

Université de Montréal

Hay River Youth Disposition Panel:
The Experience of Participants

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Université de Montréal
Faculté des études supérieures

Ce mémoire intitulé :
Hay River Youth Disposition Panel:
The Experience of Participants

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ABSTRACT

The Hay River Youth Disposition Panel began in January 1997, the first program of its kind in Canada. A panel of 12 students from Diamond Jenness Secondary School in Hay River sits in youth court to hear cases such as vandalism, alcohol-related offences, violating probation, break and enter, etc. Once guilt has been determined, students discuss the case in private and return to present their sentencing recommendation to the judge in open court. He can accept, modify or reject it. This program is based on the principle that peer pressure is a strong force in the lives of teenagers and can be used to influence behaviour in a positive way. The judge often accepts or makes minor modifications to the recommendations.

Sixteen current and former panel members were interviewed about why they joined the panel, their experience of being on the panel and the training they received. Many had only been exposed to the justice system through television dramas when they first participated. They said being on the panel gave them firsthand knowledge about how the criminal justice operates, including courtroom protocol and procedures as well as what factors are taken into account when making sentencing decisions. They also experienced the challenges of trying to recommend a sentence that combines punishment, rehabilitation and restitution for one of their peers in a community where most teens know each other. Their role on the panel also gave them a sense of responsibility and a role within a society that doesn't often give young people a voice.

Key words: youth justice, peer sentencing, peer pressure

RÉSUMÉ

Le Hay River Youth Disposition Panel a été créé en janvier 1997. Il s'agit du premier programme de ce type à exister au Canada. Un panel de 12 étudiant(e)s de l'école secondaire Diamond Jenness à Hay River entendent des causes au tribunal de la jeunesse telles que le vandalisme, des délits reliés à l'alcool, des bris de conditions de probation, des vols qualifiés, etc. Une fois la culpabilité déterminée, les membres du panel se retirent afin de discuter et reviennent ensuite dans la salle de cour pour présenter leurs recommandations sentencielles au juge. Celui-ci peut les accepter, les modifier ou les rejeter. Le « Youth Disposition Panel » se base sur le principe selon lequel la pression des pairs joue un rôle important dans la vie des adolescents et peut être utilisé pour avoir une influence positive sur leur comportement. La plupart du temps, le juge accepte les recommandations du panel.

Cette étude porte sur l'expérience de seize membres (anciens ou actuels) du panel. Elle s'intéresse plus particulièrement aux raisons qui les ont motivées à se joindre au panel, à leur vision et à leur expérience du panel lui-même ainsi qu'à la formation qu'ils ont reçue. Les résultats indiquent que le Youth Disposition Panel constitue un moyen d'apprentissage du fonctionnement et des principes du système de justice. Les motivations qui guident les jeunes à accepter de participer à ce type de panel sont axées sur eux (self-centred), l'acquisition du savoir (knowledge-centred) ou sur la communauté (community-centred). Même si les valeurs qui orientent la nature des recommandations que les jeunes adoptent sont diversifiées, le consensualisme du panel reste central. La punition, la réhabilitation et la réparation forment les trois principes clés adoptés par les membres du panel dans les mesures sentencielles qu'ils recommandent. L'engagement des jeunes dans les Youth Disposition Panel favorise le renforcement du sentiment de responsabilité et de leur rôle dans la communauté tout en constituant une source de tensions pour des jeunes qui participent à l'application du système de justice à des justiciables qu'ils connaissent nécessairement dans une communauté restreinte telle que Hay River.

Mots clés : justice des mineurs, sentences par les pairs, pression par les pairs.

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Introduction

Young offenders appearing in a Canadian Youth Court are traditionally sentenced by a judge, who has heard arguments by both the Crown prosecutor and the defence lawyer. The only participation of young people in the process is as offenders – a negative encounter with Canada's criminal justice system.

