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## Oregon Youth Peer Courts: Grand Jury Style

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Oregon Youth Peer Courts: Grand Jury Style

by

Sierra Udland

An undergraduate honors thesis submitted in partial fulfillment of the  
requirements for the degree of

Bachelor of Arts

In

University Honors

And

Political Science

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Portland State University  
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### **Abstract**

Youth Courts are diversionary programs for first time misdemeanors committed by youth. The court is made up of the youth's peers who interact with the defendant and ultimately impose a sentence. In this study two Oregon Youth Courts are examined to discover if the program goals of restorative justice are present. The courts utilize a specific style of peer jury model, called the "Grand Jury style" because the jurors ask the questions and decide the case. Eight cases are observed with a subset of jurors surveyed about sentencing decisions. Restorative justice principles are found through both modes of data collection. The observation describes the unique program while the survey supplements with an insight into juror thought processes. Social control and empowerment theories are also considered as plausible explanations of behavior.

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**Research Question:** “What is the Youth Court Peer Jury model and does it meet program goals of realizing restorative justice principles?”

## Introduction

Youth Courts are diversionary programs established by local jurisdictions as an alternative option to formal juvenile processing. They are also referred to interchangeably as “Teen Courts,” “Peer Courts,” and “Peer Juries” (Butts & Buck, 2000; Green & Weber, 2008). The first inkling of a Youth Court is from anecdotal reports dated in 1968. The oldest youth court still operating was founded in Illinois in 1972 (National Association of Youth Courts). In the early 1990s more programs began to crop up but it wasn’t until the late 1990s that they exploded. Now active Youth Courts exist in 47 states and the District of Columbia (National Association of Youth Courts, 2015). The programs are strongly tied to and completely formed by their state’s juvenile justice system and their local communities.

Court structures vary greatly, but they all utilize youth typically aged 12-17. Youth fill most of the courtroom roles including the prosecution attorney, defense attorney, bailiff, and court clerk. Depending on the jurisdiction the models vary. There are four main types, which are: an adult judge, a youth judge, a peer jury, or a tribunal consisting of three youth judges. Adult judge is the most common at 53% of all youth courts in the nation. The peer jury model makes up 31% of all courts (National Youth Court Association). To be clear, the adult judge model and youth judge model both make use of a peer jury that recommends the sentencing. The peer

jury model, under examination in this study, is different in that the grand jury members openly ask questions of the defendant and there are no attorneys. Most courts operate on one of the four models or a slight variation thereof (Butts & Buck, 2000).

The defendants are generally aged 12-17, have already admitted guilt to a misdemeanor charge, and are first-time offenders. Admission of guilt is usually required for an offender to be accepted at Youth Court as most only determine sentencing (though a few determine guilt as well). The adult judge model is by far the most utilized and the youth judge and youth tribunal models are the least (Butts & Buck, 2000; Green & Weber, 2008). The programs are based on restorative justice principles—involving the victim(s), offender, and the community to ensure accountability, competency development, and community protection (Godwin, 2001).

Misdemeanor crimes most often heard at teen court include theft, minor assault, disorderly conduct, possession or use of alcohol/marijuana, and vandalism. Each sentence has a place on a graduated scale of sanctions. Sanctions nearly always include making reparations of some kind to the victim or the community at large - whichever is more appropriate. Nearly all defendants are assigned community service hours as well as other requirements such as attending behavior-related classes, writing apology letters, restitution, serving on subsequent YC juries, or other creative projects (Butts & Buck, 2000).

Youth must complete their sentencing requirements within a certain time frame that varies with each court. Most youth courts also monitor youth for a specified length of time after the case for re-offenses. If they do not complete their sentencing or they re-offend, they are referred back for formal processing through the juvenile system. Individuals who complete the requirements and do not reoffend have the case dismissed, expunged, or sealed depending on the state.

This study uses observations of teen court hearings and survey responses as its data set. As each Youth Court is different in funding, support, and structure the observations are a useful way to learn about these court's practices and the role the court plays in the community. The observation data is supplemented by juror survey data to show how participants view and work with the program.

### **Author's Note:**

I first became interested in Youth Courts when I was about 11 years of age after hearing a presentation by the local coordinator. When I turned 13 I joined the program which is attached to the local high school. I volunteered my time at this court about 10 hours per month, including summers, from 2008 until 2011. Our court's model involved three youth judges, two youth attorneys, one youth bailiff, and occasionally one youth clerk. I most often served on the tribunal of judges, though occasionally as bailiff or clerk. The three youth judges would recess to deliberate sentencing together. Some sanctions we imposed were required by the local legislature

such as the number of community service hours or the participation requirement for alcohol education classes (for alcohol-related cases only). The number of community service hours assigned were flexible but based on a legislatively predefined sentencing recommendations. As a panel judge I could also assign other reasonable sanctions tailored to the defendant based on the defendant's interests.

For example, display projects featuring the defendant's learning experience were assigned to artistic students; relevant fiction books were assigned to those who liked to read with a required book report. This versatile sentencing was available so that YC volunteers could relate to the defendants as a peer and tailor the sentence to the defendant in a meaningful way.

In my second year I attended the state's youth court conference with several other participants from Youth Courts throughout the state. Some were school-based, others run by the juvenile parole officers or juvenile justice offices. It was at this conference that I learned of the varying models of youth courts; I had previously believed them all to work the same as ours, which was a youth tribunal model. I learned at the conference that the state's largest youth courts in Anchorage and Fairbanks sometimes had two separate volunteer groups that ran cases simultaneously because of their enormous caseload. Their courts utilized the peer jury approach, where volunteers and prior defendants would come together as a jury and decide sentencing as a group. I also learned that one of these courts allowed innocence pleadings that would go through the additional process of trying the defendant with



evidence. All in all, the trip opened my eyes to the opportunity youth courts afforded communities to address their own youth.

This personal involvement is what inspired me to choose Teen Courts as my undergraduate thesis topic. I chose specifically to focus on the peer jury model because I had no prior experience with it. Peer jury models are the most common structure across the nation.

## Literature Review

The discourse surrounding Youth Court literature is comprised of researchers with backgrounds in psychology, sociology, and criminal justice. Youth Courts are a program restricted to adolescents, which piques the interest of psychologists and sociologists while also piquing the interest of criminologists due to the nature of the program. The researchers in this field are interested in whether or not Youth Court is effective for juveniles as a class, why that may or may not be, and how to reproduce or strengthen the effects across courts which often rely heavily on features of their locality. Common points of discourse between these groups are restorative justice principles, sociological theory, and recidivism. These topics are realized through both descriptive and explanatory means with a large group of critical researchers focusing on the field's methodological problems.

