

CHAPTER 3

LEGAL ISSUES FOR TEEN COURTS*

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INTRODUCTION

The teen court movement in America is distinguished by a great diversity of style, substance, and procedure. There are no uniform national laws or guidelines for teen courts. Most juvenile peer jury programs are local (rather than state) projects, and thus it is not surprising to find a variety of legal structures even within a single state. Teen court startup efforts should include a thorough search of state law to identify basic authority for operation and to ensure compliance with special teen court legislation that now or in the future may impose explicit statutory obligations on the program.

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This chapter identifies legal issues and procedures that are commonly found in teen court programs in the United States. Some specific programs are cited as examples.¹ The analysis is presented in lay terms, rather than “for lawyers only,” to facilitate understanding by the community organizers and volunteers who so often take lead roles in developing teen court programs. Specifically, by the conclusion of this chapter, readers will be able to discuss and examine legal issues related to topics such as

- ◆ statutory authority to operate;
- ◆ procedural due process;
- ◆ confidentiality; and
- ◆ liability.

AUTHORIZATION AND SPONSORSHIP

Only a few states have statutes on teen courts or juvenile peer trial programs. Among these, Texas goes further than any other state to legislate eligibility (age, offense) and referral procedure for its teen courts.² A few other

states also have passed laws establishing teen court projects or jurisdiction.³ Some states have recognized teen courts in fiscal measures that allocate funds to these programs. For basic jurisdictional authority, most states rely on juvenile court diversion statutes that have been on the books for many years. Typically, these diversion statutes allow a law enforcement agency, a probation department, or a juvenile court to suspend or dismiss formal delinquency proceedings pending successful completion of a diversion program. Teen courts are generally accepted as referral programs under these basic juvenile diversion laws.⁴

The scarcity of state laws asserting direct control over teen courts is understandable when the voluntary and consensual nature of these programs is taken into account. All teen courts are essentially diversion and youth education programs whose clients participate on the basis of voluntary consent.

From the authorization perspective, starting a teen court is most often a consensus-building process in which the founding stakeholders make decisions about the kinds of cases that will be taken, how they will be heard, what sentences will be imposed, and who will supervise the program. The structural specifics of teen courts are often set forth in a constitution or set of bylaws detailing the mission, eligibility criteria, consents, procedures, and staffing and supervision responsibilities.

Usually, teen courts demand significant cooperation between public and private agencies on key operational issues. Cooperative, interagency agreements may be necessary to establish the basic rules for referrals and sentencing (community service) options. For example, each program must decide how cases will be referred and which youth will be offered the option of a peer jury hearing. Some teen courts will take only infractions, truancy, or misdemeanor offenses, while others take low- and mid-level felonies like auto theft or

burglary. A written agreement between the referring source (e.g., the juvenile court) and the teen court agency (e.g., an independent youth service organization) can define the cases eligible for referral and the rules for terminating cases or returning them to the juvenile court.

ISSUES OF DUE PROCESS AND CONSENT

In a series of opinions beginning in the 1960s, the United States Supreme Court enumerated specific procedural due process rights that must be accorded by state juvenile courts to minors in delinquency proceedings. Among these rights are

- ◆ the right to counsel;
- ◆ the right to notice of the charges and proceedings;
- ◆ the right to confront and cross-examine witnesses; and
- ◆ the right against self-incrimination.

The Supreme Court majorities deciding these High Court cases reasoned that minors were entitled to these adult constitutional rights when incarceration was a possible outcome of these otherwise informal proceedings.⁵

These “due process” rights are not mandatory in teen court proceedings, principally because teen courts do not sentence youthful offenders to incarceration.⁶ Moreover, youth defendants and their parents consent in advance to having the matter heard and settled in teen court. In each case, this consent serves as independent authority to proceed according to the rules, procedures, and sanctions available through the program. In this respect, teen courts function as mediators of problems and disputes, authorized to intercede by the consent of the parties.

The sanctions and punishments available to teen courts are surprisingly similar among programs

throughout the nation. By and large, teen court judges and juries dispense sanctions limited to community service, restitution, counseling, and apology to the victim. The types of sentencing options used by teen courts are discussed in more detail in Chapter 6.

