

THEY BROKE
THE LAW—



YOU BE
THE JUDGE

TRUE CASES
OF TEEN CRIME



free spirit
PUBLISHING®

JUDGE TOM JACOBS

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Praise for *They Broke the Law—You Be the Judge*

“A refreshing and completely unique resource.”

—*Youthworker*

“Teachers and students looking for a great primer on criminal law should look no further than this book.”

—*KLIATT*

“Unusual and thought-provoking. . . . With the proliferation of courtroom shows on television, this book gives young people a more realistic look at the legal system designed for them.”

—*School Library Journal*

“Through the encouraged role-playing, students will gain a better understanding of the intricacies of the system. An excellent introduction of how juvenile justice works, this will be a great resource for classroom and group discussions.”

—*Booklist*

THEY BROKE THE LAW— YOU BE THE JUDGE



TRUE CASES
OF TEEN CRIME

JUDGE TOM JACOBS

EDITED BY AL DESETTA

free spirit
PUBLISHING®



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Library of Congress Cataloging-in-Publication Data

Jacobs, Thomas A.

They broke the law, you be the judge : true cases of teen crime / Thomas A. Jacobs.
p. cm.

Summary: Letters from and interviews with twenty-one children and teenagers who broke the law reveal what it is like to be arrested, attend legal proceedings, and be held accountable for one's actions.

Includes bibliographical references and index.

ISBN 1-57542-134-8

1. Juvenile justice, Administration of—United States—Juvenile literature. 2. Juvenile delinquents—United States—Juvenile literature. [1. Justice, Administration of 2. Juvenile delinquents. 3. Crime. 4. Juvenile courts.] I. Title.

KF9780.J33 2003

345.73'08—dc21

2003004814

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Reading Level Grades 7 & Up; Interest Level Ages 12 & Up;
Fountas & Pinnell Guided Reading Level Z

Cover and interior design by Marieka Heinlen

15 14 13 12 11 10 9 8

Printed in the United States of America
V20280710

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www.freespirit.com

Dedication

This book is dedicated to Jacque Steiner, who has spent decades working with and for children and teens. Her devotion to our youth is unparalleled in its sincerity and scope. My wife Gail and I have been blessed and inspired to know Jacque and her husband, Fred.

Acknowledgments

This book would have never been written were it not for the support and assistance of a few good friends. In addition to the brave individuals profiled here, and their parents and family members, I extend heartfelt appreciation to Dave Lawrence, Kylie Knape, Erica Melissa, Sheila Sailer, Judge Linda Scott, Jacque Steiner, Susan Tone, Cherie Townsend, and Jon Davis Wiley.

Thanks also to Judy Galbraith and Free Spirit Publishing, for the opportunity to talk to America's youth. My editor, Al Desetta, did a masterful job of reworking the original manuscript. His guidance and encouragement throughout this project are truly appreciated. Thanks, Al. And a word of appreciation goes to Darsi Dreyer for her editing assistance and to Marieka Heinlen for her design work in the book and the awesome cover. Thanks to both.

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Introduction

This book contains true stories about teens and crime. You'll read about 21 young people who broke the law and came before my court for sentencing. The facts are exactly as they happened and nothing has been changed. As a juvenile court judge, I had to hold them responsible for their crimes and decide on the right punishment.

THEY BROKE THE LAW

Most of these teens were nervous when they came to court. Some were scared. None of them wanted to be there. But almost all were sorry for what they did and were willing to accept responsibility.

Some of their crimes were relatively minor. Joshua, 15, was arrested for cutting school. Natalie, 14, was caught with beer at a party. Other offenses were more serious. Adam, 15, threatened to kill kids at his school. Charles, 16, was caught with cocaine and a gun. Brianne, 17, committed car theft, credit card theft, and forgery.

These cases raised difficult issues for me as a judge. Sean, 16, had a pipe bomb in his bedroom, but claimed he was only going to set it off in a field, not near people or property. Could I believe him? Philip, 9, was arrested for spitting in his mother's face. How should I, as a judge, deal with someone that young? Should Philip even be in court? Tanya, 14, was arrested for shoplifting a pregnancy test kit. What was more important—to punish Tanya for stealing or to help a young girl who might be pregnant?

As a judge, I had to decide how to be fair in each case. Samantha, 14, took a cab when she ran away from an abusive home and was arrested for not paying the fare. Olivia, also 14, stole a car. Both girls came before my court, but they had committed very different crimes. Their needs were different and the court's response had to fit their individual cases. What could the juvenile justice system do for them so they wouldn't show up in my court again?

YOU BE THE JUDGE

This book puts you in the role of answering these and other hard questions. You'll see these cases unfold, as they did before me. You'll be asked to step into my shoes—to become a juvenile court judge and determine how a teenager should be held responsible for her crime.

Many of the teens in this book have faced similar family problems, such as divorce, living with one parent, poverty, drug abuse, or domestic violence. Family problems are never an excuse for crime, but you will be asked to take into consideration the young person's background in determining the appropriate punishment and services. You will have all of the information that was available to me at the time of sentencing.

For each case, you're given a list of sentencing options, which include jail and probation, but also programs and resources like family counseling, drug treatment, and anger management classes. You have to find a balance between protecting your community from the juvenile and rehabilitating the juvenile—helping him to turn his life around. Don't limit yourself to the sentencing options outlined in each profile. If you have an idea for an appropriate penalty or service that is not listed, write it down and discuss it with others. Think not only in terms of the person who committed the crime, but of the family as a whole. You can also think of how to help the victim.

