A Handbook for Student Volunteers
YOUTH COURT

YOUTH TRIBUNAL MODEL

Youth Tribunal Model
YOUTH COURT
A Handbook for Student Volunteers

Written by Margaret E. Fisher

General permission to photocopy or otherwise reproduce, and/or to republish, for nonprofit educational purposes, all or part of the material in this booklet is granted, provided reference is made to this publication, its date or issue, and that reproduction and/or reprinting privileges were granted by permission of the American Bar Association on behalf of its Standing Committee on Public Education.

Prepared under Grant #99-JI-VX-K001 from the Office of Juvenile Justice and Delinquency Prevention (Juvenile Accountability Incentive Block Grant), Office of Justice Programs, U.S. Department of Justice and under Grant #95-JS-FX-0017 from the Office of Juvenile Justice and Delinquency Prevention Programs, Office of Justice Programs, U.S. Department of Justice. We are grateful for the support.

Youth Court Youth Tribunal Model: A Handbook for Student Volunteers is published by the American Bar Association Division for Public Education. Chair, Standing Committee for Public Education: Hon. Judith Billings; Director, Division for Public Education: Mabel C. McKinney-Browning; Director, Publishing & Marketing: Seva Johnson; Project Manager: Michelle Parrini; Contributing Writer: Lisa Dorner

This student volunteer handbook is part of a larger training package created by the American Bar Association (ABA) to help instructors train youth volunteers to participate in local youth court programs. The views expressed in this document are those of the author and have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association or the Standing Committee on Public Education; nor do the points of view or opinions in the publication necessarily reflect the official position or policies of the U.S. Department of Justice or the American Probation and Parole Association/Council of State Governments.

For ordering information, contact ABA Division for Public Education, 541 N. Fairbanks Court, Suite 1500, Chicago, IL 60611-3314; (312) 988-5729; www.abanet.org/publiced; fax (312) 988-5494, ATTN: Circulation Manager; e-mail abapubed@abanet.org

FOR CUSTOMER SERVICE, CALL (800) 285-2221
The American Bar Association is a not-for-profit corporation.
All rights reserved. Printed in the United States of America.

© 2001 American Bar Association

ISBN 1-57073-888-2 PC 4970111

Design by MILLSART
Produced by Creative Services Associates, Inc.
Printed by Chicago Press Corporation

CONTENTS

INTRODUCTION
Why Should You Get Involved With Youth Courts?
Some Terms You Need to Know Right Off the Bat!
How Youth Court Helps You Be a Role Model for Others
About This Handbook

PART ONE: CRIME, PROBLEM BEHAVIOR, AND THE JUSTICE SYSTEM
Crimes, Status Offenses, Infractions, and School Violations
Causes of Juvenile Crime
Victims of Crime
State Courts and Federal Courts
Juveniles in State Courts
Criminal Law
Adult Criminal and Juvenile Justice Procedures
Procedures for Traffic Infractions

PART TWO: YOUR YOUTH COURT
Youth Courts and the Juvenile Justice System
Roles and Steps in the Hearing
Youth Court Jurisdiction
Restorative Justice
Disposition Options in Your Youth Court
Ethics and Demeanor
Case Investigation and Witness Interviews
Case Analysis
Preparation of Witnesses and Client Support
Opening Statements
Closing Arguments
Questioning Witnesses During the Hearing
Deliberation Skills
Conclusion

PART THREE: SCRIPTED HEARINGS
Scripted Disposition Hearing
Deliberations
Seven-Step Deliberation Process
Sample Scripts for the Hearing
Presiding Judge's Script
Sample Opening Statement Script
Sample Questions
Sample Closing Argument Script

GLOSSARY

INTRODUCTION

WHY SHOULD YOU GET INVOLVED WITH YOUTH COURTS?

You're checking out youth courts and think this might be good for you. Young people who volunteer for youth courts across the country say over and over again, "Just do it!"

Young people join youth courts for lots of reasons. Some join because they want to learn more about courts and have a chance to try out a variety of court roles in real cases. Some want to work in the legal field later in life, as an attorney or police officer. Some want to practice public speaking skills.

Some are concerned about the way school officials and law enforcement handle youth and want to be involved in peer support and being a positive influence. Some want to be part of a process that treats young people fairly. Some have had difficulties with the law and rules themselves and gotten involved because it gives a fair break to other young people.

Others join for social reasons; perhaps a friend or sibling was involved and encouraged them to join, or they wanted to expand their group of friends and interact with young people who have very different experiences from their own. On the other hand, some join so that they can work with other young people who have the same interests that they do. Some think it just sounds like fun.

Whatever your motivation, the prediction is that you will accomplish whatever it was that motivated you to get involved in the first place, and more.

What follows in this handbook are the things you need to understand to make the most of your participation in youth court. You'll learn about crime and other problem behavior, its effects on victims, society's responses to crime and problem behavior, how the courts work, and how youth court fits into the court system. You'll learn about the process in your own youth court and the skills you need to develop. There will be opportunities for you to consider case situations and decide how you would approach them.

SOME TERMS YOU NEED TO KNOW RIGHT OFF THE BAT!

You will notice that "respondent" is used to refer to the young person being sentenced in youth court. This was done to include actual offenders who face criminal charges and nonoffenders who face noncriminal traffic infractions in traffic youth courts and school rule violations in school-based youth courts. You'll also see that "disposition" is generally used rather than "sentence." In the juvenile system, young people generally are given dispositions rather than sentences. Using the less familiar term also calls attention to the emphasis placed on restorative justice in the youth court process.

"Restorative justice" refers to a specific set of goals pursued by youth courts. Dispositions based on restorative justice goals seek to increase the respondent's awareness of the harm they caused and give them opportunities to repair the harm, to develop competencies to help respondents become more productive members of society, and to connect respondents to the community by involving the community in the disposition.

HOW YOUTH COURT HELPS YOU BE A ROLE MODEL FOR OTHERS

When you volunteer to serve in youth court, you are saying to others that it is important to try to help the community be a better place. You are also learning more about the way the legal system works and doing your part to make it better. It is hoped that your participation will help youth court respondents to avoid engaging in crime or problem behavior in the future. It is also hoped that what you learn and experience in youth courts motivates you throughout your life to continue to tackle problems in society. It is also hoped that as adults you exercise your civic duties to vote, serve on juries, stay informed, and support laws and processes that make society a better place.

ABOUT THIS HANDBOOK

The training is designed so that each youth volunteer will receive a *Youth Volunteer Handbook.* Your instructors for training will teach from a localized version of an instructor manual and will have a video about youth courts nationwide. You are expected to read your handbook and try your hand at the localization and application boxes throughout. Some of the material in the handbook forms part of the actual classes taught to prepare you before you actually handle your first case in youth court.

The handbook is organized into three different parts: an overview of crime and the justice system, the operations of your youth court, and the scripted hearings. A glossary also appears at the end. The first time a word from the glossary is used in the handbook, it appears in bold type.

It is hoped that you find these materials helpful as you launch your youth court career. If you have any suggestions or comments, please contact the American Bar Association, 541 N. Fairbanks Ct., Chicago, IL 60611-3314.

PART ONE: CRIME, PROBLEM BEHAVIOR, AND THE JUSTICE SYSTEM

CRIMES, STATUS OFFENSES, INFRACTIONS, AND SCHOOL VIOLATIONS

Let's start with what a crime is. A crime is violation of a criminal law passed by a government. In fact, a crime is passed by the legislative arm of government, which could be the legislature of the state, city or county, or of the federal government. Crimes can be acts, such as driving under the influence of alcohol or car theft, or crimes can be failures to act when the government requires you to act, such as failing to wear a seat belt or bike helmet.

You've probably heard of **felonies** and **misdemeanors,** but are you sure what they are? Felonies are the more serious crimes, such as murder, robbery, assault with a deadly weapon, and sexual assault, which can be punished with a year or more of prison. You probably won't see any young people charged with felonies in your youth court since youth courts in general handle less serious crimes, such as misdemeanors and violations.

Misdemeanors are crimes that can be punished with a year or less of confinement, usually in a local jail or detention facility. Examples of misdemeanors include simple assault, first-time driving while intoxicated, and trespassing. A third category of crimes is called **violations**, such as minor traffic violations, fishing without a license, parking violations, and littering. They're punished by fines and not by confinement.

Typically, juveniles who commit crimes and are handled in juvenile court are referred to as delinquents. Their crimes are referred to as **delinquent acts** and include any acts that would be crimes if committed by an adult under federal, state, or local law.

There is also a special category of crimes that only juveniles can commit. These are referred to as **status offenses** and include truancy from school, curfew violations, running away from home, and other acts that show the juvenile is beyond the control of his or her parents or guardians. Many times status offenders are teens with emotional or substance abuse problems. They may be living in abusive home environments or under especially difficult circumstances.

Another category of cases sometimes heard by youth courts is traffic infractions. These are noncriminal violations of state driving laws. Examples include running a red light and failure to yield the right of way. Youth and adults who commit a traffic infraction can be fined, and their driving license may be revoked, but they can't be sent to jail.

As you've certainly learned by now, schools also have the authority to establish rules and to set out consequences for **violations** of those rules. You might review the school handbook that you got at the start of the year. This handbook will list the rules of the school, what happens if you break a school rule, and the process that will occur.

Schools are required to act fairly in disciplining students. Cases have even gone to the U.S. Supreme Court determining what constitutional due process rights students have when faced with suspension or expulsion from school. Due process means that the school must follow fair procedures before suspending or expelling students. Some youth courts are part of the disciplinary process at school. So that rule breakers who admit they have broken a school rule may be given a disposition at school by their peers.

Localization

Does your youth court hear?

_____ Felonies
_____ Misdemeanors
_____ Criminal Violations
_____ Status Offenses
_____ Traffic Infractions
_____ School Rule Violations

CAUSES OF JUVENILE CRIME

Why do young people commit crimes? The list of possible causes is pretty long and not everyone agrees. However, there have been some recent studies of juveniles who live in neighborhoods with high crime rates, which may help you answer why young people commit crimes.

For example, in the Highlights of Findings from the Rochester Youth Development Study, reported in the OJJDP Fact Sheet April 1999, the researchers found that the relationship between the parent and the child was a crucial factor as to whether children turned to criminal actions. Children who were more attached to and involved with their parents were less involved in criminal conduct. Poor parenting increased the probability of criminal behavior, and criminal behavior further weakened the relationship between parent and child.

When young people had little commitment to school and did poorly in school, they were more likely to be involved in crime and drug use. Young people at greatest risk for criminal behavior, but who succeeded at school, were less likely to be involved in crime and drug use. Not surprisingly, young people who used drugs increased the likelihood of their dropping out of school.

Peer influence was also strongly related to criminal behavior: When young people made their friends with other young people who broke the law, they were much more likely to commit crimes themselves.

The study also found a strong relationship between gang membership and criminal behavior, particularly serious and violent crimes. The study showed that gang members had higher rates of violent offenses when they were active gang members than either

before they belonged to the gang or after they left the gang. This shows that the beliefs and dynamics of the gang supported criminal and violent behavior.

Another important contributing factor was the social class and community that the respondent lived in. Those from areas with long-term, high-level poverty were more involved in crime. Economic hardship and stressful life events led to a lack of parent-child involvement, bonding to school, and control over the young people, which in turn led to increased criminal behavior.

These results will be important to remember as you move into your youth court experience. You will have a chance:

- to help the respondent-parent relationship improve,
- to strengthen the respondent's connection to school, and
- to be a part of positive peer influence that says to respondents that criminal conduct is wrong.

VICTIMS OF CRIME

Did a crime ever happen to you? Did you ever have something stolen from you or get beaten up by somebody? Given the numbers of crime in the United States, it would not be surprising if you or someone in your family has been a victim of a crime. In 1999 in the United States, approximately 28.8 million people aged 12 and older experienced crimes, according to 1999 findings from the National Crime Victimization Survey.

- 74 percent (21.2 million) were property crimes
- 25 percent (7.4 million) were crimes of violence

The good news, though, is that this is a significant decrease in the number of violent and property crimes. In fact, according to National Crime Victimization Survey data, from 1998 to 1999 the overall violent crime rate declined 10 percent and the property crime rate fell 9 percent. Victimization rates in 1999 are the lowest recorded since the survey's creation in 1973.

These are just numbers and statistics, but if you are the victim of a crime, it hurts. You may be physically hurt, your property may be gone or damaged, and you most likely may feel hurt and emotionally upset. There are consequences from the crime that continue into the future. For example, if your wallet was stolen, you may have to replace identification, lose treasured photos, lose money, and have to buy a new wallet. You may feel violated and less secure about yourself and your things.

There are other kinds of victims too. These are the indirect victims. For example, parents will be victimized too when their child is a victim of a crime. The upset and violation that

the child feels will have an impact on family life. The parents will be upset and may also have to help with the money and time to replace the stolen items.

Parents or guardians of the young person who committed the crime are victims too. They may feel that their child has let them down, that this reflects poorly on them as parents, and that they are hurt and mad. They will have to take time to go to court and in some cases have to pay money. The broader community is a victim too. As crime happens, the community begins to feel less trusting of its members and becomes more concerned about the security of its property. The community has to use its tax revenues to pay for police, courts, and programs.

Did you ever hear the term *victimless crimes?* Are there such things? Absolutely not! Every crime has consequences on the community and the family of the person who committed the crime. What's an example of a so-called victimless crime? Sometimes people describe underage drinking, curfew violations, possession of marijuana, truancy, and other acts as victimless crimes. It is true that these crimes do not have direct victims in quite the same way as a theft or an assault. However, the family and community are harmed by all these acts.