No teen court surveyed for this *Guide* imposed any sentence of incarceration, direct fine, or compulsory driving license suspension.⁷ This is consistent with the voluntary basis for teen court jurisdiction and with the procedural due process standards that must apply in cases where incarceration is a possible outcome. In fact, *all* teen court sanctions and punishments are ultimately founded on the voluntary consent of teen court clients — the youth and parents who elect to have their case heard in this alternative forum.

From a legal viewpoint, teen court orders are essentially unenforceable. Judicial orders in formal delinquency proceedings may be enforced by incarceration or other deprivations of liberty, but the normal consequence for failure to perform a teen court sentence is rereferral to the probation department or the juvenile court. Many programs try to prevent rereferral by holding interviews and offering encouragement when youth lag in sentence performance and seem to be headed for formal court proceedings. Most program directors report a very high level of sentence compliance by youth and parents who are strongly motivated by the teen court experience and by the wish to avoid the anxiety or punishment associated with formal delinquency proceedings.

While teen courts are not required to follow constitutional due process rules, most programs use lawyers, judges, juries, and procedures that closely parallel their counterparts in formal juvenile courts. In one important respect, teen courts are distinctly more generous than the United States Supreme Court has been in granting a critical due process right to youth: the right to trial by a jury.⁸

If one were to take issue with the due process of law available in teen courts, the main concern would be the admission of wrongdoing that is often demanded as a condition of referral. Typically, youth-defendants cannot go to teen court unless they have admitted guilt (or plead no contest) to the charges against them; usually, this admission is made in the juvenile court prior to referral to the teen court or in papers signed by the minor (and parents) when they arrive at the program. In fact, most teen court programs convene only to decide on an appropriate sentence, not determine guilt or innocence. The problem, if there is one, is that coercion or pressure may be exerted upon the minor or the family to admit guilt in the first place. Judges, probation officers, and school discipline authorities often are eager to trim caseloads in their own departments, especially where the calendars are crowded and the behavior in question is a “lightweight” offense like possession of alcohol or truancy. There is always the chance that an innocent minor, threatened with formal prosecution and possible incarceration, will accept teen court jurisdiction as a benign alternative to the anxiety of posting a defense in formal proceedings. By and large, the benefits of diversion — both to the defendant and the community — vastly outweigh the risk that punishment will be administered in some cases where there has been no wrongdoing.

Teen courts can minimize the risk of inappropriate intervention by

- ◆ applying objective eligibility criteria (such as age and offense);
- ◆ carefully screening cases that are referred; and
- ◆ making full disclosure to clients of the procedures and sanctions that will be used.

Youth defendants and their parents should acknowledge their understanding of the process and its consequences in written consent forms made available by the program.

Consent Forms

Consent forms vary considerably among programs. Some use only short, terse agreements to enroll in the program and abide by the rules. Others use multiple forms covering liability, confidentiality, sanctions, and other matters. From a legal perspective, the coverage and contents of the forms should be sufficient to serve two major purposes: (1) establish valid consent to participate in the teen court program; and (2) protect the teen court and associated volunteers, agencies, or programs from misconduct and liability.

Another important factor, for both the validity of consent and for the degree of protection afforded, is that the consent obtained from the minor and parents must be informed consent.

All states have rules of law regarding the validity of consent forms executed by youth on matters pertaining to the youth’s personal rights. The general rule is that a minor’s consent alone is insufficient; at least one parent or guardian must also sign the consent form. Another important factor, for both the validity of consent and for the degree of protection afforded, is that the consent obtained from the minor and parents must be *informed consent*. It is good practice to have youth and parents sign consent forms together during an interview in which the forms and their meaning are fully explained and questions can be answered directly. Consent forms need not be detailed and legalistic; preferably, they should be written in straightforward, simple terms to facilitate ready comprehension by youth and parents. A judge or volunteer attorney who understands the juvenile diversion process and liability probably should be involved in the design of program consent forms. Some outside guidance can be obtained by examining the forms used by established teen courts with similar program structures. Sample forms used by teen court programs can be found in Appendix D.

