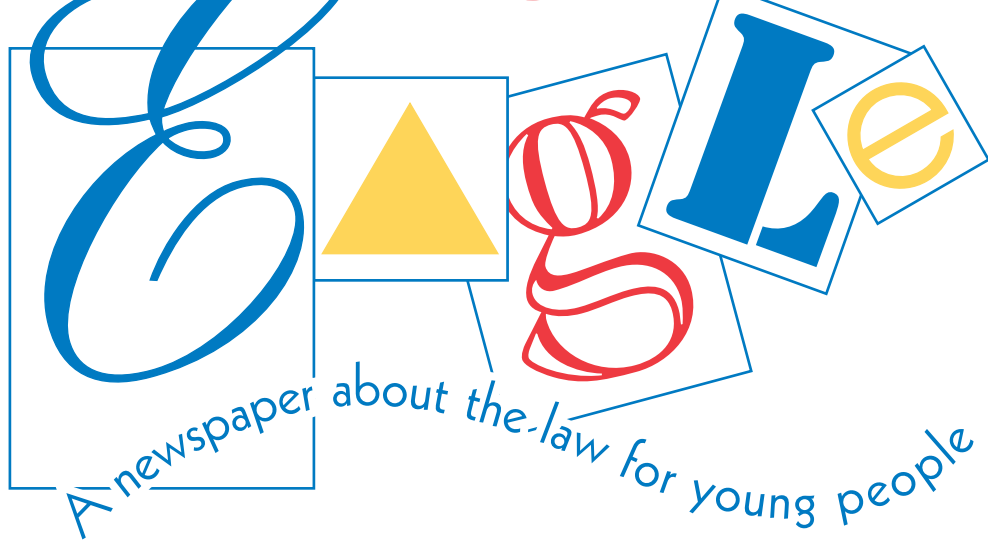


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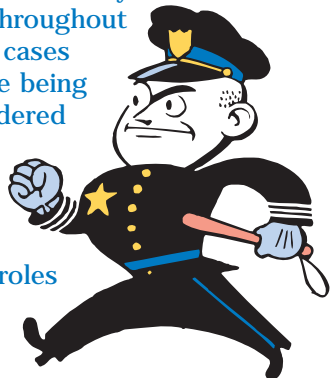
FALL 2001

YOUTH COURTS Boast Winning Verdicts

by Barbara Sheehan

A teenager in your community is caught shoplifting at a local convenience store. He or she says it is the first time and it will never happen again. What consequences should he or she face?

Do you think this is a question to be decided only by a judge or law enforcement officer? Not necessarily. In a variety of settings throughout the country, cases like these are being heard, considered and decided by juveniles like yourself who take on the real-life roles of lawyers, judges, bailiffs and other court participants.



On the rise nationwide, these "youth courts" or "teen courts," as they are often called, are frequently community-based and operate in cooperation with the existing law enforcement and justice system. They may also, however, be operated by schools and, occasionally, other agencies such as city government.

According to Tracy Godwin Mullins, director of the National Youth Court Center sponsored by the Office of Juvenile Justice and Delinquency Prevention, her organization has counted about 800 youth courts nationwide in about 45 states and Washington D.C. That compares with 78 that the American Bar Association (ABA) knew of in 1994, she says. New Jersey has no reported youth courts but instead has juvenile conference committees on which juveniles may participate (see sidebar article on page 3).

While not all youth courts are the same, one common goal that they all share, says Paula Nessel of the ABA, is "helping a young person who has made a mistake get back on the right track and become a better citizen."

"It's not kids passing judgment on other kids," says Nessel, communications manager for the ABA's Office of Justice Initiatives. "It's kids helping other kids."

Nessel, who has followed the rapid growth of youth courts nationwide since the early 1990s, notes that youth courts typically, but not always, deal with first-time offenders who have committed **misdemeanors**

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Is It Kiddie Crime or Adult Time for Juveniles?

by Roberta K. Glassner, Esq.

A 13-year-old boy, sent home from middle school for being in a water balloon fight, returns to school later in the day and shoots his favorite teacher to death with a .25 caliber pistol.

A 12-year-old boy, imitating wrestling moves he'd seen performed by his favorite wrestling star, kills the six-year-old girl with whom he was playing.

