

## FORENSIC EXERCISE: DISPOSITION

### 1. DISCUSSION POINTS: COURT/STATE CONCERNS – ISSUE SPOTTING

**Offense:** Janet Ford is a sixteen-year-old, African-American female who has been adjudicated for the crime of Taking Motor Vehicle Without Permission 2 (9A.56.075) (C Felony) and Possession of Firearms by Minor (<18) (9.41.040(2)(a) (iv) (c felony)

<b>Question</b>	<b>Answer</b>
<p><u>What is Janet’s Standard Range?</u></p> <p>Do you think probation will recommend secure care?</p>	<p><a href="#">RCW 13.40.0357</a> –Local Sanctions  <a href="#">RCW 13.40.308</a> –No Less than 3 months of community supervision, 45 hours of community restitution, and five days home detention  <a href="#">RCW 13.40.193</a> – Firearm enhancement +10 days of confinement (detention see RCW 13.40.020</p> <p>Take a vote</p>
<p>Do you think the judge will order that Janet be placed in a secure facility?</p>	<p>Take a vote</p>
<p>Legally, what factors can be considered in deciding between probation and commitment?</p>	<p><b>Many courts will consider their “purposes clause.”</b>  <a href="#">RCW 13.40.010</a> (2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders and their victims... It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that communities, families...[t]he legislature declares the following to be equally important purposes of this chapter:</p> <ul style="list-style-type: none"> <li>(a) Protect the citizenry from criminal behavior;</li> <li>(b) (c) Make the juvenile offender accountable for his or her criminal behavior;</li> <li>(d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender,</li> <li>(e) (f) Provide for the rehabilitation and reintegration of juvenile offenders ...</li> </ul>
<p>In this case, what factors and issues will be of concern for the probation officer, the prosecutor and the court?</p>	<ol style="list-style-type: none"> <li>1) Damage to stolen car and parked car and financial hardship caused to victims</li> <li>2) Desires of car owner</li> <li>3) Potential for death or serious harm to other victims</li> <li>4) Victims’ losses in this case</li> <li>5) Appearance that Janet is not accepting responsibility for her participation in the crime</li> <li>6) Belief that Janet is harboring a criminal by not snitching</li> <li>7) Escalating pattern of offenses</li> <li>8) Poor educational performance</li> </ol>

	<p>9) <i>Poor school attendance</i>  10) <i>Lack of family support/family dysfunction</i>  11) <i>The gun</i></p>
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At 3 a.m. on August 26, 2013, Janet was in the front passenger side seat in a stolen 2005 Ford Explorer that led police on a brief chase until the driver crashed into a parked car. The driver side window of the door had been “punched” and there was evidence that the steering column had been “peeled.” When the car crashed, the driver and other passengers began to flee. Janet was the only passenger apprehended. The driver and other passengers were never caught. When the car was searched, the officer found a loaded pistol under the front passenger side seat, where Janet had been sitting.

Question	Answer
<p>What disposition options are available to the court for this offense? Can Janet be incarcerated for this offense? If so, for how long?</p> <p>USE THESE ANSWERS TO FILL IN THE “STATUS” AND “SLEEP” COLUMNS OF THE DISPOSITION PLANNING CHART</p>	<p><b><i>Discuss possible options</i></b></p> <p><a href="#">RCW 13.40.0357</a> – Local Sanctions: 30 days, 12 mos, 150 Hrs, \$500 fine</p> <p style="text-align: right;">--Option B <b>SUSPENDED DISPOSITION ALTERNATIVE?</b></p> <p><a href="#">RCW 13.40.127</a> --Deferred Disposition RCW 13.40.127? Gun?</p>

**Victim Impact:** The owner of the stolen Ford Explorer is very angry and wants Janet to be locked up. The damage to his car caused him to miss work for an entire week and he had to pay \$2500 dollars out of pocket for the repairs because he only had liability insurance. The owner of the hit car is an elderly woman who lives with her adult daughter. She does not want to see Janet locked up, but believes that Janet must be held accountable in some way and must realize that she is lucky that she did not kill anyone and that she did not get hurt.

Question	Answer
<p>What rights does a victim have in your jurisdiction?</p>	<p><b><i>Victims can often speak at disposition, can make written or oral statement and have right to notice.</i></b></p> <p><a href="#">RCW 7.69.030</a>  <a href="#">RCW 13.40.010(i)</a></p> <p>(I) Provide opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensure that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed;</p>

<p>What can you do to mitigate the harm caused by the victim's attitude about the offense and Janet?</p> <ul style="list-style-type: none"> <li>• Which of these approaches is effective/ineffective in this particular case?</li> </ul>	<ol style="list-style-type: none"> <li>1) The defender should interview the victims beforehand about how an apology, restitution, and/or entry into programs from Janet would affect the victim's attitude</li> <li>2) Use cross-examination to portray victim as unreasonable</li> <li>3) Ignore victim's testimony and statement and focus on Janet's strengths</li> <li>4) Have Janet offer a written or oral apology to both victims</li> <li>5) Peace Circle (BARJ)</li> </ol>
<p>Can Janet legally be ordered to pay restitution?</p> <ul style="list-style-type: none"> <li>• Does it matter she wasn't the driver?</li> <li>• Does restitution include lost wages?</li> </ul>	<p><b><i>Yes, in many jurisdictions.</i></b>  <a href="#">RCW 13.40.190</a>, <a href="#">RCW 13.40.020(26)</a></p> <p><i>Not unless result of physical injury</i></p>