After passing sentence on the young person, discuss what you did and listen to what your friends or classmates decided. What have you learned about the juvenile justice system from choosing a sentence? Was there anything about the young person's family life or background that influenced your decision? Do you have a better understanding of teens and crime? Are there changes you would like to see in how the system works?

You will find out the actual sentence these young people got and what happened to them afterwards. Many of them—like most teens—committed one crime and never got into trouble again. Others were repeat offenders who promised me in court and in letters that they would change their behavior, only to end up back in front of me a few weeks or months later. Several are currently in jail

or on the run. But most have their problems under control and are working, going to school, and leading normal lives. These are courageous kids who, despite the odds, have managed to survive.

Juvenile court hearings are serious business, and the majority of young people I've seen take the situation seriously. I've had teens in my court apologize to their victims. Others have written letters to me. One of them sparked the idea for this book.

It was a letter by Marcus, who was 14 when he was arrested for shoplifting. He wrote the following to the owner of the store:

Dear Sir/Madam,

My name is Marcus. I tried to steal a telephone cord from your store. I don't know why I did it, because I know it is wrong to steal. My mother has always taught me that if I want something bad enough, I can earn the money to buy it. I hate the pain I see in my mother's eyes because I know that I caused it. I hate the guilt that I feel, but I caused that too. I hate the example that I set for my little sister because I am supposed to be a role model for her. I am very ashamed of myself, and I promise you that I will never try to steal anything ever again.

Sincerely,
Marcus

I've heard similar expressions quite often in my courtroom. It is said that you learn more from listening than speaking. After 30 years as a lawyer and judge, most of which was spent in juvenile court, I can tell you it's true. I've learned a wealth of information from listening to parents, victims, witnesses, and, most importantly, to the teenagers who came to my court for trial and sentencing.

By putting you in my shoes, I hope this book will help you learn as much as I did and perhaps answer some of your questions about how our juvenile justice system works. And I think you will be as touched by these young people's stories as I was.

Tom Jacobs

A Brief Look at the Juvenile Justice System

Through the 1800s, children and teenagers in the United States were considered the property of their parents and, no matter how young, weren't given special treatment if they got into trouble with the law. They were tried and, if found guilty, were sent to jail or institutionalized. Troublemakers were sent to "reform school," where kids were disciplined by putting them in isolation and not feeding them. The first priority was punishment and what was best for the community, not what would help the young people turn their lives around.

Then, in 1899, the efforts of reformers to save delinquent teenagers resulted in the creation of the first juvenile court system. The philosophy of this new court was rehabilitation—its purpose was not to punish, but to help the juvenile mend his or her ways. The question shifted from whether the juvenile committed the crime, to the best thing that the court could do for him or her.

Still, during most of the 1900s, there was no set of laws in this country that protected teenagers' rights. State laws varied, and kids could be treated differently depending on where they lived. For example, in some areas curfew violations and truancy were punished, while in other parts of the country such violations were either ignored or no law existed at all. It was almost 70 years before the United States Supreme Court decided a case involving the rights of juveniles. It took that long before kids were recognized as persons with individual rights under the law.

In the famous Gault case (387 U.S. 1, 1967), the Supreme Court reviewed the case of 15-year-old Gerry Gault, who had been arrested for making an offensive telephone call to a neighbor. Gerry told the police that he only dialed the number and his friend took the phone and made the comments. At the time of this incident, Gerry, like most teenagers, had no rights. Neither he nor his parents were told of the charge against him in writing, nor were they given

continued →

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written notice of his hearing. Gerry was not told he could have a lawyer, that he could call witnesses on his behalf, and that he could question the victim. In fact, the victim didn't even appear at Gerry's hearing. Gerry was found guilty because of the statements of a probation officer and was sent off to a state school, where he was basically locked up for two years.

In reviewing Gerry's case, the Supreme Court ruled that the Bill of Rights is not only for adults—its protections apply to juveniles as well. The rights given adults in criminal cases should also be available to Gerry and all teenagers.

As a result of *Gault*, teenagers are now entitled to receive notice of any criminal charge filed against them and have the right to have an attorney represent them. They also have the right to remain silent and the protection of the Fifth Amendment to not incriminate (testify against) themselves. In other words, the juvenile does not have to talk about the incident with the police or anyone else. The prosecutor has to prove the charge without the juvenile's help. There are additional rights the juvenile may have depending on the laws of each state (such as posting bail, a jury trial, etc.).

Since Gerry's case, teen rights have been expanded to include situations involving freedom of expression, religion, and speech, as well as protection against unreasonable searches and seizures. For example, kids can wear buttons or T-shirts with messages to school, as long as they're not disruptive to the school environment; kids can start a Bible club or a gay-lesbian club in school if other clubs are allowed; teens have a reasonable expectation that their pockets, backpacks, and purses won't be searched, depending on the circumstances. These rights, however, are balanced with the authority parents and others (like schools) have over their children.

Each state sets its own age limit for juvenile cases—either 18, 19, 20, or 21. This is important because the penalties in adult court can be more severe than those in juvenile court. For example, a teen sentenced in juvenile court may be locked up for a crime, but only for a limited time (up to age 18, 19, 20, or 21). An adult, however, may be sentenced to spend many years in prison or on probation.

If a young person is found guilty in juvenile court, a sentencing (or disposition) takes place. The judge considers the facts of the case, the juvenile's history, and all relevant information about the family and victim. The judge then decides the penalty, which may include jail, probation, community service, a fine, educational classes, counseling, or payment to the victim.