An 11-year-old boy, shooting at trees with a .22 gauge rifle, shoots and kills a man he did not know.

These are cases that received national attention. The three boys in these cases were charged with murder, tried in an adult court and found guilty by a jury. Is there a desire within the American court system to treat juveniles as adults when they commit such unthinkable crimes as murder?

The Debate

Today, a major debate is raging in this country as to how our legal system should deal with child **offenders**. Many legislators, law enforcement personnel and **prosecutors** contend that children who commit the most violent crimes, even those as young as 11 years old, should be treated the same as adult criminals. Some sociologists and psychologists, however, maintain that

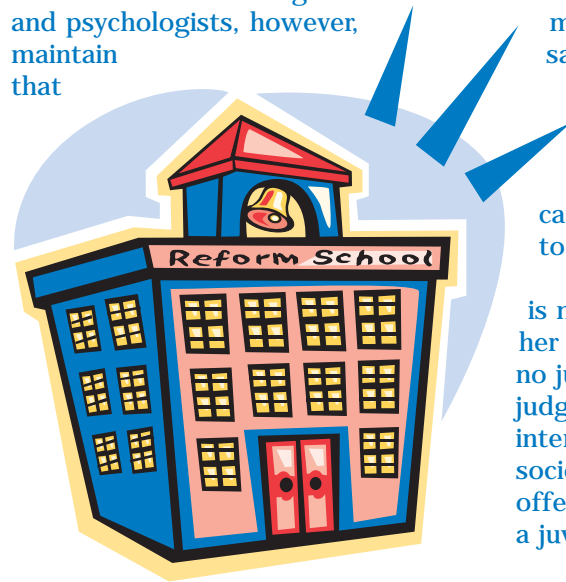
there should be a different standard for youthful offenders.

Adult Court v. Juvenile Court

In this country, an adult found guilty of **first-degree murder** can be sentenced to life in prison or the death penalty, depending upon the laws in the state where the crime was committed. A juvenile tried in an adult court and convicted of first-degree murder by a jury faces the same punishment as an adult.

This is true in New Jersey as well, however, in our state a defendant who commits murder as a juvenile cannot be sentenced to the death penalty.

On the other hand, if a minor is not tried as an adult, his or her case is heard by a judge — no jury — in a juvenile court. The judge decides what is in the best interest of the child — and of society — and may sentence the offender to a reform school or a juvenile facility, with



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Play Ball! — But Play by the Rules

by Cheryl Baisden

Everyone has heard the old saying "It's not whether you win or lose, it's how you play the game." It's a lesson we're all taught when we're little — that being a good sport is the most important thing when it comes to games, and being the winner or the loser doesn't really matter. But your personal experiences in sports, from watching a professional hockey game to playing on the local Little League team, may be teaching you a different lesson.

How many times have you heard parents scream at an umpire for making a call they thought was bad? How many

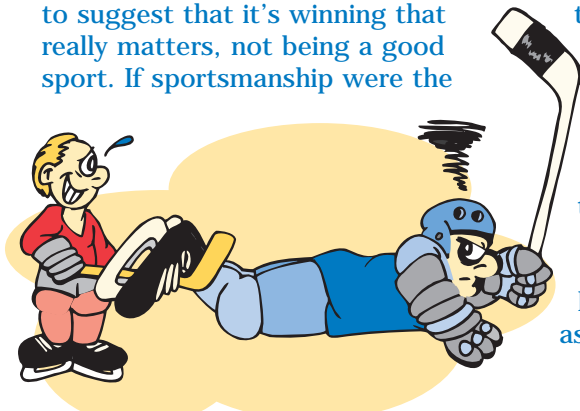
times has a coach yelled at you or another player for not completing a play? And how many cheap shots have you seen your favorite hockey player take against a rival, hoping to skate away without a penalty?

All of these experiences seem to suggest that it's winning that really matters, not being a good sport. If sportsmanship were the

most valuable skill in sports, would the roughest, toughest, meanest players be making so much money? Well, that depends.

According to Mel Narol, a sports law attorney in Princeton, professional athletes are expected to give everything they have to the game, but they are also expected to play by the rules. Sportsmanship counts, Narol said, but in professional sports so does having the determination to do what has to be done to win the game.

