What Would You Do – Legal Scenario’s For Student Discussion

*Please read the Purposes of Sentencing below and then choose a few scenarios to read and discuss as a group. Now you be the judge – knowing the back story, what questions do you have? What should be done? What do you think is an appropriate sentence based on your values, beliefs and perspectives?*

Criminal Code of Canada – Purposes of Sentencing:

Section 718 states that the fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives:

(a) to denounce unlawful conduct;

(b) to deter the offender and other persons from committing offences;

(c) to separate offenders from society, where necessary;

(d) to assist in rehabilitating offenders;

(e) to provide reparations for harm done to victims or to the community; and

(f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.

**SCENARIO #1**

Tyler is an 18 year- old high-school student who is charged with the first degree murder of one of his classmates, Bruce.  He lives in small town rural Alberta. His classmate Bruce was accused of Sexually Assaulting Tyler’s 17-year-old sister, Clara at a booze-fuelled party. Many townspeople knew that it happened, but Bruce’s family provided a false alibi which led to the charges being dropped because there was not enough evidence to proceed.

6 months after the party, and 1 week after the trial, Tyler’s friends snap-chatted him at 7:30pm that Bruce was celebrating his court victory at the local redneck bar.

Tyler told the police that he made a plan to arrive around 9pm, once Bruce had a few beers in him which would make him less able to fight. Then he would punch him in the face for his sex offence against Bruce’s sister.

When Tyler entered the bar, he punched Bruce a single time in the head without warning. As a result, Bruce fell to the ground, hitting his head on the brass rail at the bottom of the bar, and died of a head injury.

Because the incident was premeditated, and he was 18 years old, Tyler was charged with First-Degree Murder and will enter the adult court system.

**SCENARIO #2**

Carol is a 67-year-old female who has been charged with her 6th driving offence of driving while prohibited. She is a prohibited driver due to countless infractions and because she drives without a license. She has incurred so many fines that she does not want to pay them to get start the process of having her license returned.

Each time she is pulled over or faces court action, she is polite – good natured and even funny. She always admits to her crime and readily accepts the jail time associated for continuing to drive.

She lets the judge and the police know that she has a grandson an hour and a half away in Merritt that she loves dearly and will continue to drive to visit.  She will often produce a picture of her cute grandson and let the police know that if they had a grandson that cute, they would also break traffic laws.

Carol is on a disability pension due to a back injury from 10 years ago. Consequently, she has to use 8 different medications daily and does not get much money per month. What small amount she has left over, she uses to buy gift for her grandson.

On her fourth time of driving while prohibited, she received 5 days in Jail. On her fifth offence, she received 14 days in jail to be served during weekends at the Penticton Detachment. This is her sixth offence.

**SCENARIO #3**

Olivia is a kind and helpful 17-year-old. She has had her “N” license for 6 months. She has won the student of the month award at her high school and volunteers at most school events.

At parties, she ensures that she only has one Palm Bay because she wants to be the designated driver.

One time, while driving two friends home from a party, a police officer pulled her over and inquired about over-passengering because there were three people in an “N” vehicle. Olivia’s friend in the back seat blurted out that the friend, who was pretending to sleep in the driver’s seat was Olivia’s sister. This was a lie, but the police officer waved them through.

One weekend, a friend of hers, Sam, drives impaired and smashes into a telephone pole, damaging his parent’s car and ends up in the hospital.

Olivia consistently drives friends home because she believes they may drive drunk without her. Sometimes she removes the “N” from the back of her car if she over passengers, so that the police won’t notice and pull her over.

Tonight, she comes around a curve and spots a police road check above.

 *What should she do? What should the police do? What would you do?*

**SCENARIO #4**

Steve and Ralph hate each other. They are on rival hockey teams and snapchat each other to trash talk all the time. The macho chat logs reveal that they insult each other in deeply personal ways.

At the annual grad party, the two meet up and start swinging.

Later at school three weeks later, Steve gets another text from Ralph. He confronts him in the school parking lot, grabs his phone and throws it, cracking the screen, but not breaking it.  Ralph, seeing how angry Steve is, drives away, and while doing so, Steve rips off his side mirror to his car.

