

## Case Scenarios Under the Juvenile Justice Reinvestment Act – With Answers

### 1. Jeff

A law enforcement officer finds 17-year-old Jeff and two of his friends inside a home that is under construction at 11:00 p.m. on a Saturday night. The three teens broke a lock on the rear porch of the new house to enter the porch and the officer finds them there, smoking a small amount of marijuana. The officer believes that there is probable cause to charge Jeff with misdemeanor breaking or entering of a building and misdemeanor possession of marijuana (under ½ oz.).

- A. Are there any additional questions that must be answered in order to know whether to proceed in the juvenile or adult system? If yes, what question(s)?

It is necessary to find out if Jeff has any previous criminal convictions before proceeding with a juvenile complaint. Any conviction, other than a Chapter 20 non-impaired driving misdemeanor (or Chapter 20 infraction) will bar juvenile court jurisdiction for this matter.

- B. In what system should this case be initiated?

Assuming Jeff has no disqualifying convictions, this case should be initiated in the juvenile system.

Assume that the officer files a complaint with the juvenile court counselor alleging both misdemeanor acts of delinquency.

- C. What will happen next to process Jeff's case?

The court counselor will conduct the intake and assessment process to determine whether to close, divert, or move to petition.

Assume that the juvenile court counselor established a diversion contract with Jeff as a result of this complaint. The plan required Jeff to attend school regularly, among other things. Jeff is a senior in high school and, despite the diversion contract, Jeff attends school only about half of the required time. After one month the juvenile court counselor files a petition with the two misdemeanor allegations. Jeff turns 18 and appears in district court where he makes an admission to the acts of delinquency. Jeff is eligible for a Level 1 disposition as this was a minor offense under the criteria in G.S. 7B-2508(a)(3) and Jeff has no delinquency history.

- D. What dispositional options are available in Jeff's case? How long can the court retain jurisdiction over Jeff?

All Level 1 dispositions are available except for: DSS placement; custody with parent, guardian, custodian, relative, private agency, or other suitable person; and in-home supervision. See chart in book on available dispositions.

### 2. Chris

Chris is a 16-year-old who was allegedly with a group of high school students who approached a pair of joggers on a local trail, surrounded them, and demanded their cell phones. The joggers

handed their phones to other members of the group and ran away. The joggers quickly found someone else with a phone and reported the incident. The police found Chris with a group of high schoolers near the scene and want to question Chris about his involvement.

A. Under what circumstances can the police question Chris?

Chris can be subject to a custodial interrogation only after being advised of his rights, including the right to have a parent, guardian, or custodian present. Chris can waive this right if that waiver is done knowingly, willingly, and understandingly.

B. Assume that Chris's parents are out of the country. Under what circumstances can Chris be interrogated, if any?

Only if he waives his right to have them present.

Following the law enforcement investigation, Chris is charged with common law robbery, a Class G felony. The investigation also revealed that Chris has a history of juvenile justice system involvement. He had a larceny charge successfully diverted when he was 14 and he recently successfully completed a term of probation for a disorderly conduct charge that resulted from an incident at school.

C. What is the correct mechanism to initiating this proceeding against Chris?

A juvenile complaint. This is a non-motor vehicle offense and Chris has no previous convictions.

D. Is there a basis for ordering Chris into secure custody? If so, what is that basis?

Chris could be ordered into secure custody under 7B-1903(b)(1) – charged with a felony and has demonstrated that he is a danger to property or persons.

Assume that Chris is placed in secure custody. He has a first appearance three days later where he is appointed counsel and remanded back into secure custody.

E. When must Chris have another secure custody hearing and where will he be detained?

30 days – this is a Class G felony alleged to have been committed at age 16. Chris's attorney could ask for 10-day reviews and this could be ordered if the court finds good cause. He will be detained in a juvenile detention facility. The only way he could be held in a jail is if his case is transferred and he turns 18 while still in juvenile detention.

F. When must Chris have a probable cause hearing?

90 days from his first appearance. This is a Class G felony alleged to have been committed at age 16.

G. What are the options for moving forward with the prosecution of Chris's case at this point?

- Finding of probable cause and mandatory transfer
- Return of an indictment and mandatory transfer
- Agree to an admission for felony larceny (a lesser-included offense of common law robbery). This is a Class H felony and can be retained in juvenile court.

The grand jury returns an indictment in Chris's case.

H. What is the next step in this case?

Mandatory transfer to superior court.

Assume that Chris's case is transferred to superior court and it is then discovered that Chris played only an ancillary role in the robbery. He did not know that the group of people he was with were planning to rob anyone and he is willing to testify against the codefendants who planned the robbery. The prosecutor agrees to reduce the charges to larceny.

I. What are the possible next steps in this case now?

- Joint motion to remand to district court
- Plea to larceny in criminal court

3. Jennifer

Jennifer, a 17-year-old, was caught in the school bathroom with two bottles of oxycodone and \$150 in cash. The School Resource Officer (SRO) believes that there is probable cause to charge Jennifer with possession with intent to sell a Schedule II substance, a class H felony. The SRO calls the juvenile court counselor and asks her to check in CJLEADS to determine if Jennifer has any previous criminal convictions. The court counselor informs the SRO that Jennifer has one previous conviction for driving by a person under age 21 after consuming drugs, a Class 2 misdemeanor.