Written, informed consent should be obtained, not only from youth defendants and their parents, but also from other teen court participants, such as youth who volunteer as attorneys or jurors and their parents. The consents for these individuals will be somewhat different because they are not in a defendant role, and they are not admitting any wrongdoing or electing teen court as an alternative forum.

Teen Court Legal Procedure

The program models and legal procedures used by teen courts are reviewed in more detail in Chapters 1 and 7. The procedures vary greatly from program to program. The few teen court programs that hold full trials to determine guilt or innocence before sentencing may have elaborate and rather formal proceedings that are quite time-consuming. For example, the Youth Court in Anchorage, Alaska, permits defendants a full trial on the offense charged. In these cases, there are multiple hearings, including arraignment, plea, trial on the merits, and a sentencing hearing. Some contested Anchorage cases take three days to reach a conclusion. For young defendants, this is a potentially grueling experience that Program Director Sharon Leon says, “convinces many children to stay out of trouble forever.”

Other models that meet only to sentence a minor after admission of misconduct will proceed more quickly, but they too differ in their observance of due process standards from those applied in the formal juvenile court. Procedural complexity is guided by the design and purpose of the local program, including the individual program emphasis on the education of young people about the legal process.

CONFIDENTIALITY

Privacy Rights in the Context of Teen Court

There is no *federal* constitutional guarantee of confidentiality for youth in juvenile delinquency proceedings. Juvenile confidentiality laws are

entirely state matters, governed by state codes or by rules of the court. States differ greatly in the amount of protection from publicity offered to juveniles apprehended for law violations. Public concern about youth violence has motivated lawmakers in many states to rewrite juvenile confidentiality laws, allowing wider release of juvenile names, offenses, and records to the press and to the public, especially for serious and violent crimes. Despite this trend, many states maintain a strong tradition of privacy for youth and parents in juvenile court proceedings. A few states, like Colorado and Oregon, have long-standing policies of little or no confidentiality for arrested youth, and they have opened juvenile delinquency proceedings to the public.

As a general rule, teen courts reflect the values and policies of the states and communities in which they operate. The level of confidentiality available in a program is often guided by existing state law. Most experienced teen court program directors believe that a high level of confidentiality is in the best interest of the youth defendants and their parents. The promise of privacy is an inducement for juveniles and parents to submit to teen court proceedings in the first place. Without rules of privacy, teen jurors and volunteers are free to chat with friends about deeply personal and family matters that are aired in teen court proceedings, contributing to embarrassment or alienation of the juveniles subjected to such gossip.

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The normal protocol for teen courts is to have each participant sign an oath or pledge of confidentiality. This is usually a short statement promising to maintain the confidentiality of all personal information heard or exchanged in teen court proceedings. It is a routine condition of participation for teen jurors, attorneys, and volunteers who attend teen court proceedings.

Attendance at Proceedings

The question of who may attend teen court proceedings is inevitably one that each program must address. Television and news representatives frequently express interest in these programs and seek access with reporters or cameras. The first concern is whether they should be admitted to proceedings in the first place. Some programs, especially those in states with strong juvenile confidentiality laws, forbid access by the media. Others permit access under controlled circumstances. Except in rare cases where the program does not offer confidentiality, plans to allow media coverage of proceedings should be explained to and approved by the youth and parents whose private lives will be affected by the resultant publicity. Where cameras are brought in, some adult should be assigned to monitor the coverage and to make sure that media personnel observe whatever conditions may apply (e.g., that faces of minors will not be shown on television).

Handling of Records

Another confidentiality issue relates to the records of juvenile court proceedings. Some paper or electronic trail must be established for the acceptance of referrals from probation, court, or school authorities; for the outcomes of hearings and sentences imposed; and for followup purposes, to monitor sentence completion and to rerefer the case for formal prosecution if the sentence is not completed. Programs vary greatly in their policies on maintenance of records. Some operate with a high degree of informality and keep very little paper on the proceedings. Most have rules about the kinds of records that are kept, who can see the records, and whether and when the record may be sealed or destroyed.