The Hay River Youth Disposition Panel began operating in January 1997, in a community of about 3600 people on the south end of Great Slave Lake in the Northwest Territories. The first program of its kind in Canada, it was the brainchild of the Honourable Robert W. Halifax, then Chief Judge of the Northwest Territories. It integrates peer sentencing into a Canadian youth court. Once young offenders have either pleaded or been found guilty by a judge in Hay River's youth court, the judge can then refer the matter to a panel of 10-12 teenagers from the local high school for a sentencing recommendation.

The members of the Hay River Youth Disposition Panel sit in the jury box during youth court hearings and then retire to the jury room to discuss the details of the case the judge refers to them. The types of offences in which they tend to be called upon for their advice includes theft, break and enter and alcohol or drug related and breach of probation conditions. They do not get involved in cases of serious offences such as sexual assaults and murders. The students, who range in age from 14 to 17, consider the details of the case behind closed doors and come to a unanimous agreement before returning to the courtroom to present their recommendation to the judge, lawyers and young offender. Final authority for the young offender's sentence rests with the judge, who is free to adopt, modify or reject the panel's recommendation. It is hoped that the young offender will give more credence to a sentence that comes from his/her peers, thereby reducing the chance of re-offending. Another component of the program is the opportunity for young people to learn about the Canadian justice system as they take on a role and responsibility within it that is not normally accorded to teenagers.

Former Chief Judge Halifax drew his inspiration for the Youth Disposition Panel from an Arizona teen court program, where young offenders who pleaded guilty of minor offences were sentenced in a court of their peers. That is, other teenagers fulfilled the roles of lawyers, clerk, bailiff, jury and sometimes judge as well. The basic premise is that peers play an influential role in the lives of teenagers. If peer pressure can be used to engage them in lawbreaking behaviour, perhaps it can also be used to encourage them in a positive manner.

Since the Youth Disposition Panel's inception in Hay River in 1997, it was adopted by three other northern communities: Fort Smith, Inuvik and Iqaluit. This research project examines the experience of current and former members of the Hay River Youth Disposition Panel, including their motivations for participating, the type of training they received, the sentencing process and the perceived impact of their participation. It marks the first study of this innovative peer sentencing program involving young people.

Chapter 1

A review of the literature

I. DEVELOPMENT OF TEEN COURTS IN CANADA AND THE UNITED STATES

1.1 Introduction

In American teen courts the attorneys, court clerk, bailiff, jurors and sometimes the judge are all under the age of 19. Juvenile defendants are both judged and sentenced by a jury of their peers (Godwin, Steinhart and Fulton, 1998). The majority of teen courts don't determine innocence or guilt - they only assess sentences (Butts and Buck, 2000). Although in existence in the United States in some form since the 1960s, peer sentencing of young offenders is relatively new in Canada; the first youth disposition panel was started in Hay River, Northwest Territories in 1997.

1.2 Development of teen courts in the United States

It is unclear just how and when the idea of teen courts was born, although there are reports that Mansfield, Ohio had a youth-operated bicycle court in the late 1940s. Using the facilities at the municipal courthouse, it heard cases of minor traffic violations by youths on bicycles. Teen defendants were arraigned and teen judges imposed sanctions, often requiring the accused to write short, 300-word essays about the importance of observing traffic laws (Butts, Buck and Coggeshall, 2002). According to the National Youth Court Center (2003), one of the earliest known programs still in operation is the Naperville Youth Jury in Naperville, Illinois. It started in June 1972.

