

## Article 88

### **Personal Impacts of a School-Based Youth Court Intervention: An Exploratory Study**

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#### **Abstract**

This paper discusses youth courts (YCs), which are based on restorative justice principles, as an alternative to traditional retributive discipline. Authors present results from YCs in two Southeastern urban high schools. Results from the study indicate 443 suspension days averted, low recidivism (44% overall and 63% of first offenders incurred no more infractions), increased happiness, and continued involvement with YCs among the respondents. Implications and recommendations for school counselors are included.

The American School Counselor Association (ASCA) clearly indicates that school counselors should not act as disciplinarians, yet they are tasked to serve as a resource to assist students in understanding consequences of their actions and making healthier choices (ASCA, 2007). While elementary school counselors typically implement behavior plans in collaboration with students, staff, and parents to address behavior disruptions, secondary school counselors are tasked to increase student accountability and compliance utilizing more developmentally appropriate interventions. At all levels, school counselors are expected to advocate for equity in educational opportunities and referrals. In light of the continued initiative to address school climate and discipline, recently renewed in the U.S. Department of Education (2014) report that

encourages using restorative justice principles, school counselors are poised to play a vital role in decreasing the disparity of discipline received by minority and special education students (including those with trauma histories, substance use issues, or mental health concerns). In advocating for school policies and protocols that promote a safe school environment and academic achievement, school counselors may find restorative justice activities to be appropriate interventions to meet these goals.

Youth courts (YC), based on restorative justice principles, can be used in schools as an alternative to traditional discipline. Historically, students who participate in YCs tend to feel they are integral members of school communities and in return strive to establish positive school environments (Cole & Heilig, 2011; Hirschinger-Blank et al., 2009). Likewise, administrators and teachers appreciate YC benefits such as (a) decreased suspensions/increased classroom learning time, (b) enhanced student decision-making abilities, and (c) mandated sentences that include additional resources for students to address social or academic difficulties (Vickers, 2004). Suspensions decrease academic time in the classroom, and they are also “ineffective in teaching alternative proactive behaviors, and may have the opposite effect of exacerbating undesirable behaviors” (Sharkey & Fenning, 2012, p. 95). Thus, school counselors can encourage stakeholders to adopt YCs as alternatives to suspensions and other disciplinary actions that create enhanced learning environments. To further understand YCs, the underlying principles of restorative justice must first be explored.

### **Restorative Justice**

Restorative justice is a growing worldwide movement in schools and in justice systems (McCluskey et al., 2008; Roberts & Stalans, 2004). Unlike traditional retributive justice, which focuses on punishment, restorative justice focuses on offenders reconciling with their victims and communities (Copich, 2012; Roberts & Stalans, 2004). Through this process, offenders repair harm (e.g., psychological, physical, monetary loss) and restore relationships with victims and other parties in the community who may have been affected by their actions (McCluskey et al., 2008; Rodriguez, 2007). Reconciliation is initiated by the offender, extends to acting in a way to correct their behavior and the harm caused, and includes a commitment to refrain from continuing the behavior (Balkin, Freeman, & Lyman, 2009). In populations as distressed as family members of genocide in Rwanda, trauma symptoms decreased after reconciliation work (Staub, 2013), and Jewish and Polish participants in an intervention that introduced ‘heroic helpers’ to the narrative of holocaust history had a significantly higher positive affect toward each other than those not involved in this effort at reconciliation (Bilewicz & Jaworska, 2013).

In summary, restorative justice focuses on assisting people through the processes of “restitution, resolution, and reconciliation” (Morrison & Vaandering, 2012, p. 140). One prime offense for utilizing restorative justice and YCs in schools is bullying (Copich, 2012; Morrison, 2006).

The practice of restorative justice empowers individuals and communities through building healthy relationships, where fellow citizens support each other while holding each other accountable for behavior. In the context of harmful behaviors, these practices seek to empower victims, offenders, and communities to take responsibility for themselves, and in doing so, for others. Through empowerment,

the multiplicity of voices within communities rises, and healthy deliberative democracies emerge. (Morrison, 2006, p. 373)

The combination of strengthening relationships, being responsible for one's actions, and learning about the impact one has on others makes restorative justice an appropriate fit for teens, particularly those who are first-time offenders in their school or community (Roberts & Stalans, 2004).