Once a professional athlete signs a contract with a team, he or she is being paid to play as hard as possible against the



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New Jersey Justice Committees Welcome Youths

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While New Jersey does not have youth courts, it does offer young New Jersey citizens an opportunity to become similarly involved in the justice system through juvenile conference committees (JCCs).

Operating in each of New Jersey's 21 counties, JCCs are panels of six to nine trained volunteer citizens who hear and decide cases involving first- and second-time minor juvenile offenses. These cases are referred by the Family Division of the Superior Court, which oversees the JCC program. Some types of cases a JCC might hear include criminal mischief, shoplifting, minor alcohol possession and simple assault.

Like most youth courts, JCCs do not decide guilt or innocence, but focus on an appropriate course of action to rectify the situation, says Janis Alloway, assistant chief of the Family Practice Division of the Administrative Office of the Courts. A juvenile conference committee's primary concern, as with youth courts, is to get the juvenile back on track and prevent him or her from offending again.

To do this, the JCCs first meet with the involved parties (the youth offender, his or her parents or guardians, the victim and the complainant, which may be a

police officer) and consider all the circumstances surrounding the offense. (Sometimes, all parties do not participate; however, everyone's participation is encouraged.)

In addition to gathering the basic facts of the case, the committee might consider how the youth is doing in school, or whether there are changes taking place at home that may have somehow contributed to the juvenile's behavior. The committee then recommends an appropriate resolution in the form of a contract, which is

a six-month period, according to Alloway.

If the conditions of the contract are not met, the case is sent back to the court for re-screening, Alloway says. But usually, she notes, a positive outcome is reached.

"It's incredibly successful," she says, noting that the concept goes back to the late 1940s. "You just don't get many juveniles that come back."

Currently, there are about 2,200 JCC members statewide, Alloway says. While juveniles from every county are encouraged to serve, only nine counties — Atlantic, Bergen, Burlington, Essex, Mercer, Morris, Passaic, Cumberland and Salem — currently have youths on board.

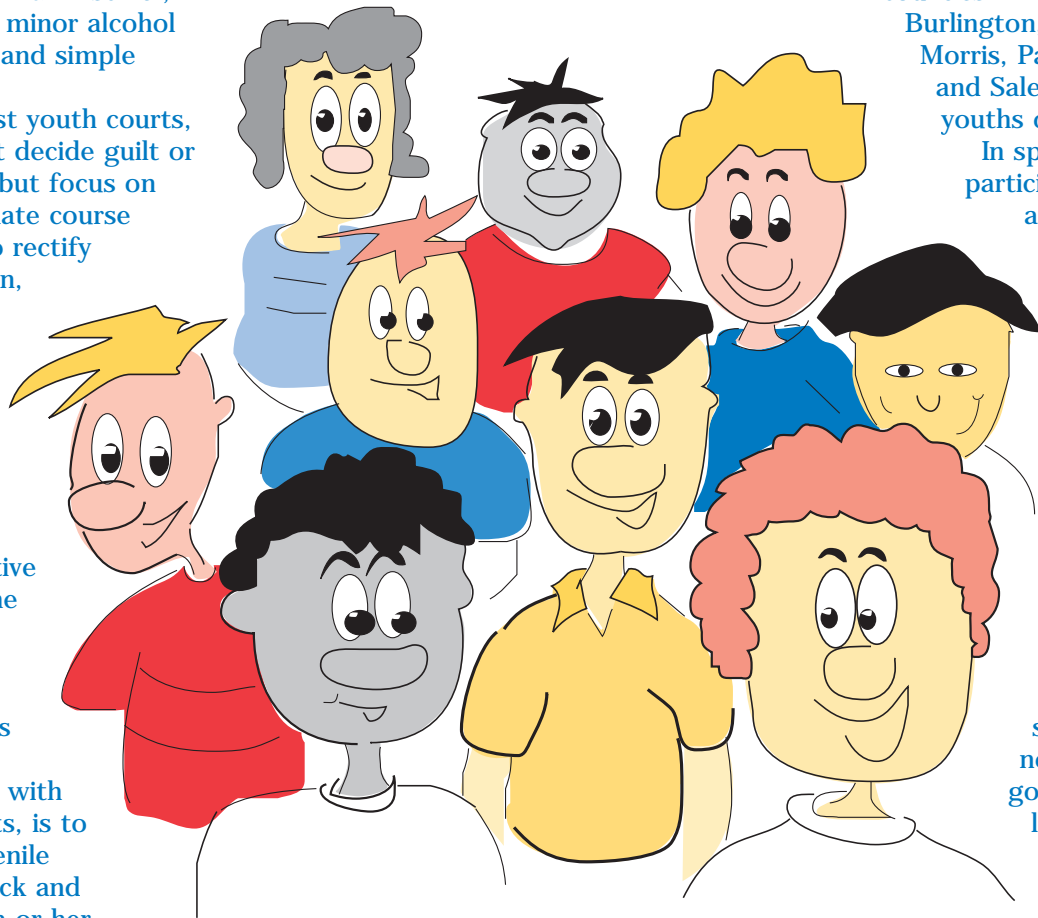
In spite of this limited participation by juveniles at the present time, Alloway is hopeful that more New Jersey youths will get involved as JCC volunteers and take advantage of the experience the program offers.