However, Ithaca and Horseheads, New York, were operating teen courts, or youth courts, as they're often called in the United States, in the 1960s and 1970s (Acker et al., 2001). Gaines and Skrabut (1967) say that in 1962, the Tompkins County Youth Court in Ithaca was established for youths ages 12-18 charged with a minor offence as a way to help youths identify with the law as a code of conduct, a system that its creators believe was better suited to rehabilitation than the traditional system. With the consent of a young offender and his parents, a judge

would refer cases to the youth court to be tried and, if found guilty, sentenced to up to 50 hours of community service. The cases tended to be criminal offences that wouldn't normally be processed by juvenile courts. "Since failure to prosecute these young people might engender disrespect for the law, the youth court is intended to occupy a middle ground between prosecution and no prosecution" (Gaines and Skrabut, 1967:944). This youth court was an extension of a "youth jury" of teenagers used in a number of other communities where they would make a sentencing recommendation to the judge in the case of young offenders (Gaines and Skrabut, 1967). The goal was to improve the chance of rehabilitation of young offenders by holding them accountable for offences that might not otherwise result in prosecution (Gaines and Skrabut, 1967).

However, Odessa, Texas is often credited with the resurgence of teen courts in 1983 and their subsequent popularity. People under the age of 18 accounted for half of the arrests in the community and those caught for crimes such as shoplifting and intoxication weren't held accountable for their behaviour. They simply listened to a lecture and then went home (Rothstein, 1985). Social worker Natalie Rothstein believed recidivism could be prevented by holding young offenders accountable for their first offence and involving them in the justice system in a positive way. At her suggestion, the city of Odessa adopted a program similar to one operating in Denver. Funded by the district attorney's office, the Denver program tried to prevent recidivism while relieving the caseload of the youth court. It allowed first-time young offenders charged with misdemeanours (marijuana use, car theft, liquor violations or shoplifting) to choose between youth court or a diversion program where they pleaded guilty and agreed to make restitution to the victim or perform community service. A student jury could hear cases and decide sentencing (Rothstein, 1985). The Odessa program, which heard its first case in November 1983, took the Denver program a step further; supervised by an adult volunteer judge, youths volunteered as attorneys, bailiffs, clerks and jurors. They heard evidence, considered aggravating and mitigating circumstances and decided upon sentences (Lyles and Knepper, 1997). Youths

were in almost complete control of the court process and hearings would take place in an actual courtroom. After hearing its first 766 cases, the presiding judge, retired District Judge Ken G. Spencer, had not had to alter any of the teen jury's verdicts (Rothstein, 1985). Teen courts were adopted in Kentucky in 1992, after examining teen courts in Odessa and in Globe, Arizona (Williamson, Chalk and Knepper, 1993).

They have become increasingly popular since then. In 1991 there were more than 50 teen courts in 14 states, including at least 30 in Texas (Nessel, 2000). A survey in September 1995 by the American Probation and Parole Association found about 190 teen court programs in 25 states (Godwin, 1996a). By July 2005, the National Youth Court Center found more than 1,000 teen court programs in 48 states and Washington, D.C. (National Youth Court Center, 2005). A 1998 survey by the Urban Institute in Washington, D.C. found that 67% of the 335 teen court programs surveyed had been in existence for less than five years, 42% had been operating 1-3 years and 13% had been running for less than a year. (Butts and Buck, 2000). These courts had processed more than 65,000 cases in 1998 (Butts, Hoffman and Buck, 1999). As well, by 2000, 17 American states had enacted legislation authorizing the use of teen courts (Godwin, Heward and Spina, 2000). Traditional courts have had to deal with an increasing number of serious, violent and chronic juvenile offenders. This leaves them less time to handle less serious cases (Butts and Buck, 2000). Teen courts tend to reduce the caseload of juvenile courts. Another factor making them attractive is that sentences often involve community service, which means they're contributing to local programs through volunteer labour (American News Service, 1998). Anecdotal reports of the positive impact of teen courts have partly fuelled the acceptance and growing popularity of this peer-centred approach (Butts and Buck, 2000).

