Exploring the Relatively Unknown Jury of Peers

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Abstract

Peer Juries are diversionary programs in which youths decide sentences for other youths who committed minor crimes in the community. Peer Juries vary greatly in format and regulation since no formal legislation or mandatory guidelines currently exist for these programs in Illinois. In my project, I discuss critically the four main types of Peer Juries currently in use. Using caselaw, I then review the due process obligations in traditional jury proceedings to assist in evaluating the Peer Jury process. In addition, I examine three crucial issues in the Peer Jury process: confidentiality, whether the appropriate foundation for the Peer Jury program is restorative justice or punitive, and the operational definition of the word "peer." Finally, using my interviews with Peer Jury coordinators, research, and my own observations of these proceedings I conclude by presenting a best practices section which can be applied to current and future Peer Jury programs.
Introduction

Peer Juries have many different titles including Youth Court, Youth Jury, and Teen Court. However they all work under one basic idea: youth sentencing other youths who committed crimes in their communities. According to Godwin, “Young offenders are usually referred to a teen court for sentencing, not for a judgment of guilt or innocence” (qtd. in Nessel 2). In order for this to happen, one of the conditions of most Peer Juries is that the juvenile must admit guilt in the crime before they can appear before the Peer Jury. Most Peer Juries only accept first time offenders who committed relatively minor, nonviolent crimes (Butts, Buck, and Coggleshall 1). However, some of the Peer Juries which I researched indicated on rare occasions, juveniles went through the program for a second offense. The sentences that offenders can receive for their crime vary greatly by the individual Peer Jury that they go through. Almost all offenders who go through Peer Jury programs end up completing community service hours. Other sentencing options include writing apology letters, creating a piece of art, writing an educational essay, paying restitution, going through an educational program, getting treatment for addictions or mental health disorders, going through counseling, receiving mentoring, and so much more. These young offenders complete these various requirements for crimes which the traditional court system may be less lenient. In return, they are given a second chance by keeping their criminal record clean of any criminal charges. The possibilities that some Peer Juries programs have are truly endless. Still, these programs (like their sentencing options) vary greatly in both structure and format.

Legislation

One of the things which gives Peer Juries the ability to vary so greatly is the legislation which currently exists in Illinois which regulates and allows their creation, use, and funding.
Two pieces of Illinois legislation allow for the creation and use of Peer Juries to divert juveniles from the criminal justice system. The first is entitled “Teen Court” and states that, “The county board or corporate authorities of a municipality, or both, may create or contract with a community based organization for teen court programs” (Juvenile Court Act of 1987, Sec. 5-315). The “Teen Court” legislation allows communities to create Peer Jury programs. The second piece of legislation is entitled “Station Adjustments” which allows juvenile police officers to make Peer Jury a condition of an informal or formal station adjustment agreement (7 Juvenile Court Act of 1987, Sec. 5-301). Peer Juries interpret the “Station Adjustments” legislation differently. The legislation also says that the officer can give a juvenile up to 25 hours of community service as a condition of an informal or formal station adjustment agreement (Juvenile Court Act of 1987, Sec. 5-301). Some Peer Jury programs take the view that this legislation caps the number of community service hours that they can give an offender at 25 hours or less. However, other programs like Peer Jury C and Peer Jury A, take the viewpoint that the number of community service hours they can impose is unlimited because it is not the officer imposing the sentence on the juvenile, rather the Peer Jury is.

Two additional pieces of Illinois legislation mention Peer Juries. The first is titled “Liability for injury, loss, or tortious acts.” The “Liability for injury, loss, or tortious acts” legislation protects Peer Juries from lawsuits which may arise as a result of injuries incurred during the community service that defendants are sentenced to serve (Juvenile Court Act of 1987, Sec. 5-160). The second is titled “Additional fees to finance court system” and in regards to Peer Juries it states:

In each county in which a teen court, peer court, peer jury, youth court, or other youth diversion program has been created, a county may adopt a mandatory fee of up to $ 5 to
be assessed as provided in this subsection. Assessments collected by the clerk of the circuit court pursuant to this subsection must be deposited into an account specifically for the operation and administration of a teen court, peer court, peer jury, youth court, or other youth diversion program. The clerk of the circuit court shall collect the fees established in this subsection and must remit the fees to the teen court, peer court, peer jury, youth court, or other youth diversion program monthly, less 5%, which is to be retained as fee income to the office of the clerk of the circuit court (55 ILCS 5/5-1101). The legislation also indicates how the fees are assessed and for what offenses. Legislation, like the one quoted above is very important to the existence and success of Peer Jury and other diversion programs. According to the coordinators I interviewed, funding is crucial for programs to exist.

It gives the Peer Juries the funding that they need in order to run their programs, buy supplies, and gain access to other resources (such as educational programs which offenders can be sentenced to) which can help offenders in even greater ways. Funding can come from a variety of different avenues other than the legislation above, including school districts, police departments, grants, and nonprofit organizations.

**Personal Experience**

During my junior and senior years of high school, the Peer Jury coordinator in my hometown recommended that I apply to take part in my town’s Peer Jury Program. After an application process and interview, I was accepted to serve on the jury. During those two years, I fiercely debated with my peers over how many community service hours offenders should receive. The crimes that they committed personally offended me because I knew the negative impact of their stealing, drug use, alcohol use, vandalism, etc. on my community. Yet while I
debated I also learned. My experience serving on the Peer Jury opened my eyes to a lot of issues which Peer Juries and communities face. These issues peaked my interest and allowed me to connect with coordinators and assure them that I knew the possible problems of allowing someone to study their Peer Jury. As a result, all of the Peer Juries discussed in this work will remain anonymous through the use of pseudonyms as I discuss them in this work so that no individual program can be distinguished. Their titles will be replaced with titles such as Peer Jury A or Peer Jury B.

Types of Peer Juries

Literature on Peer Juries indicates that there are four models that Peer Juries operate under. However, in my research, I only located juries which operated under two of these different models. The first model is the Youth Judge Model. According to Margaret Fisher (writing for the American Bar Association), “In this model, youth staff all court positions” (Fisher 10). Youths play the roles of judges, prosecutors, defense attorneys, clerk, bailiff, and jury and perform the same duties that their adult counterparts do (Acker, Hendrix, Hogan, and Kordzek 8). The only adult who takes part in this model is a program coordinator who is present in the mock courtroom to ensure that the process moves along smoothly (Fisher 10). I was unable to view or locate any Peer Jury programs in the state of Illinois which operated under the Youth Judge Model.

The second model is the Youth Tribunal Model. The Youth Tribunal Model is very similar to the Youth Judge Model in that prosecuting and defending attorneys are youths who deliver statements and present evidence to judges and the duties of court clerks and bailiffs are also carried out by youth (Fisher 10). This model differs in that there is no peer jury to decide the defendant’s sentence. Instead the youth attorneys are presenting to a panel of youth judges who
will decide the proper sentence for the defendant (Godwin, Steinhart, and Fulton 11). Like the
first model, none of the programs which I had contact with in Illinois operated under this model.

The third model is the Adult Judge Model. This model only differs from the Youth Judge
Model in that an adult plays the role of the judge. The adults who volunteer to play this role in
this model are usually acting judges, retired judges, attorneys, or judicial officers (Fisher 10;
Acker, Hendrix, Hogan, and Kordzek 8). During my research, I viewed one Peer Jury, Peer Jury
H, which operated under the Adult Judge model. However, their coordinators informed me that
they knew of other Peer Juries (typically which operated farther away from the Chicagoland
area) which operated under this model as well.

The fourth and final model is called the Peer Jury Model. This model differs the most out
of the four models because it does not follow the traditional trial court format or roles. In this
model, a youth jury is presented with the facts of a case and they are then able to directly
question the defendant, their parents, and possibly other witnesses. This panel of youth jurors
then deliberates and decides what the appropriate sentence for the defendant is (Fisher 10-11;
Acker, Hendrix, Hogan, and Kordzek 8). According to the Illinois Youth Court Association,
the Peer Jury Model is the most model which is most popularly utilized in Illinois (Illinois Youth
Court Association 2). My research and Peer Jury viewings echoed this statement in that all of
the juries that I viewed (with the exception of Peer Jury H) operated under some form of the Peer
Jury Model.