### Restorative Justice Principles

Restorative Justice involves prioritizing the rehabilitation of the offender. There are three main “stakeholders” that drive the process: victims, offenders, and the community. Offenders can successfully participate by accepting responsibility and accountability so that they will learn from their mistakes and be better citizens in the future. The community is also a victim of crime whether or not there is a specific victim and reparations should be made for that reason. But communities must be

open to forgiving the offender and providing service opportunities in which they can re-engage with their neighbors (Godwin, 2001).

Rehabilitation of an offender under restorative justice concerns three main principles: (1) Repair: concerning making reparations to the victim(s); (2) Involvement: including the victim(s), defendant, and the community as stakeholders in the offense; and (3) Justice System Facilitation: making sentences into a problem solving and community building process rather than simple punishment (Godwin, 2001). This approach is only ideal for situations in which the victim can fully participate—violent crimes often affect the victims too strongly to expect their participation (Laundra et al, 2013). Youth Courts do not accept violent crimes for this reason. Offenders are taken through a process of accountability, responsibility and/or reparation to the victim, and re-engagement with the community through their sentencing (Godwin, 2001; Forgays, 2005; Greene & Weber, 2008).

Often these principles are measured through participant survey of both court staff (the youth volunteers) and present and past defendants (Forgays, 2005; Greene & Weber 2008, Laundra et al, 2013). Surveys of the volunteer staff focus on reasons for choosing a particular sentence while surveys for defendants are typically administered in a pre- and post-test fashion to measure learning throughout the process. Many studies of this kind typically involve small sample sizes that can limit generalizability as discussed below in “Recurring Research Problems.”

## **Social Control Theory & Empowerment Theory**

Social learning theories are said to be of some basis for the peer jury approach. Social Control Theory in particular seeks to teach offenders pro-social attitudes, change their negative conceptions and feelings toward the justice system, and improve overall behavior by learning new skills while also increasing accountability. These factors more often prevent (control) youth from offending in the future (Puzach & Hass, 2014). In addition youth are most responsive when social sanctions come from their peers rather than adults. As an adolescent the most prominent role models are peers, which may explain why sanctions handed down from their peers are more effective than those from formal processing (Forgays, 2005).

Empowerment theory may serve as a complementary theoretical explanation. The experience of admitting guilt before their peers as well as positive re-engagement with the community are difficult but can empower the offender to engage in positive behavior going forward (Stickle et al 2008). These theories have also been examined in conjunction with restorative justice principles to see if Teen Court can be effective for a larger subset of offenders, including repeat offenders (Forgays, 2005).

## **Recidivism**

Starting in the mid-1990s many articles were published concerning the effectiveness of Teen Courts, mainly as a way to reduce recidivism rates among our nation's youth through the use of restorative justice principles. Due to the local nature

of the programs Youth Courts are often structured differently, funded by different agencies, and vary on participation criteria making them hard to compare for empirical data. Recidivism data has been found or reported by courts mostly to be neutral or better when compared to other juvenile programs or formal processing through juvenile court (Butts & Buck, 2000; Forgays, 2005). However, a study by Stickle et. al. (2008) showed that the four youth courts under examination actually had a slightly higher recidivism rate than other local juvenile programs. This study also reviewed and discussed previous literature showing similar results.

One notable study by Forgays (2005) specifically examined a unique youth court that accepted mostly second-time offenses in comparison to another local diversion program. This is highly unusual for a youth court and certainly beyond the usual context. She found that the youth court program had significantly lower rates of recidivism than the other youth diversion program.

### **Descriptive Studies**

Due to the extreme variability of programs a group of researchers have taken to the descriptive approach to study Youth Courts. Typically this involves a section or main topic that discusses the field's theoretical basis for the court's model and a section that discusses how well it displays restorative justice principles (Godwin, 2001; Bright et al, 2014). Descriptive studies on Youth Courts are nearly all observation based and study one particular court (Bright et al, 2014; Puzach & Hass 2014). Some

researchers such as Butts and Forgays have built upon their original studies by re-examining the same courts after a number of years.

### **Explanatory Studies & Associated Problems**

Several studies are explanatory in nature, often tying qualitative and quantitative aspects together through statistical analysis and surveys. Explanatory studies of Youth Courts have been found to be host to several issues including differences in measuring recidivism, different survey & questionnaire formats, length and locality of courts' establishments, and insufficient comparison group data. Each issue is discussed below in greater detail.

**Recidivism.** Most, if not all, discuss recidivism of either the sample, the court's average, or through summaries of previous literature (Butts & Buck, 2000; Forgays, 2005; Puzach & Hass, 2014; Stickle et al, 2008; Mears et al, 2011; Laundra et al, 2013). Measures of recidivism are rather inconsistent among all studies to date. Some studies measure recidivism at three months, some at six, others at twelve, and some measure until the defendant reaches age 18 (Puzach & Hass, 2014). This lack of uniformity makes it impossible to compare between studies or to make generalizations regarding Youth Courts as a whole (Butts & Buck, 2000; Puzach & Hass, 2014; Stickle et al, 2008; Mears et al, 2011).

Additionally, each state is responsible for the upkeep of their juvenile justice departments that necessarily localizes juvenile crime. Combined with the fact that

juveniles are seen as in-need of guidance or reform most juvenile records are inaccessible to the general public. Furthermore they are not easily matched with adult offender profiles since the systems operate independently (Taylor & Fritsch, 2010).

**Surveys.** Surveys of volunteers or defendants are often included as the qualitative component to measure participant satisfaction and social learning (Laundra et al, 2013; Puzach & Hass, 2014; Greene & Weber, 2008). Another portion of the research uses surveys for a database representation of multiple youth courts either nationally or statewide (Acker et al, 2001; Butts & Buck, 2000; Stickle et al, 2008). Each study designed its own study or used the local program's in-house surveys for aspects of quantitative analysis. A universal or near-universal survey structure would help with studying the overall effectiveness of Teen Courts as a program (Puzach & Hass, 2014).