There have been children who have appeared before the committee for sentencing, Alloway notes, and then gotten involved later as volunteer participants, expressing a desire to do

something positive for their communities.

For more information about the juvenile conference committee program, call 609-984-4227.

— Barbara Sheehan



signed by all parties and sent to the judge for approval.

Once approved by the judge, the contract is monitored by the JCC. The entire process is usually carried out within

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YOUTH COURTS

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and mild **infractions**, including theft, mild alcohol infractions or vandalism.

Also, youth courts rarely decide guilt or innocence, but instead involve a situation where the youth "respondent" (or offender) has admitted guilt. The primary role of the youth court, Nessel says, is to determine an appropriate sentence. In this role, she says, youth court participants become very creative.

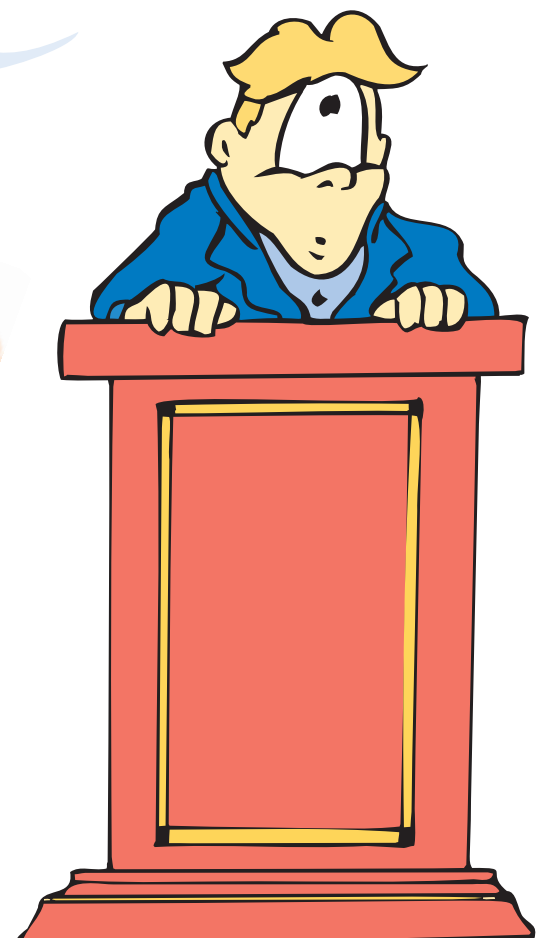
As an example, she tells how one youth "respondent" who had been involved in a graffiti offense not only had to remove the graffiti as part of his sentence but was also enlisted to use his artistic skills to help the teen court advertise itself to the community.

Nessel notes that, in addition to repairing the harm caused, youth courts aim to help the youth respondents understand what they did and increase their skills and ties to the community so they won't offend again.

The respondents aren't the only winners in this program, however, Nessel notes. The volunteer youth court participants also benefit by seeing first-hand how the justice system works and learning the virtues of honesty and good citizenship.