Ralph goes to the local detachment and Steve is charged with Assault, Theft and Mischief.

**SCENARIO #5**

Carl and Patrice are involved in a toxic relationship. They are a passionate couple, who are very jealous lovers. Often Patrice will hit Carl when she is intoxicated at parties. She doesn’t like when Carl talks to other girls and has made a deal with him. If she catches his talking to any girl other than he, then she is allowed to punch him in the groin and share it on snapchat. Which she has already done twice.

Carl has been known to punch through drywall when he is angry at Patrice.

After a year of dating – Patrice gets her friends to send a snapchat of her making out with several members of Carl’s rival hockey team.

That’s her way of breaking up with him.

During the annual grad party where 200 kids are in the bushes drinking, Carl confronts Patrice and she punches him in the face. She starts to wildly punch at him – so he punches her back. She wails away at him and he decides to grab her hands and hold them to her sides to restrain her. Neither person contacts police, tells their parents, or lets the school know. No one viewed the fight. Both sides have a different story – but the one written above is as close to true as anyone can recollect. But lots of alcohol was involved that evening.

Three weeks later at school, she sends him some nasty snap chats insulting him. When he confronts her in the school parking lot to talk about it, he grabs her phone and she gets in her car to drive away. He then punches ones of her mirrors off the car and then gives her phone back by throwing it though the open car window.

The next day Patrice’s parents arrived at the local detachment and file a report for Mischief (damaging the car) and Theft (stealing the phone and giving it back). During the police interview, Patrice’s parents encourage her to add an assault charge for the punch at the grad party. Carl is arrested and charged with a count of Domestic Assault, Theft Under $5,000 and Mischief.

**SCENARIO #6**

Johnny is the buddy with the pickup truck. He’s always helping people move and uses his truck to get to and from school. He and his friends plan a camping trip in a rural forestry area.

At night all the pals are drinking and partying. The next morning Johnny’s friends want to go for a rip down the logging road. Despite his objections, his friends convince him to let them ride in the back of his truck down the road.

While they are driving 50 down the road, one of the friends yells for fun, which startles Johnny – he flinches slightly and the truck slides on the shoulder. The sudden shift, jerks the truck and two friends fall off the side, hitting trees on the side of the road. One friend dies and the other is still in a coma.

The police breathalyse Johnny and he has negligible alcohol in his system from the previous night. Both friends have high levels of alcohol from drinking in the morning. Johnny is an “N” driver.

He is charged with criminal negligence causing death and aggravated assault.

**SCENARIO #7**

Suzie is 26 years old and she is being charged again with Theft Under $5,000.

She grew up in an alcoholic home where her dad left at age two. Mom had a history of mental health issues and although well-meaning was somewhat neglectful of her.  Suzie has 3 other siblings and mom was a single-parent on welfare. In order to make ends meet, Suzie’s mom would have the kids shoplift small grocery items at a young age. Sometimes these would include cigarettes and later nic juice. Suzie’s mom would sometimes vape with her children and as a result, Suzie started vaping at age 11.

Because she was not well nourished, she did poorly in school. She was also ashamed of the clothes she wore and that she was not able to shower regularly. She spent middle school in the same hoodie trying not to be noticed. Due to bullying, lack of food and the subsequent inability to achieve success in academics, she quit school in grade 10.

Living in Penticton is tough, so she bounces in and out of shelters while she works fast-food jobs at two different restaurants. She has recently had to get dental surgery because a tooth of her cracked and it was excruciatingly painful. It cost a lot of money.

To survive, she employs her mom’s old tricks of shoplifting food to eat. However, she has started to steal more – now she will take small items that she sells on facebook marketplace to help her pay bills.

While shopping at Save-On food she is caught with several cuts of high quality meat in the pouch of her hoody. She has paid for most of her groceries, but had taken expensive items and pocketed them ($200 worth of meat).

The police are called. This is her 5th time being caught. She admits to police that she has probably shoplifted about 60 times in the past 4 years.

