Names: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**The Prosecutors Decide:**

In this activity, you will be role-playing prosecutors deciding which charges to file in the Thomas Carter case. Before answering the following questions review the Police Crime Investigation Report, the State Criminal Codes, and read the dialogue on the back of the worksheet. Answer all questions and be prepared to discuss.

**First-Degree Murder.** Is there evidence that….

1. Thomas Carter formed an intent to kill Oscar Hanks? Explain
2. Thomas Carter premeditated the crime? Explain
3. Thomas Carter’s intent was transferred to the killing of Joyce Ann Miller (using the doctrine of transferred intent)? Explain
4. Thomas Carter formed an intent to kill and premeditated the killing of Joyce Ann Miller? Explain

**Second-Degree Murder.** Is there evidence that…

1. Thomas Carter formed an intent to kill Joyce Ann Miller? Explain
2. Thomas Evans had the intent an act where there was an obvious risk that death or great bodily harm would result. Explain.

**Voluntary Manslaughter.** Is there evidence that…

1. Thomas Evans formed an intent to kill Oscar Hanks. Explain
2. Oscar Hanks seriously provoked actions of Thomas Carter. Explain.
3. Thomas Evans die not have sufficient time to calm down after being provoked. Explain.

**Involuntary Manslaughter.** Is there evidence that….

1. Thomas Evans committed an act in criminally negligent manner. Explain.

**What should the Charge Be?**

In the following scene, three prosecuting attorneys—Martin, Stein, and Kawahara—have been assigned to review the Carter case. They are going over the crimes that they might bring against Carter.

**Martin:** Let’s start with the most serious offense. First degree murder requires *malice aforethought* and *premeditation.* The decision to kill someone had to have been weighed and reflected upon after the intent to kill was formed. Now, in Carter’s case we have evidence that he had more than 12 hours to consider killing Oscar Hanks…

**Stein:** Just one problem—he didn't kill Oscar Hanks

**Kawahra:** I don't’ see any big problem there. If we can show that Carter did form the intent to kill Hanks, we might be able to invoke the **transferred intent doctrine.** It holds that the elements of first-degree murder can be satisfied even if the killer gets someone other than his intended victim. Also, Evans may have thought that the little girl was Hanks’ sister or maybe a relative. Or maybe he formed a whole new intent to kill the little girl and pre-meditated before pulling the trigger.

**Martin:** Maybe, but it doesn’t seem likely. What about second-degree murder? Remember malice aforethought can be established by an intent to do any act where there is an obvious risk that death or great bodily harm may result. Here we have a guy who stated a desire to get Hanks. He loaded a shotgun, got into a car, and started blasting away. I don’t care if he was trying to hit the little girl, the house, or the truck. There were people on the street. He didn’t care about their safety, and he should have known that he was endangering them. Also, just firing at the truck is a felony. Any killings that take place while attempting to commit a felony are murder under the **felony murder rule.**

**Stein:** Let’s not be too hasty. What if Evans didn’t “start blasting away,” as you put it? What if the gun just went off accidently?

**Martin:** You would consider a charge of involuntary manslaughter?

**Stein:** Sure. Such careless handling of a loaded shotgun in a residential area amounts to criminal negligence in my book.

**Kawahara:** At the very least!

**Martin:** I suppose voluntary manslaughter is also a possibility

**Stein:** Be serious, Martin. After 12 hours? Even if he was seriously provoked by Hanks, he had plenty of time to cool off.

**Martin:** Maybe so. Anyway, we’ve got plenty to think about, and we’ve got to decide. The newspapers are showing a lot of interest in the case. The boss told me that she has a personal interest in this case—top priority and all that. We’ve got to charge Carter with something. But what?