permission.

<sup>ii</sup> Deanna M. Maher, Michigan Juveniles Are Denied Equal Defenses Before the Law: The State of Michigan's Reaction to Juvenile Delinquents, 78 Det. Mercy L. Rev. 259 (2001); Christina Dejong & Even Schwitzer Merrill, Getting "Tough" on Crime: Juvenile Waiver and the Criminal Court, 27 Ohio N.U. L. Rev. 175, 175-76, 185 (2001); Christine Chamberlin, Not Kids Anymore: A Need for Punishment and Deterrence in the Juvenile Justice System, 42 B.C. L. Rev. 391 (2001).