While these four basic models of Peer Juries exist, many of these programs alter the
model in minor ways in order to fit their needs and volunteers available. For example, none of
the Peer Jury programs which I viewed used a youth clerk. The role of clerk was typically taken
over by the program coordinator, a police officer, or other adult volunteer who handled all of the
Peer Jury’s paperwork. In addition, the vast majority of the programs that I observed had adults, typically police officers, who acted as bailiffs by escorting people in and out of the hearing room. The majority of the programs also made use of adult coordinators or other adult volunteers to moderate the Peer Jury session and move the hearing along. Peer Jury A also made use of youth advocates who helped the defendant and their families through the Peer Jury process. While these small alterations have been made, the programs still employ the majority of the characteristics of the model in which their program is based.

<table>
<thead>
<tr>
<th>Based off Traditional Trial Court</th>
<th>Youth Judge Model</th>
<th>Adult Judge Model</th>
<th>Youth Tribunal Mode</th>
<th>Peer Jury Model</th>
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<tr>
<td>Adult Judge</td>
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<tr>
<td>Youth Judge(s)</td>
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<tr>
<td>Youth in Court Roles (i.e. attorney, bailiff, clerk)</td>
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<tr>
<td>Held in Traditional Courtroom</td>
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**Due Process**

Even though Peer Juries operate differently, the children who are United States citizens still have due process rights which must be followed by the criminal justice system. Due process rights protect Americans both in their everyday lives and throughout the criminal justice process. The Bill of Rights as well as various Supreme Court cases have given, assured, and further explained these rights. However, the due process rights of adults differ from those of juveniles.

**Due Process for Adults**

Adults are granted a number of due process rights. The Fourth Amendment protects them from unreasonable searches and seizures. “Violations of the Fourth Amendment are discouraged through application of the exclusionary rule, which excludes any evidence being
presented in court that was obtained by police actions that violated a suspect’s right to be free from unreasonable government searches and seizures” (Epstein and Walker 477). This rule not only discourages criminal justice officials from violating the Fourth Amendment but also gives some vindication to those whose rights were violated by searches which produce evidence against them. The Fifth Amendment protects adults from incriminating themselves and being tried twice for the same crime (also known as Double Jeopardy). The Sixth Amendment provides adults with the right to counsel, to have their case heard before an impartial jury, to be informed of the charges against them, and to confront witnesses. The Eighth Amendment guards the criminally accused from excessive bail, fines, and cruel and unusual punishments. Various cases have further defined these rights for adults but the rights afforded to juvenile are a little bit different.

**Due Process for Juveniles**

Generally, juveniles are afforded the same due process rights as adults. However, due to the fact that juvenile are tried through a separate court system there has been a debate and number of Supreme Court cases over which due process rights juvenile have. In the 1966 case of Kent v. United States a juvenile court waived jurisdiction in the case 16 year old boy who was accused of rape and robbery without a hearing, reasoning for the waiver, and full assistance counsel. In this case, the Supreme Court established the right to counsel for juveniles when in the opinion they state:

Correspondingly, we conclude that an opportunity for a hearing which may be informal, must be given to the child prior to entry of a waiver order. Under Black, the child is entitled to counsel in connection with a waiver proceeding, and under Watkins, counsel is entitled to see the child's social records. These rights are meaningless -- an illusion, a
mockery -- unless counsel is given an opportunity to function. The right to representation by counsel is not a formality. It is not a grudging gesture to a ritualistic requirement. It is of the essence of justice. Appointment of counsel without affording an opportunity for hearing on a "critically important" decision is tantamount to denial of counsel (Kent).

A second Supreme Court case was paramount in establishing due process rights for criminally accused juveniles. In the case In Re Gault Et All, a 15 year old boy who was on probation was taken into custody and later committed until he turned 21 for making lewd phone calls to a neighbor. The boy’s parents were not notified of the charges or the hearings regarding their child’s delinquency. The woman who received these calls was also not present at the hearings. In their opinion the Supreme Court asserted a juvenile’s right to counsel but additionally stated:

We conclude that the Due Process Clause of the Fourteenth Amendment requires that in respect of proceedings to determine delinquency which may result in commitment to an institution in which the juvenile's freedom is curtailed, the child and his parents must be notified of the child's right to be represented by counsel retained by them, or if they are unable to afford counsel, that counsel will be appointed to represent the child. (In Re Gault)

The requirement set forth in this statement means that a juvenile not only has the right to counsel but furthers that the juvenile and his parents must be informed of this right. This requirement is similar to the requirement in adult courts that a person be read their Miranda Rights. In this opinion they also concluded that, “the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults” (In Re Gault). This protects juveniles from giving confessions in situations where the statement was coerced or where they
can’t legally waive their rights such as when a parent or counsel is not present. The court further found that the juvenile and their parents must be given timely notice of the hearing and the issues that are going to be considered at the hearing (In Re Gault). Finally, the Supreme Court also gave juveniles the right to confront and cross examine the witnesses against them. Specifically, on this matter the justices write:

We now hold that, absent a valid confession, a determination of delinquency and an order of commitment to a state institution cannot be sustained in the absence of sworn testimony subjected to the opportunity for cross-examination in accordance with our law and constitutional requirements (In Re Gault).

A third Supreme Court Case further affirmed the due process rights of juveniles by establishing the burden of proof in juvenile courts. The case of In Re Winship involved a 12 year old boy who had stolen money. A statute in the state in which the case was tried established that the burden of proof was preponderance of the evidence. Preponderance of the evidence means that it is more likely than not that the defendant committed the crime in the mind of the jurors or, stated differently, that the jurors are 51% sure that the defendant committed the crime. With this burden being in place, the boy was found guilty and was to be confined for a time period of up to six years. The burden of proof in the adult criminal court system is higher than the one originally used in this case and is called beyond a reasonable doubt. Beyond a reasonable doubt means that there isn’t doubt in the mind of jurors that the defendant committed the crime. In other words, they are 99% sure that the defendant is guilty of the crime in which they are accused. The argument for the ability to use this lower burden in the juvenile court system when a juvenile breaks a criminal law rests in the fact that the juvenile court hearings are not truly deemed criminal hearings (In Re Winship). The Supreme Court found that “the
constitutional safeguard of proof beyond a reasonable doubt is as much required during the adjudicatory stage of a delinquency proceeding as are those constitutional safeguards applied in Gault…” (In Re Winship).

The final Supreme Court case which granted juveniles the same due process rights as adults is the case of Breed v. Jones. In this case, a 17 year old was put through proceedings in juvenile court and found the petition stating the juvenile committed robbery to be true and the proceedings were continued. The court later declared that the youth wasn’t fit for treatment as a juvenile and ordered that he be prosecuted in the adult court system. His case was tried in the Superior Court and he was again convicted. The Supreme Court found this did constitute Double Jeopardy and that juveniles were protected from it (Breed).

**Due Process Rights not given to Juveniles**

However, juveniles are not afforded all of the same rights and protections as adults. In Kent v. United States the court mentions that juveniles are “not entitled to bail” (Kent). Additionally, the case of McKeiver v. Pennsylvania established that juveniles are not entitled to a jury trial. The justices based this upon 12 different reasons some of which include that doing this would make it more of an adversarial process, it would impede experimentation, it was not recommended by the Task Force, the majority of states had concluded that a jury trial was not necessary in juvenile courts, and imposing the jury trial would cause many of the problems that exist in the criminal courts to occur in the juvenile courts (McKeiver).

Overall, the due process rights given to citizens are a very important aspect of the criminal justice system. None the less, it is important to realize that differences between the rights awarded to adults and the rights awarded to juveniles. These account for fairly large
differences in the system and how criminal cases tried, and as a result have a large effect on the system at large.

**The Role of the Traditional Jury**

Even though juveniles are not always granted the due process right of a jury trial, these trials still play an important role in the traditional court system and merit further examination. Today, jury trials only take places in less than one percent of cases in state courts and in two percent of cases in federal courts (Abramson 6). Although they are used less frequently today, the trial by jury has been a part of our criminal justice system for the majority of our country’s history. However, the role of the jury, the basis of the jury, and how the jury is composed has changed over time.