For example, underage drinking has many indirect victims. Inexperienced drinkers usually drink in secret, away from the supervision of adults. They are more likely to use poor judgment, have poor motor skills, and take unusually high risks. This has serious implications for drivers who have been drinking, since their driving gets impaired. The drinkers may engage in unsafe sex, with resulting pregnancy or possible sexually transmitted disease. The parent may have some liability for furnishing the alcohol.

Handling underage drinking requires the legislature and the community to consider responses and treatment for young people who drink. The community pays taxes to cover the cost of increased services, including police, court, and medical services.

One of the key roles that you must play in youth court is to help the respondent understand these harms they have caused to all victims—the direct victim, the family, and the community—and to involve the respondent in repairing all the harm.

Your Turn

Name at least two victims for each of the actions below and explain how each victim is hurt.

1. Truancy from school

2. Cursing a teacher

3. Failure to stop at a red light

You should have at least named the family of the respondent and the community and said how each is hurt by these actions.

STATE COURTS AND FEDERAL COURTS

After a crime is committed, then, how does it get to court, and which court does it go to? First of all, there are two separate court systems—the state court system and the federal court system. If a person violates a law created by the state legislature, the person goes to state court. Likewise, if a person violates a law created by the U.S. Congress (the federal legislature), the person goes to federal court. Sometimes, the crime violates both state and federal laws. In that case, the person could be charged in both courts!

However, most cases—more than 98 percent—are heard in state courts. Since each state creates its own courts, the process and names are different across the country. However, their role is the same: to determine whether or not individuals are guilty of violating state criminal or traffic laws and to settle disputes among residents of the state.

JUVENILES IN STATE COURTS

Every state decides by law how old you have to be before you can be charged with a crime, for example, 7 or 8 years old. If you're younger than the age set by your state, you have the defense of infancy, that is, no matter what you have done, you are not legally capable of committing a crime.

Once you get to that minimum age, your crimes can be charged in court. Before 1899, if a child over the minimum age committed a crime, there was only one court to handle criminal cases and everyone—young and old—went to this court. A reform effort led to the establishment of the first juvenile court in 1899 in Cook County, Illinois. The purpose of creating a new and separate court for juveniles was based on the idea that juveniles were somehow different from adults. Since they were still developing, it was believed that young persons were more easily corrected or set on the right path.

In the early part of the twentieth century, the other states followed the lead of Illinois and also created a separate juvenile court system. These juvenile courts were based on the idea that the courts were taking the place of the natural parents, who were not providing adequate care or supervision. Typically, juvenile courts were informal and the juvenile cases weren't even considered criminal cases. The judge would hold a hearing with the child, the child's parent or guardian, and someone from the county juvenile office to decide what was in the child's best interest.

Young persons who committed crimes were mixed in with those who committed status offenses and those who were neglected and abused by their parents.

Juvenile court had a range of choices available to help rehabilitate a youthful offender. For every offense, a judge could choose to give the young person a warning, put the young person on **probation,** or send the young person to confinement in a state facility.

Concerned with the best interests of the child, the judge would order some treatment for the child until he or she was "cured" or turned twenty-one, whichever came first.

People began to question the juvenile court approach in the middle of the twentieth century: Were young people really being rehabilitated, and why were there so many young people in state institutions for long periods of time? Beginning in the 1960s, the U.S. Supreme Court made decisions that dramatically altered the way that juvenile courts operated. The Court required that juvenile courts become more formal. Juveniles were entitled to due process, the right to have their case proved beyond a reasonable doubt, and a variety of other rights. The only right not granted to young people in juvenile court that is granted in adult court is the right to a jury trial.

Congress was active in the late 1960s and 1970s, passing laws recommending that juveniles who were charged with status offenses be handled outside the juvenile court system. Additionally, in order to get their federal money, states would have to keep status offenders as well as abused and neglected children out of institutions designed to hold juvenile offenders. Even later, Congress required that juveniles be kept separate by sight and sound from adult offenders when they were in the same institutions.

Beginning in the 1980s, with a public perception that juvenile crime had become much more violent and serious, states began to become more punitive toward juveniles. Juveniles who were charged with certain serious violent offenses or with long criminal histories were automatically transferred to adult court. If convicted as adults, these juveniles might serve their time in adult prisons. Many states reduced or eliminated the confidentiality that prohibited the public from attending juvenile hearings or having access to juvenile records.

Applications

Your choices are the years 1890, 1945, and 2000. Circle the year in which these actions are most likely to have happened. Give your reasons.

1890 1945 2000 Robert, who is 12, used a knife to cut another 12-year-old. The judge gives him a warning, which seems to the judge to be in Robert's best interest.

1890 1945 2000 Tanya, who is 12, ran away from home. The judge sends her to the same juvenile facility with juveniles who have committed crimes.

1890 1945 2000 Timothy, who is 9, steals $50. Timothy goes to the same prison that adults go to.

1890 1945 2000 Jason, who is 16, plans to kill and then kills a teacher. Because of the seriousness of his crime, Jason's case automatically goes to adult court instead of juvenile court.

Robert's case most likely occurred around 1945, when juvenile courts made their determination on the basis of the best interests of the child and could pick any consequence for any offense. Tanya's case would also have happened around 1945, since children charged with status offenses, such as being a runaway, were housed with juveniles committing actual offenses. The federal law in 1974 withheld federal moneys from states that did not take status offenders out of the juvenile detention and state facilities.

Timothy's case would likely have happened around 1890, since there was no juvenile system at that time. Jason's case probably occurred in 2000, since there are both juvenile and adult courts; however, there is a mandatory transfer to adult court because of the serious violent nature of the offense.

Reflections

When do you think children are old enough to be charged in court for their actions? For example, a 6-year-old pushes her younger sister down the stairs on purpose, causing her sister's arm to break. Should she be charged in court with assault?

Do you think teenagers are developmentally different from adults? Do you think teenagers should be charged with crimes in a separate juvenile justice system, or should juvenile courts be abolished altogether?

Why do you think that states are lowering the age when juveniles go to adult court, instead of sending them all to juvenile court?

CRIMINAL LAW

Every crime has elements, or the necessary parts of the crime, and these elements are either (1) acts or (2) intent. In murder in the first degree, the act is killing of a human. The intent is deliberate and premeditated (thought out beforehand). For a person to be guilty of an offense or crime, the prosecutor, or government's attorney, must prove each element beyond a reasonable doubt. This means that the prosecutor must present enough evidence so that no reasonable doubt remains in the minds of the decision makers (jury or judge).

For example, some states define vandalism as knowingly and maliciously damaging another's property.

Applications

Referring to the definition above, determine whether this is vandalism, and explain your reasons.

Luke was out driving with his friends. While talking to a friend in the back seat of the car and not paying attention to the road, he ran over the curb and hit a group of mailboxes on the side of the road. It would cost $125 to fix the mailboxes. He kept driving and didn't stop. Did Luke commit vandalism? Why or why not?

You should have decided that Luke did not commit vandalism because he didn't damage the mailboxes knowingly and maliciously. Luke may be guilty of reckless driving or some other crime, but he is not guilty of vandalism. Every single element of vandalism must be present, or the crime didn't occur.

Every state and the federal government pass criminal laws that define the elements of a wide variety of crimes. You might look up in the state law books (state code) and/or the federal law books (U.S. code) and see what crimes are listed and how they are defined.

When the government prosecutes people (the defendants) for committing a crime, the defendants are not required to put forward a defense. The prosecutor has the burden of proving each element of the crime beyond a reasonable doubt. If the prosecutor fails to do this, the defendant is found not guilty. However, in many cases, defendants may claim a valid defense in order to eliminate or reduce their responsibility for the crime.

ADULT CRIMINAL AND JUVENILE JUSTICE PROCEDURES

How, then, does a criminal case get to court? Once a crime has been committed, the police get involved, although, of course, many crimes take place that are never reported. In fact, teenagers are the least likely to report to police that they have been victims of a crime. Assuming, however, that the police either see the crime take place or that someone reports the crime to the police, the police investigate and many times arrest a suspect.

Depending upon the age of the offender and the seriousness of the crime, what happens after the police arrest a suspect varies. You'll see a description of the adult system first and then the juvenile system. Both systems are the generalized procedures in state courts, where 98 percent of all cases are heard. The criminal and juvenile procedure in your state may vary somewhat from what is set out below. You might want to investigate and compare this general description to the processes in your courts.

Adult Criminal Justice Procedures

Law enforcement officials may generally hold up to 48 hours an adult who has been arrested without an arrest warrant, for fingerprinting, checking for other warrants, and other tasks. They may not hold the person beyond that time without an **arraignment** before a judge.

At an arraignment in adult misdemeanor cases, the judge reads the charge and penalties to the defendant, explains the rights of the defendant, and takes a plea of guilty or not

guilty. The judge sets a trial date for defendants who plead not guilty and a sentencing date for defendants who plead guilty. The judge may then set bail for the defendant, which is the guarantee that the defendant will return to court. The defendant may be required to promise to come back or may be required to pay money to guarantee his or her return for the next hearing.

In adult felony cases, the first step is also an arraignment. However, defendants do not enter a plea. Instead, the judge sets a time for a **preliminary hearing** as a safeguard. At the preliminary hearing, the government must convince a judge that there is sufficient evidence to believe the defendants committed the crime with which they are charged.

If the court finds there is not enough evidence, the case is dismissed and defendants are released. If the court finds there is enough evidence, the matter is transferred to the trial court. The judge continues bail or resets it at a different amount because of evidence that came out in the preliminary hearing.

A great many people think that if you get charged with a crime, you end up having a criminal trial. That's true in only a very few number of cases, generally less than 10 percent of the cases that result in convictions. Instead, criminal cases are mainly resolved out of court by having both sides come to an agreement. This process is known as plea bargaining.

Plea bargaining is common for practical reasons.

- Defendants can avoid the time and cost of defending themselves at trial, the risk of harsher punishment, and the publicity a trial could involve.

- The prosecution saves the time and expense of a lengthy trial.

- Both sides are spared the uncertainty of going to trial.

- The court system is saved the burden of conducting a trial on every crime charged.

Plea bargaining usually involves the defendant's pleading guilty to a lesser charge, or to only one of several charges. It also may involve a guilty plea as charged, with the prosecution recommending leniency in sentencing. The judge, however, is not bound to follow the prosecution's recommendation. Many plea bargains are subject to the approval of the court, but some may not be.

Plea bargaining has typically been a private process between the defense and the prosecutor, but this is changing now that victims rights groups are becoming recognized. Under many victim rights statutes, victims have the right to have input into the plea-bargaining process.

Other alternatives are also possible in the criminal justice system. Many states encourage **diversion** programs that remove less serious criminal matters from the full, formal

procedures of the justice system. Typically, the defendant will be allowed to consent to probation without having to go through a trial. If he or she successfully completes the probation—for example, undergoes rehabilitation or makes restitution for the crime—the matter will be removed from the records.

In cases that do go to trial, a number of people are involved in the court. You could probably name most of the courtroom players. See if you really understand their jobs.

The **judge** presides in the courtroom. If a case is tried before a jury, the judge gives instructions to the jury on the law that governs the case and how the case will proceed. The judge tells the jury that its job is to decide the facts on the basis of the evidence presented and to apply the law to the facts as instructed by the judge. If there is no jury, the judge determines the facts and decides whether the defendant is guilty.

The **court clerk** or bailiff usually administers the oath to prospective jurors and to witnesses. The clerk is also in charge of physical exhibits introduced into evidence and is responsible for other administrative aspects of a trial.

The **bailiff** keeps order in the courtroom, calls the witnesses and is in charge of the jury, as directed by the judge. It is the bailiff's duty to be certain no one attempts to influence the jury.

The **court reporter** records word-for-word everything that is said as part of the formal proceedings in the courtroom.

The **lawyers** for both sides—the prosecutor and the defense attorney—are also officers of the court. Their job is to represent their clients zealously, within the formal rules of the Code of Professional Conduct. The belief is that justice can best be achieved if each side's case is vigorously presented by competent lawyers. The prosecutor represents the state and the defense attorney represents the defendant.

Juvenile Court Procedures

When young persons are arrested by the police, the police report is sent to the prosecutor, the government's lawyer. The prosecutor holds the power to decide what step is next when there is enough evidence to believe the young person committed a crime:

- to charge the young person with a crime that will put the young person automatically into adult court;
- to request that a judge decide whether or not the young person should stay in juvenile court or be transferred to adult court;
- to charge the juvenile in juvenile court; or
- to divert the young person out of the court system altogether.

Of course there are state laws that limit the prosecutor's authority, but the prosecutor still has a lot of leeway, called discretion, about what choice to make.

If the prosecutor charges the young person with a crime that puts him or her into adult court, the young person will go through the same process described above for adults.

Sometimes there is a question about whether a particular young person belongs in juvenile court or adult court. Perhaps the juvenile has committed several juvenile offenses and confinement in the past in juvenile institutions has not seemed to affect the juvenile's behavior. Perhaps the juvenile is older and has committed a particularly serious offense, or perhaps the young person seems very mature and sophisticated. These are times when the prosecutor, the defense attorney, or the judge might request a decline hearing to determine whether the juvenile court should decline to hear the case, thus sending the young person to adult court. There are several factors required by the U.S. Supreme Court that must be considered at a decline hearing, but basically the decision is based on the best interests of the juvenile or the public.

