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Juveniles escape trial in adult court

Judges face quandary in cases of young, violent offenders

By Jon Murray

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An 85-year-old woman beaten savagely inside her home. A man and his 18-year-old son shot to death during a robbery. An auto mechanic fatally shot after an argument over repairs.

In each case, a Marion County boy no older than 15 was accused in the crime.

And in each case, a Marion County judge decided to try the youth in juvenile court rather than the adult system, where penalties are harsher.

The decisions frustrate victims' family members and highlight an issue being debated in juvenile courtrooms here and across the nation: Should young, violent offenders be punished to the greatest extent of the law and locked up in adult prisons -- or should they have the best opportunity for rehabilitation, which means keeping them in the juvenile system and releasing them before they turn 22?

In Marion County, the issue has confronted Judge Marilyn Moores four times in murder cases since she took over the juvenile court in 2005. In the first, she granted a waiver requested by prosecutors, allowing the youth to be tried as an adult.

But then, as she considered prosecution requests in the killings of the elderly woman, the father and son, and the mechanic, she rejected them. The most recent ruling was Aug. 13.

Those decisions are hard to stomach -- for families that seek justice and for prosecutors, who are not inclined to publicly criticize a sitting judge but are acutely aware that Moores is setting a higher bar than her predecessor in juvenile cases.

The decisions also have their supporters. Most notable among their arguments is a belief that sending youths to adult prison teaches them to be more hardened criminals, which does more harm to society in the long run.

"The question is whether society wants him back on the street treated or untreated," Moores said. "He's coming back one way or the other."

The juvenile system offers intensive treatment for youths already likely to have mental health problems. Juvenile facilities also offer high school programs with special education, vocational training and counseling.

Adult prison offers more limited mental-health treatment, substance abuse and decision-making programs. Education is limited to GED exam prep.

Juveniles sent to adult prison stay in a separate unit until they become adults.

Then, juvenile advocates say, the real education begins -- and the lessons they learn from older murderers and violent felons hardly serve the community.

Moore's latest denial of a waiver request came in the December attack on Myrtle Couch, 85, who died of her injuries in February.

"There was no dignity in her death," said Couch's son Bob, 69. The Avon man called Moore's decision frightening and demeaning, far too lenient for a teenager with a lengthy criminal history now accused of a very adult crime. He was 15 at the time of the beating, but now is 16.

Moore ruled that the boy wasn't beyond redemption. Her written decision said he'd been sexually abused and has extensive mental health problems that can be better treated in the juvenile system.

Moore said her recent rulings don't signify a refusal to send juveniles to the adult system. "All that anyone can do," she said, "is give you their best assessment."

Save or punish?

The Marion County prosecutor's juvenile division is adjusting to Moore's approach, but officials don't plan to curtail requests to transfer murder cases to the adult system.

Larry Landis, executive director of the Indiana Public Defender Council, said Moore's stance is progressive, in line with that of many juvenile judges who have digested research on young offenders' brain development.

"Adolescent brains look so much different than adult brains," said Bill Glick, executive director of the Indiana Juvenile Justice Task Force. "One of the questions we have is what purpose is served by a person that age spending so much time in the adult system.

"What are we going to get in the end?"

But some argue the answer is simple: justice and deterrence.

In the 1980s and '90s, state lawmakers nationwide eased the way for juveniles who commit violent crimes to be tried as adults.

In Indiana, juvenile judges make the call in a murder case only when the defendant is younger than 16. Older than that, and state law gives prosecutors the authority to file murder charges directly in adult court.

State law also allows the automatic filing of adult charges at age 16 for several violent offenses. But the decision falls to juvenile courts when youths as young as 14 are accused of acts deemed "heinous or aggravated."

Defendants convicted of murder in adult court face a sentencing range of 45 to 65 years. Those handled in the juvenile system must be released from detention facilities by their 22nd birthdays, but many are freed sooner.

"A lot of young killers are more mature than kids 20 years ago," said Steve Johnson, executive director of the Indiana Prosecuting Attorneys Council. "There are other issues that are in the best interest of society. If you commit a crime as a juvenile, there will be consequences."

Recent reports from the Centers for Disease Control and Prevention and the U.S. Department of Justice, however, say no clear evidence has emerged in studies to support the deterrence theory.

No one under 18 should be removed from the juvenile system without a judge's careful evaluation of the case, said Eric Solomon, spokesman for the Campaign for Youth Justice in Washington, D.C.

"The reason why we have a juvenile justice system," he said, "is to assist, rehabilitate and educate youth offenders."

The Indiana Department of Correction's adult prison population one recent week included 76 inmates younger than 18, most housed at Wabash Valley Correctional Facility's youth offender unit. The youngest was 16 1/2; all but two were boys, and nearly half were from Marion County.

Three were serving sentences for murder, terms of 50 to 60 years; two had convictions for voluntary manslaughter. Most -- two-thirds -- were serving adult sentences for armed robbery, robbery or burglary, according to an analysis of Department of Correction records.

All but eight of the 76 young inmates were slated for release from prison in the next 10 years.

Since the early 1990s, the CDC report said, violent juvenile crime has decreased gradually, and so has the nation's juvenile population in adult prisons.

Weighing choices

Prosecutors say making the punishment fit the crime should be a factor, regardless of the killer's age.

Peter Haughan, chief of the Marion County prosecutor's juvenile division, has seen juvenile murder cases from both sides. He worked through the 1990s in the public defender's office.

In the cases where Moores denied transfers, he said, "we felt we had sufficient evidence to file the charges as well as proceed with the waiver motion. . . . I think we met the criteria."

The rigorous analysis used by Moores has led to a paradox. The killings most likely to prompt a public thirst for justice also are more likely to involve defendants in need of intensive rehabilitation -- making transfer to adult court less likely.

Brenda Earl attended a 15-year-old boy's disposition hearing in Moores' courtroom on Aug. 8.

That boy did not kill her son, Michael Earl, 18, or Michael's father, Anthony, 47, but he took part in the December robbery and faced murder charges.

Brenda Earl, 42, said Moores adopted a rigid tone toward the boy.

Still, the judge denied a transfer to adult court, citing the need to treat cognitive, emotional and psychological problems.

Her ruling means the boy might leave state custody as young as 18.

"How do you murder two people and sit in a kids' place?" Earl asked. "If he gets out, the whole community's at risk. It's not just my son. It's somebody else's son he could kill."

The accused shooter, who was 18, faces charges in state court.

But there is another boy accused in the case -- a second 15-year-old, whom prosecutors also want to try as an adult.

And, again, Judge Moores may be faced with a decision.