Juries early in our country’s history used to make a lot more decisions in the criminal justice system. Abramson explains, “…we must note that the jury they extolled was one that enjoyed the right to decide questions of law as well as of fact” (Abramson 30). Today’s juries only decide questions of fact while judges decide the questions regarding the law (Abramson 30). Therefore juries decide issues such as whether someone is guilty or innocent, if the crime was premeditated, if the person was mentally stable during the crime, etc. while the judges interpret what the law says regarding the crimes which the defendant is accused of. The tasks being designated in this manner means that jurors have to follow some form of rules. Lisner explains, “The legal system places expectations on jurors that they will find facts within the scope of the law provided to them by the court” (Lisner 254). Jurors aren’t supposed to use their own rules, definitions, and understanding of the law to decide facts. They are forced to use what the judge tells them. However, even though they aren’t commonly told about this ability, jurors have the ability to nullify cases by changing the law in court. “In other words, these men and
women have a chance to adjust the law when as a united body they believe it is unjust” Lisner 265). As a result, when a jury finds a law that a defendant broke to be unjust, the defendant is acquitted and the law is changed (Abramson 61).

There have been two different concepts of what the jury should be. The first idea of the American jury was that the jury was made up of people from the community. These community members were fit to decide cases because they most likely knew the character of the accused, had knowledge of the neighborhood, and understood the facts of cases better than non-community members would (Abramson 18). The community concept decreased in popularity over time. It was replaced with the idea that jurors should be impartial to the offender and the case. Abramson explains that, “...our basic commitment to impartial justice leaves us skeptical that neighbors render more accurate verdicts than strangers. If ever there was anything to the cajm that local jurors are likely to know what’s going on around town, it died when jurors themselves had to read the papers to find out what was going on. The idea of local knowledge as an asset in jurors was replaced by an ideal of impartiality…” (Abramson 55). Basically, as people in communities started to distance themselves from one another, the concept of a community based jury of one’s peers was no longer beneficial and as a result the concept of the jury changed.

Like the concept of the jury, the way that juries are composed has also changed. People are now randomly selected for jury duty from a cross section of the community (Abramson 100; Lisner 19). The idea behind this concept is that all ideas, views, and perspectives can be represented by using a representative section of the local population in jury selection. Therefore, all of these differing views and perspectives will be discussed in the jury room (Abramson 100-101).
Confidentiality in Regards to Lawyers

Lawyers are held to a high standard in regards to confidentiality in the attorney client relationship. These standards are clearly laid out for Illinois lawyers in the 2010 Illinois Rules for Professional Conduct. Rule 1.6 specifically discusses confidentiality. The rule states, “A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) or required by paragraph (c)” (Attorney Regulation & Disciplinary Commission of the Supreme Court of Illinois). The exceptions to receiving informed consent prior to revealing information regarding a client and/or their representation are clearly laid out in the two paragraphs referenced in the above quote. It is important to note that the only time that a lawyer is required to break confidentiality without getting informed consent is when someone is going to receive great bodily harm or result in death. Paragraph (c) states this exception as, “A lawyer shall reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm” (Attorney Regulation & Disciplinary Commission of the Supreme Court of Illinois). A direct exception such as this seems fair because it protects the life of a third party, the client themselves, or the attorney. An attorney is also permitted, but not required, to break confidentiality to prevent their client from committing a crime, prevent the client from committing fraud, prevent, mitigate, or rectify the injuries caused by their client committing a crime or fraud, to get advice about complying with the rules, to establish a defense for themselves in controversies involving the client and the lawyer, or to comply with laws or court orders (Attorney Regulation & Disciplinary Commission of the Supreme Court of Illinois). The majority of these exceptions appear valid because they concur
with the ideals and goals of the criminal justice system. For example, the criminal justice system seeks to prevent and deter crime. Not allowing lawyers who are made aware of criminal activities that are going to take place to notify professionals to can prevent these crimes from actually occurring would conflict with the goal of the criminal justice system to prevent and deter crime. Allowing a lawyer to defend themselves against allegations also seems fair because not permitting this could eventually allow an innocent lawyer to go to jail for or because of a client. A situation such as that does not seem ethical if the lawyer is not given the ability to defend themselves in court or in other venues.

While these rules for lawyers breaching confidentiality are very clear, there is a question as to whether a client must be informed about these exceptions to confidentiality. “Professor Zacharias found that 22.6% "almost never" informed clients abut confidentiality, and 59.7% stated that they informed clients in less than 50% of their cases. In fact, 72.1% of the lawyers surveyed admitted they told clients only generally that all communications are confidential” (qtd. in Pizzimenti 207). On its face not informing clients of these exceptions or making them believe that all the information that they reveal to their lawyer is confidential may seem unethical. However, giving clients information regarding these exceptions can have an effect on interactions between the client and the attorney. Pizzimenti explains that,

Lawyers may fear that informing clients of the limits to confidentiality will chill attorney-client communications. Other than the possibility of harm to the lawyer or third parties, which is too speculative to serve as support for deception, the only danger of a chilling effect is that the client may not confide information the attorney finds necessary for competent representation (Pizzimenti 211).
Having a fear of not having enough information to represent a client to the best of their ability seems to be fairly important given that this representation and lack of information will have an impact of their professional image as a lawyer. Clients should be able to trust their attorney enough that they communicate any information requested or pertinent to their case to their attorney. Attorneys being found to lack this pertinent information would reflect poorly on them as they represent their client in court or other legal forums. The choice of whether or not to inform their client of these exceptions is up to the choice of the lawyer according to Rules of Professional Conduct. However, the rules explain that the lawyer should try to get the client to take action so that the lawyer does not need to break confidentiality without their client’s informed consent (Attorney Regulation & Disciplinary Commission of the Supreme Court of Illinois). This comment gives the connotation that it is preferred that lawyers don’t break confidentiality and therefore it may be conferred that it may be best for lawyers to prevent these situations from arising by explaining the exceptions to confidentiality with their client.

**Methods**

One of the largest stumbling blocks to researching Peer Juries is the lack of research and literature on them. The majority of the literature I was able to locate on Peer Juries in the United States was written over a decade ago. These articles introduced readers to the concept of the Peer Jury system and the various models that they employ. Various aspects such as the cases which Peer Juries will take, the punishments which Peer Juries hand out, and the reasons why Peer Juries are a better alternative for delinquent youth were written about in the articles that I was able to locate. Implementation guides and publications discussing how to start up a new Peer Jury program were also popular.
Some of these articles included studies done on Peer Juries, however, these studies were
done on a limited number of Peer Juries (typically just one Peer Jury). As a result, even though
these studies usually showed positive results or results equal to that of the traditional system,
they can’t truly be considered as true of all Peer Juries. Many of these researchers discussed the
need for these programs which are growing in popularity to be researched further.

Researching Peer Juries is difficult for a number of different reasons. One of the biggest
is due to confidentiality issues. Many of these programs don’t allow observers and therefore
these programs are evaluating themselves. Furthermore, it was explained to me in an interview
with a Peer Jury Coordinator that there is not a uniform way for reporting statistics on Peer Juries
which makes comparing them difficult. Some Peer Juries who do look at their recidivism rates
will keep track of a juvenile who went through their program for six months, others for a year,
and some until the juvenile turns 18. Additionally, records on juveniles are not all kept and
shared the same way that adult records are. In order to find out if a juvenile committed crimes in
other communities, an officer would have to call each individual police department. As a result
of this it is really difficult (and some coordinators claimed to me it was impossible) to track
recidivism rates for juveniles who went through these Peer Jury programs.

For the purposes of my research, I was able to observe nine different Illinois Peer Juries
while they were in session. I viewed five of these juries during only one of their Peer Jury
sessions. The remaining four juries I visited on multiple occasions because their coordinators
indicated to me that the complete process would not be shown in a single night. This mainly
occurred due to the fact that many Peer Juries require offenders to come back again for a
disposition hearing after they completed the sentence that was given to them by the Peer Jury. If
I was unable to see both the initial part of the process of where the sentence was handed down by
the Peer Jury and the disposition, I returned to view that Peer Jury for another session so I had an understanding of their full Peer Jury process. I interviewed the coordinators of these programs in order to answer additional questions that I had after viewing their Peer Jury program. From these viewings and the literature I read, I was able to determine a number of substantive issues in regards to Peer Juries which I believed required uniformity in all Illinois Peer Juries.