**Length of court establishment.** The first waves of research on Teen Courts happened within five to ten years after the program became popular. The program had somewhat of a “national explosion” with new courts cropping up in communities across the US – far and wide from its original Texan roots. Many of the courts that were studied were within their first few years of establishment and may not have had the chance to fully develop the restorative aspects of the program (Butts & Buck, 2000; Godwin, 2001). In some studies court establishment affected the number of years that recidivism data was available, severely limiting the studies (Stickle et al, 2008).

**Locality.** The local nature of Teen Court programs has become a barrier to researching the overall effectiveness of the programs. Courts are often limited by the state legislature in the length or kinds of sanctions imposed upon defendants (Mears et al, 2011). Courts are also limited in the kinds of misdemeanors they may accept. These factors necessarily limit comparison between courts, but locality is also viewed as a major strength of the individual programs because they are able to be adapted to the needs of a specific community (Acker et al, 2001). Sentences that are identical except for the location of the court in which they are given often show that one sentence is better suited to one community than another (Mears et al, 2011).

**Comparison groups.** Other comparison groups in research literature involve juveniles who are undergoing formal processing or juveniles in other types of diversion programs (Forgays, 2005; Laundra et al, 2013). Many studies have not used comparison groups, which necessarily limits those studies' abilities to assess the program's overall effectiveness (Stickle et al, 2008; Greene & Weber, 2008). Of the studies that included at least one comparison group there were a few common drawbacks: (1) The comparison groups' data was based on official records only and (2) comparisons to other youth courts failed to control for variables that greatly differed in the population. The first issue is commonly termed as the "self-selection bias" where without the personal information of the comparison group we cannot be sure which variables may be causing the programs' success (Laundra et al, 2013).



Overall the Youth Court literature mainly discusses the theoretical basis of the courts through application of restorative justice principles and social control theories. Descriptive studies often work to the benefit of Youth Courts because they fully examine each court based on its own workings. Explanatory studies seek to relate the courts for generalizable data but have had difficulties with comparing due to the inconsistency of operational definitions, inconsistency of administered surveys, inherent local nature of the programs, and insufficient comparison group data. Psychologists, sociologists, criminologists, and those with backgrounds in law intermingle throughout the research. Each brings a piece of perspective for a more holistic look at the complex issue of whether or not Teen Courts are beneficial.

## Methods

### Participants

Participants were a rotating group of youth volunteers involved in one of two neighboring Youth Court programs in the metropolitan area of Portland, Oregon, USA. Most participants were aged 12-17 though high school seniors were permitted to participate until their graduation. Youth participants must live within the jurisdictional boundaries of their court. For one court the criterion was within the city's limits but at the other anybody residing in the county could participate. In most cases the entire group of youth volunteers were selected to be the jury and the jury rarely changed members between cases. All jurors who served on at least one case on observation days were asked to complete the survey. Jurors were sampled for the survey from eight different trials.

### Materials

**Survey.** The jurors each completed an anonymous survey modified from the one used by Green & Weber in their 2008 study. The survey was originally designed to elicit both qualitative and quantitative answers based on their individual grasp of factors at trial. The modified survey is shown in Appendix A. The first six questions were included for demographics purposes including age, gender, grade level, time served on a peer jury, length of volunteering with the program, and whether the respondent was a previous YC defendant. The remaining questions referred to the

case the juror had participated on during that day's meeting. Two of the case questions were left open-ended regarding the most important thing heard at trial and why the respondent chose the sentencing in the case. The survey then asked them to rank the importance of five sentencing goals using a 1 to 5 scale. These goals included punishing the offender to keep them from committing future crimes (specific deterrence), punishing the offender to provide an example to others (general deterrence), making sure an offender will repay the victims for loss & injuries (restitution), providing the offender with an opportunity to understand where they went wrong (rehabilitation), and punishing an offender because what they did was wrong (retribution). The last question asked jurors to mark factors that they had heard during the case that influenced their sentencing decision.

## Observation

**Sample & Procedure.** Observations were conducted at 12 hearings prior to the administration of the survey. The non-defendant youth that were observed were eligible for their program by being between 12-17 years of age and residing within the jurisdiction of their YC. Defendants were of the same age range, also resided in the jurisdiction, but additionally were required to be first-time offenders. Their parents agreed to their participation in YC. Adult paid and volunteer staff was also present though none but the judge and bailiff had any role during the proceedings.

**Demographics.** The demographics of the defendant youth were ascertained from the proceedings. The judge always had the defendants verbally confirm their age, gender, grade level, and school attended. Ethnicity/race was not requested. The eight youth defendants that appeared in court during observations were aged 13-16. Five were male and four were female. The parents of the defendants were required to be seated with the defendant during the trial. In five of the cases both parents were in attendance. Of the remaining three cases, two were attended by the mother only and one by the father only.

**Jury & Adults.** As for the jury, youth served as jurors after being selected by the program's staff. The number of jurors was set at an ideal of 12 though typically the number was somewhat higher (and rarely lower) depending on the youth volunteer pool. The jurors were predominately white though about one-quarter of each jury consisted of youth of other ethnicities.

Adults present during trial typically consisted of the program's paid program coordinator, a paid program assistant, the judge, a School Resource Officer (Police) from a school within the jurisdictional boundaries, the parent(s) or guardian(s) of the offender, and volunteer community members. At both courts the judges were volunteer attorneys and judges from the local legal community. In all cases of observation the judges were female though the ages appeared to differ with one in her early 30s and one in her late 40s. The program coordinators made the researcher

aware of their other regular judges (including some men), however, they did not preside or attend any of the observational days.

**Collection of Data.** Research was collected via observation on four different dates during a total of nine cases. Each of the two courts involved in the study were observed during three regularly scheduled trial dates. Cases were not selected under any criteria, rather, they were the cases the coordinator had scheduled previously to agreeing to participate in the study. The researcher always disclosed her presence and intent at the beginning of court and again before the administration of the surveys. Due to the nature of confidential juvenile proceedings, observations were taken by hand rather than recorded. The researcher sat apart from the jury with the program coordinator or other staff as designated. Observation was conducted quietly and without interruption of the normal courtroom procedures.

## Results

### Observation of Court Procedure

The hearings were held at a vacant courtroom adjoined to the local police department at the first court. The second court convened at the main meeting room at City Hall, also adjoined to that city's local police department. The following descriptions depict both courts unless otherwise noted. The Youth Courts operated once bi-weekly in the late afternoon, typically around 4:15pm and lasting until about 6pm. Normally only two cases were heard sequentially on each court date, though on

one occasion three cases were heard. The meeting spaces were well cared for as they functioned for other community purposes during the day. The judge and bailiff sat at raised tables in front of the room while the defendant and his or her parents sat centered. The jury sat on the right side of the aisle in the audience section while extra volunteers and family members sat on the left. Program staff typically sat at the very back of the audience or in a separate section behind. Defendants and their family from other cases heard that day were not present in the courtroom, though some were observed waiting in the hallway. The doors to the courtroom were closed during proceedings and could not be heard from outside the room.