Defendant-related records usually include

- ◆ a notation of the referral and referring source;
- ◆ consent and other program enrollment forms executed by the defendant and parents;
- ◆ police, probation, court, or school discipline reports (depending on the referring agency);
- ◆ some log of the teen court proceeding and outcome;
- ◆ a referral agreement or notation of referral for community service; and
- ◆ a log or other record of sentences and sentence completion.

Many programs limit access to these records to individuals who must have them in order to conduct teen court business — particularly the program staff, the defendants, and the student attorneys and attorney supervisors. Many routinely seal or destroy these records when the case is successfully completed. However, some programs have reason to maintain these records for longer periods — for example, so that they can observe limits on how many times a youth may be returned to teen court for subsequent offenses, or so they can track performance and recidivism data for groups of teen court graduates.

Written Policies and Protocols

Perhaps the best advice on confidentiality for teen court programs is to have a set of clear, written policies and protocols covering all aspects of the subject, from pledges that must be signed by participants, to rules of attendance and media coverage, to rules on the keeping, sealing, and destruction of records. These written policies should be drafted to reflect state law requirements as well as individual program values, and they should probably be designed with the help of a volunteer attorney or judge.

LIABILITY

In general, it is fair to say that teen courts have relatively low exposure to lawsuits resulting from their operations. Some peer trial programs function within public agencies that are shielded from litigation by state law. No teen court

program among those surveyed was a direct service provider with primary responsibility for treatment, education, or work programs; the usual relationship to community service agencies is an indirect one defined by a referral agreement. With limited opportunity to cause damage, most programs can probably coast for a long while without suffering any serious legal challenge.

Nevertheless, liability is always a potential problem. Consider the following hypothetical examples:

- ◆ A 15-year-old is ordered by the teen jury to perform community service at a local car wash holding a benefit for a local school recreation program. While washing cars, he slips on soapy water and breaks his leg. He sues the teen court for ordering him to work on a hazardous activity that caused his injury.
- ◆ A 17-year-old boy charged with multiple assaults is waiting outside the teen court for his case to be heard. Also waiting is a 13-year-old boy who is charged with truancy. The 17-year-old picks on the younger boy and, over the protests of the younger boy's mother, slugs the 13-year-old, knocking out two front teeth. The dental bill is \$6,000. The mother of the 13-year-old sues the program for failure to provide adequate security and supervision.
- ◆ A TV crew tapes a teen court hearing in which a student defense attorney explores personal problems that may have contributed to a series of late-night outings and drinking episodes by a 14-year-old girl. In testimony, the girl accuses a school counselor of sexual assault. When the tape is aired on local TV, the school counselor is suspended pending an investigation. He sues the TV station and the teen court program for defamation of character affecting his employment.

What protective action should teen court programs take in advance to avoid such challenges? Protection is available in several

forms including legal shields (immunity) from suit, waivers of claims for damages, and insurance. In addition, legal defenses that pertain to specific types of lawsuits may come into play, such as "contributory negligence" in an injury case or "privileged communication" in a defamation case. Mentioned below are some of the primary forms of liability protection commonly available to teen courts.

Immunity

Many states shield public agencies, and courts and court officers in particular, from lawsuits for damages alleged to have occurred in the course of official proceedings. This protection from liability derives from the English legal doctrine of "sovereign immunity," and state laws that protect government agencies from legal actions are known as "immunity laws." Most teen court programs cannot rely on government immunity laws for protection. The first reason is that few teen courts are official, public agencies; most are private agencies or organizations whose quasi-public features are defined by referral arrangements with official agencies. Another reason is that many states have discarded old immunity laws or have limited immunity defenses to particular acts by government officials. Nevertheless, some officially sponsored teen court programs may be covered by applicable state shield laws. Even private nonprofit agencies may be protected by state law from certain legal attacks related to their charitable activities. Before any such coverage is assumed to exist, the state code and case law should be researched on behalf of the program by a competent attorney.