**SCENARIO #8**

Sheila, a 21 year-old First Nations woman has been charged and convicted of manslaughter. The woman she killed was an acquaintance.  In her statement to police following her arrest Sheila stated that *“one of us was not leaving that room alive – I’m just the one who walked away from it.”*

At the time of her arrest, she lived in a rooming house in Vancouver’s Downtown Eastside. Sheila has been arrested previously for prostitution-related offences.

Her adoptive family (she has lived with them since she was 5 years old) lives in Langley but she has not had contact with them in over 4 years.  She has not had contact with her family of origin since she was 2 ½ years old and has no memory of them.

Sheila’s experience in school was not a positive one. She remembers struggling with the material and being held back twice. She often skipped school and left permanently when she became pregnant at age 15. She placed her daughter up for adoption as soon as she was born.

She has attempted suicide several times; her first attempt was at age 11.

**SCENARIO #9**

Jared’s father died in a tragic logging accident. He has two younger brothers and a caring mom. In order to support their family, Jared’s mom remarried a few years after the accident. His new step-father, Layne has never treated his step-son’s very well but does provide for the family financially. Each kid’s sports are paid for. The family lives in a middle class home and get pretty much what they want in terms of material goods. As the marriage progressed, Layne has hit Jared’s mother on two occasions and will shout at the three children when he thinks they are out of line. He believes in “tough love” parenting and that discipline will help the three boys be successful. Jared’s mom loves Layne, and refuses to file a police report after she’s been hit because she feels financially helpless and feels a “light slap” doesn’t mean the law should be involved. She’d rather have a flawed husband as breadwinner in the house, rather than no income and no husband. The kids would definitely be worse off without Layne in terms of material wealth, sports, finances and the basics (food, shelter, clothing). She justifies his abuse saying it’s not very often and doesn’t cause much harm. But Jared does catch her crying on her own a few times.

The sporadic violence continues to occur as Jared leaves middle school and enters high school. At 16, after several years of seeing his mother both happy and hurt and his brother’s living in a state of fear, Jared catches Layne repeatedly menacing his mother one evening. He raises his fist while he berates her drunkenly. After Jared witnesses his mom punch her husband, Layne lands a couple of hard slaps and a punch that leaves the mother crying, he hears Layne slur, “I’m just getting started.” Worried at the intensity of the abuse which appears to be escalating, Jared grabs a kitchen knife and stabs his abusive stepfather three times in the side. The police are called. Jared’s mom will not report the domestic abuse – Layne tells police he will act as cooperative witness against his stepson and insists that Jared is arrested. The police charge Jared with Assault with a Weapon and Aggravated Assault.

**Other sentencing principles**

**718.2** A court that imposes a sentence shall also take into consideration the following principles:

* **(a)** a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing,
	+ **(i)** evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor,
	+ **(ii)** evidence that the offender, in committing the offence, abused the offender’s intimate partner or a member of the victim or the offender’s family,
	+ **(ii.1)** evidence that the offender, in committing the offence, abused a person under the age of eighteen years,
	+ **(iii)** evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim,
	+ **(iii.1)** evidence that the offence had a significant impact on the victim, considering their age and other personal circumstances, including their health and financial situation,
	+ **(iii.2)** evidence that the offence was committed against a person who, in the performance of their duties and functions, was providing health services, including personal care services,
	+ **(iv)** evidence that the offence was committed for the benefit of, at the direction of or in association with a criminal organization,
	+ **(v)** evidence that the offence was a terrorism offence,
	+ **(vi)** evidence that the offence was committed while the offender was subject to a conditional sentence order made under section 742.1 or released on parole, statutory release or unescorted temporary absence under the [*Corrections and Conditional Release Act*](https://laws-lois.justice.gc.ca/eng/acts/C-44.6), and
	+ **(vii)** evidence that the commission of the offence had the effect of impeding another person from obtaining health services, including personal care services,

shall be deemed to be aggravating circumstances;

* **(b)** a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
* **(c)** where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
* **(d)** an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
* **(e)** all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.