School authorities frequently employ conventional punitive and zero-tolerance policies to address substance use and behavior violations (Garfinkel, 2010; Karp & Breslin, 2001). Typically, offenders do not have input into their school punishment, and often victims have no voice in how conventional school discipline policies are applied to offenders (Varnham, 2005). The impact of school punishment on victims and the school community at large is rarely considered (Cameron & Thorsborne, 2001). Conversely, restorative justice in schools focuses on the harm caused to people and damage to relationships rather than school rules being broken (Cameron & Thorsborne, 2001). Ultimately, relationships need to be repaired, as "in the life of schools relationships are central" (McCluskey et al., 2008, p. 206). Restorative justice includes offenders, victims, and communities in the decision making regarding appropriate restitution (Roberts & Stalans, 2004), in hopes that offenders can repair damaged relationships and reintegrate into the school community (Copich, 2012; McCluskey et al., 2008).

Since 2007, there has been a vast increase in restorative justice used in U.S. schools (González, 2012). Restorative justice in the schools can lead to increased student connectedness and engagement with school communities, as well as a safe learning environment (Karp & Breslin, 2001; Varnham, 2005). Specifically, school-based restorative justice models "contribute to the aims of education by emphasizing accountability, restitution, and restoration of a community" (González, 2012, p. 285). In addition, restorative justice often focuses on discipline as well as individual problem solving, transformation, general well-being, citizenship, and educational inclusion (Copich, 2012; Shaw, 2007). As indicated by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (1998), teen offenders may learn valuable restorative competencies including intrapersonal skills (e.g., self-control and anger management) and interpersonal skills (e.g., empathy development). Restorative justice principles can be infused within the academic curriculum to teach students how to effectively mitigate challenging situations and problem solve with peers for successful resolutions (Cameron & Thorsborne, 2001). Furthermore, teens who participate in restorative justice programs tend to be less likely to recidivate, resulting in a safer school community (Cameron & Thorsborne, 2001; Rodriguez, 2007). School-based youth courts are one model of a restorative justice approach utilized in lieu of traditional punitive discipline.

### **Youth Courts (YCs)**

Based on an extensive review of the research, Greenwood (2008) designated YCs as "preferred programs" due to proven effectiveness through decreased crime rates, cost savings of the overly taxed criminal justice system, and benefits to victims. Preferred programs are indicated as among the best evidence-based practice. According to the National Youth Court Database (as cited in the National Association of Youth Courts,

2011), more than 1,050 youth court programs existed in March 2010. YC programs are based in the juvenile justice system (42%), in communities administered by private nonprofit organizations (22%), and in schools (36%). While teens who enter the juvenile justice system are represented and judged by adults, teens involved with YCs experience a trial by their peers, which typically includes jurors, representation, judge, bailiff, and clerk (Cole & Heilig, 2011; Forgays, 2008; Greene & Weber, 2008). Typically, teens can enter the YC option if they are referred by a school official or the police and admit guilt to the offence (Cole & Heilig, 2011; Vickers, 2004). Examples of high school offenses that were seen by one school-based youth court included “truancy, lateness to class, hall-walking/class cutting, classroom disruptions, carrying/using a cell phone, and dress code violations” (Hirschinger-Blank et al., 2009, p. 44). Given that teen courts typically serve first-time teen offenders who commit nonviolent violations, the charge referred to a justice system YC is usually reduced to a misdemeanor and cleared from the offenders’ records after fulfillment of their sentence (Greene & Weber, 2008).

In YCs, peers examine the evidence, including an exploration of intent and remorse of offenders, and develop consequences that enhance their communities and provide restitution. For example, teen offenders may be required to serve on YC juries as part of their sentence; in return, the hope is that teens will strengthen their relationship with their community, learn good citizenship, and be less likely to commit future offenses (Forgays, 2008; Hirschinger-Blank et al., 2009). Other sentences could include community service, such as peer mentoring and tutoring, extracurricular activities, participation in educational programs, and apologies to victims and communities (Cole & Heilig, 2011; Greene & Weber, 2008). As opposed to the criminal juvenile justice system and traditional school disciplinary policies, which rely on punitive punishments, YCs intend to divert teens from entering the justice system and prescribe restorative consequences for their actions based on the context of the situation (Cole & Heilig, 2011; Hirschinger-Blank et al., 2009).