"What's more powerful," Nessel says, "than learning by doing?"

For more information about youth courts, contact the National Youth Court Web site at www.youthcourt.net.



Kiddie Crime

CONTINUED FROM PAGE 1

rehabilitation and release as the goal.

Supporters of Adult Sentences

Those who favor the policy of trying violent minors as adults maintain that it serves as a **deterrent** to others. They believe the threat of a death sentence or of facing the rest of one's life in prison will prevent other children from carrying out violent acts.

Supporters of adult sentences for minors argue that when a child with a history of serious trouble with the law goes on to commit a violent crime, society has the right to expect a more significant sentence than just a few years in a juvenile facility. Their view is that society must be protected from the most dangerous offenders, even if they are children.

Many proponents of these tough sentences believe that not every child is capable of being rehabilitated.

"We have to accept that there are some we are not going to be able to save," says Amitai Etzioni, a sociologist at George Washington University.

Opponents to Adult Sentences

Opponents to treating violent children as if they were adults argue that it is not effective as a deterrent. According to some psychologists, children are more likely to act impulsively and, unlike adults, do not have the maturity to fully consider or understand the consequences of their actions. Not every kid who commits a violent crime is a cold-blooded killer, they say. Many are just troubled kids in need of help.

That is not to say that some form of punishment for children who commit serious crimes is not called for. Amnesty International, a human rights organization, advocates limited **detention** with rehabilitation that can lead to a productive adult life for minors who commit adult crimes. The organization believes that society owes its children that chance.

What About Those Three Boys?

Nathaniel Brazil, the 13-year-old who shot his teacher, was sentenced to 28 years in prison. He will be more than 40 years old when he is released. Because the jury concluded that the killing was not **premeditated**, it found the 13-year-old guilty of **second-degree murder**. If Brazil had been convicted of first-degree murder, he would have spent the rest of his life in prison.

Lionel Tate, the 12-year-old who killed the little girl while imitating wrestling moves, was convicted of first-degree murder. To convict Tate of first-degree murder, Florida law did not require the jury to find he actually intended to kill the girl, but only that he intended to commit the acts that led to her death. Under Florida law, Tate's conviction for first-degree murder means a **mandatory** sentence of life in prison without possibility of **parole**.

In the case of 11-year-old Nathaniel Abraham, the prosecutor pointed to his past criminal record. In his short life, Abraham had already been a suspect in 22 crimes, from burglary to **assault** with a metal pipe. Five weeks before the shooting Abraham had been arrested for burglary. The prosecutor argued that he was not an innocent child, but a dangerous person with a history of violence. A 12-member jury agreed and, believing that the shooting was not premeditated, convicted Abraham of second-degree murder. The judge in the case sentenced Abraham to a training school for boys where he will be released when he turns 21.

What About New Jersey?


In the past 10 years, in response to school shootings and an increase in violent crimes by juveniles, most states in this country have passed laws making it easier for a person under 18 to be tried in an adult court and receive an adult sentence.



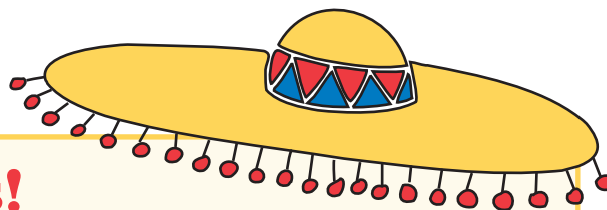
"In New Jersey overall there is a policy which favors more serious punishment for juveniles and an increased focus in treating these offenders as adults," said Boris Moczula, First Assistant Prosecutor in Paterson.

To be tried as an adult in New Jersey a juvenile must be 14 years of age. However, in March 2000, New Jersey passed a law effectively making it easier for prosecutors to try older juveniles as adults. The law states that in the case of serious crimes, if a juvenile is 16 or 17 years of age, the state may file a motion seeking to prosecute the juvenile as an adult. This law leaves the decision to try the juvenile as an adult primarily up to the prosecutor. Examples of serious crimes would be murder, armed robbery, sexual or aggravated assault, car jacking or distributing drugs within 1,000 feet of a school.