Each court followed a courtroom script that typically lasted between 20 and 45 minutes depending on the number of questions by jurors. Each hearing began with the bailiff – typically an SRO or other civilian police employee (though occasionally a youth at one court) – announcing the beginning of court. The judge then welcomed the attendees and stressed the importance of confidentiality of the proceedings. All attendees, the program staff and researcher included then stood to give an oath of confidentiality.

Next the bailiff announced the case at hand, always mentioning the defendant's name and case number. In the cases observed the types of charges were: Theft (1), Criminal Mischief (2), Minor in Possession of Marijuana (2), Minor in Possession of and/or Consumption of Alcohol (2), Disorderly Conduct (1), and violation of a local ordinance involving replica firearms in public places – in this case, at school (1).

The judge then turned to the defendant and confirmed his or her name, age, and which school they attended. The judge then asked the jury as a group if anybody was familiar with the defendant or if anybody attended the same school. Jurors who answered affirmatively were asked the nature of their relationship with the defendant and if they felt that they could be an impartial juror. If the juror believed they could not be impartial they were supposed to voluntarily step down, but this did not occur during observations.

If the juror(s) felt that they could be impartial, observed in this study happening four times, the judge then turned to the defendant and asked if they were comfortable with such an arrangement. Any answers in the negative resulted in the judge removing all jurors with a degree of familiarity from the jury. This happened to both of two jurors who knew the defendant from school in one case. Two others who were long-term school acquaintances were permitted to serve by the defendant in a different case.

Next the bailiff announced the charge in the case and the state's legal definition if it. The bailiff then read, usually verbatim, the arresting officer's written report or citation. After this the judge turned to the defendant to swear an oath. Here the judge explained to the defendant and his or her parents about the trial procedure. In every case surveyed the courts used a "Grand Jury style" of proceedings as opposed to "attorney-style." The former is described below; the latter is not as the study is not concerned with this procedure style.

The Grand Jury style involves the jury openly asking questions of the defendant and his or her parent/guardian. Around 12 or sometimes more (most observed was 15) jury members raise their hands in turn with their question, as in school. One significant difference between the courts here is that one calls on jurors somewhat anonymously while the other provided the judge with a seating chart of juror's last names. Questions are permitted until the jury has no more to ask. In each case observed in this study, juror's asked the following:

- How do you feel about what happened?
- Do you have any siblings? (Follow-up questions: How old are they? How did they feel about what happened?)
- Did you receive any punishments at school or at home?
- Do you participate in any school activities or do you have a job?
- (To the parent) What is [the defendant] like at home?

The judge also reserves the right to ask questions during this time if they have a pertinent question. Once all questions have been exhausted, the judge then asks the defendant and his or her parent respectively if they would like to make a statement concerning the matter. Either may elect or decline to do so independently of the other. In the nine cases observed four defendants made an individual statement about the incident. In six cases at least one parent made a statement. Every defendant observed making a statement referenced their feelings about what had happened and appeared or said that they were remorseful. Parent statements often described disappointment in their child's decisions, often mentioned punishments at home, and sometimes mentioned reparations their child had begun or already made.



Once the defendant and his or her parents have spoken or declined, the judge then reads from the script to remind the jury of their sentencing responsibility. The judge describes possible sentencing decisions such as community service hours, apology letters, restitution (not to exceed \$50), short-term workshop classes, applicable creative sentences, and future Youth Court jury services (a minimum of one is required for all). These are the same as listed on the jury's verdict sheet, attached to this study as Appendix B. The judge also emphasizes (from the script) that the jury may decline to penalize the defendant further if the jury feels it is not warranted in the case. The court then rises as the jury enters a vacant side room to deliberate.

**Deliberation room.** The jury sits at the tables arranged in the side room, which at both courts was a much smaller, vacant conference room adjoining the courtroom. Deliberations ranged from 10 minutes to nearly 25 minutes during observations. This seemed to depend on the complexity of the story (in accordance with the length of the responding officer's citation) and the level of elaboration or emotion in the responses of the defendant and parent(s). Either an adult program volunteer or an officer attends the meeting in a guidance-based role, giving legal definitions and answering jurors' questions as needed.

The jury selects a foreperson by a show of hands. The jury foreperson has the responsibility of writing down the jury member's agreed sentence on the case verdict sheet and announcing the final sentencing to the full court. The foreperson often

leads the jury deliberation by reading the sentencing options listed on the verdict sheet (attached as Appendix B). Other members discuss until universal verbal assent is reached on each issue, typically discussed from the top of the page to the bottom. Jurors are free to propose alternative ideas and argue for more or less hourly and word requirements. Once the jury has decided on a sentence, the jury foreperson recites it for final verbal assent. The members rework the sentencing compromising on exact details until final assent is reached. They then re-enter the courtroom to a standing audience and the foreperson silently presents the sentencing decision to the judge at the bench.

If the judge does not approve of the sentencing they may modify it. If they approve, they sign the verdict sheet. This was not observed as happening in any of the cases involved in this study. If the judge gives their approval, the foreperson is asked to announce the sentence to the defendant, who stands. After the sentence is read, the judge makes the scripted remarks to the defendant regarding the differences between coming to Youth Court versus formal processing through the juvenile system. In many of the cases under observation the judge also took a moment to remark on the details of the case as appropriate. Advice about the pitfalls of peer pressure was the most commonly featured judge's remark, mentioned in four of the eight observed. The bailiff then announces the end of the hearing and the defendant with their parent/guardian are debriefed in a separate room on the sentencing requirements.

The jury volunteers take a short break and swap around during this time in order to be ready to hear the next case.