A. In which system should the charges against Jennifer be filed?

This case should be initiated through the filing of a complaint in the juvenile system. OAAA does not apply because driving by a person under age 21 after consuming drugs is a Chapter 20 misdemeanor that does not involve impaired driving (although it does fall under the larger umbrella of implied consent offenses). The previous conviction does not bar Jennifer from juvenile jurisdiction and the drug offense is within the scope of juvenile jurisdiction.

B. What will be the first steps that follow the initiation of this matter by law enforcement?

A complaint must be filed. Because this is a felony drug offense under Article 5 of Chapter 90, it cannot be diverted. The juvenile court counselor must approve the petition for filing and the case must move to juvenile court. Jennifer must have a first appearance (because it is a felony charge) within 10 days of filing the petition. She must then have a probable cause hearing within 15 days of the first appearance (unless continued for good cause). The 90-day probable cause window applies only for Class A – G felonies (for 16/17).

C. Assume that a finding of probable cause is made in Jennifer's case. What are the options for her case at this point?

A motion can be made for transfer and a transfer hearing held. Otherwise, the case should be scheduled for adjudication. At the transfer hearing, the court must determine whether the protection of the public and the needs of the juvenile will be served by transfer, considering 1) age 2) maturity 3)intellectual functioning 4)prior record 5)prior rehabilitation attempts 6)available juvenile facilities or programs and likelihood of benefit from them 7)if

offense was committed in an aggressive, violent, premeditated, or willful manner and 8)seriousness of the offense and whether public protection requires adult prosecution.

- D. Assuming that Jennifer’s case remains in the juvenile court and moves to disposition following adjudication for possession of a Schedule II controlled substance (Class 1 misdemeanor). What dispositional options might best address both Jennifer’s risk and needs and public protection?

4. Gilbert

Law enforcement receives a report of a suspicious car full of teenagers parked near the local high school. As the officer pulls up near the vehicle, the vehicle speeds away. The law enforcement officer chases the speeding vehicle until it eventually blows out a tire and comes to a stop. Gilbert, a 16-year-old with no prior juvenile or criminal record, is the car’s driver. The law enforcement officer sees Gilbert hiding something under the seat of his car as he approaches the vehicle, orders Gilbert out of the vehicle, and sees what appears to be cocaine in the vehicle.

- A. What offenses might Gilbert be charged with?

Misdemeanor or felony speeding to elude arrest (depending on whether or not aggravating factors necessary for the felony are present), possession of a schedule II controlled substance (class I felony for cocaine in any amount), possession with intent to sell or deliver (H felony), impaired driving, driving by a person under age 21 after consuming drugs

- B. How should the law enforcement officer process Gilbert – as a juvenile or as an adult?

Depending on the charges, Gilbert can be processed in either system. The Chapter 20 offenses must be processed in the criminal system. The drug offense(s) must be processed in the juvenile system. Resolution of how to proceed likely needs to be decided locally until there is more law on this topic.

5. Cheri MDM charges with previous shoplifting conviction

Cheri is a 17-year-old senior in high school. She arrived at school today looking disheveled and did not bring a project that was due to her first period English class. When her teacher asked her for her project, Cheri jumped out of her seat, turned over her desk, and stormed out of the classroom. The teacher followed her into the hallway where Cheri began screaming at the teacher to get away from her, causing disruption to all the classrooms in that hall. The School Resource Officer (SRO) quickly responded and brought Cheri to the main office. After getting a statement from the teacher, the SRO determined that Cheri should be charged with the Class 2 misdemeanor offense of disorderly conduct by disrupting students. The SRO prepared a complaint and brought it to the juvenile court counselor. The juvenile court counselor looked in CJLEADS and determined that Cheri was convicted of misdemeanor larceny in November of 2019.

- A. In which system should Cheri’s charges be processed and why?

Cheri must be processed in the adult system. She is barred from juvenile jurisdiction under OAAA as a result of a previous misdemeanor conviction that was not a non-impaired driving Chapter 20 offense.

- B. What are the next steps in initiating a case against Cheri for the disorderly conduct charge? Per the criminal procedure law, the officer can issue a citation (15A-302). If Cheri is in custody, the officer can seek a magistrate's order (15A-511C). The officer may also seek a warrant for arrest (15A-304) if Cheri isn't in custody. Finally, a criminal summons can be issued (15A-303).

6. Michael

Michael is a 17-year-old who allegedly broke a screen door to enter an unoccupied home at 1:00 a.m. and stole a laptop computer and \$200 in cash from the home. He is charged with second degree burglary, a Class G felony. This is the first time that Michael has been accused of any offense.

- A. In which system should Michael's offense be initiated and why?

A juvenile complaint should be filed to initiate an action against Michael. He allegedly committed the offense at age 17, it is not a motor vehicle offense, and he does not have any previous criminal convictions.

- B. What will be the first steps in initiating this matter and what are the possible trajectories for this matter?

Filing a complaint followed by intake and evaluation by the juvenile court counselor. This case may be diverted. Second-degree burglary is not included in the list of nondivertible offenses (7B-1701).

Possible trajectories:

- Divert
- File petition, find probable cause, mandatory transfer
- File petition, indict, mandatory transfer
- Reverse waive could happen following either transfer
- File petition for felony breaking or entering a building (Class H felony) and retain in juvenile court
- File petition for second-degree burglary and agree to an admission on felony breaking or entering or larceny (both Class H felonies) and move to disposition as a juvenile matter, prior to 90-day requirement for a probable cause hearing on the burglary charge