When the juvenile is charged and kept in juvenile court, there will be an arraignment, at which time the young person is told of the charges and required to plead guilty or not guilty. If the juvenile denies guilt, the case is set for a fact-finding hearing, or trial.

The prosecutor and the defense attorney also plea-bargain in juvenile cases. In a small number of cases, the juvenile goes to trial. Juries are not used in juvenile court; instead, the juvenile court judges hear the evidence and decide on the verdict.

If the juvenile is found guilty, the juvenile system has authority over the young person up to age 21, but no longer. For example, a young person kept in juvenile court and found guilty of murder in the first degree cannot be kept in confinement or under the court's authority once the person turns 21 unless your state law has a different age.

Another choice the prosecutor may make in cases where the young persons are charged with fairly minor offenses is to divert or switch the young person out of the juvenile court system. In this case a panel of people decide what consequences the juvenile will face, generally including community service, a fine, restitution, and education classes. In many communities, youth court itself is a form of diversion. Juveniles admit their guilt and are diverted from juvenile court into youth court. Successful completion of the consequences ends their involvement.

PROCEDURES FOR TRAFFIC INFRACTIONS

Again, each state sets up its own process for handling traffic infractions. Generally, a law enforcement officer will issue a citation to a driver, indicating that the driver has committed a traffic infraction. The driver can usually do one of three things: (1) admit guilt and send in the fine imposed by the ticket; (2) admit guilt but ask for a mitigation hearing to explain the circumstances; or (3) deny guilt and ask for a fact-finding hearing.

These traffic cases are generally heard by the lower courts in the state. Jail time cannot be awarded for traffic infractions, but fines are generally imposed. Traffic infraction convictions may affect the driving license. Adult and juvenile drivers are handled by the same courts.

PART TWO: YOUR YOUTH COURT

YOUTH COURTS AND THE JUVENILE JUSTICE SYSTEM

Youth courts tackle youth misconduct at the early stages. Maybe your youth court handles referrals from the school administration for young people who have broken school rules. If so, you will have the ability to intervene early before school rule violations escalate to criminal conduct.

Perhaps your youth court hears actual criminal cases. Generally, but not all the time, as described above, this youth court model is a form of **diversion**. As you saw in the description above, youth who are charged with minor offenses may be diverted or switched out of the juvenile justice system into alternative programs.

While the situation varies from state to state, generally laws that set up diversion allow a law enforcement agency, a probation department, or a juvenile court to suspend or dismiss further action in juvenile court if a juvenile successfully completes diversion. Also, when offenders don't successfully complete their disposition, they will be referred back to the agency or court that sent them to begin with. In this case, the young people are prosecuted further and perhaps even spend some time in confinement.

Perhaps your youth court hears traffic infractions. Generally, but not all the time, as described above, the youth has pleaded guilty but asked to explain the circumstances. The judge continues the case with two conditions: that the youth attend youth court and complete the disposition successfully. In that case, the court will dismiss the case after satisfactory completion of the youth court disposition.

In traffic infraction cases, when offenders don't successfully complete their disposition, their case will go back to the state court handling infractions, which will impose the fine plus any limits on driving that are warranted.

One major difference between youth courts and most courts is the emphasis that youth courts place on restorative justice. Restorative justice has three goals that are addressed in a balanced way: (1) holding young persons accountable for their actions by increasing the young persons' understanding of all the harm they have caused and giving them opportunities to repair that harm; (2) increasing the skills and competencies of the offenders so that they can become productive members of society; and (3) involving the community in the disposition and in this way promote community safety.

Your youth court uses lawyers to argue the state's case and lawyers to represent the young person. The attorneys present statements to the jury about the case from their point of view, including a recommendation for disposition, present evidence to support their views, and attempt to persuade the jury to impose the disposition they are seeking.

ROLES AND STEPS IN THE HEARING

Localization

Recalling the information you receive in training, list the steps of your youth court hearing in order.

_____
_____
_____
_____
_____
_____
_____
_____

In youth courts, there may be any and all of these roles. Check off each role that is actually used in your youth court.

YES	NO	
☐	☐	The ***advisor*** is an adult who supervises the case and sometimes gives information to help the jury members have a greater understanding of some issues. Generally, the advisor critiques the hearing afterwards.
☐	☐	The ***bailiff*** calls the court to order, announces the case, administers the oath, escorts individuals in and out of the courtroom, and closes proceedings.
☐	☐	The ***court clerk*** keeps the records of the case.
☐	☐	The ***defense attorney(s)*** or ***youth advocate*** represents and supports the respondent and presents evidence on how the respondent is sorry for the offense, has already made efforts to repair the harm, is aware of the harmful impact of the offense, and is willing to repair the harm. The defense attorney presents evidence on respondent's needs for specific skills and competencies to become a participating member of society and shares the responsibility with the prosecutor to ensure that the community is sufficiently involved in the disposition.

☐ ☐ The ***judge*** manages the court process and makes sure that correct procedures are followed.

☐ ☐ The ***jurors*** decide upon the disposition for the respondent.

☐ ☐ The ***mentor*** is a youth volunteer who supports the respondent after the hearing in completing the disposition.

☐ ☐ The ***presiding juror,*** sometimes called the jury foreperson, ensures that each juror has a chance to fully and fairly participate and that the jury decides upon a disposition meeting restorative justice goals.

☐ ☐ The ***parent or guardian*** is required to participate in youth court with his or her child. He or she gives testimony about the respondent and makes suggestions about what the respondent needs, describes the impact of the crime or violation on the family, and makes suggestions of ways the respondent could repair the harm.

☐ ☐ The ***prosecutor(s)*** or ***community advocate*** ensures that the full impact of the offense on all victims is presented to the jury, that the respondent is aware of the harmful effects of the offense, that the respondent's needs for skills and competencies are identified, and that the community is sufficiently involved in the recommended disposition.

☐ ☐ The ***respondent*** is the juvenile who is being sentenced. Generally the respondent must acknowledge responsibility for the crime in order to come to youth court and must accept the disposition.

☐ ☐ The ***victim*** includes each person who has been directly harmed by the respondent, the family of the respondent, and the community. Victims may testify at the hearing in person or by submitting a written statement. Sometimes the victim does not give a statement, but the prosecutor presents either a victim impact statement or community impact statement to the jury so they can consider the impact of the respondents' actions on all the victims.

☐ ☐ The ***victim advocate*** includes the person who supports the victim during the hearing and ensures that the victim's views are presented to the court.

☐ ☐ A ***witness*** is anyone, including victim, parents or guardian, and respondent, who testifies during the hearing.

YOUTH COURT JURISDICTION

When your youth court was created, it was decided which types of cases could be heard. This is called the youth court's jurisdiction. Your youth court may have jurisdiction over school rule violations, status offenses, traffic infractions, and/or crimes.

Localization

Which types of cases does your youth court have the authority to hear? List below each offense over which your court has jurisdiction.

_____
_____
_____
_____
_____
_____
_____
_____

RESTORATIVE JUSTICE

Think of a young person committing a crime, let's say riding in a stolen car that she knew was stolen. What should happen to that person as a consequence of this crime? If you just think about punishing this person, you are using the punitive approach. If you think in terms of the best interest of the young person and that she needs services like counseling, you're using the individual treatment approach. If you think about the harm to the victims of the crime, including the car owner and the parents of the young woman, as well as giving the young person a chance to repair the harm plus develop her skills and competencies, you're approaching the case with a restorative justice philosophy.

Youth courts focus on restorative justice. You first consider how you can hold the offenders accountable for their offense. This means that you think about how the offender has harmed all the victims, including the direct victims like the owner of the car, the family of the offender, and then the community as a whole. How can you help the offender repair this harm to all the victims?

Next, you think about what the offender needs to become a more productive member of society. Maybe the young person doesn't have many friends or is too easily affected by peer pressure. What can you do to help the young person become more connected to other young people or more self-sufficient? This is competency development.

Finally, when you think about involving the community in the disposition, you have addressed all three goals of restorative justice.

It is important too that there be a balance among the three goals of restorative justice. If the disposition is too heavily weighted in competency development and doesn't sufficiently hold the young person accountable, the disposition won't be as effective.

DISPOSITION OPTIONS IN YOUR YOUTH COURT

Localization

Check off each of the disposition options that your youth court uses. Next to each of the options you checked, write the specific options available and a little about what each option entails.

YES	NO	
☐	☐	Community Service
☐	☐	Jury Duty
☐	☐	Educational Classes
☐	☐	Mediation
☐	☐	Restitution
☐	☐	Apology
☐	☐	Essays
☐	☐	Counseling
☐	☐	Curfew
☐	☐	Drug Testing
☐	☐	School Attendance
☐	☐	Peer Discussion Groups
☐	☐	Other Creative Dispositions

ETHICS AND DEMEANOR

This section focuses on the **ethics** and **demeanor** required for participation in youth court. You know that there are certain expectations about the way people should behave and that those expectations vary, depending upon the situation. For example, you go to the movies and you're expected not to talk during the movie. Or you see someone next to you in line has dropped her wallet, you're expected to pick it up and give it back, or at least call her attention to it.

Ethics has to do with what you are expected to do, the right thing to do. When you serve on youth court, those expectations increase. Obviously, as an officer of the youth court, you are expected not to engage in crimes or problem behavior yourself and to be a good role model for others. You are also expected to convey that you take youth court seriously and that you are paying attention during the process. For example, what would the respondent and the parent think if they saw court members smiling at inappropriate times or making faces? Each youth court has its own dress code, and part of being a court member is making sure that you are appropriately dressed.

In addition, you and all the members of youth court are required to keep all information that you learn about a case **confidential,** including the respondent's name and the facts of the case. Also, you are not allowed to participate in a case of a particular respondent when you have some conflict that would not allow you to be fair. For example, if the respondent had been in a fight with you before and you couldn't fairly represent the respondent, you should not be a defense attorney for this case.

Application

You are with a group of your friends and someone starts to talk about a student in your school who is a respondent in your youth court. You are tempted to tell them some of the reasons behind the troubles the student has, which you learned from youth court. Should you say anything?

You are not allowed to reveal anything you learned about the respondent; it doesn't matter that you have a good motive for doing so. To say anything would be a violation of confidentiality.

Prosecutors and defense attorneys have additional ethical duties in youth court. They have an ethical obligation to tell the truth and to be zealous in fighting for their clients. This includes not calling witnesses who you know will lie to the court and in not helping your client lie when testifying. Attorneys must investigate the case sufficiently, be prepared for each case, be on time for their hearings, meet deadlines, and advise their clients, using their best judgment.

Prosecutors and defense attorneys also have an obligation to turn over to the other side any statements, documents, or evidence that will be used during the hearing. Prosecutors have an additional ongoing obligation to turn over to the defense attorney any evidence they discover that is favorable to the respondent as soon as they can do so. Also, depending upon your court's process, prosecutors and defense attorneys need to reveal their list of witnesses they will call prior to the hearing. Lawyers are not allowed to contact a jury member privately to try to influence the outcome of the deliberations.

Judges have special ethical duties too. You are expected to act in a way that promotes respect for youth court. You must be patient and courteous to everyone who comes to youth court. Of course, you cannot have any meetings with one attorney about the case

without having the other side presented too. If you have a feeling about one side or the other, you must still maintain your neutrality and make sure that the process in youth court is fair for everyone.

If your youth court uses youth volunteers as mentors, you'll need to explore the ethical requirements of a mentor. Your youth court coordinator likely has a set of rules about the type of contact permitted between a respondent and a mentor. You are in a special position of trust with the respondent, and that creates ethical duties to behave in a responsible and professional way with the respondent.

A primary obligation of mentors is that you do what you agree to do. If you agree to meet with the respondent once a week or call him or her at a particular time, you must be there or call or arrange in advance to make a change. If you mistakenly forget a contact that you agreed to make, it is crucial to contact the respondent, apologize, and reset the contact date. Also, asking the respondent out on a date or behaving in any other unprofessional way during the time that you are this person's mentor would be unethical.

In addition to the ethical requirements of serving on youth court, there is also an expectation about the way you act during the hearing and deliberations. Respondents take youth court very seriously. It is important for them to see that you do too. This means that you show you are serious by performing your role effectively and paying attention during the hearing and that you follow the youth court dress code. It is important that you show respect for each person in youth court and toward the process itself.

Another requirement of youth court is that you evaluate each case on the basis of the actions and the evidence presented. You will have respondents come to youth court who are different from you. They may be from a rival school, a different economic background, or a different racial or ethnic group; belong to a different religious group; or have some other basic difference. These factors should not enter into your treatment of the individual. Stereotyping about people only hurts the fairness of the proceedings and shortchanges you and the respondent.

Sometimes people think they are being fair and don't realize how their biases or stereotypes affect them. You might consider in individual cases whether you'd do to the same thing if the defendant were like you.

Localization: Your Youth Court Code of Conduct

Write out the code of conduct for court members from your youth court.

_____
_____
_____
_____
_____
_____
_____

CASE INVESTIGATION AND WITNESS INTERVIEWS

If you are serving as a prosecutor or a defense attorney, you will have to investigate the case. This means gathering evidence from people and from written documents. Your youth court coordinator can lead you through examples of the exact types of information that you will have prior to a hearing (e.g., police reports, victim impact statements, community impact statements, and/or identified witnesses to be interviewed).