The judge is not limited to these options and may include an additional penalty or service, depending on the needs of the juvenile. Creative, individualized sentencing works with many teens. The goal is to balance punishment with helping the young person.

Of the 30 million teenagers in the United States, less than 5 percent have contact with juvenile court. Even fewer end up in jail. Most teens charged with a crime receive a penalty from the court and don't come back. The message received from the judge is loud and clear, resulting in a small number of repeat offenders.

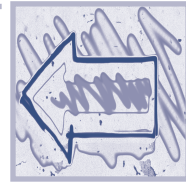
The juvenile justice system affects all of us, one way or another. You may be the relative or friend of a teen who has committed a crime or who has been the victim of a crime. You may want to see changes and reforms in the juvenile justice system. Or you may want to pursue a career as a lawyer, judge, social worker, parole officer, police officer, or corrections officer. A knowledge of how the system works is the first step in becoming involved.

How to Use This Book

This book contains 21 true stories of teens and crime. Each story is organized the same way.

THE TEEN'S BACKGROUND LEADING UP TO THE CRIME

Here we describe the teen's background before he committed the crime—his family life, attitudes toward school, and previous run-ins with the law. You get a glimpse of the home situation. Are the parents together? Divorced? Is the family struggling to make ends meet? Have other family members gotten in trouble with the law? Much of this information will help you decide what sentence and services the young person should receive.



THE CRIME THAT WAS COMMITTED

The young person's crime is described: how it was committed, against whom, how the police were notified, and the young person's reaction to getting caught.



Occasionally we'll explain legal or court terms in a box, so you understand how the juvenile justice system works.

Legal Definitions of the Crime Committed

Here we give the legal definition of the crime committed by the young person.

YOUR CONCERNS AS A JUDGE

In this part of the profile, you're given more background on the young person since her arrest. Does she have a drug problem? Is she a repeat offender? Does she have a history of running away from home? What are your worries or concerns about this young person? How can you find a balance between holding her responsible for her crime and helping her?



YOUR SENTENCING OPTIONS AS A JUDGE

The sentencing options are explained here. You are asked to choose from a range of punishments and services: jail time, probation, community service, fines or payments to the victim, individual and family counseling, placement in foster care, placement in a drug treatment program, writing a letter to the victim or the judge, and several others. You can choose one option or several in combination.



You also have the freedom to come up with your own ideas for sentencing, as juvenile court judges do in real courtrooms. For example, if someone is caught with alcohol in a car, you might have that young person do community service in a hospital emergency room, where he can see what happens to people who drive drunk. Or if someone shoplifted from a store, you may order that youth to write a letter of apology to the store owner. Or you may want to order all family members to participate in counseling together.

Feel free to come up with your own ideas for sentencing.

QUESTIONS TO CONSIDER BEFORE SENTENCING

We ask you a series of questions to get you to think more closely about the pros and cons of the various sentencing options. Should a 14-year-old go to jail for making a threat in school? Will the young person be harmed or hurt by jail? A 16-year-old doesn't want to go to anger



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management classes, even though she has a big problem with her temper. Should you order her to go anyway? You suspect that one girl, age 14, might be abused at home, but you have no evidence. Do you remove her from the home and place her in foster care until you investigate the family more? Or should she be given a second chance at home. Another young girl, 17, has run away or been kicked out from every program the court has placed her in and the threat of jail doesn't scare her. What do you do with her?

These are hard questions to answer, but these are the same questions a juvenile court judge has to answer every day.

YOU BE THE JUDGE

Based on the information you have, we ask you to pass sentence on the young person. You can write it down or discuss it with others.



WHAT ACTUALLY HAPPENED

Here you find out the sentence the young person actually got in real life, his reaction to it, and the judge's explanation of why he gave that sentence.

YOUR RESPONSE TO THE JUDGE'S DECISION

You have a chance to respond to the judge's decision. How is it different from yours? Is it harder or easier on the young person? Do you agree or disagree with the actual sentence the teen got? Why? You can write down or discuss your reaction.



Letter from the Young Person

The profiles include letters by the young person to the judge. Some letters were written before the young person was sentenced, some were written from jail, and others were written after the young person had gotten her life together. All the letters are in the young person's own words. You'll get a sense of who they are and how they feel about what happened to them.

THE YOUNG PERSON TODAY

We give you an update about what the young person is doing today. Some kids are in jail or on the run, but most are going to school or working and trying to make something of themselves.



FINAL THOUGHTS

Here you have a chance to sum up your feelings about the story you read. Do you think the young person was treated fairly by the system? Could anything have been done differently? Are you surprised about how the young person's life turned out? Has the young person's story made you think differently about issues you face at home, in school, or in your community? Do you look at your peers in a different way? At the juvenile justice system in a different way? You can write down or discuss your thoughts.



Did You Know?

Many of the profiles end with a few statistics or information related to the young person's case.

Using Role Plays

When readers are asked to pass sentence, they can write down or discuss their thoughts. Another option is to conduct a role play of the sentencing hearing. One young person can play the judge, another can play the juvenile. Parents, family members, and victims can also be played as roles.

