LO Waive or not? Procedures for handling

serious offenses debated

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> mother's death. He grew lonely. He mirror. became fascinated with the occult.

One day in the fall of 1985, when Matthew was 16, he and his father argued. Matthew had forgotten to do his chores. He had to become more responsible, his father told him. The discussion became heated, and his father pushed him.

"There was a wrench on the counter," Matthew later told the

propelled him through the windatt Writer atthew, a husky athlete ad-mired by his teachers, seemed to change after his

> His mother often fought with his father, a former heroin addict who had served a prison sentence for burglary. When she shot and killed his father last year, officials ruled it self-defense.

Four months later, when he was 16, Raymond shot and killed his cousin. He pleaded guilty to manslaughter and was sent last February



judge. "I picked up the wrench and I hit him with it, and he went down. He was still slightly conscious, and I hit him a few more times until he did not move any more."

MATTHEW WENT out with friends and returned to the house after midnight. "I went into our porch and there was a gas can on the inside of our porch that I picked up," he said. "I walked into the house, dumped the can over and ignited it and left."

After the judge denied the prosecutor's request that Matthew be tried as an adult, Matthew agreed to plead guilty to charges of arson and first-degree murder. He was committed to the state Department of Social Services (DSS), which admitted him in August to Starr Commonwealth, a state. private institution in Albion.

Had Matthew been five months older that night, he might now be serving life in a state prison. But he was tried as a juvenile, and if his case follows the course of other murderers in the juvenile system, Matthew could be out by next fall. By law, the maximum he will serve is 20 months,  $\rightarrow$  average stay was 531 days. because he must be released by his 19th birthday.

Michigan's system for handling juveniles charged with serious crimes has critics in many camps. Some say youths accused of violent crimes should automatically go to adult court. Others believe the state should be able to hold these kids longer. Still others propose that when these youths reach adulthood, they should be transferred from juvenile facilities to adult prisons.

to W.J. Maxey Training School, a state facility in Whitmore Lake. Raymond's case was one of 111 last year that Schigur's office proposed for waiver to adult court. Judges granted 29 requests, eight of them involving murder charges.

OF THOSE eight cases, three ended with the youths convicted as charged. The youths received sentences ranging from 20 years to life. Three other youths tried in adult court were convicted of lesser charges. One case was dismissed and

another is pending. Juvenile judges denied 13 requests for waiver of murder cases in 1985. Ten of those youths were found to have committed murder or lesser crimes and were committed to the

The length of their terms will be decided by the state Youth Parole and Review Board, a three-member panel appointed by the director of DSS. Last year, the average stay at Maxey, the state's most secure facility, was 385 days. For the most emotionally disturbed youths, the

"Fairly often we let a kid go because he's 19," said Neal Wasserman, director of the school. "There's an increasing number we would prefer to keep and not release, but they're 19, so we have to let them go."

DSS officials said they do not keep track of how many youths are released when they turn 19.

NATIONALLY, juvenile courts handle three out of every five murder cases involving young suspects. Some states have mandatory miniNEWS PHOTO / WILLIAM T. ANDERSON

Juvenile Court Judge Y. Gladys Barsamian considers each case individually when deciding whether to waive juveniles into the adult court system.

## Weapons charges

The number of weapons charges filed in Juvenile Court has increased steadily since 1980.

> Felony firearm Concealed weapons

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had forbidden him to gamble. But AFTER THE JUDGE rejected one day last winter, Phillip bet on a the prosecutor's motion for waiver, professional football game. He lost. Phillip admitted to charges of mur-He later told officials that his der and assault with intent to murclassmates threatened to beat him up der. He went to Maxey in late 1985. if he didn't pay the \$20 debt. That's Phillip will turn 19 next summer. why he tried to rob a laundromat. The waiver provision has long Phillip said. He needed the money. been a source of controversy. The The owner, Walter Mutter, 74, Michigan Supreme Court declared resisted, and Phillip beat him with a the law unconstitutional in 1972, 4-foot tree limb. Phillip also beat ruling that it failed to provide neces-Mutter's wife, Adolpha, 58. When sary guidelines. Later that year, the she regained consciousness, her head state Legislature passed a new law and her hands were covered with setting standards for waivers. blood. Her husband was lying dead Last year, in a case involving a on the floor. Wayne County teen-ager tried as an adult for murder, the Supreme Court THE TELEPHONE rang, and, set down its philosophy: in shock, she picked up the receiver. "Society must be protected from It was the Pepsi distributor. "I an- dangerous individuals, but the Legisswered in the normal voice that we lature intended that the long-term don't need no supplies this week," protection for society is to come from Mrs. Mutter later recalled in court. the successful rehabilitation of the Phillip, 16, had no prior encoun- juvenile," the court said. "Where the ters with Juvenile Court. Two psy- prospects for a juvenile's rehabilitachologists interviewed him and tion are so slim that society's protecfound no evidence of assaultive ten- tion requires a waiver, waiver must dencies. "Phillip is disgusted with be ordered." himself and the violent act he com-Prosecutors often weigh a factor mitted and reports that he would rarely discussed in appellate rulings: never do anything to hurt anybody the quality of the evidence against a again," one psychologist reported. youth and whether it will stand up in Personality tests showed a "very adult court. controlled, conforming and moralistic young man who has adopted THAT WAS a main considerstrong middle-class values and ethics ation after 11-year-old Jeffrey Hilson to the point where he can be de- was killed in September. Jeffrey was scribed as over-socialized." Psychol- shot to death after he refused to give ogists determined that Phillip was his silk shirt to two other boys. not a risk to the community and Two youths — a 14-year-old and a recommended he remain in the juve-15-year-old - were arrested in the nile system. case. The 14-year-old, too young to