Generally, if you are a prosecutor, you will interview the police officer or school authority making the referral, any victims, and possibly, schoolmates, co-defendants, school officials or community members. If you are a defense attorney, you will obviously interview your client (the respondent), family members, and, possibly, school officials, friends, and community members.

Your purpose in interviewing witnesses and gathering evidence is to get information that will assist you in making an appropriate recommendation and presenting your case to the jury for a disposition based on restorative justice goals. It is important for prosecutors to remember that your role is not about getting the maximum disposition, but, instead, the most truly restorative disposition.

If you're a prosecutor, you want to get more detail of the offense, get statements about what the respondent and the victims might have said at the time of the offense and get the names and locations of the victim and any possible witnesses. You will want to think through in your own mind who all the victims are. For cases where there are no direct victims, such as cases of truancy or underage drinking, you will want to consider the community and family impact of the offense and prepare a description of the harm these actions caused the respondent's family and the community.

If you are investigating the case as a defense attorney, you will likely begin with an interview with the respondent. You should consider that the respondent is uncomfortable and probably uncertain about who you are and what role you play. It is crucial for you to establish yourself as representing the respondent and working for him or her. Prepare your interview to build trust with the respondent and to get background about the respondent, the respondent's family, school performance, work experience, volunteer experiences, and other interests; the respondent's version of what happened; the "why" behind the offense, such as peer pressure, problems at home, or drug or alcohol use; and whether the respondent can identify any witnesses who can support his or her version of the offense or who can provide character testimony. It is important for defense attorneys to focus on restorative justice; your role is not to get the lightest disposition possible.

Investigation Checklist

1. Investigate the case or gather information

a. Review the police report, victim impact statements, and other written documents
b. Write out questions to get out the important information
c. Prepare recommendations

2. Interview and prepare witnesses
   a. Respondent and parents
   b. Character witnesses
   c. Police or loss-prevention officers

3. Share information with opposing counsel

4. Discuss concerns or questions with the resource attorney (adult) or youth court coordinator

Regardless of the attorney role you are assigned, you need to prepare yourself for the interview by reading through the case information in advance and writing out questions. You need to schedule the interview with one witness at a time so that witnesses don't try to change their story to make them all fit together. You need to take notes on the answers that the witness gives, including the time, place, and people present for the interview. It is important that you write enough notes and do so clearly so that you understand them later when you write them up into a statement.

You should be prepared in each case to ask open-ended questions to get out the information. It is usually best to develop some rapport with the witness before diving into the difficult parts of the questioning. You will not only want to ask about the facts of the case, but also about why and how the events happened and how the witness remembered them.

As one private investigator described the job of investigating, "You have to convince all the persons that you are investigating that they have an important story to tell and that you are interested in hearing it."

CASE ANALYSIS

After you have completed investigating the case, you will have written witness statements, police reports, victim impact statements, and/or community impact statements. It is now time for the attorneys to analyze their case and come up with a recommendation about the disposition.

From the perspective of the prosecutor and from the perspective of the defense attorney, youth volunteers must think through how serious the offense is, what harmful effects the offense had on all the victims, and ways for the respondent to repair the harm; the needs of the respondent for skills and competency development; and the connection of the respondent to the community by involving the community in the disposition. They should not be focusing on the maximum and minimum dispositions.

PREPARATION OF WITNESSES AND CLIENT SUPPORT

If you are an attorney in youth court, you are responsible for preparing your witnesses, for example, victims, parents, and guardians whom you call to testify in youth court. You will need to go over the questions that you will ask on direct examination and explain what questions might be asked by the other side in cross-examination. You should also prepare the witnesses for the atmosphere of your youth court (formal on the witness stand, or informal around a table). Let the witnesses know they will take an oath of confidentiality and an oath to tell the truth. You should tell your witnesses to have eye contact with the jury members while they are testifying and to speak up so that everyone in court can hear them. It is important that you remind witnesses that they must answer questions fully and honestly and not avoid questions that ask them to relate difficult issues.

Prosecutors in youth courts that use victim advocates should speak to the victims about the presence of a victim advocate during the hearing process and explain how that person will support the victim.

Tell the witnesses that on cross-examination, the other side's lawyer will try to show weaknesses in their testimony or that they have said something inconsistent before. It is important that witnesses listen to the questions, clearly understand them, and then take their time in answering. One of the most convincing things a witness can do on cross-examination is remain calm and answer the questions carefully.

It is also crucial that you or your youth court coordinator notify witnesses in writing and verbally of the exact time, date, and location of the youth court session. On rare occasions, a youth attorney may have a disruptive interview with a parent, victim, or youth, perhaps because the individual is angry or simply uncooperative. The attorney should conclude the interview in a calm manner and report to the youth court coordinator.

If you are a prosecutor, you may have a special obligation to prepare generalized victim-impact statements in cases where a direct victim is unavailable, or to prepare community-impact statements for those offenses that have no direct victims.

If you are a defense attorney, part of your job is to support your client during the hearing. Your client may be experiencing a wide range of emotional reactions to being in youth court. You want to help your client be as straightforward with the court as possible. To help your client during the hearing, you might consider nodding your head, sitting close to the respondent, writing a message of support to the respondent, and other supportive actions.

OPENING STATEMENTS

If you are an attorney in youth court, you will begin by making an opening statement to the court, with the prosecutor making the first statement, followed by the defense

attorney. This statement is addressed to the jury. It is the first time that you have to talk to the court.

Jurors have a hard time paying attention to opening statements when the attorneys just read their statements from a paper. You will want to have eye contact, be energetic, and be engaging, without being too dramatic. You will want to be confident in your case and in what you have to say and, of course, be dressed as is appropriate for your youth court.

Components of an Opening Statement
- Greet judges
- Introduce yourself

Content of the Presentation
- Describe the offense or problem behavior and the circumstances surrounding it
- Present a believable and persuasive case theory that describes the harm caused to all victims and how the harm can be repaired, the needs of the respondent, and the role of the community in the recommended disposition
- Present facts that support case theory
- Summarize evidence to be introduced, including witnesses, in an organized, engaging, and memorable fashion
- Recommend a disposition (some youth courts don't include a recommended disposition in the opening statement)

Communication
- Make good eye contact with judges
- Speak in a confident manner
- Speak loudly
- Vary inflection

Appearance
- Dress to meet youth court requirements

CLOSING ARGUMENTS

You will not be surprised to hear that closing arguments happen at the end of the case, with the prosecutor making the first closing argument, followed by the defense, and in some youth courts, with a final word from the prosecutor.

Closing arguments are different from opening statements. If you are an attorney, you will argue for the recommended disposition during closing and explore the "why" behind your recommendation. You will use the evidence at the disposition hearing to support your recommendation. You will need to spell out clearly for the jury how the disposition you propose fits with restorative justice goals.

Because you won't know exactly what evidence will be admitted at the hearing and what all the witnesses might say (there are always surprises), it is important that you understand that the closing arguments need to be developed in outline form, with flexibility for adapting as the hearing unfolds.

Components of a Closing Argument

- Thank the judges for their time and attention

Content

- Give a summary of the case
- Propose a disposition
- Explain why the recommended disposition increases the respondent's understanding of the effect of his or her actions, offers an opportunity for the respondent to repair harm caused, increases skills in the respondent, and promotes community safety. Review how the testimony and evidence support the recommended disposition
- Refer only to evidence that was presented in court
- Respond to claims made by the other side that are unwarranted or that conflict with their view of the recommended disposition
- Make argument based on what happened at the hearing

Communication

- Make good eye contact with the judges
- Speak in a confident manner
- Speak loudly
- Vary inflection
- Use a minimum of notes

QUESTIONING WITNESSES DURING THE HEARING

As attorneys, you have another skill to master: questioning witnesses in court. You should always think to yourself as you ask questions, for example, How does my question ask for the evidence that supports restorative justice goals? That is, "What evidence can this witness tell us that helps us understand the nature of the offense or problem behavior, its impact on all victims, or ways to repair the harm? What do the victims think would repair the harm? What can this witness tell us about the skills and competencies this respondent needs to develop, the strengths the respondent has that can connect the respondent to the community, and involve the community in the disposition?"

You will be asking questions that fall into one of two formats, depending upon whose witness you are questioning. For witnesses whom you call to testify, you will ask direct-examination questions, that is, questions that are open-ended and get the witness to tell a story. For witnesses whom the other side calls, you will ask leading questions, ones that suggest the answer to the witness. Cross-examination is used to expose the weaknesses in the witnesses' testimony or to show inconsistencies in their testimony.

Circle whether each question is a proper direct-examination question or a proper cross-examination question. Give your reasons.

DIRECT CROSS **1.** What do you like to do in your spare time?

DIRECT CROSS **2.** Isn't it true that you have skipped four days of school during the first two weeks of school?

DIRECT CROSS **3.** Tell the jury what you think the respondent should do to repair the harm.

Questions 1 and 3 are direct-examination questions because they are open-ended and get the witness to talk. Question 2 is a leading question, asked only on cross-examination, since it suggests the answer and only allows the witness to confirm or deny it.

During questioning, you may sometimes find that the witnesses are unresponsive, angry, emotional, terrified, or obviously lying. You might also have to ask questions of someone in a higher position of authority, such as a school principal, a police officer, or a parent who is also a lawyer. There are ways to handle each situation. Here are some tips, but feel free to think of more tips.

When questioning a witness who doesn't have anything to say, try to figure out why (cultural difference, fear of retribution, shyness, embarrassment). Ask such witnesses easy questions, or begin with comments that might stimulate their interest, build their confidence, and/or reassure them that their testimony is valuable to the court.

When questioning angry or verbally abusive witnesses, acknowledge their anger calmly and encourage them to express the anger in a productive manner. For example, "I can see

that you're very angry about this, but it's important that we show respect for this court and handle this case in manner that will result in a fair outcome."

When questioning an emotional or terrified witness, it might be good to have tissues available in the court. Avoid using language that will trigger an emotional response. Instead, seek to use a matter-of-fact, calm, and respectful manner that will encourage the witness to respond calmly. If the witness begins to cry, you can say something like, "I can see you're upset. Have a tissue and take a couple moments to relax and compose yourself before you answer."

If a witness is obviously lying, you might explore the inconsistencies. As the jury, your job will include deciding who is telling the truth and what the facts are. It is not necessary for attorneys to get an admission from the witness that he or she is lying. You won't likely succeed, and it very well may be that this is how the witness actually saw it.

When questioning a person in a higher position of authority, always use proper mode of address (Officer, Dr., Mr., Ms., Mrs.) and acknowledge his or her position as you begin. For example, "Officer Alvarez, as you were the first to arrive at the scene, you will be able to tell us . . ."

Open-Ended Questions

- help the witnesses explain how the offense occurred, in the order that it occurred.
- help the witness identify the impact of the offense on all victims.
- get the witness to give ideas how the respondent can repair the harm.
- help the witness define the respondent's needs.
- help the witness report ways of connecting the respondent to the community.
- are not usually yes/no questions.

Applications

You are a prosecutor asking questions of the parent of a respondent, and the parent makes a very rude comment to you. What should you do?

You might indicate, "I see that you are very upset or angry about this, but it is important to show respect to the court." If there is an adult advisor in the room, it may be best, depending upon the situation, for the adult to step in and insist that such behavior will not be tolerated.

DELIBERATION SKILLS

The entire hearing process leads up to deliberating and deciding upon a disposition for the respondent. During the deliberations, you the judges will be expected to use a variety of skills, including group discussion skills, applying restorative justice, and performing deliberation duties. In Part Three, you will find the seven-step deliberation process developed by the National Youth Court Center. These steps should be followed in each deliberation.

Group Discussion Skills

It goes without saying that to come to a fair disposition, you must have listened and really understood what was said at the hearing. You also need to be aware that you, as well as your fellow judges, use your own experiences when you hear other people speak, and that you interpret information according to those experiences. Being aware of those assumptions and challenging them are part of being an active listener.

You will need to be on the alert during deliberations for assumptions or interpretations made about what was said in the hearing. It is crucial that every judge understands the actual facts and is in clear agreement on what the facts are. You will need to speak up if you hear something in deliberations that is different from what you heard the witnesses testify, especially if it is important, so that everyone can agree on what was said. And if you don't all agree, you must explore what the others believe and come to agreement as to the facts. If you hear someone say something contradictory, ask questions to see what the person means.

You will also be sorting out important, relevant facts from other details. If you use the three goals of restorative justice as your guide, you will be a long ways toward selecting out what is important and not important.

When you give your opinion during deliberations, make sure that you are clear and that you support your opinions by references to specific testimony, facts, and statements. Have a mental checklist that all relevant information from the hearing is taken into account. One of the group discussion skills that is particularly useful is summarizing points of agreement and disagreement as the deliberations move forward. In this way, judges feel listened to and that their opinions are valued.

Another supportive group skill is reinforcing and building on comments made by other judges. Comments like these help the judges to work as a group: "I agree with Terry that the respondent is a good athlete. I think that having him play basketball with younger students at the local community center is a good choice for his community service."

Have you ever used persuasion? Of course you have! Every time you try to convince your parent or teacher to let you do something, you are using persuasion. What makes persuasion more likely to be successful? You'll probably find that you are more persuasive when your arguments "connect" with the values of your parent, teacher, or whomever you're trying to persuade and get him or her to identify with your point of

view or at least see things from your point of view. Generally, arguments are more persuasive when they are specific, detailed, and expressed clearly, and with conviction.

Your judge panel may very well be made up of a variety of people, perhaps including respondents who are completing their disposition. It is important to treat all volunteers with respect and to make sure that all are included in the discussions.

