

Prosecution: Finding Justice  
Football, Fire and Firearms  
Case Studies

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To see that justice is done.....

- Texas Code of Criminal Procedure §2.01
  - “It shall be the primary duty of all prosecuting attorneys, including any special prosecutors, not to convict, but to see that justice is done.”
- Texas Rules of Professional Conduct §3.09, comment 1
  - “A prosecutor has the responsibility to see that justice is done, and not simply to be an advocate.”

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What is Justice in Juvenile Court?

- Sec. 51.01. PURPOSE AND INTERPRETATION.
- (1) to provide for the protection of the public;
- (2) consistent with public protection:
  - (A) promote the concept of punishment;
  - (B) to remove the taint of criminality from children committing crimes; and
  - (C) to provide treatment, training, and rehabilitation for the child and parent that emphasizes the accountability and responsibility of both;
- (3) to provide for the care, the protection, and the wholesome moral, mental, and physical development of children coming within its provisions;
- (4) to protect the welfare of the community and to control the commission of unlawful acts by children; (deterrence)
- (5) to achieve the foregoing purposes in a family environment whenever possible, separating the child from the child's parents only when necessary for the child's welfare or in the interest of public safety and when a child is removed from the child's family, to give the child the care that should be provided by parents; and
- (6) conduct proceedings in a way that is simple enough for the child to understand while protecting their legal and constitutional rights in a fair hearing

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## Victim rights

- Code of Criminal Procedure §56.02, §56.021, §56.08 and Family Code §57.002
  - These include, among others:
    - The right to be informed of the court process
    - The right to notice of court settings
    - The right to notice of plea agreements
    - The right to notice of potential restitution
    - The right to give a victim impact statement
    - The right to protection from harm
    - The right to have their safety considered by the court

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## Justice - through whose eyes?

- Whose perspective:
  - Juvenile
  - Parent
  - Victim
  - Community
    - Law Enforcement
    - Prominent Members
    - Outside Organizations
    - Media
    - General public
    - School
  - Prosecutor

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## Football Felony?

- Parties Involved-One Juvenile Player, One Adult Player, Coaches and one angry victim represented by civil counsel
- Multiple written and oral statements made to multiple parties, agencies, and media continuing throughout case
- Lawyers hired and television appearances before case presented to prosecutors
- Allegations of racial slurs by victim directed at players
- Ongoing Collateral proceedings
  - School discipline
  - UIL
  - TASO investigation
- Media Madhouse

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## So, what do you do?

- Evidence collection issues
  - Collecting statements
  - Juvenile witnesses
  - Video
    - Public plea – TRPC 3.07
    - Media
    - School

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## So, what do you do?

- Victim interaction
  - Civil Counsel
  - Informed vs. Juvenile confidentiality
  - Civil case considerations
  - Provide evidence

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### So, what do you do?

- What to charge
  - Assault
  - Agg. Assault - SBI
  - Agg. Assault – public servant
  - Retaliation
  - But consent? Boys do these things?
  - Grand jury input?

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### So, what do you do?

- Who to charge
  - Juv. Player
  - Adult Player
  - Other players
  - Coach
  - Victim

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### So, what do you do?

- Disposition
  - Conditions of release?
  - Certify
  - Determinate
  - Grand jury
  - Culpability
  - Equity
  - Who wants what?
  - Consider collateral effects? Juvenile, victim
  - Transfer to home jurisdiction?

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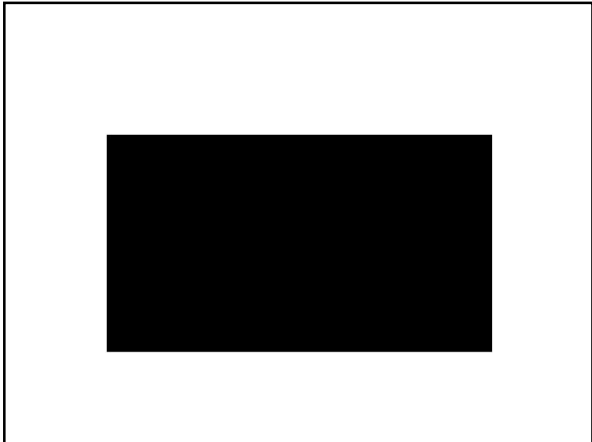
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**Media**

- What do you say?
- When?
- To whom?
- How do you get information from them?
- How do you deal with "optics"?
- Collateral proceedings?

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**Firearms**

- Burglary of a Gun Store
- 10 year old charged with theft of firearm
- Juvenile has prior juvenile charge that appeared to result from neglectful supervision
- Father charged with Possession of Stolen Property out of the same transaction.
- By all appearances Father orchestrated the burglary
- Two other adults (19 & 20) charged with the burglary
- Problematic home situation
- Parents refusing to comply with requirements
- Defense counsel represents parent and child regarding this transaction

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## What do you do?

- Parent as co-defendant
  - Conflict for parent to guide the child?
  - Plea by child would protect parent?
  - Parent refusing to consent to deferred?
    - TFC 53.03
  - Conflict for defense counsel? What if also represent parent?
    - TFC 51.10
- Family situation driving disposition
  - Adjudicate
  - Out of home
  - CPS

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## Fire

- 12 year old boy sets fire in doorway of mobile home where he lives with grandparents and 8 year old brother. Grandma is on oxygen which is stored by the front door. Younger brother was "the favorite." Mom does not live with or parent the children.
- Brother dies and Grandmother is critically injured. Five dogs die along with the brother.
- He was angry at grandma and brother that morning.
- After the fire he stole the family van and drove away and was detained when he wrecked in the next county.
- Juvenile showed no remorse.

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## What do you do?

- What to charge?
  - Offense(s)
  - Grand Jury
  - Determinate
  - Certify
- Parent is the victim
  - who guides child?
  - Guardian ad litem
  - Community member steps forward to help him. Let them?
- Disposition
  - Collateral consequences – certainty vs. length
- Media
  - We can't explain why.

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