Confidentiality

Confidentiality and the Public

Confidentiality has remained a hot button issue in criminal cases which involve minors. The traditional court system seeks to protect the identity and the minor themself from the consequences of their crimes and their trials from being open to the public. The Juvenile Court Act states:

The general public except for the news media and the crime victim, as defined in Section 3 of the Rights of Crime Victims and Witnesses Act, shall be excluded from any hearing and, except for the persons specified in this Section only persons, including representatives of agencies and associations, who in the opinion of the court have a direct interest in the case or in the work of the court shall be admitted to the hearing. However, the court may, for the minor's safety and protection and for good cause shown, prohibit any person or agency present in court from further disclosing the minor's identity. (705 ILCS 405/1-5)

As a result of this law, the traditional juvenile court system in Illinois is closed to the public. This law protects the identity of the minor and keeps the court record sealed and general knowledge about the minor to a minimum. In addition, this law prevents this knowledge from spreading by word of mouth by individuals who are present during court proceedings.
Consequently, it is possible for juvenile criminal records to be expunged. The minor is then able to move on from this incident without the burden of a criminal record. Peer Juries have also had to struggle with the issue of confidentiality in a number of different ways. Since they are not held in a traditional juvenile courtroom, they do not necessarily have to follow all of the same laws outlined in the Juvenile Court Act. Most coordinators feel that they only have to follow the laws which apply to and allow diversion programs to exist. As a result, all of these Peer Juries don’t follow the same rules when it comes to confidentiality. The creators of these programs have to balance what is best for the program, what is best for the minor, and what is best for the community. Confidentiality is one area where the local creators of these programs need to find a balance.

My own research has shown that the majority of Peer Juries have remained consistent with the Illinois Juvenile Court Act by making their jury proceedings closed to the general public. Most programs require offenders and family members to remain outside of the hearing room where the proceedings are taking place until they are brought in by a member of the Peer Jury Program. In these cases only the program coordinator, the Peer Jury, the offender the offender’s parents and/or legal guardian would be allowed to view the Peer Jury process. Offenders and their families are not able to view any proceedings not related to their own charges. Any member of the public would just be asked to leave the premises in cases where confidentiality rules are applied in this manner.

As a result of these strict rules regarding confidentiality, I was unable to view or learn about the majority of the Peer Jury programs in Illinois. Those juries that allowed me to view their proceedings had me sign a waiver to ensure that I would not disseminate any personal information regarding the offenders, the jurors, or the cases that observed. The coordinators also
made it clear to me that it is very rare for anyone to sit in on the proceedings in the manner that I did. Some coordinators had people who were interested in volunteering and helping with their Peer Jury program sit in on a proceeding or two to get an idea of the process but when asked about if they had been contacted to sit in on the proceedings for research purposes, they said they had only been contacted one or two times in the history of their programs. The ability to see a few of these programs’ proceedings first hand allowed me to truly get an idea of all of the different ways these Peer Juries deal with confidentiality issues.

One of the Peer Juries that I viewed, Peer Jury A, had their proceedings open to the public. Visitors were required to sign in and agree to the Peer Jury’s visitor policies. These policies included confidentiality and not interrupting the proceedings. This meant that confidentiality was assured but also allowed people to learn about their Peer Jury process. However, a parent did question the presence of the visitors in the hearing room and the Peer Jury coordinator explained the visitor policy to the parent. In addition, he explained visitors only occasionally come to proceedings and that they are usually there for research purposes and have no ties to the Peer Jury’s jurisdiction. Peer Jury A was the only Peer Jury that I saw which openly had a process for members of the public to attend their meetings and this parent showed the concerns of not keeping these hearings entirely confidential. However confidentiality concerns in the Peer Jury process go farther than people who are not a part of the program.

Confidentiality and the Peer Jurors

The issue of confidentiality also extends to the members of the Peer Jury. Given that most of the kids that appear before the jury go to school and/or live in the same community as the kids who serve as the peer jurors, there is a concern that the jurors will disseminate the information that they learn about their peers. Given the ages of the jurors and the offenders this
is a valid concern. Moving on from an offense would be a lot more difficult for the offender if the jurors told their classmates about what they learned about an offender in Peer Jury. The Peer Juries that I viewed handled this issue in many different ways.

Peer Jury C trained its jurors on confidentiality. Specifically, jurors are told from the start that they have to be very careful about how they discuss cases. The names of offenders and/or specifics are never to be discussed outside of the program. For example, if a juror’s parent asked if they had any interesting cases at Peer Jury that night, they could say something like, “We had a case where a kid got into a fight and we gave him community service hours” but not, “Joe Smith who goes to school at Blank High School got into a fight at school with James Doe.” This allows jurors to talk about their experiences while respecting confidentiality. This is similar to how media sources will report offenses to the public when a minor or a victim’s identity needs to be protected. They say what happened just not who it happened to. In addition, jurors are shown the name, school, grade, and address of all of the offenders that will be appearing before the Peer Jury on that night. At the start of the night, jurors then “sign off” on any cases where they know the person or don’t feel comfortable sitting on the case. Any jurors who “sign off” on a given case go to another room behind closed doors while the case is being reviewed by the remaining members. Giving this much information to the jurors may seem to go against the purpose of keeping things confidential but it is for the safety of jurors. Jurors may know some people who they go to school with or friends with by name but they may not know that an offender who is two grades younger than him and goes to private school lives one block away from their house. As a result of having the jurors “sign off” using all of this information, it is unlikely that they will run into an offender and create an uncomfortable situation.
Peer Jury F handles confidentiality a little bit differently. The Peer Jury coordinator sends any jurors who attend the same school as the offender to another room. These jurors are never given any information about the offender. The remaining offenders are then given the name of the offender and in some cases the school they attend. Jurors can leave if they happen to know the offender once this further information is revealed. The Peer Jurors are instructed not to talk about Peer Jury outside of Peer Jury. As a result, all of the confidential information about the offender and their offense remains confidential. If the offender, or anyone in general, asks the jurors about a case they are told to tell the person that they can’t discuss the matter.

Peer Jury I handles confidentiality a slightly differently than the programs listed above. All members of the Peer Jury whether they are serving on the jury or not, remain in the room where the Peer Jury proceedings are taking place. They are all briefed on the case before the offender and their family members enter the room. If they are currently seated in the area of the jurors who are handling the case and they know the offender they are to step down and sit in the audience. However, whether or not they know the offender seemed to be up to the interpretation of the juror rather than through a set of established criteria. Even those who know the offender will sit in the audience of the case and listen to the case as it is tried. The jurors sitting in the audience do not participate in the process. Everyone involved in the program sits in on all of the cases and adheres to strict regulations regarding confidentiality. According to their Peer Jury Training Manual, “A peer juror must never discuss cases outside of the court proceeding.” As a result of this policy, only those who take part in the Peer Jury program will learn anything about any of the cases which the Peer Jury sees. This helps to protect the offender.

Unlike the other Peer Juries discussed previously, Peer Jury A involves the offender in the process. Similar to the other Peer Juries, the jurors don’t sit in on cases where they know the
offender. In fact they leave the room altogether. This jury’s process changes a little when the offender walks in. One of the first questions the offender is asked is if they know anyone on the Peer Jury. If they do, then the offender is asked if they would like that person taken off of their Peer Jury. If requested by the offender, the juror is required to leave. Once issues regarding knowing members of the jury are cleared up, then the offender is asked if they approve of the jury trying their case. In addition to these two confidentiality procedures, the Peer Jury Manual indicates, “Most important, all proceedings of the Peer Jury must be kept in strictest confidence. A juror must never discuss Peer Jury cases outside of a Peer Jury meeting. Failure to follow this guideline will result in dismissal from the Peer Jury.” Due to the strict policies which don’t allow anyone who knows the offender or that the offender knows to serve on the jury and which prevent jurors from talking about cases outside of the Peer Jury; it is less likely that confidentiality will be broken.

Peer Jury D handled confidentiality in a unique way. Similar to the other juries, the jurors “signed off” on the cases where they knew the offender. Individuals not participating in the case would stay in a separate room. Once these formalities are completed, the bailiff brings the offender in and introduces the offender and the case to the jury. Then he administers a confidentiality oath. To do this all members of the jury raise their right hand and agree to keep all the facts of the case confidential. The jury does this for each and every case that they are involved in. As a result, the jurors are regularly reminded that everything said in the proceedings must stay within the proceedings. The oath also helps to assure the offender and their families that information discussed during the proceedings will stay confidential. In my opinion, this may help offenders be more forthcoming throughout the process.
Peer Jury B formalized the confidentiality process a little bit more than the others and made it very clear. All of the jurors are required to sign a written confidentiality agreement. This agreement is discussed verbally with the offender as they begin the process. They are informed that all of the members of the jury have signed a confidentiality agreement and that everything discussed in the proceedings will remain confidential. There are some exceptions, for example if someone is going to get hurt by the Peer Jury keeping the information that is revealed confidential. Jurors also don’t sit in on cases if they know the offender or don’t feel comfortable participating. In these situations, they sit in on another case (they have multiple Peer Juries running simultaneously) or they just leave the room until the proceedings are completed.