Acting out these parts can help teens connect emotionally with the issues, conflicts, and challenges faced by the judge and the teens. Role plays can also teach the importance of listening carefully and working cooperatively. No special training is needed, just a clear understanding of some basic guidelines:

- Explain the purpose of the role play to the group—to help them better understand the issues raised by each story. Mention that the volunteers will not be playing themselves, but will portray what the judge or young person would say at sentencing.
- Explain that the facilitator might ask for action to be frozen, or that the audience or facilitator might provide instruction or feedback while the role play is going on.
- Role plays can be done simultaneously in dyads or triads (groups of two or three young people). This can warm up the group to role plays with minimal embarrassment. When finished, the smaller groups can discuss their role plays. Then ask volunteers to repeat the role play in front of the larger group.
- Review the story before beginning the role play.
- Ask teens to volunteer to play the judge and the young person. (For some stories, you can ask for volunteers to play family members or victims.) If no one volunteers, one solution is to offer to play one part yourself. This will usually get one teen to join you.
- Once you've picked two (or more) volunteers, quickly review what they might say to each other. You can list the judge's

sentencing options on the board or flipchart, along with the young person's criminal and family history and anything else that is relevant (such as worries the judge has or statements the young person has made in letters to the judge).

- The leader's role is to let the teens act out the parts and gain some momentum. The actors should engage in a back-and-forth dialogue. However, if the actors get stuck, the leader or the audience can provide prompts or guidance. The leader can also step into one of the roles to provide guidance.
- Tell the group to listen closely to what the characters say and to be ready to discuss the role play when it's over.
- When the scene has played itself out, allow the group to respond. Ask the actors to discuss the emotions they felt while playing their respective characters. Summarize by asking the group if they see the issues faced by the judge or the young person in a new way or have any other reactions. It's important to debrief after role plays. Otherwise, participants won't have a chance to express feelings that came up.
- We have developed specific role play suggestions for each story. They are available as a free download at the Free Spirit Web site: *www.freespirit.com*.

Glossary of Legal and Court Terms Used in the Book

AA (Alcoholics Anonymous). A fellowship of men and women whose purpose is to stay sober and help other alcoholics give up drinking. Founded in 1935, over 2 million people belong to AA. The only membership requirement is a desire to stop drinking.

Abuse and neglect. Abuse is physical, emotional, or sexual mistreatment of another. It is a crime and often results in the removal of the child from the home. Neglect is a failure to provide nourishment and care to a child. It may also lead to removal of the child from the home.

Adjusted. A crime is adjusted when it is not formally prosecuted. Instead, the juvenile admits responsibility, receives a punishment, and the case is closed. This keeps some kids from going to court and getting a juvenile record, which could affect his future career. Also called diversion.

Adult court. The court that handles people usually 18 and over who are charged with crimes. Sometimes juveniles are transferred to adult court by the prosecutor or juvenile court judge. Brianne (page 64) was sent to adult court on theft and forgery charges.

Al-Anon. An organization that helps families and friends of alcoholics recover from the effects of living with a problem drinker. There are over 24,000 Al-Anon groups worldwide.

Alateen. An organization of young Al-Anon members, usually teenagers, whose lives are affected by someone else's drinking. Teens share their experiences, discuss their difficulties, encourage one another, and learn effective ways to cope with their problems.

Allege/alleged. To state that something is true before proving it. For example, Adam (page 18) allegedly threatened to harm other students at his school.

Anger management. Individual or group classes designed to help juveniles control their tempers and avoid criminal behavior (assault, threats, etc.). Andrew (page 37) successfully completed anger management classes and has moved on with his life.

Arrest. When the police take a person into custody, usually for breaking a law. The person arrested will be brought before a judge within 48 hours and a decision will be made regarding release or continued jail time.

Attorney. Also called a lawyer, this is a person who is educated in law and licensed by the state to provide legal services, draft legal documents, and represent clients in court.

Charge. When a person is accused of committing a crime, either a charge, citation, complaint, petition, or indictment may be filed against him or her. These are all different ways of accusing someone of breaking the law.

Child protective services. A state agency with the duty to protect children from abuse, neglect, and abandonment. To accomplish this, the child or children may have to be removed from the home and placed in foster care until the problems are resolved.

Cited. When the police give someone who has broken the law a written statement (a ticket or citation). The person must follow the instructions given to him or her, which may include appearing in court.

Community service. Unpaid work the juvenile offender has to do as part of her sentence. There are established programs where the juvenile can do the work, or the juvenile may be allowed to find her own place to work. Schools will often allow the juveniles to do their hours on school grounds, either before or after school or during the lunch period. A failure to do the work may result in further punishment.

Consequence. A consequence is the penalty the court orders after a juvenile admits or is found guilty of a crime. The consequence may include jail time, probation, community service hours, a fine, counseling, and/or payment to the victim.

Corrections officer (CO). An officer who works in a jail or prison.

Counseling/family counseling. Individual, group, or family sessions with a therapist—usually for a number of weeks or months—for the purpose of addressing personal issues such as drug use, anger control, and sexual behavior. A probation officer assists in arranging the counseling and monitoring the juvenile's progress.

Curfew. A law that keeps people (usually minors) from being out on the streets at night. Many cities and towns have juvenile curfews that vary from place to place—check with your local police for the hours in your area.

Custody. When someone has responsibility for another person. In jail, the sheriff has custody of the inmates. In a divorce, a parent has sole or shared custody of the child.

Death sentence/death penalty. Also known as capital punishment. No teen who committed a crime at age 15 or under can receive a death sentence. Some states, however, allow the death penalty for 16- and 17-year-olds.

Deferred jail time. Jail time that is put off to the future. For example, a juvenile court may order a juvenile to spend two weeks in jail at a later date, with the possibility that the teen won't have to do the time if he behaves himself.