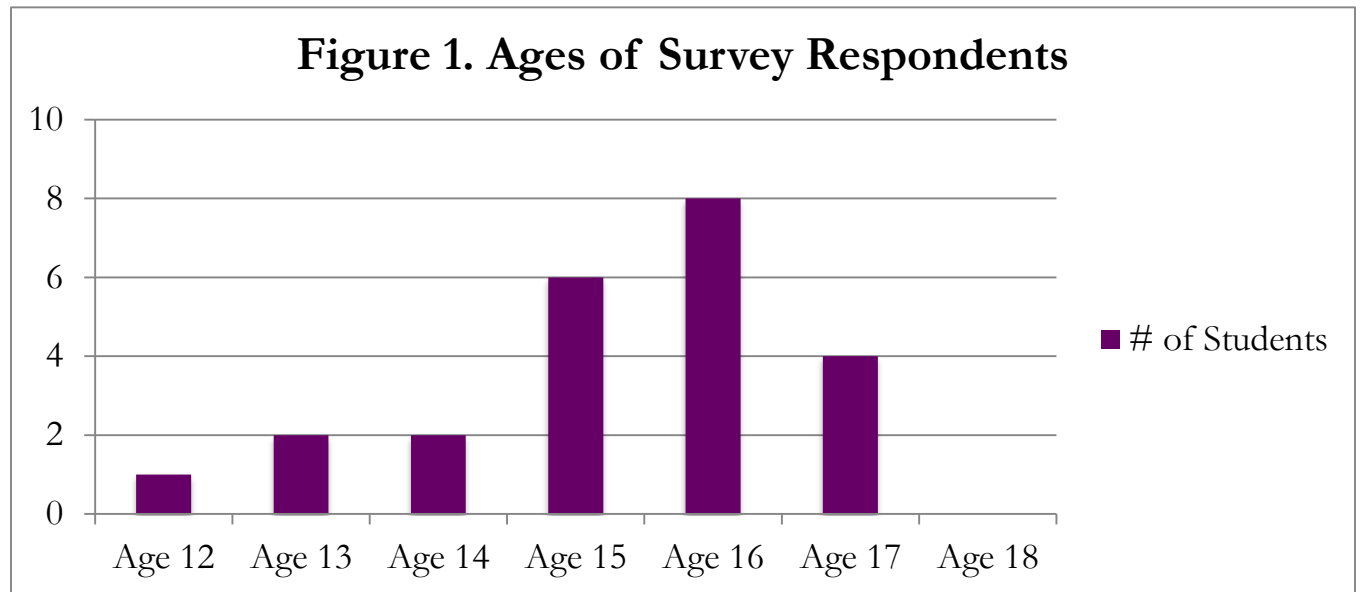
## Survey

The survey was administered on four separate dates in April and May 2016. Due to the fact that the jury members did not change substantially between cases, if at all (as discussed in Observations above) the survey was only administered on the latter of the cases presented. These cases were Disorderly Conduct, Minor in Possession of Marijuana<sup>1</sup>, Replica Firearm in a public place (a school), and Minor Consumption of Alcohol.

**Demographics.** During the course of this study 23 youth jurors completed the survey, 14 male and 9 female. The respondents ranged in age from 12 to 17 (Fig. 1.) and from grades 6 through 11. A little less than 1/3<sup>rd</sup> of respondents (8) had been volunteering with their court longer than six months; with 5 of those volunteering for longer than 1 year.

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<sup>1</sup> As of 2014 in the state of Oregon marijuana possession and consumption is legal for adults aged 21 and up. The Minor in Possession of Marijuana case included in this study was akin to a case of Minor in Possession of Alcohol rather than a regular drug crime.



Of the respondents, 6 indicated that they were previously youth court defendants, roughly 1/4<sup>th</sup> of the total. Three of the previous defendants were “sentenced jurors” meaning they were serving on the jury to fulfill personal sentencing requirements. Each sentenced juror reported to have served on 3 juries. The other 3 previous defendants had been volunteering with the court between 3 months and 3.5 years. Four of the previous defendant jurors rated their personal sentencing as fair while two rated their sentencing as unfair. The jurors who felt their sentence was unfair were both serving on the jury per sentencing requirements. None of these respondents said that the case they had heard was similar to their own.

**Case-specific questions.** Two respondents were acquainted with the defendant. One reported that they “believed” they followed the defendant on social media and the other reported knowing the defendant from school going back 8 years. The remaining respondents did not know the defendant in any capacity. Generalized,

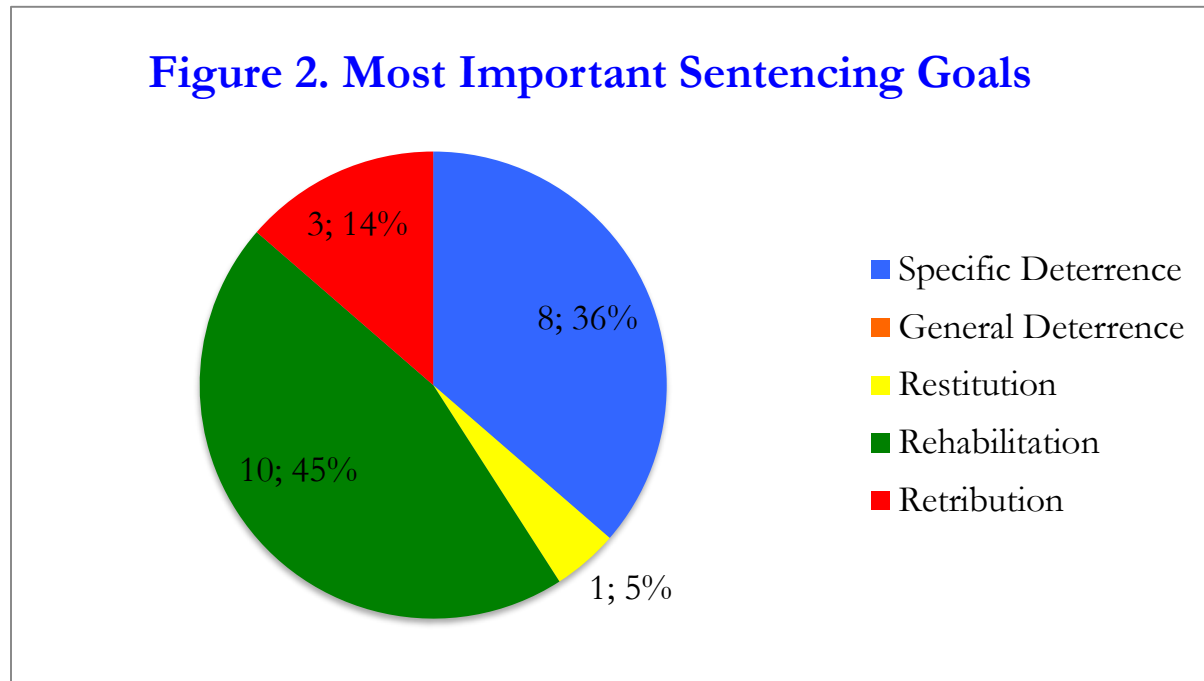
the most important things heard during the trial were (4 respondents) peer pressure/acceptance, (3) how the defendant felt about what had happened, (3) origin of defendant's idea to commit misdemeanor and (3) the parent's testimony regarding the defendant's actions.