All of the Peer Juries I observed addressed confidentiality. It is obvious confidentiality plays a key role for the programs to run smoothly and effectively. Not having this element would make it difficult for offenders to agree to participate and would go against one of the goals of most Peer Juries which is for offenders to be able to acknowledge what they did, learn from it, and move on without a record of what happened. In addition, some of the policies which prevent jurors from serving on cases where they know the offender or where they are likely to come to know the offender help to take away the temptation of revealing the information that they learn about people in the Peer Jury proceedings. Together these policies help keep information confidential and help offenders get a “fresh start” in their lives.

Punitive v. Restorative Justice Framework

As I started to observe more Peer Juries it became clear to me that these programs were based under one of two frameworks. The first type of framework is more traditional to the criminal justice system. It is the punitive framework. Under this framework kids are punished for the wrongdoing that they committed in the community. The second framework, the
restorative justice framework, fundamentally differs from the punitive framework. In their article, “Restorative Policing, Conferencing and Community” Hines and Bazemore define restorative justice as:

…a philosophical framework that recognizes the accountability and the need to repair harm caused to victims and communities impacted by crime to the greatest extent possible. To accomplish these objectives, restorative practices bring victims, offenders and the community together in problem-solving responses that go beyond punishment in efforts to prevent crime, increase community safety, and meet the needs of those impacted by the crime (Hines and Bazemore 412).

Obviously, this contrasts with the punitive framework discussed previously which uses the court system to punish offenders for violating laws. According to Howard Zehr’s The Little Book of Restorative Justice, restorative justice sees crime as a violation of people and relationships. These violations create obligations for the offender. By fulfilling these obligations, usually by working together with the victim(s) and community members, offenders can make things rights again (Zehr 21). Basically, restorative justice seeks to restore the victim, offender, and community to the state they were in before the crime occurred (or better).

Punitive Based Peer Juries

One of the biggest determinations that I used to decide if I felt the program was based in the punitive or restorative justice framework was on the sentences that they give the offenders who go through their program. I felt two programs, Peer Jury A and Peer Jury C, were punitive based programs. Both of these programs enabled the Peer Jury to give offenders an unlimited number of service hours. As a result, offenders could leave the hearing with far more than the 25 hour maximum that is mentioned in Illinois legislation on station adjustments. To me, the
application of this punishment in this manner really appeared to serve no purpose other than to punish the offender. Though, this larger punishment has the possibly of creating a stronger deterrent effect on the offender committing another crime because they wouldn’t want to complete such a stiff punishment (or a stiffer one) again.

Both of these programs also allowed the possibility for the Peer Jury to assign the offender to write research papers and apology letters. If assigned, these aspects of the program appear to have more of a restorative base because they teach the offender something and involve the victim in the process of the punishment. However, in many cases these research papers involved learning about the crime that the offender committed. The offender would look at the other possible outcomes which could have arisen out of their crimes. For example, Peer Jury C may assign the offender to research what punishment they would face for their crime in another country. Other Peer Juries using this method mentioned having the offender think about the worst case scenario such as someone being seriously hurt or injured as a result of their crime. Research assignments such as these may have a deterrent effect because the offender realizes that the consequences for their actions may have been a lot more severe had the situation played out differently. On the other hand, some offenders felt they were lucky for the existence of this program to give them a second chance. Gratitude and knowledge of this type really doesn’t help to right the wrongs that the youth committed in their crime. As for the apology letters, these are restorative in nature for the victim because they are able to get an apology out of the process. In spite of this, in many cases the offenders are not assigned apology letters. In addition, some of the apology letters that I heard aloud in some cases lacked true sincerity and emotion and you could tell the offender only completed the task because it was a requirement of their sentence. Yet, some of these were very sincere and you could tell that the offender deeply regretted their
actions. These letters can help the victim but overall, I still felt that overall the concentration on giving offenders community service hours forced me to place these two programs under the punitive framework.

Restorative Justice Based Peer Juries

I felt the remainder of the Peer Juries that I researched operated under a restorative justice framework. Again, I looked to the sentences to make this determination. The first thing I looked for in programs that were restorative justice based were that they attempted to address the causes of the crime meaning they attempted to fix or improve upon something in the offender which may have been the cause of the crime. A couple of the Peer Juries attempted to do this through educational programs. Peer Jury F has the option to require offenders to go through educational programs online for alcohol and drugs or for shoplifting. Peer Jury D offered skills on self-management and anger management. Peer Jury B also offered courses in anger management. Peer Jury G has the option to assign a driving safety course to offenders. All of these educational programs help offenders by trying to give them skills that they currently don’t have and could prevent them from committing their crime in the future. Peer Jury E and Peer Jury B attempted to help address the causes of crime by offering counseling to offender who they felt needed it. Another thing that some Peer Juries did in order to help offenders was give punishments which were individually tailored to them. For example, Peer Jury F assigns papers which are individually tailored to each offender’s situation. Peer Jury D and Peer Jury I allow for the Peer Jury to assign artistic punishments such as painting a mural, creating a poster, writing a song, etc. which allows the offender to express what they learned and help encourage other kids to not commit the same crime that they did.
Zehr writes, “Restorative justice expands the circle of stakeholders—those with a stake or standing in the event or the case…” (Zehr 13). These programs focus on the harms and needs of the community as well. Community members become victims when crimes occur in their neighborhoods. Hines and Bazemore explain that in restorative justice, “Community members appear to get what they need from the process…to solve problems facing them in a more long-term fashion – not just ‘for the moment’” (Hines and Bazemore 422). The community’s involvement in the restorative justice process allows this to happen. As a result, involving others in the community in the Peer Jury process was another thing that I looked for to determine if a program was based in restorative justice. Peer Jury D involved the community in a number of different ways. They had the option of getting the family more heavily involved by requiring a family meeting to address issues that they are having. The same could also be required with a peer that the offender is having difficulties with. The offender could be paired with a mentor from their school to help them through the school. Finally, the offender could be required to be involved in the community more by requiring them to apply for jobs and join clubs. Peer Jury G involved the community by having some offenders make a list of every person they affected with their crime and how they were affected by it. Peer Jury B can recommend offenders to attend peace circles which bring the community together to discuss and solve issues that they are all facing. They also make use of a victim awareness program that they can force the offender to go through. All of these programs involve other people of the community in some way. By involving them in the Peer Jury process, the community is able to learn that the offender is not truly a bad kid but that they just made a mistake. This puts the fears and worries of the community which may have been created by the crime at ease because they see that the offender is now doing better things in the community.
The final factor which helped me decide if a program was based on restorative justice was whether or not the child was formally restored to the community by giving them the opportunity to become a part of the Peer Jury. Labeling Theory helps to explain the importance of this step in the restorative justice framework.

Labeling theorists contend that social reactions to initial or primary deviance may restrict one’s ability to maintain a conventional lifestyle. Limitations arise because being labeled may create barriers to legitimate employment or lead to social censure from conventional others. This process…increases the likelihood that the labeled person will become more involved in and committed to a deviant line of activity than he or she was before the labeling experience (Smith and Paternoster 1109).

In basic terms, labeling theory says that once society labels someone a criminal, they are more likely to continue engaging in criminal behavior due to the negative connotations and restraints that come with the label. The normal juvenile justice system does this when they find someone guilty of a crime because that person is then deemed a criminal in society’s eyes. However, those operating under a restorative justice framework seek to make sure that the person is restored to the community rather than alienating them from it. In my opinion, inviting the offender to take part in the Peer Jury is the most formal way of doing this because it shows the offender that they made a mistake but they are not any worse than the kids who served on the Peer Jury and decided their sentence. The vast majority of the Peer Juries that I observed invited former offenders to take part on the Peer Jury after the completion of the their sentence. Some of the Peer Juries also required that the former offenders be without any negative police contact for six months before they could take part in the program. While many Peer Juries gave the former offenders this option, none of the programs indicated that this happened with any regularity. In
fact, most coordinators said that it only happened once or twice in the Peer Jury Program’s history or that it had not happened yet.