The Office of Juvenile Justice and Delinquency Prevention established the National Youth Court Center in 1999 operated by the American Probation and Parole Association in Lexington, Kentucky. It is jointly funded by the Office of

Juvenile Justice and Delinquency Prevention, the National Highway Traffic Safety Administration, the Substance Abuse and Mental Health Services Administration and the Office of Elementary and Secondary Education (Heward, 2002). The centre provides national and regional training sessions, technical assistance, information on practices and operations of youth court programs in the U.S. and resource materials to existing youth courts and those being developed (Vickers, 2000; Nessel, 2000). As we have seen, it is unclear how the idea of teen courts was born. However, Odessa, Texas, is frequently credited with the resurgence of teen courts when it launched its own program in 1983. Their popularity and growth has increased greatly in the past 10 years. A September 1995 survey by the American Probation and Parole Association found 190 teen court programs in 25 states. By July 2005, there were more than 1,000 in 48 states.

1.3 Development of teen courts in Canada

Since research has never been undertaken on these Canadian youth disposition panels, as they are called in Canada, little information is currently available about their origins. The first of only four such programs in Canada has been operating in Hay River, Northwest Territories since January 1997. This community of about 3,600 people is located on the south shore of Great Slave Lake, south of Yellowknife, in the Northwest Territories. It was the brainchild of Chief Territorial Court Judge Robert W. Halifax. The second program was implemented in Fort Smith, near the Alberta border, in about 1998. Inuvik, north of the Arctic Circle, began one in early 2000, while the fourth got underway in Iqaluit, Nunavut, in 2002. A key aspect of the program is the belief that youths are more likely to listen to their peers than they are to an adult¹. Thus, it tries to use positive peer pressure, through peer sentencing, to influence young offenders not to recidivate. According to Judge Halifax, "The peer group is, in effect, creating a standard of behaviour" (Latta, 1997). Young offenders are sentenced by a youth court judge in consultation with a panel of their peers. The program also helps the court to see things through the eyes of adolescents and introduces them to the

inner workings of the court (Latta, 1997). The purpose of this project is to provide students with (1) the opportunity to participate in the Youth Court process; (2) the experience of accepting responsibility within the justice system; (3) a better understanding of the justice system and how it operates; and, (4) an opportunity to influence young offenders through the positive use of peer pressure (Halifax, 1996).

Canada does not have any laws specifically pertaining to the operation of teen courts and peer sentencing on youth court cases. Until the Youth Criminal Justice Act came into force on April 1, 2003, the Hay River Youth Disposition Panel operated within the parameters of the Young Offenders' Act, which came into effect in 1984. Panel participants' sentencing recommendations must be made according to the Act in force governing youth crime. Students must therefore be aware of the goals of the Act and the disposition options it provides (Halifax, 1996). Under the Young Offenders' Act, for example, sentencing recommendations were to be made using the principles that:

- Multidisciplinary approaches must be used to identify and respond to the underlying causes of youth crime and young people at risk of committing offences in the future. Rehabilitating young offenders will protect society and this will best be done by addressing the causes of their offending behaviour;
- Young offenders be held accountable for their actions, but not to the same extent as adults. Making the sentence proportional to the offence applies to youths, but not to the same degree as with adults. They can only be sentenced within the confines of the law, even if they have a poor home situation, for example;
- Young offenders require supervision, discipline and control as well as guidance and assistance because of their age;
- Young offenders have rights including those stated in the Canadian Charter of Rights and Freedoms or in the Canadian Bill of Rights (Young Offenders Act).

The Act also stipulated that young offenders cannot be given a more severe sentence than an adult for committing the same offence.

Section 20 of the Young Offenders' Act indicated that when a young person is found guilty of an offence, the court will consider any relevant information brought before the court, such as pre-sentencing reports and representations made by any of the parties to the proceedings (including parents and lawyers). Possible dispositions included an absolute discharge, discharge with conditions, a fine of up to \$1,000, paying victim compensation or making restitution, performing community service, probation for up to two years, custody for up to two years or three years in the case of offences for which the punishment provided by the Criminal Code or any other Act of Parliament is imprisonment for life. Section k.1 outlined the dispositions in the cases of first and second-degree murders. In the case of probation orders, members of the disposition panel can specify which discretionary conditions it recommends the judge impose. They can include that the young person make reasonable efforts to obtain and maintain suitable employment or attend school, live with a parent or other appropriate adult and remain in the territorial jurisdiction of one or more courts named in the order. Panel members can, as a final resort and to protect society, make a recommendation to sentence a young offender to either open or secure custody. It must be considered as a last resort after all reasonable alternatives have been considered.