Implementing restorative justice practices and YCs may have some barriers, including resistance from school personnel (Karp & Breslin, 2001). For some school administrators and staff, restorative justice is a major paradigm shift in how discipline is typically approached (Shaw, 2007). In addition to the struggle to move from punitive retribution to restorative strategies, extensive time is required to train school staff and to implement school-based YCs (Karp & Breslin, 2001). School counselors can assist key stakeholders to advocate within school systems to implement YCs. For example, effectiveness data for comparable YC interventions for school-based targeted behaviors, such as truancy (Hendricks, Sale, Evans, McKinley, & Carter, 2010), can strengthen support for implementation. Hendricks et al. (2010) reviewed the effectiveness of four middle-school-based truancy courts (students, N=185) and found the middle-school students with severe truancy (all students with less than 1 SD below the mean of the participants; mean of severe truants was 75% attendance) indeed increased attendance after attending the truancy court program; however, there was little effect on those with mild to moderate truancy rates (mean 89% and 85% attendance). The specificity of such outcomes may encourage administrators to implement school-based YCs, tailored to the needs of an individual school. Ultimately, “restorative justice practice offers students the chance to voice their opinions and accept responsibility for their actions, while simultaneously allowing administrators to retain the necessary authority to maintain safe

schools” (González, 2012, p. 335). To this end, school counselors can engage the larger community (e.g., parents, teachers, administrators, and community leaders) in discussions about the potential effectiveness of school-based YCs to address school discipline (Cameron & Thorsborne, 2001; Roberts & Stalans, 2004, Shaw, 2007; Vickers, 2004).

This article reports on a YC implementation in an urban school system, providing the process and results over a 3-year period. Methodology description and study results are followed by a discussion of result implications for school counselors. Recommendations are provided to assist school counselors and mental health counselors in providing resource information on establishing such programs in their own schools.

## **Method**

One urban school system in a Southeastern state received a 3-year grant to incorporate a YC at both of the high schools in the system. As one semester was needed for planning the intervention, one of the high schools started YC in January of the first year and the other in September of the second year. Data were gathered for this study only through December of the third year; thus, there were actually two calendar years of data over three academic years. A coordinator was identified for each school, including one administrator and one school counselor. The local bar association also was involved, with the support of a prominent local judge. The guidelines for this YC included that the target students would be first offenders, with relatively minor but suspendable infractions according to these schools’ rules (e.g. smoking, leaving campus, profanity, disruptions). The long-term goals of the YC programs were: (1) to increase students’ ability to become responsible and productive citizens, (2) to decrease the number of students that engage in behaviors that require administrative action, and (3) to decrease the number of suspended students. These are compatible goals to most school counseling programs and certainly align with the philosophy of the ASCA National Model (2012).

The YC coordinator met with administrators to whom students would be referred for sanctions—primarily assistant principals (APs)—to explain and promote the program. APs were asked to refer students to the YC who were first offenders or, in the AP’s judgment, likely to respond positively to a peer sanction. The coordinator recruited peer jurors by asking for volunteers and identifying underrepresented students who the coordinator or teachers identified to gain diversity among jurors. The peer jurors agreed to serve for a year and to attend at least one YC panel each month. Jurors attended a training, during which time a local judge introduced them to restorative justice, and the procedures and expectations were explained, including the rules of confidentiality.