Waivers and Releases

Many teen court programs seek protection from liability by having participants sign waivers or releases of their right to sue for damages. These are written, legal statements that go to varying lengths to remove the teen court, its staff, and its affiliate agencies as targets of legal action. Some waivers are simply stated as a release of the program from a participant's claim for

damages. Others go further. For example, the liability release form (see Appendix D) used by the Odessa, Texas, Teen Court Program includes an indemnification and hold-harmless clause that extends to third-party actions; in simple terms, this means the person signing the form may be obligated to repay the program for expenses the program incurs in a lawsuit brought by another person.

Some programs surveyed for this chapter do not require youth defendants, parents, or volunteers to sign waiver forms. Instead, they wait until the juvenile reaches a community service agency, and they rely on the direct service agencies to provide waivers and obtain signatures from the youth and parents involved in the performance of community service. This approach may fail to provide adequate protection to the teen court program itself.

Waivers and releases are not bulletproof protection against liability.

Waivers and releases are not bulletproof protection against liability. State laws or court decisions frequently control the form, content, and validity of waivers and releases that are executed within the state. Many states offer special protection to juveniles, and the courts in these states may be reluctant to enforce a release that prevents a youth from obtaining just compensation for injuries. Under general contract law, a release is not generally enforceable unless something of value (“consideration”) has been received by the party signing the release. Since teen court participants are not paid for their time, there is arguably a failure of consideration and problem with the validity of such a release.

Above and beyond questions relating to validity, there is a question of fairness that deserves attention. Is it fair to attempt to bar youth or their families from a remedy that the law provides, in the form of money damages, for injuries resulting from the negligence of another

person? A simple example would be a youth who was badly burned because a community service agency carelessly put him to work tending a fire of piled-up leaves, and who later could not afford proper medical care because the parents had signed a waiver of claims for negligence.

To survive, programs must protect themselves and their staff from bankrupting legal assaults. Thus, it makes sense for every teen court program to have participants sign waivers or releases of claims for damages. How far these waivers and releases should go is a matter for each program to decide, based on the advice of competent counsel. Even where doubts remain about the validity of waivers or releases signed without compensation, these legal documents have value as up-front deterrents to the filing of lawsuits, especially frivolous actions.

Insurance

Insurance is another recommended line of defense against lawsuits and damages. Private nonprofit organizations sponsoring teen court programs often find the search for adequate, dependable, and affordable insurance a frustrating task.

Several types of insurance deserve mention and consideration. Property insurance (or business premises insurance) may include liability coverage for accidents or injuries that occur as a result of some condition on the premises where the program operates. Automobile insurance specifically covers vehicles that may be used by the program. These types of coverage are ordinarily easy to obtain.

General liability insurance is provided by a separate policy that is priced according to the types of activities insured and the associated risks presented. Specialized liability insurance for attorneys and other professionals may be quite expensive. Many private, community-based agencies (including many of the programs

interviewed for this chapter) do not carry general liability insurance. Where available, such insurance protects private agencies from damages that result from acts or omissions by the organization and its employees and agents. Separate coverage may be needed for program volunteers. Such insurance pays the costs of defending actions filed against the insured organization as well as damages payable after settlements or court actions. Occasionally, surrogate coverage may be obtained by having the teen court program certified as a named-insured on a policy maintained by a community service organization where teen defendants serve out their sentences.

A troubling issue for many private nonprofit agencies is how to protect board members from personal liability for claims that result from program operations. Citizens who serve as trustees or directors of community programs often demand insulation, in the form of insurance, from liability. “D&O” (directors and officers) insurance is normally an expensive and unbudgeted item for nonprofits. The need for such coverage will vary, depending on state and federal laws defining the exposure of nonprofit trustees to personal liability. Applicable state nonprofit law should be thoroughly researched by affected programs.

Government agencies often have better access to some form of insurance, whether the insurance is a policy from a private insurer or a pool of funds maintained by state or local government to pay for claims. Teen court programs funded by or working through government agencies should explore the possibility of extending public agency protection to their own operations. An innovative example of government-sponsored insurance is provided by teen court programs administered collectively through the Kentucky Administrative Office of the Courts. Volunteers in these programs may elect to purchase daily accident and liability coverage for themselves at \$5.50 per person per year in a program offered through the Kentucky

Social Services Department. This is similar to buying “collision damage waiver” insurance when renting a car.