I hate to say you have to give up on some kids. But I think there are some violent kids you have to get out of the juvenile justice system or you're going to lose a lot of other kids because you're not focusing resources on them. EUGENE MOORE Judge, Oakland County Juvenile Court

be waived to adult court, pleaded guilty to murder.

Prosecutors initially asked that the older boy be tried in adult court. However, Schigur said, a review of the evidence showed that the younger boy fired the gun. Deciding that they lacked evidence to convict the 16-year-old in the shooting, prosecutors withdrew their waiver request and allowed him to plead guilty to

Juvenile Justice compared cases prosecuted in adult court to those handled by juvenile court, it found

that the juvenile system was far more likely to take some sort of action. Fewer than 40 percent of the adult felons were convicted and sentenced by criminal courts, while 55 percent of the serious juvenile cases ended in some sort of supervision or incarceration. However, adults who were convicted were more likely to be

UNDER CURRENT law, youths under 17 who are charged with a crime must go to juvenile court. The law also permits 15- and 16-year-olds accused of felonies to be tried as an adult, or waived to adult er five factors: court, under certain circumstances.

Geography ian't one of those circumstances, but it often has a lot to do with whether a case is waived. Oakland County Juvenile Court Judge Eugene Moore says he can't remember the last murder case he didn't waive. In Wayne County, where homicides involving youths have become more plentiful, most murder cases remain in Juvenile Court.

"It's scandalous, as far as I am handling waivers," said Assistant

murder that says it should always be even be in the system. considered an adult crime, said Y. Gladys Barsamian. "There are community," she said.

fense, Judge Barsamian said, and see between juvenile court and adult court.

## $\star$

 $\star \star \star$ Phillip was a tenor in the church When Raymond was younger, he was involved in a car accident that choir. His father, a religious man.

mum stays for youths found guilty of serious crime. Others, such as Delaware, automatically try all murder cases in adult court. In Michigan, judges must consid-

The youth's character and prior record, along with his maturity and lisestyle.

The seriousness of the offense. Whether the youth has repeatedly broken the law.

The types of treatment available in the juvenile and the adult systems.

. Protection of the public.

Appellate courts have determined

that no single factor, such as the concerned, the way the judges are seriousness of the crime, should be considered alone. Too often, say crit-Prosecuting Attorney Ronald Schi- ics, this means public safety is ignored and precious time and money

Yet there is nothing intrinsic to are spent on youths who shouldn't

"I hate to say you have to give up Wayne County Juvenile Court Judge on some kids," Moore said. "But I think there are some violent kids you youngsters who commit murder who have to get out of the juvenile justice go on to become useful citizens of our system or you're going to lose a lot of other kids because you're not focus-

Judges must look beyond the of- ing resources on them. Some kids suffer from emotional

whether there are mitigating circum- problems and need help, Schigur stances. That's the basic difference said. "Other people are just criminals who aren't old enough to be criminals."

robbery.

imprisoned. Three-fourths of the ju-Proposals now pending in Lanveniles found to have committed sing would change the law to permit crimes were placed on probation. automatic waivers for certain cases. Judge Barsamian recalls waiving One bill, introduced by Rep. Teola Ronald Bailey to adult court when he Hunter, D.Detroit, would eliminate

was a juvenile. Bailey, now 27, was the requirement that judges consider convicted this year of murdering two the types of treatment available. youths in 1984: 13-year-old Shawn Judge Barsamian views a mere Moore of Green Oak Township and code change as an overly simplistic 14-year-old Kenneth Myers of Fernanswer. Amending the law, she said,

is cheaper than providing the re-Bailey had been accused in 1975 sources to deal with these youths. of kidnapping, assaulting and sexual-She opposes an automatic waiver, ly abusing a 10-year-old boy. He was preferring a change that would liberwaived to adult court, where he alize the criteria and give more pleaded guilty to kidnapping and was sentenced to five years probation.

"I could tell he was deadly way MANY IN the juvenile system, back then," Judge Barsamian said. including Judge Barsamian, argue "And then they put him back on the that adult courts don't necessarily do streets. The reality is that the adult a better job of safeguarding the pubsystem, which is there to protect lic, and recent research tends to society, isn't doing that, let alone

When the National Center for rehabilitating."

weight to public safety concerns.

support their claim.

## Kids Kill, Kids Die: A look ahead

Tuesday: Michigan's juvenile delinquency treatment system is woefully unable to provide adequate care for today's troublemakers.

Wednesday: When will the killing stop, and where can we look for solutions?