The advisory nature of the panels resembles that of sentencing circles, which involves the community in the sentencing process. Members of the community sit in a circle with the presiding judge, accused and victim to express their point of view about the conflict in order to come up with a recommendation that will guide the judge in his sentencing decision (Jaccoud, 1999). Although the youth disposition panel does not involve the victim, it does involve youths from the

community who privately discuss their point of view about the case and then make a sentencing recommendation to the presiding judge.

1.4 Conclusion

Teen courts, where teens are in almost complete control of the court process, have a lengthy history in the United States. There is anecdotal evidence that peer sentencing stretches as far back as the 1940s. However, Odessa, Texas is credited with initiating the resurgence and growing popularity of teen courts which subsequently spread to 46 states by 2003. It was inspired by a diversion program in Denver, Colorado, where first-time offenders could plead guilty to minor offences in exchange for performing restitution or community service as sentenced by a panel of their peers. Part of the growing popularity of teen courts can be attributed to anecdotal evidence of its effectiveness in curbing recidivism among first-time, non-violent offenders. Since few studies to evaluate its effectiveness have been carried out using control groups, it is important to stress that positive results are most frequently anecdotal and bring with them methodological flaws that wouldn't necessarily withstand scientific scrutiny.

The concept of teen courts is still in its infancy in Canada, as only Hay River, Fort Smith, Inuvik and Iqaluit are known to have similar programs. Unlike in the U.S., they are carried out within a traditional youth court process. That means these youth disposition panels can hear cases of repeat offenders and that are more serious than minor offences as long as the young offender pleads guilty. They aren't as involved in hearings as are members of American teen courts, since the other functions - bailiff, clerk, attorney - are carried out by adults. The judge is also not bound to retain and implement the jury panel's sentencing recommendation, although he usually does. With the notable exception of the types of cases they can hear and the range of sentences they can implement, the Hay River youth court program resembles the Denver diversion program that inspired the American teen court movement and the early "youth jury" panels of the 1960s. The advisory role that panels play in helping the judge decide on

sentences for young offenders resembles the role that community members play in sentencing circles. No research has yet been carried out on the Hay River program's effectiveness with and impact on participants.

II. OPERATIONS OF TEEN COURTS

1.5 Introduction

Although referred to as youth courts, peer courts and peer juries, "teen court" is the most frequently used term, and will therefore be used throughout the rest of this chapter. This will also avoid confusion with the Canadian youth courts, which are the legal equivalent of juvenile courts in the United States. According to Godwin, Heward and Spina (2000), teen courts are part of the continuum of sanctions where first-time nonviolent offenders receive immediate sanctions within the community, more serious offenders receive intermediate sanctions within the community and serious, violent and chronic offenders are sanctioned in secure facilities by the juvenile court. While the youth justice system and teen courts share the goals of offender accountability and preventing recidivism, teen courts have an added feature; they are seen as an opportunity for both volunteers and offenders to learn about the criminal justice system.

Defendants are generally between the ages of 12 and 18 and have been referred to teen courts by judges, police, probation officers and schools. The most frequent offences are theft (including shoplifting), minor assault, disorderly conduct, alcohol possession or use, vandalism, marijuana possession or use, school disciplinary problems, traffic violations, truancy and weapon possession or use (Butts and Buck, 2000). Sentences try to balance rehabilitation and restorative principles by taking into account the impact of the offence on the victim. They can include community service, jury duty, victim restitution, attendance at an educational workshop, curfew, apology letters, essays and counselling referrals.