Insurance questions should be handled by a lawyer-insurance broker team that can tailor solutions to individual program needs. Some guidance is available from nonprofit advisory organizations that specialize in helping community-based service providers manage business risks and define insurance needs.⁹

Liability and Volunteers

Teen courts are volunteer-rich programs, using adult mentors, trainers, and supervisors, as well as teen judges, jurors, attorneys, and bailiffs. Even the members of the board of directors, who serve without compensation, must be considered volunteers.

Any community program that enlists volunteers faces special liability concerns.

Any community program that enlists volunteers faces special liability concerns. First, the program must provide for the protection of juveniles who engage in activities with adult volunteers. Second, the program must protect the volunteers themselves from lawsuits, injuries, or damages that may result from program activities. Finally, the program must protect itself.

All three protective strategies discussed above apply to volunteers. State charitable organization laws may provide some protection to volunteers and to the organization, though volunteers and staff must usually act within responsible limits set by these laws. Volunteers should sign waiver and release forms that protect the agency from legal attack. Finally, insurance may be obtained to protect both the program and individual volunteers; a caveat for program administrators is to double-check their liability coverage to make sure that it contains a specific endorsement for volunteers.

Because client protection is a main objective of any program that handles a caseload of minors, it is important to have adequate screening and interview procedures for program volunteers who interact with youth. While FBI-type investigations would certainly discourage volunteer participation, the program should apply basic common sense when it welcomes new volunteers to teen court. An application form and references would be appropriate as screening tools for any adult who is expected to work closely for extended periods with juveniles in the program. This is not a guarantee that nothing will ever go wrong, but it does serve some legal purpose by demonstrating the good faith and care taken by the organization to protect youth who participate.

Every teen court should have written policies and procedures in place that carefully define the

duties and activities of program participants and volunteers. This helps to minimize the opportunity for injury or misconduct in the first place, and these written policies and procedures can be useful in defending any lawsuits that may be brought.

CONCLUSION

The purpose of this chapter was to provide a broad overview of legal issues that may confront teen court programs. Although the legal issues encountered by teen court programs in different jurisdictions will be similar, the responses to them may vary according to local and state laws. Program organizers are encouraged to seek legal counsel when developing teen court policies and procedures to protect the program, staff, and clients.

CHECKLIST FOR LEGAL ISSUES

Have teen court program organizers or staff —

- Determined whether the state has a teen court authorizing law?
 - Determined if authorizing law is a jurisdictional statute (defining caseload and scope of operation), a funding statute, a basic diversion statute, or some combination of the above? What requirements and opportunities are presented by state law?
 - Determined (with or without statute) if approval is needed by a specific state or local agency for the teen court program to operate (e.g., courts, probation, schools, child welfare, county government)?
- Determined what interagency agreements are needed to define the caseload, referral terms, community service options, and other operational features of the program? (Note: Interagency agreements also are discussed in Chapter 6.)
- Developed program consent forms for defendants and volunteers?
 - Determined if program consent forms are adequate to establish valid consent to participate and basic protection from liability?
 - Assured that the program has taken steps to ensure that consent is informed consent, with the consequences of participation fully understood by youth defendants and their parents?
 - Checked with state law to make sure the consent forms meet legal requirements for juveniles signing documents affecting their personal rights?
 - Developed separate consent forms for program volunteers?
- Determined if the teen court's program procedure is controlled by any applicable state law?
 - Solicited input and participation from local attorneys and judges in designing the teen court's procedure?
- Determined what rules of confidentiality apply to teen court operations?
 - Developed procedures for ensuring that steps are taken to protect confidentiality (e.g., oaths signed by participants)?
 - Developed procedures to ensure compliance with program confidentiality rules by press or television media personnel who observe or tape proceedings?
 - Developed procedures for adequately protecting program records from unauthorized access?
 - Defined written program protocols on confidentiality?