Delinquent. A minor who has committed a crime, which is sometimes called a delinquent act.

Detention/detention center. A secure facility that houses juveniles until their court hearings. Juveniles are also sent there after sentencing if the court orders additional jail time.

Dismissal. When the court ends a case without completing it. This usually happens before a trial or sentencing. It can happen for any number of reasons. The prosecutor may not have enough evidence to prove the case, or an important witness or victim can't be located. Sometimes when a case is dismissed, it is refiled at a later date.

Diversion. A process for first-time juvenile offenders who have committed a minor offense (for example, tobacco use, trespassing, truancy, etc.). If the juvenile admits the offense, a punishment is given and formal charges are not filed. This keeps some kids from going to court and getting a juvenile record, which could affect her future career. Generally, if the juvenile fails to complete the punishment, a formal charge or complaint may be filed.

Drug treatment program/drug rehab. A program designed to treat a juvenile who has drug abuse problems. A residential program, where the young person lives on a campus away from home, may last from 30 days to six months. It includes educational classes, individual counseling, peer sessions, role playing, and random drug tests. Most programs offer after-care monitoring to help the juvenile stay clean and sober. A nonresidential program allows the young person to live at home while receiving treatment.

Electronic ankle bracelet. A device usually placed on the juvenile's ankle or arm to keep track of her whereabouts. It triggers a signal to the authorities when the juvenile wearing it goes anywhere other than school, work, or counseling appointments. Depending on the situation, the unit is usually removed after a month of no violations. Removing or tampering with the device may be considered escape.

Felony. A serious crime that is generally punishable by a year or longer in jail.

First-time offender. A juvenile without a previous juvenile record who is now before the court on his first misdemeanor or felony.

Foster care. A licensed home or facility where a child lives after being removed from her home. Foster placement may be temporary or could last for years, depending on the cooperation of the parents in addressing the reasons for removal.

GED. Stands for “general equivalency diploma.” It is a diploma earned by studying and passing a series of tests. It is generally available to teens who are 16 or older and who are not attending a formal four-year high school program.

Halfway house. A home in the community where juveniles may live and receive treatment before returning home (usually treatment for drug abuse).

High impact program. A program where a young person spends a brief period in jail, to warn him about his behavior and prevent him from committing crimes. It may last from a few hours to several days. They are also known as “scared straight” programs.

House arrest/house detention. A juvenile placed on house arrest or detention is only allowed to leave the home for school and work. Any other time away from home—doctor’s appointments, sports activities, club meetings, etc.—must first be approved by a probation officer. Violations of house detention may result in jail time.

Inmate. A person sentenced to jail or prison. A prisoner.

Judge. The person with the authority under the law to decide cases filed with the court and determine the appropriate penalty.

Juvenile. Any person under age 18 and in the juvenile justice system.

Juvenile awareness program. Also known as a “scared straight” program. A brief visit to prison meant to prevent further criminal behavior. Usually a one-day program, the juvenile meets with adult inmates for a group or one-on-one session. Brandon (page 55) attended several juvenile awareness programs at both juvenile and adult prisons.

Juvenile court. A court with the authority to hear and decide cases involving crimes committed by minors, usually people under age 18. A juvenile court also deals with abused, neglected, and abandoned children, and adoptions.

Juvenile detention. A 24-hour secure facility where juveniles live while waiting for their next hearing, or where juveniles serve a jail sentence ordered by the court.

Juvy. An abbreviation for juvenile court, juvenile hall, and juvenile jail.

Life sentence. After being found guilty by a court of certain crimes (for example, murder), a juvenile may be sentenced to spend the rest of his or her life in jail. There are cases in the United States where kids as young as 13 have received a life sentence without the possibility of parole (release). Others have been given a life sentence, but with a chance at being paroled after a number of years.

Mediation/mediator. A process where two or more people who are having a problem sit down with a trained mediator (an expert on problem-solving) to talk about a possible solution. The mediator helps them look at alternatives for handling the situation. Andrew (page 37) and his mother participated in mediation before he was released from jail.

MIP class. A class for kids caught drinking or in possession of alcohol or drugs. The class may run for a few hours or a day and involves instruction, videos, individual and group counseling, discussion, and debate on these issues. Natalie (page 133) was required to attend a MIP class.

Misdemeanor. A crime that is less serious than a felony and that may result in a fine or up to a year in jail.

NA (Narcotics Anonymous). An international association of recovering drug addicts. NA provides a support network and weekly meetings to help ex-addicts stay clean.

No-contact order. A court order that restricts contact between a juvenile and another person. This may be ordered at someone's request (a victim or parent of a victim) or by the court. For example, a juvenile who is accused of assaulting a kid at school will likely be ordered to have "no contact" with the victim, the victim's family, and any witnesses to the incident. Adam (page 18) was ordered to have no contact with certain students and witnesses to the threats he made at school. A juvenile may also be ordered to stay away from a boyfriend or girlfriend if the court decides it's in the juvenile's best interests. Starlett (page 184) was given such an order regarding her boyfriend. A violation of a no-contact order is a crime and punishable by the court.

Offense. Another word for a crime or when a juvenile has broken the law. Sometimes called a delinquent act.

Parole officer. A juvenile who is sent to jail may be assigned a parole officer for a period of time following his or her release. The parole officer monitors the juvenile's activities for a period of time (parole).