The YC jurors were limited in what they could provide as a sanction to their peers. Their options included community service, mediation, educational sessions (e.g., anger management, smoking cessation), an essay and/or an apology. The training involved brainstorming ideas of relating the sanction to the infraction. For instance, if a student had vandalized an area of the school, it would likely be cleaned up before the student attended YC, but community service could be performed in another area of town where cleanup was needed (Vickers, 2004). Additionally, each respondent (the school name for the ‘offender’) was required to perform jury duty later in the year. Each YC panel involved at least three peer jurors and a local lawyer who “presided” but primarily watched and occasionally asked additional questions. An additional juror served as an

advocate, met with the respondent before the YC session, and interviewed any witnesses or victims. Others (friends, family, teachers, or classmates) could attend the YC if they desired, but this occurred only a few times. The YC began meeting once per week, but there were times of the year when this was expanded to twice per week to accommodate the respondents in a timely manner.

One of the authors served on the evaluation team of the YC grant to evaluate the attainment of goals and the impact on students and school. In this capacity, surveys were developed regarding attitudes and experiences of the respondents. All respondents completed pre-surveys prior to their attendance at YC. All were contacted again after they had completed their sanction, or at the end of the year, unless they had left the school system. Sixty-five percent of respondents completed this post-survey. Based on previous research on personal traits linked to juvenile delinquents, the surveys included items about personal traits (anger, self-control, and empathy); peer group affiliation; and attitudes toward school and the YC (Grasmick, Tittle, Bursik, & Arneklev, 1993; Hudak, Andre & Allen, 1980).

## **Results and Discussion**

### **Participants**

The YC processed 189 respondents in the 2 years of data gathering. Table 1 includes the demographics of the respondents. School administrators did not disclose data about the whole school population demographics, so it is unknown whether these

Table 1

*Participating Student Demographics (N=189)*

	Number	Percent
<i>Student Grade Level</i>		
9	82	43%
10	60	32%
11	36	19%
12	11	6%
<i>Student Gender</i>		
Male	103	55%
Female	86	45%
<i>Student Ethnicity</i>		
African American	117	62%
Caucasian	58	31%
Hispanic	12	6%
Asian	1	<1%
<i>Prior School Offense</i>		
Yes	127	67%
No	46	24%
Not reported	16	9%

respondents represented either the school population or the discipline cases. One of the recommendations to the administrators was to examine and disaggregate their discipline referral data. Ninth grade students were over-represented (43%), likely as a result of the program goal to reach first time offenders. Only between 24–33% of the respondents were actually first offenders (9% were unreported). Because the administrators were given leeway in regards to this guideline, the authors assume they wanted to avoid suspensions and/or believed the students would gain from the YC experience.

### **Infractions**

Table 2 includes information about the rule infractions. Each of these infractions would have resulted in a suspension according to the policy of this school system. The fights that were referred only included those that involved one or two individuals and did not result in injuries. More serious fights that included more people or injuries were not referred to YC.

Table 2

#### *Infractions and Sanctions*

	Number	Percent
Type of infraction		
Profanity	56	30%
Disruption	49	26%
Fight	41	22%
Leaving campus	21	11%
Smoking	8	4%
Lying	7	4%
Insubordination	6	3%
Vandalism	1	<1%
Sanction		
Jury duty	189	100%
Apology	92	49%
Educational sessions	56	30%
Essay	52	28%
Community service	38	20%
Mediation	16	8%

### **Sanctions**

Table 2 also includes information about the sanctions that the peer jurors prescribed. As previously indicated, all of the respondents were expected to serve as peer jurors after a training session. The educational sessions included smoking cessation,

academic tutoring, or anger management (most often through the school counselors). Some respondents were asked to complete multiple sanctions (e.g., an apology and community service, or an essay and an educational session), thus the percentages add up to more than 100%.

Coordinators kept the data separately for completion of jury duty and the additional sanctions. Only 40% ( $n = 76$ ) completed the service as a juror. An additional 26% ( $n = 49$ ) reported they had been trained and were planning to serve as a juror during the last few weeks of school (after data completion) or the following school year. The coordinators indicated a challenge in offering the required training for the respondent jurors. Plans were made to create a video of the training, but this had not been accomplished by the end of the grant period. In spite of this, 17 (23%) students who completed their jury duty volunteered to participate in more than the required one jury panel, an indication of support and citizenship within the program.