For the second qualitative question the survey asked what the juror hoped to achieve by assigning this particular sentence. A little more than two-thirds of respondents (16) said that they chose the sentencing so that the defendant can "learn their lesson", "stay on the right path", or "understand consequences of their actions". The remaining respondents mentioned helping the defendant move forward or have a better future (3), preventing the defendant from reoffending (2), and deciding fairly based on the evidence of the case (2).

### Sentencing Goals

Question 10 asked respondents to rank sentencing goals on a 1 to 5 scale. Results can be seen in Fig. 2. Ten of the youth reported that the most important sentencing goal (rating of 1) was *rehabilitation*; to "provide offender with an opportunity to understand where they went wrong." The second most important goal, chosen by eight youth, was *specific deterrence* or "punishing offender to keep them from committing crimes in the future." Three youth chose "punishing an offender because what they did was wrong" or *retribution* and only one youth selected "making sure an

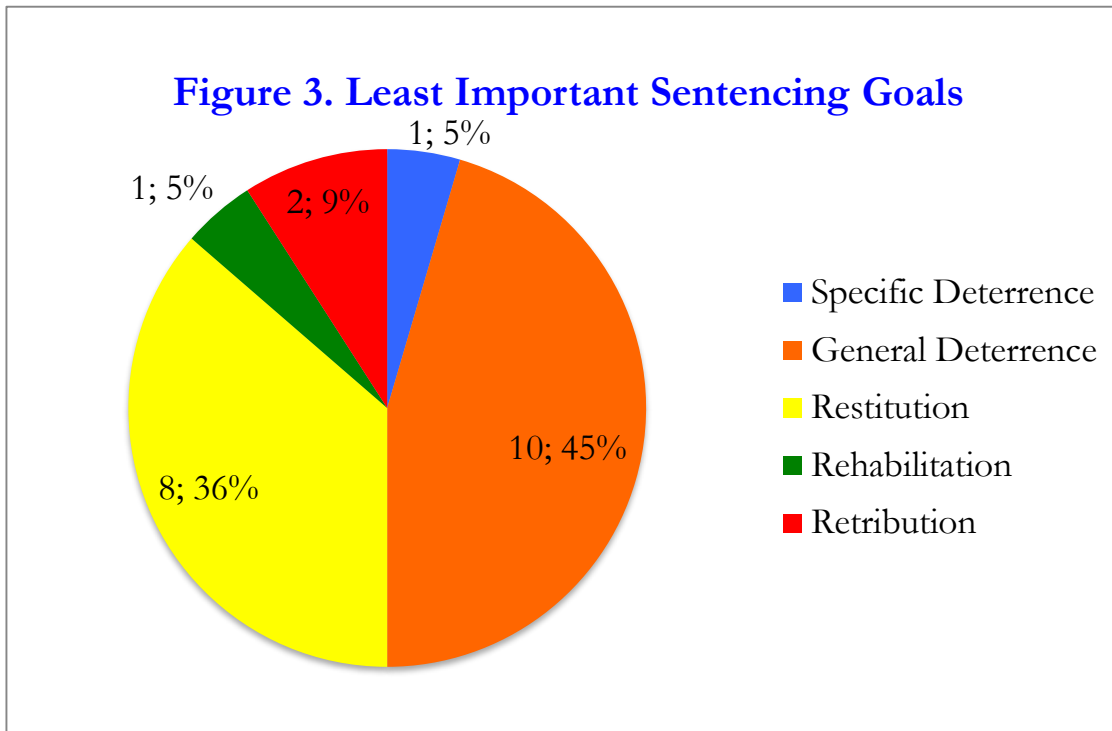
offender will repay victims for loss & injuries” or *restitution*. No respondent chose *general deterrence* as the most important sentencing goal.



The sentencing goal considered least important (rating of 5) by roughly half of respondents (10) was “punishing the offender to provide an example to others,” or *general deterrence*. The next least important was *restitution* with about one-third (8) of respondents marking this response as least important. *Retribution* was chosen by about one-tenth (2) of respondents as least important. Only one respondent each considered specific deterrence and rehabilitation as least important. Please refer to Fig. 3 for a visual representation of the least important sentencing goals.

Ten volunteers or 45% chose the *rehabilitative* sentencing goal as the most important with the next leading goal, *specific deterrence*, at 36%. The two goals wording

indicated that the sentence was based on “provid[ing] offender with an opportunity to understand where they went wrong” and “punishing offender to keep them from committing crimes in the future” respectively.



The last question of the survey asked respondents to mark whether or not certain common factors influenced their sentencing decision (Table 1 below). There was a total of 15 factors listed with an extra space to write-in unlisted factors. The average number of factors selected was 3.7. The most commonly selected factors were the defendant’s age (11), whether the defendant was sorry (10), and if school and/or family had already punished the defendant (10). Five respondents marked Other, four of them referencing a particular defendant’s struggles with a disability. The remaining “other” referenced the defendant’s medical anxiety problem.

| <b>Table 1. Factors Influencing Decision</b>            | <b>No. of Selections</b>    |
|---|-----------------------------|
| Defendant was sorry                                     | <b>10</b>                   |
| Defendant has school-related difficulties               | <b>7</b>                    |
| Defendant had already repaid victim                     | 0                           |
| Defendant was already punished by school and/or family  | <b>10</b>                   |
| Defendant was doing better in school since the incident | 6                           |
| Defendant caused physical harm                          | 1                           |
| Defendant damaged property                              | 0                           |
| Defendant has used drugs and/or alcohol                 | <b>8</b>                    |
| Defendant's age   | <b>11</b>                   |
| Defendant's gender                                      | 1                           |
| Defendant is involved in extra curriculars              | 3                           |
| Improvement in family relations                         | 6                           |
| Sentencing recommendation by prosecutor                 | 1                           |
| Sentencing recommendation by defense                    | 2                           |
| Defendant has family related difficulties               | 4                           |
| Other (Write-In)  | Disability (4), Anxiety (1) |



## Discussion

The courts' grand jury procedure matches the peer jury model best of the four main models (adult judge, youth judge, peer jury, youth tribunal) because the adult judge in this setup has a limited role (Butts & Buck, 2000). The peer jury approach is more youth-oriented than the adult judge model because the jurors lead the questioning and give the sentencing. This means that the youth volunteers interact with the defendant more than any other role by far. The open opportunity for the questions allows the jurors to discover the best intervention for that individual youth. From the observation the two programs seem to follow the theoretical bases discussed by many youth court researchers. The courts were nearly identical in all aspects of the process. This is likely due to the fact that the newer court was modeled after the more established court through the program directors in partnership.