The Debate Marches On

Finding the right balance between a sentence that fits the crime, the age of the offender and the best interests of society is not easy. Does treating violent children as adults deter other children from committing crimes? Should the law have a different standard for child offenders and treat them differently? Can every violent child be rehabilitated? What do you think? 

Roberta K. Glassner is an attorney in New Jersey.



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Juveniles and the Death Penalty

- In the United States, there are now 70 inmates on death row, all male, who were sentenced as juveniles.
- Thirty-seven percent of all death row inmates sentenced as juveniles are in Texas.



- Since 1976, 13 men have been executed in this country for committing crimes as juveniles. The states of Georgia, Louisiana, Missouri, Oklahoma, Virginia and South Carolina account for one each, while the state of Texas accounts for seven.
- Twelve of the 13 executed men committed their crimes when they were 17 years old and one when he was 16. All of them were in their 20s or 30s when they were put to death.
- The minimum age for execution is set by each state. In most states the age limit is 18, other states have minimum ages of 17 and 16. Eight states have no minimum age limit.
- In New Jersey, the minimum age for execution is 18, though no one has been executed in the state since 1975.
- Anyone who commits murder while a juvenile cannot be sentenced to the death penalty in New Jersey.
- Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, North Dakota, Rhode Island, Vermont, West Virginia, Wisconsin and the District of Columbia are the only states that do not currently have the death penalty. 

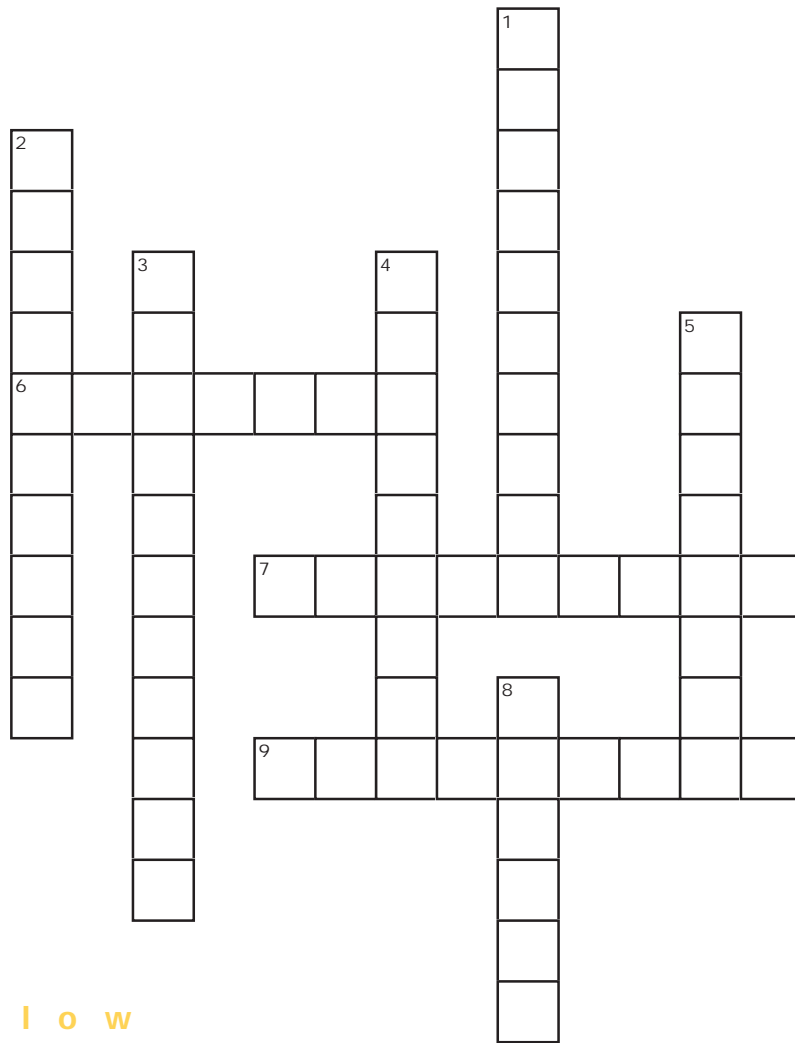
Crossword

ACROSS

- 6 to intentionally threaten or injure someone.
- 7 serves to discourage or prevent something from happening.
- 9 required.