Sixty-three percent ( $n = 119$ ) reported completing their additional sanction(s). The reported completion rate among first offenders was 83%, which is comparable to the completion rate of youth offenders in a nationwide study conducted by the American Youth Policy Forum (as cited in Pearson & Jurich, 2005). The guidelines indicated that the respondent would incur the suspension if the sanction was not fulfilled, but the coordinators admittedly did not track down the students who did not report back to them. Thus, the completion rate might be higher – some students may have completed the sanction and not reported back to the coordinator. Obviously, if students learn that they are not held responsible to complete the sanction, this would undermine the YC program.

### **Suspension Days**

During the two calendar years of the YC at these two high schools, 189 students avoided 443 days of suspension. Given that absenteeism is a continual problem for high school students, and suspension is generally proven to not be an effective punishment for high school students (Martinez, 2009), this is perhaps the most significant of the results.

### **Recidivism**

According to the APs, 44% ( $n = 83$ ) of the respondents did not incur any additional infractions during the academic year in which they were involved in YC. Among first offenders, the percentage of students who had no further infractions rises to 63%. Although no prediction can be made as to how many would have had further infractions after a more standard discipline process, these students remained in school and avoided having a suspension on their record.

### **Personal Traits**

Students did not always complete the entire survey, which complicated the analysis on the scales built into the survey. To account for missing data, if three quarters of the items in a scale were completed, a respondent mean was calculated using that respondent's responses on the completed items in that scale, and the mean was inputted for the missing value in that scale. If fewer than three quarters of the items were completed, that scale was deemed unusable, but other parts of the survey were considered usable if completed. This accounts for the variation of numbers of students in particular results.

The survey included questions regarding personal traits of self-control, anger, and empathy. Each of these scales was constructed using items adapted from published scales for each construct. The Cronbach's alpha coefficient for the self-control scale (24 items, on a 6-point Likert scale) at pre- and post-test completions were .85 and .90 respectively. These results indicate that the scale has adequate internal reliability.

Results are reported for those who completed both pre- and post-surveys ( $n = 117$ ). The other respondents ( $n = 72$ ) did not complete the post-survey due either to absenteeism or leaving the system. Additionally, the respondents were divided into completion groups: those that completed all of their sanctions including jury duty ( $n = 69$ ), those that completed sanctions except jury duty ( $n = 27$ ), and those that did not complete any sanctions ( $n = 21$ ). Theoretically, those students who had completed all sanctions including jury duty might report an increase in empathy and positive attitudes. No differences were found in these characteristics between the completion groups, possibly due to the small group numbers.

### **Attitudes and Affiliations**

The data collected further allowed us to assess whether the respondents significantly changed their attitude about the YCs. Evaluators used a single item to measure whether there was a change in respondents' attitude: "How do you feel about the Youth Court at your school?" Prior to being heard, the mean level of the respondents' happiness about the YC was 3.1 (on a 6-point Likert scale ranging from (1) "extremely happy" to (6) "extremely unhappy"). After being heard in YC, the mean level of happiness about the YC was 2.4 ( $n = 25$ ). The difference in means, for a one-way test of significance, indicated there was a statistically significant difference in their attitudes ( $p = .03$ ). After experiencing the YC, the respondents significantly changed their attitudes and expressed more happiness toward the YC.

Students responded to four survey items about their attitude toward the school. The four items asked respondents to rate how they feel about students, teachers, administrators, and their school. These used the same response scale as the items about the YC (a 6-point Likert scale ranging from (1) "extremely happy" to (6) "extremely unhappy"). With four items, the resulting range was 4–24. Results indicated that among those respondents who completed both pre- and post-surveys ( $n = 117$ ), there was a change in their attitudes toward the school; they became significantly more "unhappy." The mean level of happiness with school prior to the YC intervention was 11.7 and after experiencing Youth Court it was 11.9. Although this analysis indicates a statistically significant difference, the difference between a response of 11.7 and 11.9 might not be practically meaningful. Additionally, there seemed to be a high level of happiness with administrators and teachers, as 71% and 77% of the students reported happiness at some level (rating of 1–3) with school administrators and teachers, respectively. The respondents' level of happiness was generally higher about the adults in the school than about the students in the school, which is consistent with the sense of exclusion reported in literature regarding peer relationships, and might indicate a strength of the adults in the school building to build rapport with all students. This may also be a result of negative feelings about students who administered sanctions.