Restorative justice, the most important framework for Youth Courts, is apparent in every juror-defendant interaction. The kinds of questions that were asked in each case indicate that jurors take into account many aspects of a defendant's life including at home, school, their job, activities and hobbies. This was confirmed by the jury deliberations and in verdict sentences. Sanctions like community service hours, restitution, apology letters to victims (or family), and certain creative sentences ensure that the defendant will re-engage with the community and make peace with the victims when applicable (Godwin 2001; Bright et. al., 2014). The judge, the adult program volunteers, and the jury packets encourage volunteers to think outside the

box and consider the defendant's whole story. This focus on the individual naturally invites rehabilitative sanctions. Youth Court turns a faceless delinquent into a troubled young man or woman, and jurors do their best to help them.

One permanent restorative feature can be found in each sentencing by the program's requirement of at least one future jury service. Defendants will return at least once more to Youth Court to experience the process from the other side of the courtroom. Survey results show that more than half of respondents (four of six) who were previously YC defendants rated their sentences as fair. The two previous defendant jurors who rated their personal sentencing as unfair were "sentenced jurors" serving on the jury that day to fulfill their sentencing requirements. One other previous defendant juror was serving to fulfill sentencing requirements, but rated their personal sentencing as fair. The remaining three who were participating voluntarily all rated their personal sentencing as fair and all had been volunteering at the court for longer than 3 months. Notably the respondent who had volunteered longest of any – 3.5 years – was a previous defendant.

The voluntary presence of previous defendants speaks to the program's effectiveness concerning the restorative principles of re-engaging with the community and taking responsibility (Godwin, 2001). But perhaps the group of previous defendants willing to take the survey happened because they were individuals who were disposed to the goals of the program prior to their court involvement. There is no way to be certain, which is why this problem is termed the self-selection bias

(Bright et. al. 2014). However, the negative responses about sentencing from sentenced jurors shows that not all previous defendant jurors who took the survey are in support of the program. The presence of a majority of positive answers from the previous defendant jurors indicates a possible change in beliefs for at least some youth offenders.

The correlation of the very opposite most important and least important sentencing goals of *rehabilitation* and *general deterrence* respectively shows that a majority of volunteers grasp the restorative concept. The rehabilitative answer of providing an “offender with an opportunity to understand where they went wrong” is certainly individual focused while the minimal emphasis on general deterrence by “punishing the offender to provide an example to others,” shows the jurors’ disregard for the fanfare of punishment (Greene & Weber, 2008). This disregard complements the interest taken in the individual’s experiences.

The sentencing goal that garnered the second most important attention at 36% was *specific deterrence*, showing again an emphasis on the individual. *Restitution* was the second lowest priority at 36%. Since *restitution* concerns the repayment to victims “for loss & injuries” the fact that it was less favored makes a third echo for the emphasis on the individual. This is of some concern as one of the main stakeholders of the restorative approach is the victim(s) (Godwin, 2001). Not all cases have a clear-cut victim, but the crime still harms the community who could be said to be a victim of the crime. However, some harms cannot be repaid in the literal sense and this may be

why the cases surveyed (Disorderly Conduct, Replica Firearm, Minor in Possession of Marijuana, and Minor in Possession of Alcohol) were less concerned with restitution.

The community was involved in the sentencing process through the presence of volunteer youth regularly attending the program. With the default sentencing requirement of one future jury service the previous defendants were engaged to the trial as a community member (Bright et. al., 2014). The ability to assign up to three additional jury services (total of four maximum per defendant) the jury can increase the likelihood of a defendant presiding over a case with charges similar to their own. Though no previous defendant respondents in this study presided over a case similar to their own, the opportunity for this seems a valuable exercise in restorative justice. Indeed, a majority of the previous defendant jurors rated their sentence as fair. The two who rated their sentence unfair were serving on the jury to fulfill sentencing requirements, meaning they may still have been bitter about being caught. As defendants are required to complete sentencing requirements – jury services included – within 45 days, these jurors would have been somewhat recently sentenced. The other previous defendant jurors indicated positive sentencing experiences; many of them had been volunteering with the youth court long beyond requirements. This may point to either inward reflection over time or perhaps continuing to volunteer helped to change their perspective.

Lastly the factors most often chosen by respondents shows a particular care for the defendant. Age was most considered when forming sentencing, showing that

jurors have a grasp of the differences age-specific culpability. The next most popular influencing factor was when the defendant apologized for their actions, which is an important step of truly admitting guilt in the rehabilitative sense. Considering initial punishments by the defendant's family or school was equally concerning for some jurors, showing yet another emphasis on the individuality of the defendant's crime.

Empowerment theory may explain the presence of the three long-term volunteer jurors who were previously defendants. These jurors indicated that they were volunteering beyond their sentencing requirements on a regular basis for months after their sentencing. This is inferred when you consider that sentencing must be completed within 45 days of the court date and these three volunteers reported volunteering with the court with a range of 3 months – 3.5 years. As previous defendants these youth were empowered to sanction a peer when they returned to youth court for (at least 1) required jury service.

## **Conclusions**

### **Limitations**

The survey's main limitation was its small sample size. Unfortunately the two courts who agreed to participate typically only had enough regular volunteers to fill one jury. Often the first jury members all served on the second, limiting the number

of surveys that could be administered. This would be remedied by a long-term individual study of each court, which would also allow for more previous defendant jurors to be surveyed.

This study lacks recidivism data because the courts did not keep comparable data. The program coordinators kept their own unofficial records concerning youth who came through the program but were unable to track the youth after they became an adult. The lack of recidivism data makes this study necessarily more of a descriptive, personal approach that does not consider empirical data on program effectiveness. It would also be ideal to have a comparison group of youth from another juvenile diversion program in the jurisdiction due to the local nature of community programs.