Plea. When a juvenile is charged with a crime, she has to tell the court whether she is guilty or not. This is called a plea. If the juvenile pleads guilty, a sentencing hearing is scheduled. If a not-guilty plea is entered, the case is set for trial. If found guilty of the crime following a trial, the juvenile is then sentenced.

Plea bargain or plea agreement. A process in both juvenile and adult court whereby the state and the defendant (juvenile) agree to a lesser charge in return for the juvenile admitting it. Or the juvenile may agree to admit to one burglary in return for the dismissal of two additional burglaries. Part of the plea agreement may include payment (restitution) to all victims, whether the charges go forward or are dismissed. Plea bargaining is used

throughout the criminal justice system to speed cases through crowded courts, to hold juveniles accountable as soon as possible, and to address the victim's rights in a timely manner.

Probation/intensive probation. Probation is when an officer of the court (a probation officer) is assigned to supervise a juvenile for a period of time. This could be from a few months to a year or longer, depending on the person's behavior. The probation officer will be in touch with parents, teachers, employers, and other adults to see how the young person is doing. The purpose of probation is to provide guidance and help when needed. Most kids placed on probation complete their term successfully and are released within a year. Intensive probation is a higher level of supervision for juveniles who need it. It may include daily contact with an assigned probation officer and/or a surveillance officer. It may last for a specific period of time (3 months, 6 months, etc.), after which the juvenile may be reduced to standard probation if he's earned the judge's trust. Violations of intensive probation result in the juvenile going back to court and possibly jail.

Probation officer. A juvenile who is placed on probation by the court is normally assigned a probation officer—an officer of the court who is the judge's eyes and ears in the community regarding the juvenile's activities and compliance with the terms of probation.

Prosecutor. A lawyer who is authorized under the law to file criminal charges against someone and then prosecute or try the case before the court. The prosecutor's job is to prove that you committed the crime that was filed against you. Your defense attorney will argue your side of the story, and the judge or jury will decide the case.

Psychological evaluation. These are conducted by either a court-appointed or private psychologist or psychiatrist. The report is provided to the attorneys in the case and the judge. The report helps identify appropriate services for the juvenile and family.

Psychologist/psychiatrist. A psychologist is an educated and trained professional in the field of human behavior and the mind. A psychiatrist is a physician (a medical doctor) who is a specialist in psychiatry, which deals with the recognition and treatment of mental disorders. Juvenile courts use both psychologists and psychiatrists in evaluating juveniles and making recommendations to the judge regarding treatment and case planning.

Red shirt (also white, blue, and yellow). When a juvenile goes to jail, points are given for good behavior. If the juvenile obeys the rules she gains privileges, such as a later bedtime or participation in gym. Inmates wear shirts of different colors, depending on the level they've reached. They start at the lowest level, wearing a white shirt, and can advance to a blue shirt, then

yellow, then red, the highest level. A violation means a loss of points and a return to the lower color shirt. When the juvenile returns to court for her hearing, the judge takes shirt color into consideration in deciding whether to release the juvenile or what kind of sentence to give.

Rehabilitation. To prepare someone who has committed a crime or who is in jail to return to society as a law abiding citizen. A juvenile court is designed to rehabilitate young people, in addition to punishing them.

Residential treatment program/facility. A full-time placement for juveniles away from home, where intensive counseling is available. Kids may stay there from just a few months to several years, depending on their needs. The program is often for juveniles whose behavior problems make it unsafe for them to be at home or in the community.

Restitution. An amount of money paid to the victim of a crime for property loss or damage, or personal injury (medical bills, etc.). Some states allow the juvenile court to order parents of juveniles to pay restitution to the victims for acts committed by their children.

Sentence. The judge's decision in a case regarding the penalty given the juvenile. It may include jail time, probation, community service, a fine, counseling, or additional terms that the judge considers helpful in the juvenile's rehabilitation.

Sentencing. The hearing that is conducted in court to determine the penalty to be given to the juvenile. At the hearing, the prosecutor and defense attorney make recommendations to the judge about the sentence. The victim may also appear and speak to the judge. The juvenile and his or her parents are also present and may make a statement before the judge announces the sentence.

Surveillance officer. An officer of the court who helps supervise juveniles on probation. Surveillance may include coming by your home to check up on you, telephone contact, and personal visits at school and work. The surveillance officer may report violations to the judge, which could result in further hearings.

Therapy. Counseling services with a trained professional to assist juveniles in dealing with problems and issues in their lives.

Trial. A formal hearing in court where the evidence in the case is examined, the law is considered, and a determination is made by the judge or jury. Most of the rights that adults have in a criminal trial are also given to juveniles, including the right to a lawyer, the right to examine witnesses, and the right to remain silent and make the state prove beyond a reasonable doubt that you committed the crime.

Truancy. A truant is a person who is required by state law to go to school (usually a person between ages 6 and 16) and who misses school without a lawful excuse. The school or local prosecutor may take a case of excessive truancy to court. This could result in probation, attendance at a truancy prevention class, or community service.

Urine analysis. A urine test for drugs in your body (also called a drug test or drug screen). The results of the test are given to the attorneys involved, the probation officer, and the judge.

Victim. A person who is harmed by a crime, whether it's a personal crime (assault) or property crime (theft or burglary). A victim has the right to ask to be paid for his or her financial loss, and a juvenile court judge may order the juvenile and parents to pay.

Violation of probation. A person violates his probation when he doesn't obey the rules and procedures of probation. This may be for a technical violation (not checking in with a parole officer) or a substantive violation (committing another crime while on probation). If found guilty of the charge, additional punishment is imposed by the judge.