The survey also included six items designed to evaluate peer group affiliation. The items focused on how many of the respondents' friends got into trouble with school,

parents, or police. No significant difference was found when examining the pre- and post-surveys for the respondents. The items did not ask about “prosocial” friendships, so the possibility exists that the respondents might have expanded into more friendships without dropping their old friendships.

### **Limitations**

As with any study, there are multiple limitations. Each YC is and should be designed to fit the community and specific goals of the context in which it is developed, so these results are not generalizable to any other community. The biggest concern and limitation is that the students did not seem to be held accountable to complete their sanctions. The academic year ended a few weeks later than the grant supported data gathering, so there may have been some additional sanctions completed, but only between 60–65% of students seemed to complete the sanctions, which is very concerning in terms of the students gaining the perspectives and experiences that are the goal of restorative justice.

### **Implications**

This is the first study, to our knowledge, that attempted to examine personal impact of a school-based YC. Much more research is needed to determine this level of impact. In this study, no evaluation was included of programs to which respondents were referred. Therefore, it is possible that a referral to anger management was very appropriate and might have an impact, but that the classes available to these students were not effective. Again, more research is needed to evaluate effectiveness of various remediation programs. School counselors should include in their advocacy that jurors be provided with evidence-based programs as referrals to maximize students’ growth opportunities.

For potentially disenfranchised students, research shows that resiliency is developed by a positive relationship and a positive experience with a ‘system’ (i.e., educational or court; Lewis, 2006). Although the students in this study reported a slight decrease in happiness with their school over the year, we cannot lose perspective that three quarters of students reported happiness with administrators and teachers, and that there was an increase in the level of happiness about YC, potentially reflecting a positive experience with this system. Therefore, counselors in the schools can facilitate student resiliency and foster positive relationships by advocating and supporting YC to further create a positive school climate. In this study, we did not have the scope of evaluating the school and community climate before the intervention started. It would be helpful and informative to establish baseline information about a variety of viewpoints and experiences regarding school climate and community interventions with teens.

### **Recommendations for Implementing a Youth Court**

School implementers can use the theoretical understanding of restorative justice for all involved, especially when training jury members. Jurors then are more prepared to ask questions about who was impacted by respondent actions and focus on the

relationships involved. Videos demonstrating protocol and restorative justice principles within YC programs are an effective means for training jurors in a timely manner.

Collaboration with local lawyers can eliminate the need for school staff to be present when the actual YCs take place if staff are unable or unwilling to manage the proceedings. School implementers can contact a local bar association, an influential judge, or a local law school to establish such a partnership.

Mental health counselors in the community can partner with school systems to support efforts to implement youth courts and provide additional resources for sanctions such as mediation and anger management.

One person should be charged with coordinating the YC program. The coordinator needs to have a link to the administrators who can hold the students accountable for the sanctions in which they are to participate.

Fortunately, resources, training materials, and evaluations are available online through The National Association of Youth Courts ([www.youthcourt.net](http://www.youthcourt.net)); thus, school counselors can focus their advocacy or actions on implementation rather than program development.

While school counselors are not tasked with school discipline, they can facilitate implementing consequences in a consistent manner. From this, students are more apt to experience being treated with fairness and actually complete their sanctions. School counselors can ensure that the restorative justice program uses evidence-based practices and interventions to rehabilitate respondents.

### **Conclusion**

School counselors are tasked with playing an integral resource role in the development of school discipline policies (ASCA, 2007). Traditional punitive discipline policies have created a “school-to-prison pipeline” resulting from no tolerance policies, with such undesirable consequences as academic failure/dropouts and mandatory suspensions/expulsions (Cole & Heilig, 2011; Garfinkel, 2010; González, 2012; Hirschinger-Blank et al., 2009). Yet school counselors have access to an intervention, youth courts, which may promote a safe school learning environment and prosocial behaviors. YCs can decrease suspensions and recidivism. Mental health counselors and school counselors in the schools are encouraged to advocate for the implementation of YCs.

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