DOWN

- 1 an attorney who tries a case for the government.
- 2 a violation of a law for which the only penalty is a fine.
- 3 a lesser crime, usually punishable by a fine.
- 4 holding in custody.
- 5 person involved in a crime.
- 8 a conditional release from prison which allows a person to serve the remainder of his or her sentence outside of an institution but under state supervision.



Crossword solution below

Play Ball!

CONTINUED FROM PAGE 1

opposing team, Narol explained. Football players are expected to put every pound of muscle behind a tackle. Hockey players are expected to skate up the ice like freight trains, pushing the puck to the net.

In professional sports, playing hard often means showing outright aggression toward other players, and sometimes even bending the rules as far as possible without getting caught. There is a definite line, however, between playing a good, aggressive game and violent, criminal behavior that can land a player in court and possibly in jail.

"The real question is whether a violent act is part of the game," said Narol. "In other words, would this behavior be a normal activity for the sport? Is it something you could reasonably expect could happen in the game?"

To determine if a violent act is a normal part of the game, you have to look at the rules of the sport, when the incident happened, where it happened, whether it happened in connection with an amateur or a professional team, and several other factors, Narol explained.

For example, if a professional baseball player got upset during a game and picked up a bat and hit the umpire, that behavior would not be a normal activity that could be expected to take place during a baseball game.

4 But if that same player hit a ball into left field and when he let go of the bat to run the bases it hit the catcher in the

head, the incident could be considered a normal part of the game.

In New Jersey and several other states, if a player injures an opponent during a game, the injured person can't sue the other player just for playing aggressively. In New Jersey sports, for aggression to be considered criminal violence it has to involve what is called "**reckless disregard**" for the safety of another player. That means the player must break the

left in the game, knocking him unconscious.

McSorley was charged with assault with a deadly weapon and was found guilty. He was sentenced to 18 months probation for the attack, and suspended from the National Hockey League for the rest of the season, losing about \$70,000 in pay. He could have been sentenced to up to 18 months in jail for the two-handed slam.

The rules are much tougher in amateur sports, like Little League and high school football. Athletes who sign up to play on those teams aren't being paid to win games; they are on the field to have a good time.

"What kids do in sports is looked at more carefully than professional athletes," said Narol. "Aggressive behavior has no place in kids' sports, and doing some of the things they see players do on TV can get them kicked out of the game or worse."

Parents can get caught up in the aggressiveness of sports too, making a game that is supposed to be fun into a serious competition. The National Association of Sports Officials receives two or three calls a week from coaches and umpires who were assaulted by angry parents or spectators. While most of the incidents only involve name-calling or pushing, sometimes things can get out of hand. In Massachusetts, one father is charged with killing another father during a hockey



rules of the game at the risk of injuring another player.

Athletes whose aggressive actions are believed to be outside of the rules of the game can be held responsible for their actions. Former Boston Bruin Marty McSorley found that out two years ago, when he was arrested for slamming his hockey stick into the head of a Vancouver Canucks player with 2.7 minutes



assault — to intentionally threaten or injure someone.

detention — holding in custody.

deterrent — serves to discourage or prevent something from happening.

first-degree murder — murder committed with premeditation.

infraction — a violation of a law for which the only penalty is a fine.

mandatory — required.

misdemeanor — a lesser crime, usually punishable by a fine.

offender — person involved in a crime.

parole — a conditional release from prison which allows a person to serve the remainder of his or her sentence outside of an institution but under state supervision.

premeditated — something that is planned ahead of time.

prosecutor — an attorney who tries a case for the government.

reckless disregard — behavior toward another person which shows deliberate hostility.

rehabilitation — restore to a prior state.

second-degree murder — murder committed without premeditation.

practice for nine and 10-year-olds after his son was hit in the head with another player's elbow.

Some towns in New Jersey and other states are making parents attend sportsmanship classes or sign agreements that they will not become aggressive during games or practice sessions. Education, according to Narol, is the best way to prevent these problems.

"The thing to remember," said Narol, "is that kids should be having fun when they play sports."

In professional sports winning may be part of the job, but picking up the bat at a Little League game is just supposed to be fun. ⚔

Crossword solution