Warrant. A written court order that authorizes a search of a certain property (car, house, etc.) or an arrest of a named person.

Witness. A person who sees, hears, or knows something about an incident. For example, a witness to a traffic accident may have to come to court and testify about what he or she saw or heard. When Marcus (page 126) saw the state's witnesses come into the courtroom at his trial for shoplifting, he changed his mind and decided to plead guilty.

ADAM, 15

a threat made in school

ADAM'S BACKGROUND LEADING UP TO THE CRIME

Adam, 15, is the youngest of four children. His parents are divorced. He lives with his mother, has regular contact with his father, and works part-time in construction for his uncle. Adam earns good grades in school, but has been disciplined a few times for problems with his temper. One day in class, Adam makes a comment to a teacher that he is “homicidal”—wants to kill people. He later says that he was joking and the matter is dropped.



ADAM'S CRIME: SCHOOL INTERFERENCE AND THREATENING

Shortly after the shootings at Columbine High School in Colorado, Adam is in class with a few friends. Other students overhear him talking about the shootings. Adam says that a better way to get rid of kids you don't like is to put sleeping gas in the school vents, and then go through the school and “kill the people you don't like.”



Adam is reported to the office, the police are notified, and an investigation is conducted. Adam is brought to court and admits the statement to the prosecutor, but says he was joking. Instead of being charged with the crimes of school interference and threatening, Adam agrees to complete eight community service hours under a diversion program.

For certain crimes, a prosecutor may decide not to file formal charges. Instead, an agreement is reached where the juvenile admits his or her responsibility for the offense and a penalty is decided by the prosecutor. This is called “diversion,” because the juvenile is diverted away from formal court proceedings. This speeds cases through the overcrowded courts and prevents a young person from having a criminal record. Diversion is generally available in cases involving minor offenses and a first-time offender. Since Adam did not have a previous juvenile record, he was eligible for the diversion program.

A week after reaching this agreement, Adam gets in a fight with another teen at a party. He is arrested and spends one day in jail before being released to his parents. There isn’t enough evidence to determine fault and no charges are filed.

However, because of the fight, the diversion offer is withdrawn by the prosecutor. Two incidents in such a short period of time call for more than community service. Adam is formally charged with school interference and threatening.

He goes to trial and is found guilty of both charges. Now you have to decide what his punishment should be and how to sentence him.

Legal Definitions of School Interference and Threatening

A person commits **INTERFERENCE** with an educational institution by knowingly going upon or remaining upon the property of a school, for the purpose of interfering with the lawful use of such property by others, or in such a manner as to deny or interfere with the lawful use of such property by others.

A person commits **THREATENING** or intimidation if such person threatens or intimidates by word or conduct to cause physical injury to another person, or serious damage to the property of another.

YOUR CONCERNS AS A JUDGE

Adam says he was joking when he threatened to kill kids at school. But can you believe him? There have been a lot of school shootings recently and these kinds of threats have to be taken seriously. Some of the kids who did the shootings talked about it beforehand, but people who overheard didn't do anything about it. Here you have the chance to prevent a possible future tragedy.



There are some positive things in Adam's favor. His parents assure you that they will keep a close eye on him. He has a full-time construction job with his uncle and will be supervised at all times. He will attend night school, with strict hours monitored by his family. You decide to send him home to await sentencing, instead of keeping him in jail.

You receive a recent psychological evaluation on Adam. His tests indicate that he is very intelligent. Adam has also said that he will never go to prison and that he will be very successful someday.

On the other hand, Adam has admitted to trying marijuana on a few occasions. He also has a quick temper and some anti-social traits, as the recent fight shows, and doesn't think he needs treatment or counseling. You are worried that he may act out in an angry way again.

Are the threatening statements at school something to be worried about, or isolated incidents? As a judge, you have to balance what is best for Adam with how to protect the school and community. What about the possibility that Adam makes future threats and acts on them? How should Adam be sentenced?

YOUR SENTENCING OPTIONS AS A JUDGE

The law states that threatening someone with physical injury is a crime. In making your decision, you should consider the kind of threat that was made (such as a bomb threat, a threat to shoot someone, or a threat to beat someone up), and the person's ability to carry



through with the threat (there's a difference between threatening to harm someone you know, as opposed to making a threat by email to someone you haven't met). If the person has made more than one threat, and seems to be able to carry it out, the punishment would be harsher.

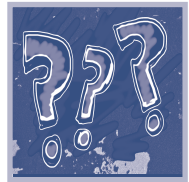
Sentencing options available to you are:

- Jail time ranging from two weeks to three months, followed by probation for up to one year.
- Jail time ranging from a week to two weeks, along with community service hours, drug testing, counseling, and restricted use of the Internet to prevent him from getting information about weapons, which some kids have done.
- No jail time, but intensive probation from three to six months, which would include daily contacts with a probation officer, with the threat of future jail time of a week to three months if Adam violates his probation terms.
- No jail time, but regular probation for one year, along with community service hours and drug testing.
- Participation in anger management classes and counseling.
- Order Adam to have no contact with his victims and the witnesses against him, such as the person he had a fight with and the kids who reported his threatening comment in school.
- Anything else?

QUESTIONS TO CONSIDER BEFORE SENTENCING ADAM

Write down or discuss your thoughts:

- Do you think Adam was serious about his threat, or do you think he was just fooling around and showing off in front of his friends?
Can you answer that question from the evidence, or would you like more information?