Definition of a Peer in Peer Juries

One area that is questioned in regards to juries is who can truly be defined as one’s peer. Peer Juries also face this issue. The word peer encompasses many different definitions. While the Oxford English Dictionary gives over half a dozen meanings to this word, two appear to be significant relating to the discussion of Peer Juries. The first definition defines a peer as, “A person of the same civil or ecclesiastical status or rank as the person in question; an equal before the law” (Oed.com). Peer Juries employ this definition by having juveniles make up the Peer Jury for juvenile offenders. Most of the Peer Juries that I saw allowed jurors in grades seven through twelve to serve as a member of the Peer Jury. Though it should be noted that the vast majority of Peer Juries were composed on high school aged students rather than those in middle school. The offenders who appeared before the Peer Juries were all under the age of 18. Most Peer Jury Coordinators indicated to me that they would take offenders ranging from ages from 12 through 17 however the majority of the Peer Juries’ cases appeared to involve high school students. According to the law, the juveniles who make up the juries are equal to the juvenile offender in the eyes of the law. Both would typically deal with the majority of their legal offenses through the juvenile court system rather than the traditional criminal or civil courts because the law applies differently to them and the criminal justice system has different goals when it comes to dealing with juvenile offenders. Juveniles can be charged punished for status offenses such as drinking, smoking, truancy, and running away from home. Peer Juries deal with many of these status offenses which members of adult juries could not be charged with. In addition, the juvenile justice system concentrates on rehabilitating juvenile offenders and giving
them a chance to learn from their criminal offenses. Peer Juries do this because like the juvenile justice system their records are sealed or destroyed completely at some point in the process. Additionally, many of the Peer Jury programs which are based in restorative justice attempt to restore the offender to society in a better state by giving them the help and/or the education/skill that they need to be a positive member of society. The juvenile justice system or a diversion program that a juvenile was put would attempt to reach similar goals with any juvenile who is brought to them charged with criminal offense(s).

The second definition appearing in the Oxford English Dictionary which I feel applies to Peer Juries states, “A member of the same age group or social set; a contemporary” (Oed.com). As I explained above, the majority of offenders and Peer Jury jurors range between grades seven and twelve with the majority of offenders and jurors being in high school. I agree that by the age part of this definition this makes Peer Jury members peers to the majority of the offenders because they are of the same or close ages. However, the social set portion of this definition makes me question whether all of these offenders and jurors can really been deemed peers. While a six to seven year age difference, or even a four year age difference for that matter, may not seem like much by the numbers; there is a large difference in terms of maturity and experiences. In rare instances where an offender or juror is a middle school student and the person in the opposite role is a senior in high school, I would argue that there is a large difference between these two juveniles socially. It’s unlikely that these two juveniles know one another or would interact with one another on a regular basis. I believe that this interaction and the foreseen possibility of this interaction is a large determining factor as to whether or not two individuals are in the same social set. Additionally, these two individuals are going to have very different goals and experiences. The senior in high school is far more likely to hold a job of
some type and is usually going to be concerned about getting into college. A middle school student or freshman in high school does not have access to jobs in this manner and will be worrying about shorter term goals of passing their classes. Additionally, the probability of being exposed to issues such as alcohol and/or drugs increases as children get older. Some younger offenders may have only experienced these issues in the pretense of their childhood prevention courses. Only having experienced these issues in this context makes their perception of cases involving these issues very different from older jurors who may have experienced these issues in other contexts.

Differences in age, goals, and experiences could truly have an effect on cases. For example, in theft cases having the ability to hold a job due to an offender or juror’s age could have an effect on how the situation is perceived. A young juror may have a greater understanding in theft cases because they don’t have access to money of their own to buy objects that they desire. As a result, they may give a less harsh sentence than an older offender who has a job would. In addition, jurors who have access to jobs may forget that young offenders lack this access to money and therefore may be less capable of understanding the crime of theft. Lacking or having experiences with other issues could also affect sentences in similar ways. While effects such as these would be deemed negative, there is a positive effect of the age differences possible between jurors and offenders. Mentoring and giving knowledge and experience to younger or older people going through the program can enable offenders to see their situation in a different light. Younger jurors can give older offenders charged with status offenses a simplified view of their situation by reminding them of the messages we were given in our younger years to prevent us from committing these offenses. Older jurors can explain the effect that these crimes could have on their long term goals such as finding a job or getting into
college to younger offenders. Viewpoints from people of these varying ages such as these can be enlightening and have the possibility of putting an offender through a realization about their crime.

**Adult Judge Model**

As I mentioned in my introduction to the different types of Peer Juries, I only observed one Peer Jury which operated under a model other than the Peer Jury Model. Peer Jury H uses the adult judge model. This model is similar to the traditional trial court except that the attorneys, jurors, bailiff, etc. are all played by juveniles. The judge in this model is played by an adult. The judge in the cases which I observed at Peer Jury H was played by an attorney. As a result of this Peer Jury operating under the adult judge model, it became very difficult to compare it to the other Peer Juries which I observed. Due to these differences, I have opted to not include it in the majority of my examination of the pertinent issues regarding Peer Juries and in reaching my conclusions regarding the best practices. However, I believe that this model did merit some further discussion.

As I observed this Peer Jury, a number of issues concerned me regarding this model. One of the biggest concerns was the ability of the youth attorneys to question the defendant and witnesses in depth enough. The questioning of the offenders in this model is left up to the prosecuting and defending attorneys. Though in some cases there are two youth attorneys on each side who share the burden of questioning the defendant and the witnesses. Newer volunteer attorneys may not know how to question these witnesses to the degree to pull out pertinent issues that the jury will need to address in their sentence. As a result, the process may be unable to solve the root problem which is causing the juvenile’s criminal behavior. Peer Jury H was truly a restorative process due to the fact that some of the sentencing options that they offered such as
smoking prevention or cessation classes, conflict resolution training, anger management classes, and alcohol/drug abuse prevention classes could help the offender by giving them skills necessary to fix what is causing them to commit crimes. In addition, the program helps to repair the harm to the victim through written or oral apologies and/or restitution. Finally, the program guarantees that the offender is restored to the community and that the label of offender is removed from them when they are required to serve on the Peer Jury among other juvenile volunteers. Having jury duty as a mandatory part of an offender’s sentence also creates a fairer and more understanding jury than when the jury is composed of kids who are volunteering for the greater good. These former offenders who are forced to serve on the jury understand what it is like to engage in criminal behavior and get caught. Therefore they will be more empathetic and understand what is at stake in sentencing these other offenders. Some may even argue that due to their former offenses these juveniles are more likely to be considered peers to the offenders than the volunteer members due to their past experiences in breaking the law. These options are wonderful for the juvenile offender but the offender will only be able to get the assistance that they need if the attorneys are able to get to the root of the problems in their questioning.

Two smaller issues concerned me about the adult judge model and Peer Jury H. The first is that there was a mandatory jail tour component of every offender’s sentence. Personally, I am not a fan of these types of scare tactics to prevent juveniles from preventing crime because I have been taught that they don’t ultimately work. Granted, they may work for a short amount of time because the juvenile may be scared by what they see in the jail or what they hear from inmates but that effect will wear off as time goes on. The second issue is that the entire process, due to its formality, was very scripted. The role of the bailiff, clerk, and judge were all scripted fairly
completely. It’s my belief that allowing some latitude in discussions in this type of program can be beneficial. The acting judges at the Peer Jury H took the time to talk to offenders in their role as judge before the offender left the court room. The judges offered them advice and further explained that this was a one-time shot for them. While allowing the judge to speak in this informal manner off script is nice and also keeps the formality of the process, the peers on the jury or in other volunteer roles may have insights which could help the offender. They could provide positive peer pressure and knowledge which the adult serving as judge would be unable to provide or connect with the offender about in the same way due to their difference in age.

Although this Peer Jury and the adult judge model raise some important issues, they have a number of positive aspects as well. The first is the formality of these proceedings. Many of the other Peer Juries that I observed met in boardrooms, large office spaces, or city council chambers. None of these settings were as formal as the actual courtroom which Peer Jury H took place in. Employing the formal process that would be used in this courtroom for adults through the use of role playing and formal scripts also increases the formality of these proceedings. As a result of this formality, the proceedings seem to be taken a lot more seriously by offenders than in some of the other Peer Juries. I believe that this is due in part to the fact that the setting and proceedings give off the sense of a formal court and therefore make the situation appear more serious to the offenders involved. A second positive aspect about this particular model is that it teaches juveniles about the law. Paula Nessel explains that, “Each teen court case teaches both the student volunteers from local secondary schools and the offenders about the rules or laws that were broken, the consequences of the offenses, and how due process is observed by court procedure” (Nessel 3). Nessel also explains that educating participants in this format allows them to earn from real life and their own experiences (Nessel 3). Additionally, because
participants are required apply this knowledge and go through the process on at least two occasions makes it more likely that they will remember the information that is taught to them.