### **Future research?**

Future research on these particular courts would benefit by a longer term, more personalized study and a comparison of standardized recidivism data. Future survey research in general should strive to follow a common questionnaire format. The survey sections from Green & Weber's 2008 study that were included on this study's survey would be a uniform, empirical way to measure important sentencing goals and factors. This is important for comparisons across states especially.

Since recidivism data is not gathered in a uniform way among YC it will be difficult to produce comparable data. Perhaps a realistic standard would be to follow

the youth defendants' records until age 18, but this would necessarily be a long-term study.

## Final Overview

There was one main objective in this study: to see if these Oregon Youth Courts meet the program ideals of restorative justice. The observation of the courts' peer jury procedure reveals that youth jurors strive to consider the individual who has come before them. Questions asked by jurors were relevant and inclusive of each part of the defendant's life including school, home, and work (when applicable). Survey data revealed that a majority of the jurors chose sentencing goals that favored the individuality of the defendant and his or her crime, with 80% of respondents emphasizing either rehabilitation or individual (specific) deterrence. Jurors mostly rated *general deterrence* as the lowest priority, showing their disdain for "making an example" of the defendant. The jury's lack of interest in this area makes it so that the sentence can be individually tailored.

The victims and the community (sometimes serving as the victim) are involved in the process as main stakeholders. The youth volunteers who run the program, the volunteer adult judge, the school resource officer-bailiffs, and the program staff make up the community. Popular sanctions such as community service also ensure the defendant will interact with others. The victims are involved by the inclusion of sanctions like apology letters and monetary restitution.

These Oregon Youth Courts utilize the grand jury proceedings that exhibit restorative justice goals and principles. Jury participants are the main sponsors of these principles as they have the most interaction with the defendant. The survey findings suggest that the volunteers understand the individual focus on defendants and seek to guide them towards reparation of harm and re-engagement with the community. The presence of jurors who were previously defendants indicate the strength of the restorative framework of the Youth Court program. Two-thirds of prior defendant jurors rated their own sentencing as fair showing that the program works for many of the individuals it was meant for.

Youth Courts using the peer jury model appear to be a positive alternative experience for first-time delinquent youth. The findings show that restorative justice principles are evident in several aspects and stages of the program. Youth are individually considered and helped through restorative justice rather than punished and ignored through retributive juvenile systems. This seems especially important when considering the purpose of most Youth Courts is to help first time offenders from driving further down the road of delinquency and crime. In addition, Youth Courts, like all diversion programs, help keep a smaller docket at the juvenile courts in the jurisdiction.



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## Appendix A Youth Court Peer Jury Models

### Demographics:

1. How old are you? \_\_\_\_
2. What is your gender? \_\_\_\_\_
3. What grade level are you in school? \_\_\_\_
4. How many times have you served on a jury? \_\_\_\_\_
5. How long have you volunteered with \_\_\_\_\_ Youth Peer Court?
6. If you were a previous defendant, please answer the following question. If not, please skip ahead to **Question 7**:
  - a. Was your participation on the jury today required by your case's sentencing?  
Circle one: YES or NO
  - b. Select which of the following statements reflects how you feel in the role of juror today (remember, this survey is anonymous so please be honest). Please check one only:  
\_\_\_\_ I thought the sentence I received in my case was fair.  
\_\_\_\_ I thought the sentence I received in my case was not fair.
  - c. Was the case you heard as a juror today similar to your case?  
Circle One: YES or NO

### Case-specific questions:

For the Case you heard today:

7. Did you know the defendant(s)? If so, how do you know them and for how long? \_\_\_\_\_
8. What was the most important thing you heard during the trial that helped your sentencing decision?  
\_\_\_\_\_  
\_\_\_\_\_

9. What did you want to achieve by giving the defendant this sentence?

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10. Please tell us how important the following goals were for your sentencing decision. Rank from 1 to 5 with 1 being the most important and 5 being the least important.

- Punishing offender to keep them from committing crimes in the future
- Punishing the offender to provide an example to others
- Making sure an offender will repay victims for loss & injuries
- Provide offender with an opportunity to understand where they went wrong
- Punishing offender because what they did was wrong

11. Which factors helped you decide this case? Mark all that apply.

- Defendant was sorry
- Defendant has school-related difficulties
- Defendant had already repaid victim
- Defendant was already punished by school and/or family
- Defendant was doing better in school since the incident
- Defendant caused physical harm
- Defendant damaged property
- Defendant has used drugs and/or alcohol
- Defendant's age
- Defendant's gender
- Defendant is involved in extra curriculars
- Improvement in family relations
- Sentencing recommendation by prosecutor
- Sentencing recommendation by defense
- Defendant has family related difficulties
- Other (Please describe):

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Thank you very much for participating.

**Appendix B**  
**State of Oregon, City of \_\_\_\_\_**  
**Youth Court**

|                    |   |                                 |
|--------------------|---|---------------------------------|
| <b>Youth Court</b> | ) | <b>Jury Verdict Record</b>      |
|                    | ) |                                 |
| <b>Vs.</b>         | ) | Police Dept. Case Number: _____ |
|                    | ) | Youth Court Case Number: _____  |
| _____              | ) | Date of Hearing: _____          |

We, the \_\_\_\_\_ Youth Court Jury, sentence you to the following:

- ( ) No Sentence
- ( ) \_\_\_\_\_ Hours of Community Service (1-40 hours)
- ( ) \$\_\_\_\_\_ Restitution (pay victim for damages, \$1-\$50)
- ( ) Write an essay concerning the offence (1-1000 words)  
Words: \_\_\_\_\_ Topic: \_\_\_\_\_

\_\_\_\_\_  
Words: \_\_\_\_\_ Topic: \_\_\_\_\_

- ( ) Write an apology or letter of responsibility (1-400 words)  
Words: \_\_\_\_\_ To: \_\_\_\_\_  
Words: \_\_\_\_\_ To: \_\_\_\_\_

( ) Prevention Plan Topic: \_\_\_\_\_

(X) Jury Duty (1 day mandatory, 4 day maximum) Total Days # \_\_\_\_\_  
Dates: \_\_\_\_\_

- ( ) Class:
  - ( ) (Theft Information Class)
  - ( ) (Marijuana Education)
  - ( ) (Substance Abuse, Family, Education)
  - ( ) (Anger Management/Conflict Resolution)

( ) Other \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Judge Jury Foreperson

Sentence Due: \_\_\_\_\_