22 They Broke the Law—You Be the Judge

- Adam made a previous threat about killing people and got into a recent fight at a party. Is his past history important in making your decision? If so, how? If not, why not?
- Adam is very intelligent, and therefore might have the ability to do something like gas a school. Does this influence the sentence you give him?
- Does the fact that Adam smokes marijuana concern you? Does that influence his sentence? Why or why not?
- Adam served a day in jail after he got into the fight. Should he be given any more jail time? If so, how much? If not, why not?
- Should Adam get help for his anger? Should he be required to attend group counseling with peers, individual counseling, or family counseling? Or all three?
- Adam says he doesn't need counseling. Should you order him to participate anyway? Will he get anything out of counseling if he doesn't want to be there?
- Is there any additional information you would like about Adam to help you make your decision? If so, what is it and why would it help you make your decision?

YOU BE THE JUDGE

Complete this sentence:

Based on the information available to me,
Adam's sentence should be . . .



WHAT ACTUALLY HAPPENED

When the day arrived for Adam's sentencing, he was going to school, earning A's and B's, and working with his uncle. I agonized over how to sentence him. I knew that I was seeing Adam and his family for only brief periods in court, when most people are on their best behavior. I also knew that because of his high intelligence,

Adam had the ability to carry through on his threat of gassing the school and killing students. I had to strike a balance between what was best for Adam and how to protect the school and community.

I worried that whatever I decided would be either too harsh or too easy on him. On the one hand, I didn't think a long period of jail time was necessary. On the other hand, I didn't feel that the one day he spent in jail for the fight was enough. I wanted to give Adam the message that the community takes verbal threats seriously. I sentenced Adam to a combination of jail time and probation that would also include community service, counseling, and drug testing.

- He was ordered to spend his upcoming spring break, a total of nine days, in jail. I told Adam that he should spend this time reflecting on what landed him there and how he planned to continue with his life.
- He was allowed to continue living with his aunt and uncle but was required to complete 100 hours of community service.
- Because Adam had admitted earlier that he tried marijuana on a few occasions, I also required that he be tested for drugs during probation.
- He was required to attend individual counseling to address his anger and self-control issues.
- He was ordered to stay off the Internet while on probation (assuming the worst, I didn't want Adam to have easy access to information about weapons).

As I watched Adam and his family leave the courtroom, I hoped I wouldn't see him again or read about him in the newspaper. Part of me worried that I might.

YOUR RESPONSE TO THE JUDGE'S DECISION

Write down or discuss your thoughts:

- Are you surprised by the judge's sentence? Why or why not?



- Was it harder or easier on Adam than your sentence? In what ways?
- What part of the judge’s sentence do you agree with? What part do you disagree with? Why?
- Do you think Adam’s statement in school was blown out of proportion and that he was punished too severely? Or do you think his sentence was right under the circumstances? Why?
- What do you think will happen to Adam?

Letter from Adam While Serving His Jail Sentence (age 16)

Your Honor,

Thank you for giving me this chance to speak on my behalf. I never intended anything by my remark. It was a stupid comment and I am terribly sorry that it came to this. The whole thing started in third period after the Columbine incident. The discussion had come up repeatedly in class. While the class was just small talking, I mentioned to my friend off the top of my head that the best way to do it, if it was physically possible, which it's not, is to put sleeping gas in the vents and then go through and kill the people you didn't like. I know I shouldn't have said something like that because that's like commenting on a bomb or a gun in the airport. People take those comments seriously, now I understand that. Everyone makes mistakes and boy have I made a lot of mistakes. I am going to acquire a G.E.D. and attend community college for an associates degree in drafting. Basically who I was five months or so ago I had to drop, I have had to grow up, I can't goof around anymore. I have to get things done and make a way for myself.

Sincerely,
Adam

ADAM TODAY

Adam successfully completed one year of probation and was released just before his 18th birthday. He stayed with his aunt and uncle for another six months and then returned to his father's home. He earned his GED and worked at a fitness center. He is now 19 and attending college as a psychology major. He has a brown belt in martial arts and is thinking of joining the military. He also works part-time as a loan officer at a mortgage company.



Adam never thought a casual conversation with friends could be overheard and misinterpreted. Of course, the question is whether his comments were misinterpreted or interpreted correctly. Only Adam knows the answer to this. He learned a valuable lesson as a teenager—words alone may have serious consequences.

FINAL THOUGHTS

Write down or discuss your thoughts:

- What was your reaction to Adam's letter from jail? Did it change your view of his actions or his sentence? Why or why not?
- Have you ever heard anyone at school or work make a comment like Adam's? Did the comment worry you? Could you tell if the person was serious or not? What, if anything, did you do?
- Do you feel you have a responsibility to report someone who makes those kinds of comments? Why or why not?
- Have you ever wanted to get even with someone? How did you handle the temptation? Looking back now, are you happy with the way you handled it? Why or why not?
- When you get angry, how do you deal with your feelings? Do you talk with your parents or a friend, or just let it build up? Do you have a school counselor, a trusted adult, or a friend you can talk to? What could you do to deal with your feelings?



Did You Know?

- Every day, 135,000 children bring a gun to school.
- The Wisconsin Supreme Court ruled in 2001 that a student's creative writing assignment, in which he described cutting off his teacher's head, was protected by the First Amendment (*In re Douglas D.*, 243 Wis.2d 204).
- On the other hand, Massachusetts decided that the drawing of a student pointing a gun at his teacher constituted a threat and was not constitutionally protected (*Commonwealth v. Milo M.*, 433 Mass. 149 [2001]).