- Established steps to protect clients, volunteers, and the program itself from liability for misconduct or damages?
 - Identified any state immunity laws that may provide special protection to the program as an official or charitable agency?
 - Prepared sufficient waiver and release forms (with professional assistance) with some thought given to the rights of the juveniles who may be injured while performing community service?
 - Explored all insurance options thoroughly, based on professional advise?
 - Investigated and developed policies and procedures (e.g., screening policies, waivers, insurance) that provide the program with adequate protection in relation to volunteers, both youth and adults?

NOTES FOR CHAPTER 3

1. Individuals from several teen court programs participated in special interviews for this chapter on legal issues. The programs interviewed were: Anchorage Youth Court, Anchorage, Alaska; Gila County Teen Court, Globe, Arizona; San Francisco Youth Court, San Francisco, California; Teen Court, Northeast Juvenile Justice Center, Los Angeles, California; Westminster Teen Court, Westminster, Colorado; Denver Teen Court Partnership, Denver, Colorado; Osceola Teen Court, Inc., Kissimmee, Florida; Kentucky Teen Courts, Administrative Office of the Courts, Frankfort, Kentucky; Bend Youth Court, Bend, Oregon; Capital District Teen Court, Latham, New York; Onondaga Youth Court Program, Syracuse, New York; Tyler Teen Court, Tyler, Texas; and Odessa Teen Court, Odessa, Texas. Additional information was supplied by the American Bar Association and the National Council of Juvenile and Family Court Judges. The assistance of the programs and agencies is gratefully acknowledged.

2. Texas Code of Criminal Procedure, Sec. 45.55. In establishing a procedure for the referral of youth by the Juvenile Court to teen courts, the Texas statute may not be preemptive of local program variants; for example, the Perrytown, Texas, Teen Court reports that it does not operate under the statute because its directors consider the statutory scheme too restrictive.

3. See, for example, Iowa Statutes 602.6110 (Judicial Code) establishing “peer review” pilot project under the auspices of the state Supreme Court, permitting diversion of youthful offenders to the peer review court and describing eligibility criteria and sentencing options for the pilots.

4. See, for example, Arizona Children’s Code Sec. 8-230.01, California Welfare and Institutions Code Sec. 654, Florida Statutes Sec. 39.047 (Judicial Branch/Juveniles), or Oregon Juvenile Code Sec. 419.630 for representative

juvenile diversion statutes considered to be basic authorizing legislation by teen court programs in those states.

5. The important cases establishing procedural due process rights for juveniles in delinquency proceedings are *Kent v. United States* 383 U.S. 541 (1966) (right to counsel); *In re Gault*, 387 U.S. 1 (1967) (right to counsel, right to notice of charges and proceedings, right to confront and cross-examine witnesses, privilege against self-incrimination); *In re Winship*, 397 U.S. 358 (1970) (burden of proof beyond a reasonable doubt); *Breed v. Jones*, 421 U.S. 519 (1975) (protection against double jeopardy).

6. None of the teen court programs surveyed for this chapter impose any sentence of incarceration. Some, however, order sentences of grounding or house arrest at home; these deprivations of freedom of movement are justified on the basis of voluntary consent to the sentence by the minor and the parents.

7. Some programs require defendants to pay an administrative fee for processing through the program, in the range of \$10 to \$20. Some programs provide for a sentence of grounding or house arrest, distinguished from incarceration because it is at home and with the minor’s consent.

8. The U.S. Supreme Court has rejected claims that juveniles in delinquency proceedings are entitled by the federal Constitution to trial by jury. *McKiever v. Pennsylvania*, 403 U.S. 528 (1971). Nevertheless, 12 states have laws or court decisions allowing jury trials for minors in delinquency proceedings (regardless of whether teen courts also operate in those states.)

9. For example, the Nonprofit Risk Management Center is a national organization offering training and publications on state liability laws, insurance, managing risks in volunteer programs and related matters. The center can be reached at 1001 Connecticut Ave., N.W., Suite 900, Washington, D.C. 20036-5504. Phone (202) 785-3891.