

Juveniles Tried As Adults

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- Due Process (framed by *Kent* factors)
- RCW 13.04.030 Auto-decline
 - 16 or 17, one or more priors, enumerated offenses (assault, robbery, burg l, indecent liberties, etc)
- RCW 13.40.110 Decline hearings mandatory and others, RCW 13.04.030 Return to juvenile court
 - Once an adult, always an adult - until there is a verdict always a chance it can be sent back
 - If a youth is declined during the hearing and then the case is dismissed, do they fall under the once adult always an adult or was it not a final decision?
- Why would you agree to decline?
 - Less time offered in adult court
 - Collateral consequences (registering as a sex offender)
 - Client decides they want to
 - Want a trial
- Preparation, why have a decline hearing?
 - Might win
 - Helpful for appeals
 - Discovery
 - Litigation package pulled together
 - Educate the judge/prosecutor
- Why would you not want to have a hearing?
 - May make things worse
- Other advice:
 - Put all of the social science findings when arguing a case
- When working on an auto-decline case brainstorming is essential - a collaborative process
 - Meet with client
 - Child's story
 - School history
 - Prosecutor conversation
 - Prior Evals
 - DSHS
 - Counseling
 - P.O. Files
 - School
 - Probation department
 - Other friends/family that can humanize
 - Experts (PTSD, trauma, Ed)
 - Medical records
 - JRA treatment options: Make them prove where they want to house the youth has treatment options for them
 - Investigate
 - Relative culpability (group crime)
 - Impulsivity (not thinking about consequences)
 - Innocence

- Restorative justice
- Write a brief
 - Strong, persuasive story about client and attach as many things to it as you like (need this in the record)
 - No more than 10 pages
 - Not full of the law, a story
- *Kent* factors
 - It's never been clear how to weigh the *Kent* factors - the judge can pick and choose which one to prioritize
 - The *Kent* factors are a non-exclusive list that can be expanded upon
- Decline hearing: procedural protections
 - The hearing itself
 - Witness (cross examination)
 - Speedy hearing (w/in 14 days, although frequently waived bc need time to prepare)
 - Present own evidence
 - Written findings (for the appeal)
 - Competence (can raise post hearing)
- Standard:
 - by preponderance of the evidence, decline is in the best interest of the juvenile or the best for the protection of the public (can be weighed however the judge wants)
- A public defenders ability to work on an auto-decline case is based on the court rules regarding the level of crime
- Affirmative Evidence
 - Child's story
 - Crime
 - Expert
 - Rehabilitation (research, WA Institute for Public Policy)
 - *cornerstone to every argument is that charging as an adult increases the risk to safety to community, not the other way around (kicking can down road)
- Developmental considerations
 - Three factors prosecutor normally wins on:
 - Seriousness of offense
 - Amenability to treatment
 - Safety to community
 - Brian science says these are all wrong
- Appealing an adverse decision
 - Motion for discretionary review
 - High standard
 - Hard to get review granted
 - Obvious error
 - Probable error
 - So far from usually accepted judicial proceedings...
 - Law is no longer relevant
 - Appeal at close of case
 - Appeals court will not pay much attention unless there is a constitutional issue (Art 1 s2 and 14th A)
- Major disproportionality in auto-decline (mainly black and brown kids)
- *State v. Houston-Sconiers*

- Challenged auto decline statute, the court did not make an official decision, but recognized that the current jurisprudence stands in tension with supreme court
 - Open invitation to challenge it
 - There is no such thing as irreparable corruption with youth (Louisiana)
- Travis has a case now: *State v. Watkins* – happy to share his completed briefs to work from
 - Challenged the constitutionality of it
 - Also goes through the *Kent* factors
- *In Re Boot* based on *Stanford v. Kentucky* (says you can kill kids), but *Boot* say is constitutional bc if can kill kids, then can clearly send them to adult court. But you can't kill kids, so the basis of *Boot* is no longer good law.
- Reach out- exchange briefings- happy to talk about it
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