Applications

During the deliberations, a judge states that the respondent said she had stayed out past curfew every night for two weeks before she was caught. You heard the respondent say that her brother, not the respondent herself, had stayed out past curfew every night for two weeks. What would you do?

You should say that you want to get clear about what was said, that you had heard the two weeks out past curfew was the respondent's brother and ask all the judges what they had heard.

Application of Restorative Justice

The most effective judges are those who can readily identify all the disposition options and understand how each is related to restorative justice goals. You should ask questions and make comments during deliberations that ensure that the dispositions get the respondents to understand how their actions affected others, create opportunities for the respondents to repair the harm, increase respondents' skills, and involve the community in the disposition.

Performance of Deliberation Duties

The seven-step deliberation process set out in Part Three of this handbook takes you through the deliberation process. First step, you need to be sure that you understand your duties as a judge during deliberations and the rules that govern your deliberations. You are working to achieve consensus, but does your youth court require that all judges agree on the disposition? Know your local requirements. The second step is to review what was seen and heard during the hearing to make sure you are all in agreement about what happened at the hearing.

The third step is to identify specifically each victim and how he or she was harmed. These victims may include the respondent, the respondent's family, individual victims, businesses, and the community itself.

To address repairing the harm, the judges should next outline the needs of the respondent, the respondent's family, victims, and community as a result of the harm caused. As a fifth step, the judges should identify what the respondent has already done to address the harm and what still needs to be done to address the harm to the various individuals and to raise the respondent's awareness of the impact of his or her actions.

At this point the judges are ready to determine an appropriate, fair, and restorative disposition for the respondent. Of course, you will need to be knowledgeable about the disposition choices and vote with an awareness of the specific content of each of the disposition options. One very important duty of judges is that you make your decisions about respondents based on their individual circumstances and their offense and not on stereotyped views about the kind of person that they are.

The seventh step is to write out a justification for the disposition imposed. This explanation should be provided to the respondent in court, either orally or in writing.

Sometimes, a volunteer plays an additional role of mentor and has a duty to be available to work with some respondents.

CONCLUSION

When you've read through this manual and practiced your skills during training, you're ready to start working on actual youth court cases. You're about to experience firsthand how to make a positive difference in the lives of respondents and learn a lot about yourself in the process.

Please realize that you will continue to learn and get better at the process of youth court the more you work at it, and that your education will continue with critiques after hearings and in additional classes.

Through your experiences, you will have proved to yourself and to your community that you are capable of making a significant contribution to your community, not just in the future, but now! Congratulations.

PART THREE: SCRIPTED HEARINGS

Youth Tribunal Model Youth Court: In the Matter of Jay Kingsman

Eleven Roles

Bailiff
Court Clerk
Prosecutor
Defense Attorney
Jay Kingsman, respondent
Mrs. Kingsman, mother of respondent
Presiding Judge
Associate Tribunal Judge 1
Associate Tribunal Judge 2
Associate Tribunal Judge 3
Associate Tribunal Judge 4

The Proceedings
Enter Judges, escorted by Bailiff.

Bailiff: All rise. *(Waits for Judges to be seated.)* Youth court is now in session, the Honorable Judges _____ presiding.

Presiding Judge: You may be seated.

Thank you for coming here. I would like to remind everyone that we are here in the interest of serving our community and achieving justice in our society. We are not here to determine guilt or innocence, but rather to decide the appropriate disposition for this respondent, Jay Kingsman. We should base our decision on the goals of youth court: to hold the respondent accountable for his actions, including to make up for the harm that he has caused, to develop his skills and competencies so that he can be a productive member of society, and to connect him to his community by involving the community in his disposition.

Please, would everyone stand and take the oath of confidentiality? Indicate, "I do," if you agree: "Do you swear or affirm that you will not reveal to anyone what is discussed here at youth court?"

Everyone: I do.

Presiding Judge: You may be seated. Would the attorneys please stand and introduce themselves?

Prosecutor: My name is _____, and I represent the State in this matter.

Defense Attorney: My name is _____, and I represent Jay Kingsman.

Presiding Judge: Would the respondent, Jay Kingsman, please rise?

Jay Kingsman: *(Stands up.)*

Presiding Judge: Jay Kingsman, you have pleaded guilty to one count of theft based on the unlawful taking of two packs of AA batteries from the Convenient Pantry on August 15. On that date, you and your brother, Brennan Kingsman, shoplifted two packs of AA batteries. Specifically, you aided this crime by keeping a lookout at the store while he pocketed the two packs of batteries. Is this true?

Jay Kingsman: Yes, Your Honor.

Presiding Judge: Thank you. You may be seated.

Jay Kingsman: *(Sits down.)*

Presiding Judge: At this time, I would like to ask my Associate Tribunal Judges to look at Jay Kingsman, the respondent. If any of you has a personal connection with this young man that will prevent you from sentencing him fairly in this case, then you must remove yourself at this time. Do any of you wish to remove yourself from the courtroom?

Associate Tribunal Judges 1, 2, 3, 4: *(Shake heads "no.")*

Presiding Judge: Does the Prosecutor wish to make an opening statement?

Prosecutor: *(Stands up.)* Yes, Your Honors. *(Facing the Judges)* Good afternoon, my name is _____, and I am a prosecutor, representing the government in this case.

Today, you are here to decide on the disposition or sentence for Jay Kingsman. As you have just heard, Jay Kingsman has admitted that he is guilty of theft. In order to decide on a fair disposition for Jay Kingsman, you will need to learn more about the Convenient Pantry, a small store, and its owners, Mr. and Mrs. Tran. You will also need to learn more about Jay Kingsman and his brother, Brennan.

You will hear from the store owners, Mr. and Mrs. Tran, through a Victim Impact Statement. They will tell you that on August 15 at 4:30 p.m. Brennan and Jay Kingsman entered their store, the Convenient Pantry. They will tell you that Jay served as a lookout while Brennan took two packs of AA batteries worth $8.95, from the shelf. Mr. and Mrs. Tran will describe how Jay stood at the head of the aisle containing batteries, looking around for security guards and shielding Brennan from the security cameras, while Brennan, slipped two packs of AA batteries into his pocket. At this point both boys attempted to leave the store without paying. However, the Tran's security guard stopped Jay and Brennan and demanded the return of the batteries.

Mr. and Mrs. Tran will describe how they came to this country as immigrants in 1991 and how they both worked two jobs to save enough money to start this store. They will describe how they bought the store in 1999 but lose over $500 each month from shoplifting. They will describe that the theft of even what appears to be a small amount of merchandise has a major impact on the business. These thefts cause the Convenient Pantry to spend more money on a part-time security guard and video cameras, which results in higher prices for all of us.

Therefore, the prosecution recommends that in order to hold Jay accountable for his actions and to develop a greater awareness of the impact of shoplifting, Jay should pay $8.95, the value of the AA batteries to Mr. and Mrs. Tran. Jay should also interview Mr. and Mrs. Tran about the impact of shoplifting on their store and write a 300-word essay about what he learns.

To develop new skills, Jay should complete 10 hours of community service, part of which should include two youth court observations. I expect that the evidence presented and the

witnesses who speak today will make Jay's needs clear and help you to decide a fair disposition for him. *(Sits down.)*

Presiding Judge: Does the defense wish to make an opening statement?

Defense Attorney: *(Stands up.)* Yes. Thank you, Your Honor.

Good afternoon, Your Honors. My name is _____, and I represent the respondent, Jay Kingsman. It is true that on August 15 at 4:30 p.m., Jay Kingsman served as a lookout while his 17-year-old brother, Brennan, shoplifted two packs of AA batteries. But when you hear from the witnesses, Jay Kingsman and his mother, you will hear a more complex story than the one described above. You will learn that Brennan had demanded that Jay help him steal the batteries from the store so that Brennan could listen to his headphones set. You will hear about the influence Brennan has over Jay because he has acted as a father figure to Jay for most of Jay's life. Jay is new to our town, having just moved here a year ago. You will learn that Jay tried to get Brennan to wait and buy the batteries later; Jay even told Brennan that he could borrow money from him after they got home, but Brennan didn't listen. Brennan wanted the batteries for his headphones set then. After Jay and Brennan were stopped by the security officer, Jay admitted the theft.

Jay is here today because he has admitted his guilt. You will hear him today state how truly sorry he is for his crime and that this is his first theft. Of course, Jay must be held accountable for his actions and he very much wants to make up to the Trans and his family for his mistake. You will hear from Jay and his mother about the needs Jay has, the need for new friends his own age. Jay will also tell you about his aptitude for computers, which suggests ways that he might get connected back to society. The prosecution, therefore, recommends that Jay pay $8.95 to the Convenient Pantry, that he serve five hours community service or three youth court observations and that he apologize to both his mother and to Mr. and Mrs. Tran. I am sure you'll agree with this recommendation as you listen to the evidence presented now. *(Sits down.)*

Presiding Judge: Prosecution, would you like to present your case?

Prosecutor: *(Stands up.)* Yes, Your Honor, I would like to read the Victim Impact Statement to the Jury.

Presiding Judge: Go right ahead.

Prosecutor: Victim Impact Statement, dated September 5.

Our names are Mr. and Mrs. Tran and we own the Convenient Pantry. We bought the store in 1999 and make payments every month. We came to this country from Vietnam in 1991 and worked two jobs in order to be able to buy this store.

Every month we lose at least $500 worth of goods from shoplifting. Everything is so expensive. We don't make much money, and we work very hard for our money seven

days a week. We feel that we are violated when someone takes something from us without paying. We don't understand these kids. They have everything, but they still think they have the right to take things without paying.

Because of shoplifting I have had to raise prices to pay for a security guard and cameras, and customers have to pay more for things. Also, people are getting used to video cameras, but I tell you, a lot of people don't like to have cameras on them all the time.

We were both working on April 15 when the two boys came to the store. Jay Kingsman and his brother went over to the aisle that has the batteries. We didn't notice anything, but my security guard did. My security guard stopped them, and Jay admitted that his brother had batteries in his pocket.

I want that boy to understand that taking things from a store hurts real people, that we work hard for our money and our things. He should realize that he has to work for what he wants and not to expect to just take things from others. I guess I want him to be sorry for what he has done.

Signed

Mr. and Mrs. Tran

In addition, Mr. and Mrs. Tran have expressed their interest and consent to having contact with the respondent as part of the disposition.#1

Presiding Judge: Thank you. Defense, please present your case.

Defense Attorney: *(Stands up.)* I would like to call Jay Kingsman to the stand.

Jay Kingsman: *(Stands up to be escorted to the witness stand.)*

Bailiff: *(Escorts the respondent to the witness stand.)* Raise your right hand. Do you swear or affirm that the testimony you are about to give is the truth?

Jay Kingsman: Yes.

Bailiff: Please be seated. *(Returns to seat and sits down.)*

Jay Kingsman: *(Sits down.)*

Defense Attorney: Please state your name and where you live.

Jay Kingsman: Jay Kingsman. 1545 West Main Street.

Defense Attorney: Whom do you live with?

Jay Kingsman: My brother, Brennan, and my mom.

Defense Attorney: How old are you?

Jay Kingsman: 13.

Defense Attorney: Do you have a job?

Jay Kingsman: I deliver newspapers on the weekend.

Defense Attorney: How long have you delivered newspapers?

Jay Kingsman: Only about three months.

Defense Attorney: What grade are you in school?

Jay Kingsman: I'm a freshman this year.

Defense Attorney: What kinds of grades do you get?

Jay Kingsman: B's, mostly.

Defense Attorney: Tell us what subjects you like in school.

Jay Kingsman: Well, my favorite subject is computers. Math isn't too bad either.

Defense Attorney: What do you like to do when you're not in school?

Jay Kingsman: I'm a pretty good skateboarder, and I like to listen to music.

Defense Attorney: Let's talk about what happened on August 15. Where were you at about 4:30 p.m.?

Jay Kingsman: The Convenient Pantry on Central.

Defense Attorney: Please describe what happened that day.

Jay Kingsman: My older brother, Brennan, told me to meet him at the Convenient Pantry because he needed some help with something. I met him there, and he told me that I needed to protect him from the security guard and cameras while he took some batteries from the store. I tried to tell him I could give him money at home to buy the batteries, but he wouldn't listen to me. Since my dad doesn't live with us, my older brother has been sort of like a father to me. It's hard for me to stand up to him.

Defense Attorney: How old is Brennan?

Jay Kingsman: Brennan is 17 years old.

Defense Attorney: So what happened next?

Jay Kingsman: I went into the store with Brennan and did what he said. While he took the batteries, I stood at the head of the aisle where the batteries are and tried to block him from the cashier's view and the view of the cameras. As we walked out of the door, a man stopped us and asked us if we had anything in our pockets. At first, Brennan denied it, but then I said, "Yeah, he has some batteries there." The man took us into the back room and called the police. He said he would press charges.

Defense Attorney: Why did you help your brother?

Jay Kingsman: I felt like I didn't have any choice. He's bigger than me, and he's always been there for me when my dad hasn't been.

Defense Attorney: Have you ever been arrested before?

Jay Kingsman: No.

Defense Attorney: Is there anything else you would like to tell us?

Jay Kingsman: I'm sorry about what I did. I didn't know that I could get in trouble for helping, and I didn't know how much it would hurt Mr. , um, the owner. I won't do it again.

Defense Attorney: Jay, how has taking the batteries affected your mother?

