

## II. Probable Cause and Transfer

### A. Probable Cause – Jewel

At Jewel’s probable cause hearing, how would you deal with each of the following?

1. Jewel’s attorney says that his client waives the probable cause hearing.

G.S. §§ \_\_\_\_\_

2. Jewel’s attorney moves to suppress the statement she made to police while in custody.

G.S. §§ \_\_\_\_\_

Two officers testify about interrogating Jewel in a conference room at the police station while waiting for the court counselor. The prosecutor submits a “waiver of rights” form that Jewel signed. Officer Mary Dent testifies that Jewel seemed oriented even though she was slightly inebriated. Officer Dent accompanied Jewel to the restroom and to get something to drink. Jewel was not restrained during the interrogation. She said she understood her rights, which were read to her, and she signed the waiver form. Another officer was trying to contact Jewel’s parents, although Jewel said she did not want them there.

Jewel testifies about the interrogation, and her lawyer argues that the officers obtained her waiver by making false promises, by telling her they were there to help her, and by insinuating that if she talked to them they would talk to the prosecutor and she would “get off light.” Jewel states that she doesn’t even have a clear memory of what they talked about, but she remembers having her head down on the desk most of the time. She said, “I’m smart enough to know that you don’t talk to the police unless they give you a good reason to, and I know they told me I could go home and would get a better deal if I talked to them. That was a lie.”

3. Jewel’s attorney objects to an officer’s testimony that the vehicle Jewel was driving had been stolen two weeks earlier and that the rightful owner was Archie Walters.

G.S. §§ \_\_\_\_\_

After hearing other evidence, the court finds probable cause and schedules a transfer hearing.

## B. Transfer Hearing – Jewel

**The state’s evidence** shows that the man Jewel hit with the car is her boyfriend’s brother, who was trying to stop her from leaving a party. He is still in the hospital and is expected to require months of rehabilitation after he is released.

A court counselor testifies that Jewel has been on probation for six months for shoplifting three pairs of earrings. She has missed a couple of appointments, but overall the counselor thought she had been doing well.

Other witnesses for the state include

- two police officers who investigated and took Jewel into custody
- a 47-year-old waitress who lives next door to the house where the party took place. She testifies that she does not know any of the people involved, and that she was arriving home from work when the incident occurred. She says, “That girl just whipped that car around and ran right into him. Sure looked to me like she meant to do it, but I couldn’t say what was going on in her head.”
- a detention facility staff person who heard Jewell, when talking to her mother on the phone, say, “Mama, I just drove right at him and mowed him down.”
- Jewel’s school records

**Evidence for Jewel** includes

- testimony of Jewel’s mother
- testimony and a written report by a psychologist who has evaluated Jewel
- a written statement from Marion Mobley, who was Jewel’s teacher at the detention facility

1. What if any other evidence would be helpful in considering the factors listed below?
2. Based on what you know, would you be inclined to transfer?

### § 7B-2203. Transfer hearing.

(a) At the transfer hearing, the prosecutor and the juvenile may be heard and may offer evidence, and the juvenile's attorney may examine any court or probation records, or other records the court may consider in determining whether to transfer the case.

(b) In the transfer hearing, the court shall determine whether the protection of the public and the needs of the juvenile will be served by transfer of the case to superior court and shall consider the following factors:

- (1) The age of the juvenile;
- (2) The maturity of the juvenile;
- (3) The intellectual functioning of the juvenile;
- (4) The prior record of the juvenile;
- (5) Prior attempts to rehabilitate the juvenile;
- (6) Facilities or programs available to the court prior to the expiration of the court's jurisdiction under this Subchapter and the likelihood that the juvenile would benefit from treatment or rehabilitative efforts;
- (7) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; and
- (8) The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult.

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