Overall, the adult judge model has both negative and positive issues which merit further research. However, due to the scope of my research, including this Peer Jury in my conclusions about these programs and the pertinent issues that arose out of my research would be far too difficult.

Conclusions Regarding Peer Juries and their Practices

Evaluation of Peer Juries

As I explained previously, it is difficult to determine the true effectiveness on these programs due to the fact that so much data is unavailable, never collected, not all collected in a uniform manner, or because it would be too time consuming to collect data. In addition, some of these programs are not completely run out of police departments; this greatly limits the program’s access to criminal records. However, some Peer Jury programs indicated they track recidivism rates on the juveniles who go through their programs. Recidivism statistics for Peer Jury D were not available but one moderator informed me that hardly any youths that went through the program offended again. She estimated the success rate to be between 90% and 95%. The success of this program seemed very obvious to me as I sat in on some check-in hearings where the youth was released from the program. Many parents reported positive behavior changes and many youth informed the jury that they now had the skills to make better choices in the future. Some also talked about changing their peer group so they were surrounded by better influences. Peer Jury F does not formally collect recidivism rates every year but the Peer Jury Coordinator was very confident in the success of their program. For the year that recidivism rates where researched, the jury had a 16% recidivism rate which puts their success
rate at 84%. Peer Jury C collected recidivism rates every year. In 2011, 95% of offenders who successfully completed the Peer Jury Program did not reoffend. Peer Jury C has also kept track of the program’s recidivism rate since the program’s creation, 15 years ago. They determine this rate by counting any offense a youth committed while under the age of 18 as a mark against the program’s historical recidivism rate. This rate currently stands at 86% for the program’s 16 year history. Peer Jury B reported their recidivism rate to be at less than 2% which gives their program about a 98% success rate. Given these reported rates these programs appear to be fairly successful in preventing juveniles from continuing to engage in criminal behavior. Examining these numbers is important given that some of these programs see and dispose more than 100 offenders in a year. As a result, a fairly large number of juveniles are impacted by the combined efforts of these programs.

**Recommended Best Practices**

The fact that these programs affect so many juveniles also means that these programs should make sure that they have implemented the best practices for their program. From my research and observations I have discovered a number of practices which I believe should become standard in the Peer Jury process.

**Confidentiality**

A number of the practices that I propose relate to confidentiality. Peer Jury proceedings should remain closed to the public unless special circumstances are granted for purposes which could help improve the Peer Jury program. Under these special circumstances, additional people viewing the proceedings should be required to sign a written confidentiality to waiver to ensure confidentiality.
Furthermore, other offenders and their parents should also be kept out of the hearing room to assure confidentiality. In order to ensure confidentiality regarding the Peer Jury proceedings to the offender and their parents, either a written confidentiality agreement should also be signed by all parties taking part in each individual Peer Jury proceeding (this includes adult participants) or at least an oral confidentiality oath should be administered. To be ethical, the limits to this confidentiality should be explained to the juvenile and their parents. For example, someone in the program should explain that if the offender reveals they are going to hurt someone else, that they are going to hurt themselves, self-disclose about another crime, etc. Those statements and information relating to them will not be kept confidential. These limits are for the protection of all of the people involved. In order to protect Peer Jurors, I believe that it is in their best interest to disclose to them certain information regarding the offender before the proceeding takes place so that they are able to make an informed decision as to whether or not they feel comfortable sitting on that case. Jurors should be shown the full name of an offender, the name of the school the offender attends, and the grade that they are in prior to the proceedings. These pieces of information will help the juror decide if they personally know the offender. If any juror knows any of the offenders appearing before the jury that night then they should sign off on those cases. Additionally, the home addresses of the offenders should be revealed to jurors at the same time. Making jurors aware of where these offenders live lets them know if these offenders live close to them (jurors could be unaware of this juvenile in the neighborhood if one of them attends catholic school or there is a fairly large age difference between the offender and the juror which places them in different schools). Revealing this information is solely for the protection of the juror. However, at this time no information regarding the charges should be given to the jurors as this information is not essential in deciding
whether or not they should sign off on the case for their protection or because they cannot remain impartial. Any juror who is not serving on the jury in a case, whether it is because they signed off on it or they were not chosen to sit in on that case, should remain in another room away from the hearing room where they cannot hear the proceedings. The minimum amount of people possible to effectively manage a case should hear the proceeding the details relating to the charges so that the chances of breaking confidentiality are lessened. The final practice which should be implemented to help ensure confidentiality and fairness is the offender should be asked if they know any members of the Peer Jury. If the offender indicates they know any members of the jury then these members should be removed from the proceedings and replaced by jurors who the offender does not know. Implementing these practices help to ensure both the safety of everyone involved and that confidentiality will be kept which will help to improve these programs even further.

Framework

The framework a Peer Jury bases itself in greatly impacts the program. As a result of this, I would recommend that whenever possible, a Peer Jury program should be based in a Restorative Justice framework. I recognize that funding may make options such as counseling, educational classes, assessments, and some other restorative sentence components unavailable. Yet, I feel that it is possible for Peer Juries to implement unique and individualized sentences which enable the offenders to use their time and energy in more creative ways and/or get them involved in the community at a higher level. One way of implementing these techniques is to assign offenders to community service sites which match their interests and/or career goals. Placing offenders at these sites may give them knowledge and connections to people in the community which could help them in the future. Additionally, I believe there should be a limit
on the number of community service hours which a Peer Jury can sentence an offender to. Offenders are not going to learn more at a site or get more out of the community service work that they do just because they did an extensive amount of hours. Stiff punishments only have the effect of punishing in my opinion. However, I do not agree that the 25 hour limit mentioned in the station adjustment legislation is an adequate sentence in some of the more serious cases that Peer Juries see. Therefore, I would propose that a 30 hour limit (which equates to about one hour a day for a month) on community service hours. Not only would this slightly higher limit help to make sure that more serious offenders are held responsible for their crimes, but it would also allow Peer Juries to make sure that their cases are disposed of within about a month’s time rather than the several months some cases are forced to drag on through in Peer Juries which choose not to impose community service limits. In addition to community service hours, offenders can be sentenced to make posters, write and record a song, write a poem, etc. which conveys what they learned through the process of committing their crime and going through the Peer Jury program. These materials can be used to discourage other youths from committing the same crime and can promote the Peer Jury program as well. Peer Juries can also require an offender to try and get more involved in the community by requiring them to apply for jobs or attend club meetings. Community involvement is important because it takes up free time for offenders and it also shows the community that these juveniles are contributing to society in a positive way. Granted when resources are available counseling and education can truly help juvenile offenders and should be implemented whenever it is possible but Peer Juries can still implement Restorative Justice techniques without extensive funding or access to resources. The final thing that I believe all Peer Juries should do in regards to this framework is that they try to ensure that the juvenile offender is restored to the community as a contributing member when
their sentence is complete. I believe that all Peer Juries should give former offenders the ability to serve on the Peer Jury after their sentence is completed and an established time period has passed where they have had no negative police contact. Restoration in this manner shows the offender that they are truly the equals and peers of the juveniles sitting on the other side of the program. Feelings such as these can help in the healing process and connects them further with their community.