Jay Kingsman: She's pretty mad at me and Brennan. She talked to me a lot and grounded me for two months.

Defense Attorney: Can you think of anything to make it up to your mother?

Jay Kingsman: Not really, just tell her I'm sorry.

Defense Attorney: Defense has no further questions, Your Honor. *(Sits down.)*

Presiding Judge: Prosecution, would you like to question the witness?

Prosecutor: *(Stands up.)* Yes, thank you, Your Honor. Let's talk a bit more about what happened at the Convenient Pantry on August 15. It is true that you helped your brother steal the batteries, isn't it?

Jay Kingsman: Yes, that's true.

Prosecutor: You said you did it because he made you?

Jay Kingsman: Yes.

Prosecutor: But, you know stealing is wrong, and you did it anyway?

Jay Kingsman: Well, I guess.

Prosecutor: You have a part-time job delivering newspapers, don't you?

Jay Kingsman: Yes.

Prosecutor: So you earn enough money to pay for two packs of batteries?

Jay Kingsman: Well, yeah, and I offered that money to my brother, but he didn't want it.

Prosecutor: Well, that may be true, but you didn't leave the store after you knew his plan?

Jay Kingsman: I couldn't. My brother was holding on to me.

Prosecutor: It's possible you could have gotten away. Your brother wouldn't hurt you, would he?

Jay Kingsman: I don't think so.

Prosecutor: You stated your brother made you stay there. Are you trying to blame him for your behavior?

Jay Kingsman: Well, no, not really. You know, it's just that we just moved into this neighborhood. I don't have many other friends, and I don't want to lose my brother as my best friend, you know?

Prosecutor: Do you know who owns the Convenient Pantry?

Jay Kingsman: I don't know their names, but I think there's, um, a family that works there all the time.

Prosecutor: No further questions, Your Honor. *(Sits down.)*

Presiding Judge: Defense, would you like to redirect?

Defense Attorney: *(Stands up.)* Yes, thank you. Jay, you said you are sorry for your mistake, correct?

Jay Kingsman: Yes, I am.

Defense Attorney: Are you aware of the impact that shoplifting has on a small store?

Jay Kingsman: Well, I'm learning. It seems to be, well, I guess it hurts them a lot.

Defense Attorney: Defense has no further questions for Jay, Your Honor.

Presiding Judge: Jay, you may step down.

Jay Kingsman: *(Returns to seat and sits down.)*

Presiding Judge: *(To Defense Attorney)* Would you like to call any other witnesses?

Defense Attorney: Yes, Your Honor. I would like to call Mrs. Kingsman to the stand.

Mrs. Kingsman: *(Stands up to be escorted to the witness stand.)*

Bailiff: *(Escorts Mrs. Kingsman to the witness stand.)* Raise your right hand. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth?

Mrs. Kingsman: Yes.

Bailiff: Please be seated. *(Returns to seat and sits down.)*

Mrs. Kingsman: *(Sits down.)*

Defense Attorney: Please state your name and where you live.

Mrs. Kingsman: Laura Kingsman. 1545 West Main Street.

Defense Attorney: Whom do you live with?

Mrs. Kingsman: My two sons, Jay and Brennan.

Defense Attorney: Their father doesn't live with you?

Mrs. Kingsman: No. My boys haven't seen their father since he left us 11 years ago.

Defense Attorney: Could you tell us what sort of person your son Jay is?

Mrs. Kingsman: Yes, Jay is a very good son. He helps me around the house. He does pretty well in school. I don't have to tell him more than once to do something and he does it.

Defense Attorney: What does Jay like to do?

Mrs. Kingsman: Well, he really likes his computer class at school. Unfortunately, we don't have a computer at home for him to use. I think he likes his newspaper job, too. He spends most of his free time with his older brother, Brennan.

Defense Attorney: Has Jay ever been in trouble with the law before?

Mrs. Kingsman: No. This is the first time.

Defense Attorney: What did you do to Jay when you learned that he was arrested for shoplifting?

Mrs. Kingsman: Well, I grounded him and his brother for two months. Neither one of them could go anywhere except for their paper routes and school. I've had a long talk with both him and his brother, and I trust them to learn from this mistake, especially Jay.

Defense Attorney: Mrs. Kingsman, how has this situation affected you?

Mrs. Kingsman: Well, I have to say it has made me feel really mad and sad. You know, I work hard to do right for my boys and when they mess up, it hurts me. I have taught both boys to work for what they get and that nothing good comes from stealing.

It scares me, too, when I think what can happen to Jay. I know he needs a father in the picture, but that just can't be helped. Brennan is a good brother most of the time. I get afraid sometimes of the influence Brennan has on Jay. If Brennan uses it in the wrong direction, it's hard for Jay to stand up to him. Oh, I think Brennan understands that now. We've been talking.

Defense Attorney: Mrs. Kingsman, what do you think would help Jay?

Mrs. Kingsman: Well, I think Jay needs to have some friends of his own, friends who are his own age. His older brother has been his main contact. He's pretty shy, and we just moved, so he hasn't found a new group of friends his own age, you see. He likes computers a lot, and I think he could really make something of that if he has the chance.

Defense Attorney: Mrs. Kingsman, what can Jay do to repair the worry and upset he's caused you?

Mrs. Kingsman: Well, I want him to be really sorry and not to do this again.

Defense Attorney: No further questions, Your Honor. *(Sits down.)*

Presiding Judge: Prosecution, would you like to question this witness?

Prosecutor: *(Stands up.)* Yes, please. Mrs. Kingsman, it is true that both Jay and Brennan have paper routes, isn't it?

Mrs. Kingsman: Yes.

Prosecutor: Why do they have paper routes? What do they do with the money they earn?

Mrs. Kingsman: They have paper routes so they have some spending money. I am a single mother and don't have extra money to give the boys any kind of allowance. I want them to learn the importance of saving, so I tell them that they must save part of their earnings, but about half of what they earn, they can use to buy CDs or go out to lunch, or to the movies.

Prosecutor: So it is true that they have the money to buy something like AA batteries for their headphone sets?

Mrs. Kingsman: Yes, that's true.

Prosecutor: I have no further questions, Your Honor. *(Sits down.)*

Presiding Judge: *(To Defense Attorney)* Do you have any further witnesses?

Defense Attorney: *(Stands up.)* No, thank you, Your Honor. *(Sits down.)*

Presiding Judge: Prosecution, please present your closing argument.

Prosecutor: *(Stands up and addresses the Judges.)* Thank you for your attention throughout these proceedings. Today we have heard how Jay helped his brother commit a crime that hurt our community, Mr. and Mrs. Tran and their Convenient Pantry, and his mother. On August 15, Jay and his brother, Brennan, entered Mr. and Mrs. Tran's store with the full intention to steal two packs of AA batteries. These batteries were to be used in a headphone set so that they could listen to music. Jay did not consider the effect that this action might have on the owners of the store, Mr. and Mrs. Tran. He did not just walk away from his brother, even though he knows stealing is wrong. He didn't even realize that helping to commit a crime is a crime in itself.

We have learned from Mr. and Mrs. Tran that shoplifting, even a small amount, terribly hurts their store. They are constantly worried about how to make mortgage payments when they lose over $500 every month, just from shoplifters. Mr. and Mrs. Tran also explained how the community pays higher prices and how people's privacy is lessened because of the cameras.

We have also learned that Jay had enough money that day to pay for AA batteries. To restore justice in this case, I recommend that Jay do these things: (1) pay Mr. and Mrs. Tran the cost of the batteries, $8.95; (2) visit the store in person to apologize to Mr. and Mrs. Tran; (3) interview Mr. and Mrs. Tran to obtain information to write a 300-word essay about how expensive it is to deal with shoplifters; and (4) complete 10 hours of community service.

I would like to remind you that the disposition you decide upon should hold Jay accountable, develop skills he needs to be a productive member of society and make sure that Jay is connected to his community by involving the community in the disposition. First, to hold Jay accountable, it is crucial that he repay the store $8.95. Second, to build his skills in being part of the community, I have recommended 10 hours of community service—when deciding upon the type of community service, please remember that Mrs. Kingsman said that Jay needs more friends his own age and that he enjoys working with computers. Finally, I have recommended that Jay interview Mr. and Mrs. Tran so that they also can be involved in this disposition. They can share their personal stories with Jay, which will help Jay better understand the impact of his crime and help Mr. and Mrs. Tran feel that they have power to improve their community. It is for these reasons that I ask you to consider restoring justice with this recommended disposition.

Thank you very much.

Presiding Judge: Defense, please present your closing argument.

Defense Attorney: *(Stands up and addresses the Judges.)* Ladies and gentlemen, thank you for listening to the facts presented here today. It is true we have learned a lot about Jay and his experience at the Convenient Pantry. And Jay has learned a lot, as well. He now knows that shoplifting, even a small amount, can tremendously affect a store that is struggling to survive. He learned that helping to commit a crime is wrong. He may have even learned how important it is to stand up to his older brother.

Most importantly, he is sorry for what he has done and he wants to right this wrong. For a fair disposition, I recommend that Jay: (1) apologize to Mr. and Mrs. Tran and to his mother to show his understanding for the harm that he has caused; (2) pay $8.95 to the Convenient Pantry; (3) serve five hours of community service to give back to his community, and, possibly, to make new friends in the process and (4) apologize to his mother. This is how I believe we can meet the goals of a fair disposition for Jay.

Thank you again for your attention today.

Presiding Judge: We have heard the evidence and arguments from both the Prosecution and the Defense and now must determine a proper sentence for Jay. Our job is to carefully consider what has been presented here today, to consider the victim impact statement of Mr. and Mrs. Tran and the testimonies of Jay himself and his mother, Mrs. Kingsman. Decide how best to hold Jay accountable for his actions, especially by considering these three questions: How can he make up for the harm he has caused? What skills does he need to develop? How can we help Jay connect to his community?

When we have reached a unanimous consensus, the Bailiff will alert the courtroom that the disposition is ready for presentation.

End of hearing

SCRIPTED DELIBERATIONS

Eight Roles

Presiding Judge:
You have been on youth court for three years. You enjoy it a lot, and you are very fair in all the roles you play. You like to get people's opinions and you enjoy helping reach consensus.

Associate Tribunal Judge 1:
You are a prior respondent, and you like youth court. You want to help decide a fair disposition for Jay. You have some trouble understanding restorative justice and the legal system in general, so you are often quiet, though you are not afraid to speak.

Associate Tribunal Judge 2:
This is your first year on youth court. You don't have any trouble speaking your mind. You want a fair disposition for Jay.

Associate Tribunal Judge 3:
You have just completed the youth court training and are excited to be on your first case. You are just beginning to understand how the court functions and you want to contribute a lot.

Associate Tribunal Judge 4:
You are distracted this evening, but you also want to do a good job for Jay. You particularly relate to Jay because you also have a demanding older brother so at times you are pulled into the conversation.

Bailiff
Jay Kingsman
Mrs. Kingsman

Presiding Judge: Okay, we have to come up with a fair disposition for Jay Kingsman. Before we begin our deliberation, is there anything any of you'd like to say? Does anyone have any questions?

Associate Tribunal Judge 1: No.

Associate Tribunal Judge 2: Yeah. Did Jay's mom already punish him? I can't remember. And should this affect our decision for his disposition?

Associate Tribunal Judge 3: Jay was grounded by his mom for two months, I think. I guess it just shows that his mother, and possibly he, knows that shoplifting is wrong. Do you think he learned anything from being grounded?

Associate Tribunal Judge 2: Well, not really, but you know it's not cool to miss out on stuff your friends do. Although I guess Jay mostly hangs out with his brother anyway.

Presiding Judge: That's true, and I think we should consider that when we decide his disposition. Before we get off track, though, does anyone else have any other questions?

Associate Tribunal Judge 3: Not I.

(Pause.)

Presiding Judge: *(To Associate Tribunal Judge 4)* How about you?

Associate Tribunal Judge 4: *(Seeming distracted)* No.

Presiding Judge: Okay. If we look at our seven-step deliberation process, we can see that we need to follow these steps:

1. Review the rules for jury deliberation.

2. Review the facts and circumstances of the case. Also discuss our impressions of what we saw and heard during the hearing.

3. Decide who was affected by the respondent's actions and how they were harmed by the respondent.

4. Identify the needs of everyone who was affected by the harm—respondent, respondent's family, victims, and the community.

5. Decide what needs to be done to repair the harm.

6. Determine an appropriate sentence that will help meet the needs of the affected parties and reach agreement.

7. Provide a written justification that explains the reasons for the disposition being imposed.

First of all, our main rule is that we decide by consensus. Everyone must agree to the disposition.

Now let's review the case first. Who's the respondent?

Associate Tribunal Judge 2: Jay.

Presiding Judge: What do we know about him?

Associate Tribunal Judge 3: I think he's 13 years old.

Associate Tribunal Judge 2: He has a paper route.

Associate Tribunal Judge 1: He lives with his mom and brother.

Presiding Judge: And he looks up to his brother a lot because he doesn't have a father at home. He also really likes computers, skateboards, and listening to music. Anything else?

Associate Tribunal Judge 2: I don't think so.

Presiding Judge: Okay, what was the crime?

Associate Tribunal Judge 1: He shoplifted two packs of AA batteries.

Associate Tribunal Judge 2: Well, not quite. He helped his brother steal the batteries, right?

Associate Tribunal Judge 3: Yeah, that's more specific. He was an accomplice to the crime, but he still committed the crime.

Presiding Judge: So what exactly did he do?

Associate Tribunal Judge 1: He stood by the aisle and tried to stand in between his brother and the security cameras.

Associate Tribunal Judge 2: He also tried to hide him from the cashier.

Associate Tribunal Judge 3: Then, Jay and his brother walked out of the store together.

Presiding Judge: What happened when he walked out of the store?

Associate Tribunal Judge 2: The security guard caught them, and they denied taking anything.

Associate Tribunal Judge 3: But Jay spoke up and said that his brother had batteries in his pocket or something.

Associate Tribunal Judge 1: I think that's it.

(Pause.)

Associate Tribunal Judge 4: What about the next question here, "Who was harmed by Jay's actions and how were they harmed?"

Associate Tribunal Judge 3: Mr. and Mrs. Tran are victims. They own the store. I think they are from Vietnam.

Associate Tribunal Judge 2: But the community is also a victim, right? We have to pay higher prices at the Convenient Pantry now because the owners have to make up for their losses. They also have to pay for extra security cameras and security guards. We also have to pay for more police to hang around convenient stores! Not to mention having to be on camera more.

Presiding Judge: Right. Are there any other victims in this case?

Associate Tribunal Judge 3: Well, his mom is a victim, too; this has caused her a lot of pain. Also, she has to spend time to come to court and support her son in taking care of the situation.

Associate Tribunal Judge 2: So, is that all?

Presiding Judge: I think those are all the victims and how they were affected. *(To Associate Tribunal Judges 1 and 4)* What do you guys think?

Associate Tribunal Judge 1: That sounds right to me.

Associate Tribunal Judge 4: Yeah. Let's move on.

Presiding Judge: So, now that we know the facts, the victims, and the crime, what are our impressions about the case?

Associate Tribunal Judge 3: Well, it wasn't a serious crime, but it affected Mr. and Mrs. Tran a lot.

Associate Tribunal Judge 1: That's true. Mr. Tran said he loses lots of money each month from shoplifting.

Associate Tribunal Judge 4: Well, wait a minute, Jay and his brother only took two battery packs—not $500 worth of stuff.

Presiding Judge: That's a good point. So what are your other impressions?

Associate Tribunal Judge 4: Jay did what he had to do. I have an older brother; I know what that's like.

Associate Tribunal Judge 2: What do you mean?

Associate Tribunal Judge 4: It's just impossible to say no to my older brother. I understand what Jay is saying.

Presiding Judge: So do you think that this affects our decision?

Associate Tribunal Judge 4: Yeah.

Associate Tribunal Judge 3: How?

Associate Tribunal Judge 2: I guess he needs to learn that he shouldn't always listen to his older brother.

Associate Tribunal Judge 3: That's going to be hard, isn't it?

Associate Tribunal Judge 1: Well, I think he's already learning that from his mom.

Presiding Judge: I think you might be right. *(To Associate Tribunal Judge 4)* What do you think?

Associate Tribunal Judge 4: I guess so.

Presiding Judge: Okay, anything else about that? *(Pauses. Looks around.)* Okay. Do you think that Jay understands the implications of his actions? I mean does Jay know how much this crime has affected Mr. and Mrs. Tran, the community and his mom?

Associate Tribunal Judge 2: I think he is beginning to learn, but he needs to learn more. He couldn't even remember Mr. and Mrs. Tran's name. I think he's got to see the connection of his offense to real people.

Associate Tribunal Judge 3: Yeah, I think he knows he's hurt his mom and that it's hard for her to come here, but I don't think he really thought about the effect his action would have on the community.

Associate Tribunal Judge 1: So what can we do to hold him accountable for his action?

Associate Tribunal Judge 3: I like the idea of having him pay money to Mr. and Mrs. Tran.

Associate Tribunal Judge 2: Yeah, that makes sense, but can we do that? I mean, can we make him pay?

Associate Tribunal Judge 3: Yes, that's one of the options we have.

Presiding Judge: *(To Associate Tribunal Judge 4)* Do you agree to have Jay pay money to the Trans?

Associate Tribunal Judge 4: I don't know about that.

Associate Tribunal Judge 1: Yeah, you know, they got the batteries back from him, so he doesn't really owe the store any money.

Associate Tribunal Judge 2: You're right. So what should he do to make up for the harm he caused to the store?

Presiding Judge: Well, what if we have him interview Mr. and Mrs. Tran? I think that would help him understand the effect he has on both the store and the community. What do you guys think?

Associate Tribunal Judge 3: That's right. He's shown that he's beginning to understand the impact of his crime, but he needs to understand it better. If he interviews Mr. and Mrs. Tran and writes an essay about what he learned, I think that would help him remember.

Associate Tribunal Judge 2: Does that really make up for the harm he caused, though? I think he should do something else.

Presiding Judge: Well, he could work for them for one day. During the day, he could talk to them and then write an essay about his experience there.

Associate Tribunal Judge 2: That's a good idea. What could he do at the store?

Associate Tribunal Judge 3: That's up to Mr. and Mrs. Tran. He could stock shelves or help them with their books, maybe using their computer.

Associate Tribunal Judge 3: I think we should recommend he work for three hours. It will give him enough time to talk to the Trans and get some work done in the store.

Presiding Judge: Does everyone agree? Should Jay visit the store to apologize, work there for at least three hours, and then write an essay about what he learned during the day?

Associate Tribunal Judges 1 and 4: Yes.

Associate Tribunal Judges 2 and 3: Sounds good.

Presiding Judge: Should we give his essay a word limit?

Associate Tribunal Judge 2: I don't think so. I think the experience is really what will help Jay. As long as he writes down what he learns, I think that's fine.

Associate Tribunal Judge 1: I agree.

Associate Tribunal Judge 3: Me, too.

Presiding Judge: *(To Associate Tribunal Judge 4)* What do you think?

Associate Tribunal Judge 4: I think it should be at least a 500-word essay.

Associate Tribunal Judge 1: Why?

Associate Tribunal Judge 4: Because when I was sentenced for shoplifting, I had to write a 500-word essay. That's the normal disposition, I think.

Presiding Judge: Well, while that may be the disposition you got, it's probable that the circumstances were different. Each disposition will be based on the individual case. In this case, it seems like Jay has already learned a lot from having to come to court. We're making him work for Mr. and Mrs. Tran. Anyway, that's why I think it's not necessary to give a word limit like you got. What does everyone else think?

Associate Tribunal Judge 2: That makes sense to me.

Associate Tribunal Judge 3: Me, too.

Associate Tribunal Judge 1: Me, too.

Associate Tribunal Judge 4: Okay. Whatever.

Presiding Judge: Well, we have to agree, so please let us know if you don't agree.

Associate Tribunal Judge 4: Okay. It's fine.

Presiding Judge: Okay, we still have to address their suggestions of community service. Will either help Jay develop skills, hold him accountable, or help involve the community?

Associate Tribunal Judge 3: Well, I think we've already held Jay accountable by having him learn more about his crime's impact from Mr. and Mrs. Tran and giving him a chance to work at the store. I think it's likely he's going to get into more trouble if he continues to be influenced by his older brother. Why don't we give him something to connect with other kids? He could help out at youth court.

Associate Tribunal Judge 2: Yeah, that might help him develop some people skills. His mother says he needs friends.

Presiding Judge: And he said he liked computers right? Do you think he could come here to try and fix that computer glitch we've had?

Associate Tribunal Judge 4: That sounds like a good idea, actually.

Associate Tribunal Judge 1: Sounds good to me.

Presiding Judge: So, are we all in agreement? To make up for the harm he has caused, Jay will apologize to Mr. and Mrs. Tran and work for them for three hours. To better

understand the impact of his crime on the victims, Jay will write a short essay about what he learns from the Trans while volunteering at the store. To develop his skills, Jay will come to youth court for two nights to see how the process works and help us fix our computer problem.

What do you all think?

Associate Tribunal Judge 3: I think we forgot one thing. We said Jay's mother is also a victim, right? We've involved both the community and Mr. and Mrs. Tran in the disposition, but we haven't included his mother.

Presiding Judge: That's true. What could we do to involve his mother?

Associate Tribunal Judge 2: Well, he could apologize to her.

Associate Tribunal Judge 3: You know, since his disposition is already pretty heavy, why don't we have Jay apologize right now, in court? He could give his mom a hug and apologize to her in front of everyone.

Presiding Judge: I think that would have a strong impact on him. Are we all in agreement? In addition to what we recommended above, we will also recommend that Jay hug his mother and apologize to her in front of court right now?

Associate Tribunal Judge 1: Fine.

Associate Tribunal Judge 2: Sounds fine.

Associate Tribunal Judge 3: Good.

Associate Tribunal Judge 4: Okay by me.

Presiding Judge: Great. Now, last thing, who is going to be his mentor? It'd be cool if it was someone who likes computers, if their schedules match up okay.

Associate Tribunal Judge 2: Well, I really like computers, too, but I go to St. Peter's. That's kind of far from Jay's school.

Associate Tribunal Judge 3: You know, I haven't served as a mentor yet, and Jay goes to my school. It's a big school; I don't think I've seen him there before, but I'm sure we could arrange to meet pretty easily. He could use his computer knowledge to help us here at court.

Presiding Judge: Well, that sounds fine to me. Does everyone else agree?

Associate Tribunal Judges 1, 2, 4: Yes.

PAUSE: Bailiff brings in Mrs. Kingsman and Jay to the courtroom.

Presiding Judge: Jay, we have decided that in order to help you understand that taking the batteries was wrong and that it affected a lot of people and to give you a chance to make up for that harm, you must

1. visit the Convenient Pantry at Mr. and Mrs. Tran's convenience to apologize in person and volunteer to work for three hours for them (note: include this only if your youth court permits in-person apologies);

2. write an essay on what you have learned from this experience and from Mr. and Mrs. Tran;

3. attend youth court for two weeks to learn about the process and take a look at our computer problem hear at youth court; and

4. apologize today in court to your mother for the hurt you have caused and give her a hug.

Presiding Judge: The court finds this sentence to be fair, constructive, and restorative. Jay, would you please complete the first part of your disposition now by apologizing to your mother and then giving her a hug?

Jay Kingsman: Okay. *(Stands up and walks over to his mother. Gives her a hug.)* I'm sorry, Mom.

Mrs. Kingsman: That's okay, Jay.

Presiding Judge: I would like to thank you all for being here today. Youth court is an effective way to restore balance to our society and increase the skills and competencies of our young people to make them true members of our community. Jay, thank you for your honesty in court today. I trust that you have learned something from this experience, and I don't believe I will need to see you in court again, except as a member of youth court. Please visit the youth court coordinator's office before you leave this evening. Court is adjourned.

Bailiff: There being no further matters before this court, the court stands adjourned. All rise.

Everyone: *(Stands while the Judges leave the room.)*

End of deliberations

SEVEN–STEP DELIBERATION PROCESS

Seven-Step Deliberation Process was developed by Godwin, Heward, and Spina, 2000 for use by youth courts nationally. To ensure deliberations that are more likely to achieve restorative justice, jurors should follow these steps.

1. Review the rules for jury deliberation.

2. Review the facts and circumstances of the case. Also discuss your impressions of what you saw and heard during the hearing.

3. Decide who was affected by the respondent's actions and how they were harmed by the respondent.

4. Identify the needs of everyone who was affected by the harm—respondent, respondent's family, victims, and the community.

5. Decide what needs to be done to repair the harm.

6. Determine an appropriate sentence that will help meet the needs of the affected parties and reach agreement.

7. Provide a written justification that explains the reasons for the disposition being imposed.

SAMPLE SCRIPTS FOR THE HEARING

What follows is a series of generalized statements and questions to provide a starting point for presenting your hearings. None of this material can be used "as is" for your hearing, but it will help you if you get stuck in your preparation. Obviously, the questions need to be tailored to your specific respondent's case.

PRESIDING JUDGE'S SCRIPT

Good afternoon, we are here today in the case of _____. Would all the court members please rise, as I administer the oath of confidentiality. (Read your youth court oath and ask the people in court to say "I do.")

Today we will decide on the appropriate disposition for the respondent, _____. The prosecutor and defense attorney will both make recommendations about the disposition and present evidence. We will then have a chance to deliberate and decide upon a disposition that holds the respondent accountable, develops competencies in the respondent, and involves the community in the disposition. One of the purposes of our youth court is to provide respondents with a disposition decided upon by (his/her) peers.

The disposition hearing will proceed as follows: First the respondent will admit guilt, and then the prosecutor and the defense attorney will make opening statements. The prosecutor will then introduce evidence, followed by the defense attorney. We will hear

closing arguments from each attorney, and then we will retire for our deliberations. Once we reach a verdict, we will notify the bailiff, who will bring you back to court to hear our decision.

Respondent, you have been charged on (date) with (offense or problem behavior). How do you plead, guilty or not guilty?"

Prosecutor, are you prepared to make your opening statement?

Defense attorney, are you prepared to make your opening statement?

Prosecutor, call your first witness please.

Defense attorney, call your first witness please.

Respondent, we have decided that you are ordered to (state disposition terms). We believe that this disposition reflects restorative justice goals and is fair and appropriate for the crime (or problem behavior) you committed. You understand that society has rules that its members must follow. We hope very much that you have learned much more about the impact of the harm you caused and are satisfied that you can repair the harm through the disposition terms. In addition, we understood that you have some areas that could be strengthened and have addressed that in the disposition, with the hope that, by increasing your skills, you can be a productive member of society. We are confident that you will complete your disposition satisfactorily and learn that in the future you must obey the laws of society. Good luck to you.