Making Sure the Jury Truly is a Jury of Peers

Another recommendation that I have relates to the composition of the Peer Jury. Special care needs to be taken when composing the Peer Jury for a given case. Whomever composes the jury needs to make sure that the jury created is impartial and is capable of giving a fair sentence based off the crime, situations relating to the offender, and their own experiences. Therefore, if possible given the number of volunteer peer jurors, a jury should be constructed for each individual case. The primary factor in composing this Peer Jury should be age. If an offender is on the younger side of the ages accepted by the Peer Jury then the coordinator should make sure there jury is also on the younger side. This isn’t to say that they all must be the same age. Rather, that a freshman should not be faced with a Peer Jury of all seniors. As a result, the majority of the jury should make up of people who are within one grade above or below of the offender. Minimally, at least half of the jury should ideally meet this qualification. This will construct a jury that is truly of the offender’s peers and which can relate to their situation while allowing for older and younger members to weigh in and offer their advice and experiences. In addition, attempts should be made to compose the jury of roughly the same amount of boys and the same amount of girls. Again, this recommendation relates to the relational factor between the juror and the offender and the ability to give a different viewpoint on the situation.
Evaluation Process

Finally, I would recommend that all Peer Juries evaluate their program for effectiveness. One suggestion to do this could be to have all of the members of the Peer Jury self-evaluate how the program went. Specifically, jurors and coordinators could discuss the questions asked, sentences that were given, and the process itself. Exit surveys should be given to both the offenders and their parents upon completion of the program to evaluate the program. These types of evaluations may improve the outcomes of those in the program and help the program realize where other changes or improvements need to be made. Every program should do evaluations of this type because, due to their internal nature, there are no concerns regarding creating records of the offenders or further confidentiality concerns. Although it would bring up some minor concerns regarding confidentiality, bringing in an outside evaluator would be a good way to assess the program for flaws. These evaluations would also stay internal and could be completed by college student researchers to keep these evaluations cost effective.

While internal evaluations are helpful, evaluations regarding the social impact of these programs are necessary. Typically recidivism rates of the offenders who went through the program would be reviewed to evaluate effectiveness. However, as I explained previously, this is not possible or easy to do for many Peer Jury programs. Additionally, many programs have further impacts than just preventing crime. For example programs repair family relationships, teach life skills, form community bonds, treat addictions and many other qualitative impacts. Completing these evaluations is complicated due to the record that will be created regarding the success of individual offenders, confidentiality concerns, and concerns regarding how these individual programs would be evaluated in a comparable way. Determining a broader social impact assessment for these programs is a complicated issue and is one that goes beyond the
scope of this thesis. However, it is important to complete further research because these evaluations could lead to opportunities for grants, funding, new programs, new treatment options, and more volunteers to assist these programs.

Application

Walking into a hotel room after receiving a 911 phone call, an officer finds a 14 year-old boy passed out on the bed. After speaking with the teens who called 911, the officer learns that the boy had consumed a bottle of UV Pink Lemonade. The kid’s blood alcohol content tested over four times the legal limit, an amount deadly for most, let alone a 14 year old boy who stands less than four eleven and weighs eighty pounds. The boy, Michael, recovers fully after he has his stomach pumped and is given IV fluids. The boy’s mother explains to the officer that Michael had never consumed alcohol before and she has no idea what motivated him to drink. Michael has no previous criminal record or other police contacts. The officer decides to send Michael to the town’s Peer Jury Program after he is charged with underage consumption. Michael pleads guilty, and his mother agrees to allow him to participate.

About two weeks after the incident, Michael walks into the hearing room with his mother. Two of the Peer Jurors previously “signed off” on his case because they are currently in multiple classes with Michael. A third juror, who attends the private high school in town, signed off on the case because although he didn’t know Michael, Michael lives two blocks away from him. Michael is introduced to the Peer Jury. The coordinator asks Michael if he knows anyone on the Peer Jury. Michael says that he does not. However, he sees a jury of about ten kids sitting in front of him, about half of them are boys and the other half is girls. Seven of them appear to be right around his age but there are three jurors who are clearly older. The coordinator then explains that everyone in the room has signed a confidentiality oath but that
there are some exceptions to this oath. These exceptions include if someone, including Michael, would be seriously hurt by keeping the information confidential, if Michael is planning on committing another crime that can be prevented by revealing the information discussed in the Peer Jury session, or if the courts or another law enforcement agency request the information prior to the destruction of Michael’s Peer Jury record. Michael indicates that he understands.

One of the jurors asks Michael to explain what happened. He says, “Jake texted me asking if I wanted to go to this party with them. I was bored so I said yes and he picked me up about a half hour later. Someone offered me a drink and I said sure. We started playing drinking games which got really competitive really fast. The last thing I remember before waking up is that me and Jake were winning the game.” Another Peer Juror asks, “Where did you meet these kids who are five and six years older than you?” Michael explains, “I met them through my friend’s older brother. We played basketball with them a few times and started hanging out more recently.” “Have you ever been drunk before this incident?” a juror quickly asks. “No, before this I had only had one sip of wine as a part of a toast at a wedding.” Another juror asks, “To the mother, what kind of punishment has Michael received at home because of this?” Michael’s mom says that he’s been grounded from going out, his Xbox was taken away, she takes his cell phone the minute he gets home and only gives it to him if he is leaving the house to go to school or somewhere with her, and he is only allowed the computer for school work. The peer jurors then continue to question Michael about his grades, what he likes to do for fun, what he wants to do in the future, and about how he felt when he was arrested. Michael and his mother are then asked to leave the hearing room.

Each juror circles the punishment(s) and/or treatment options which they believe Michael should receive. One by one the jurors read their own recommended sentences. The group’s
recommendation included an alcohol assessment and treatment if deemed necessary, an essay on the dangers of binge drinking and drinking games, 15 hours of community service, 25 hours of community service, mentoring, and joining a club or activity. The group then discusses each option that was brought up. Every juror recommended community service and the group concurred on issuing 20 hours. They felt the assessment really wasn’t necessary in this case because the story pretty much matched his mother’s in terms of alcohol use. One of the jurors explained that after what he went through he didn’t believe that writing an essay on the dangers would be any more useful. Michael already almost lost his life so he knows what could happen. The rest of the jurors agreed. The jurors felt that Michael needed to get involved so that he wouldn’t be bored any more. They added a requirement of attending four club or sport meetings before his disposition hearing. The jurors really debated about the mentoring. Some felt that he wanted to hang out with older kids to learn while others felt that he just didn’t have friends but he would make some through clubs and/or sports. Overall, with how serious the situation became the group decided that mentoring wouldn’t hurt Michael’s situation. Michael and his mother came back in and Michael was read his sentence and told that if he didn’t complete it in the month time frame then he would be sent to court.

Michael and his mother walked into the hearing room again a month later. The two of them were talking and smiling. It was clear that their relationship was even better than it was before. The Peer Jury already received documentation from the community service site saying that Michael satisfactorily completed his community service hours. Michael brought in letters documenting his attendance at four meetings at two different clubs. The jurors then started questioning Michael. They asked him what he did in his community service. Michael explained that he was assigned to work at the park district. He ended up helping with cleaning up after
some of the sports programs and with some setting up for more formal events at the park district facilities. He didn’t really like the work but he did it as well as he could. However, Michael was really excited to talk about the clubs and his new mentor. He was really starting to fit in with people and make friends. His mentor, Jim, gave him a lot of advice which really helped Michael come out of his shell. Michael made friends during the earth club meetings and the drama crew meetings he attended. He planned on continuing both the mentoring and the club involvement. When asked, Michael’s mother said she also noticed a huge improvement. Michael is a lot happier now that he has more friends. He also has a lot less free time due to the clubs and his new found social life. He now tells her where he is going and she knows who his friends are. They all share similar interests so there is stuff they can all do that isn’t deemed boring his mother explained. The Peer Jury was happy seeing Michael’s success. The coordinator explained that Michael would be on a probationary period for about three months. Once that three months was over, Michael would be eligible to serve on the jury and help other kids like himself. Michael seemed genuinely interested in the idea of helping others in the community who helped him.

Conclusion

Overall, Peer Juries are programs which vary greatly from community to community. They appear to be having a positive impact in the communities in which they operate. However further research of these programs is warranted. As mentioned previously, more research and experimentation needs to be done in order to find an evaluation process which measures the social impact of these programs while taking into account the valid concerns regarding confidentiality and the creation of further records. I also believe that there needs to be an examination of whether or not these programs can be expanded. Such programs could be
expanded into more communities, into other parts of the criminal justice system, encompass other types of crimes or offenders. Expansion probably depends on public opinion which arguably has grown more punitive over the years and as a result, may not support these less punitive restorative justice programs. It is also my opinion that more research should be completed on whether there would be a benefit of consolidating these programs through the use of a single framework or management through a single entity in each state. Doing this may help the evaluation process but one model may not work as well in every community. Updated research could greatly improve upon these Peer Jury programs which already help a large number of children in our communities.
Works Cited


Note: All Peer Jury performances cited account for documents received and interviews conducted with coordinators during these viewings. These documents and interviews are not internally cited in order to keep the confidentiality of the programs and their coordinators.