SAMPLE OPENING STATEMENT SCRIPT
Prosecutor's Opening Statement:
Good afternoon, Your Honors, my name is _____, and I represent the government in this case. During this disposition hearing, you will hear from victim, _____, who will tell you how the respondent's acts have hurt (him/her). The victim, _____, will also tell you ways that the respondent can repair the harm that was caused.

On (date), as you have heard, the respondent, (name), committed a crime (or problem behavior). (Describe the details of the crime or problem behavior.) The respondent has pleaded guilty.

The prosecution recommends that the respondent receive _____ because _____. In this way, the respondent can increase (his/her) awareness of the impact of (his/her) acts on the victims and have a chance to repair that harm. Also, it helps to strengthen the respondent's own skills so that the respondent can be a functioning member of the community, and it involves the community in the disposition.

After you have heard from the witnesses, the prosecution is certain that you will agree and give the disposition that we recommend. Thank you.

Defense Attorney's Opening Statement:
Good afternoon, Your Honors, my name is _____, and I represent the respondent, _____. (Respondent stands and nods to jury.) During this disposition hearing, the respondent will tell you why (he/she) committed this crime (or problem behavior). The respondent realizes what (he/she) did was wrong and has taken steps to correct (his/her) mistake. You will also hear from the respondent's parent in this hearing, who will describe to you some of the challenges that the respondent has in (his/her) home life.

You will hear (describe some details of the respondent's school, work, family life, and challenges) and you will also hear about some of the respondent's strengths.

The defense recommends that the disposition include ____ so that the respondent can truly demonstrate that (he/she) understands the impact of (his/her) actions and repairs the harm. In this way, the respondent can develop some needed skills and become a good member of society. The community is also involved in the disposition, which helps to ensure that the community is protected.

Once you have heard from all the witnesses and are considering the evidence, the defense asks you to agree with its recommendations. Thank you.

SAMPLE QUESTIONS

• Direct Examination of Victims

Please tell the court your name.

Where do you live/work?

How long have you lived/worked there?

Where were you on the day that the crime (or problem behavior) took place?

Please tell the court what happened.

What exactly did the respondent do to you?

What exactly did the respondent say to you?

How did the respondent's actions hurt you?

How did this act make you feel?

What efforts has the respondent made already to make up for the injury?

What would you want the respondent to do to make up for the injury you received?

Is there anything else that you would like to tell the court?

• Direct Examination of Police Officers

Please tell the court your name.

Where do you work?

How long have you worked as a police officer?

Please describe the contact that you had with the respondent on (date).

What exactly happened?

What did the respondent say to you on the day you arrested or cited (him/her)?

What was the respondent's attitude when you made the arrest or issued the ticket?

Were you able to speak to the victim?

What did the victim tell you?

Did you write a police report on this crime?

I am showing you prosecution's exhibit 1 for identification. Do you recognize this?

Is this your signature?

Your Honor, I would like to introduce the police report into evidence as prosecution's exhibit 1.

Officer, will you please read what you wrote about the offense or problem behavior?

• Direct Examination of Respondents

Please tell the court your name.

Where do you live?

Who lives with you?

How long have you lived there?

How old are you?

Where do you go to school?

What grade are you in?

Tell the court a little about how you do in school. What are your favorite subjects?

What type of grades do you get?

Do you have a job?

How long have you worked there?

What do you like to do in your free time?

What challenges do you have in school or work?

Tell the court about your family.

Tell the court about your friends.

Please tell the court about the events that led up to this crime and arrest (or problem behavior).

Why did you do that?

Have you ever been in trouble with the law before?

How has this crime (or problem behavior) affected the victim?

How has this crime (or problem behavior) affected your family?

How had the crime (or problem behavior) affected the community?

What do you think you can do to repair the damage that you have caused?

How do you feel about what you have done? (apology from respondent)

- **Direct-Examination of Parents or Guardians**

Please state your name.

Are you employed?

Where do you work?

How long have you worked there?

Please tell the court about your family.

What can you tell the court about your child, the respondent?

What types of friends does your child have?

What does your child like to do?

What is your child good at?

How did you learn about the crime (or problem behavior) that your child committed?

What did you do when you learned about it?

Did you talk to your child about it?

If so, please tell us your perceptions about whether or not your child understands that what was done was wrong.

How has this crime (or problem behavior) affected you and your family?

What could your child do to repair the damage that was caused?

Is there anything else you would like to tell the court?

- **Cross-examination of Victims**

  Isn't it true that the respondent admitted the crime (or problem behavior)?

  Isn't it true that the respondent apologized right away for committing the crime (or problem behavior)?

- **Cross-examination of Police Officers**

  Officer, you weren't at the scene when the crime (or problem behavior) occurred, isn't that true?

  Therefore officer, you don't have any firsthand knowledge of what happened, do you?

  Officer, isn't it true that the respondent cooperated with you during the arrest or when you issued the ticket?

  Officer, isn't it true that the respondent said (he/she) was sorry?

  Isn't it also true that the respondent admitted the crime (or problem behavior)?

  Isn't it true that the respondent apologized to the victim immediately after the arrest?

  As far as you know, the respondent has never been arrested before, isn't that correct?

• Cross-examination of Respondents

Isn't it true that you committed this crime (or problem behavior)?

Isn't it also true that you have committed other crimes (or engaged in problem behavior) in the past?

You only apologized to the victim because the police officer had arrested you, correct?

You can't really describe how this crime affected your parent(s), can you?

You are only apologizing in court today because you hope to get a lower disposition, aren't you?

• Cross-examination of Parents or Guardians

Isn't it true that your child hurt you and your family?

Do you believe that your child understands how much (he/she) has hurt you and your family?

Has your child broken the law before?

Has your child responded to consequences from you?

SAMPLE CLOSING ARGUMENT SCRIPT

Prosecutor's Closing Argument:

Your Honors, let me first of all thank you for your time and attention to this case today. You are about to begin your deliberations on what consequences will best hold the respondent accountable for the crime (or problem behavior), how to develop skills the respondent needs and how to involve the community in the disposition.

The respondent in this case (summarize facts).

Let me repeat the recommendation that the prosecution presented at the opening statement and show you how the evidence we presented at the hearing supports this recommendation. First of all, regarding the respondent's awareness of the impact of the crime (or problem behavior), the victim and the respondent him/herself testified (gave testimony). In addition, the victim stated that a sincere apology would help to restore the harm done. The respondent's parent also spoke of the harm that was done to the parent and the entire family. Again, the parent stated that (describe what was suggested) would help to repair the harm.

The respondent (himself/herself) testified that (describe facts that show the respondent has needs). Requiring the respondent to participate in an education class (e.g., anger management, victim awareness, etc.) will help the respondent to develop the skills that respondent needs to avoid this type of problem in the future. Lastly, having the

respondent do (give suggested number) hours of community service ensures that the community is involved in the disposition.

The prosecution requests that you follow its recommendation and require the respondent to do (give the specific recommendation).

Defense Attorney's Closing Argument:
Your Honors, I too would like to thank you for your attention today. It is important for the respondent to experience a fair hearing from (his/her) peers. Having other young people take the time to listen thoughtfully and decide upon the disposition shows (him/her) that you care that the system is fair.

In this case, the respondent (summarize facts).

The defense has recommended that the respondent be given this disposition (describe here). You heard from the victim, who indicated that the respondent immediately apologized at the time of the arrest. Additionally, the respondent offered to repay or make up for the crime (or problem behavior) before being referred to come to youth court. Clearly, the respondent understands the impact of the crime (or problem behavior) on the victim. The respondent also understands how the crime (or problem behavior) has hurt (his/her) parent and family. The respondent was punished by the parent already for these actions.

The defense agrees with the prosecution that the respondent would benefit from an education class to help support the respondent. In addition, the defense suggests that the respondent do these (give exact number) of hours of community service to tie the community into the respondent's disposition.

Thank you, the defense asks that you find that our recommendation serve the community best in holding the respondent accountable, in developing the respondent's skills, and in keeping the community safe.

GLOSSARY
accountability—this goal of restorative justice is to help respondents be aware of the harmful effects that their behavior has had on all victims and give them an opportunity to repair the harm that they caused

active listening—a skill in which the listeners demonstrate that they understand what the speaker is saying

adversarial system—a system of determining the truth by allowing all of the competing parties to present their views as adversaries or opponents to an impartial person

advocate—person who argues for another

arraignment—the first hearing in a criminal case, in which the judge tells the defendant the charge, penalty and defendant's rights, takes a plea in misdemeanor cases and sets bail

bail—conditions of release for an accused prior to trial

bailiff—person who calls the court to order, announces the case, administers the oath, escorts jury and closes proceedings

closing arguments—in youth court, the attorneys' remarks to the jury to persuade the jury to follow their recommendation on the disposition as supported by the evidence

community advocate—a person who presents the impact of the respondent's behavior on all victims, sometimes used instead of a prosecutor in youth court

community impact statement—a written document or spoken testimony that explains how the community has suffered as a result of the respondent's behavior and what may be done to repair the harm to the community

community safety—the goal of restorative justice that involves the community in the disposition of respondents

community service—the disposition option that requires the respondent to help the community in some way

competency development—the goal of restorative justice that focuses on increasing respondents' skills to be productive participants in society

confidentiality—the requirement not to reveal information

court clerk—person who keeps the records of the case

court reporter—person who records word-for-word what is said in court

crime—actions that violate a law in society

cross-examination—in youth courts using attorneys, leading questions asked of a witness by the other side's attorney, designed to expose the weakness and inconsistencies of the other side's presentation

defense attorney—the attorney who represents the defendant in court

deliberation—in youth court, the act of considering the evidence with the purpose of reaching agreement on a disposition

delinquent acts—acts committed by a juvenile that would be criminal if committed by an adult

demeanor—the way a person presents her or himself

direct examination—in youth courts using attorneys, open-ended questions asked to get a witness to report relevant information to a jury; asked by the attorney who called the witness

disposition—in youth court, the sentence imposed by the court on a respondent

diversion—program of switching a defendant charged with a less serious offense out of the criminal justice process into programs and consequences

ethics—a code of conduct

evidence—in youth court, the testimony, written statements and reports, and physical items introduced into a disposition hearing

felony—a crime carrying more than one year of possible prison time

hearing (also disposition hearing)—in youth court, a session in which a group of young persons hears evidence and decides upon a disposition

individual treatment model—approach to sentencing juvenile offenders in juvenile court that focuses fairly exclusively on the best interests of the juvenile

investigation—gathering evidence for a hearing by reading over police reports and victim and community impact statements and interviewing witnesses

judge—person who manages the court process and makes sure that correct procedures are followed; in tribunal youth courts, the judges also decide upon the disposition

jurisdiction—the authority of a court to handle specific crimes or violations

jury/jurors—in youth court, person(s) who listen to evidence presented at a hearing and decide upon a disposition for a respondent; in peer juror youth courts, jurors also ask questions of the respondents and witnesses; in tribunal youth courts, judges, not jurors decide upon the disposition

juvenile—a person under 18 years of age

lawyer—attorney, person who advocates for another in legal matters

mentor—person who supports a respondent in completing their disposition

misdemeanor—a crime carrying a possibility of a year or less of jail time

offender—a juvenile who has committed a crime

opening statements—in youth courts using attorneys, the attorneys' introduction of the case to the court

police report—official record of an offense written by a police officer; often used by youth court attorneys in gathering evidence and preparing opening statements, or in introducing the case in peer jury youth courts

preliminary hearing—in felony cases, a hearing to determine whether there is enough evidence to hold a defendant for trial

presiding juror—person who ensures that each juror has a chance to fully and fairly participate and that the disposition is what the jury decided; in peer jury youth courts, the presiding juror manages the hearing

probation—a period of supervised release in the community, imposed as a result of a criminal offense

prosecution—in youth courts using attorneys, the attorneys' side that represent the government

prosecutor—in adult and juvenile court, the attorney who represents the government and attempts to prove that the defendant is guilty

respondent—a juvenile who has committed a crime or traffic infraction, or violated a school rule

restitution—payment of money to a victim for out-of-pocket damages caused by the respondent

restorative justice—youth courts' approach to sentencing juvenile respondents that (1) holds respondents accountable for their offenses by increasing their awareness of the effects their actions have on all victims and giving them opportunities to repair the harm; (2) includes the community in the response to the offense; and (3) develops the skills and competencies of the respondents so that they will not offend again and so that they can be productive members of society

retributive justice—approach to sentencing juvenile respondents that mainly focuses on punishment

sentence—disposition or consequences imposed because of a crime, infraction or violation

status offense—offenses that would not be crimes if committed by adults; examples include truancy from school, running away from home, and underage drinking

supervising defense attorney—a more experienced defense attorney who oversees less experienced defense attorneys

supervising prosecutor—a more experienced government attorney who oversees less experienced prosecutors

testimony—the information given by witnesses under oath

traffic infraction—a noncriminal violation of a driving law, such as running a stoplight or failure to yield

victim—a person who suffers due to an act of another

victim advocate—a person who supports the victims during the hearing process

victim impact statement—a written document or spoken testimony from the victim(s) of a crime or violation that explains the offense, what they have suffered as a result and suggestions how to repair the harm

violation—an act that breaks a school rule; a crime that carries no jail time

witness—in youth court, any person who testifies at a hearing what he or she has seen, heard, or otherwise experienced

youth advocate—a person who provides support to the respondent during the hearing when defense attorneys are not used