Community support is important if teen courts are to function. They need to work with the juvenile justice system, school administration and community at large to

be effective (Godwin, Heward and Spina, 2000). Securing support for the program from a local juvenile judge is a critical first step since judges have influence over which programs will operate and receive support in their jurisdictions (Godwin, 1996a). Directors of teen court programs perceived judges to be the greatest supporters of the programs. More than nine out of 10 programs rated their local judges as "very supportive" (71%) or "moderately supportive" (21%). Other groups considered "very supportive" or "moderately supportive" of teen courts included law enforcement (87%), court intake and probation workers (86%), teachers and other school officials (86%) and then 84% included prosecutors (Butts and Buck, 2000).

Butts and Buck (2000) suggest that support can be reflected in the budgets teen courts are accorded. A majority of teen court programs have a paid full- or part-time director and operate throughout the year. Teen courts cost \$30,000-\$87,000 USD to operate (Shiff and Wexler, 1996). Godwin, Heward and Spina (2000) and Peterson and Elmendorf (2001) say they are cost effective because they rely heavily on youth and adult volunteers. The size of a teen court's budget can be based on jurisdiction size, crime rates in the community, the availability of other programs for first-time offenders, whether the teen court operates its own community service program, whether a school, municipality or nonprofit organization runs the program, how often the court convenes and the number of cases it will handle (Peterson and Elmendorf, 2001). The cost of most programs is covered by state or local governments. Those that have been operating the longest and/or report experiencing little financial uncertainty may be those housed within or closely affiliated with the traditional juvenile justice system. Teen courts operated by schools or private agencies were significantly more likely than programs run by courts, law enforcement or prosecutors to report problems with a lack of judicial support and difficulties coordinating with other agencies (Butts and Buck, 2000). Although the structure, actual functioning and degree of support they enjoy can differ from one teen court to another, they all share a common

philosophy and set of goals, the types of offenders they accept, types of sentences they impose and legal issues they face.

1.6 Goals of teen courts

Although jurisdictions may structure their programs a bit differently, they all aim to teach youth about the justice system and prevent recidivism by holding first-time young offenders responsible for their behaviour (Vickers, 2000; Rothstein, 1985; Williamson and Knepper, 1995; Lyles and Knepper, 1997), making restitution (Peterson and Elmendorf, 2001) and educating them on the impact of their actions by participating in the legal process more actively than they would by listening to a lecture in a traditional court or simply paying a fine and going home (Godwin, 1996a; Lyles and Knepper, 1997). According to Butts and Buck (2000), teen courts help to ensure that young offenders are held accountable for their behaviour, particularly for relatively minor offences that might not likely be sanctioned by the traditional justice system. As Lyles and Knepper (1997) point out:

Teen court defendants must appear in court, explain their actions, complete the sentences assigned to them, and return for jury duty. Unlike conventional juvenile court, teen court defendants do not receive a "lecture" from an adult but, instead, experience justice meted out by their peers. The jurors and attorneys attend the same schools and live in the same neighbourhoods...The message they send is "If we can stay out of trouble, you can stay out of trouble (Lyles and Knepper, 1997:232).

Several authors have pointed out that for both volunteers and offenders, teen courts are also a hands-on opportunity to learn about the justice system (Williamson and Knepper, 1995; Godwin, 1996a; Vickers, 2000; Peterson and Elmendorf, 2001). As Nessel explains, "Instead of reading about court procedure, jury duty, sentencing options, and community service, youth court participants learn through experience" (Nessel, 2000:3). Both volunteers and offenders learn about the rules or laws that were broken and the courtroom procedures that lead to the perpetrator being given an appropriate sentence for engaging in a proscribed act (Nessel, 2000). As Rodgers (1995) explains in more detail, defendants learn

about their responsibilities towards others in their community, young attorneys learn about using evidence and "jurors learn about the importance of devising a fair, constructive sentence for the cases they consider within rather broad discretionary limits, and they presumably learn about applying the sometimes conflicting principles of deterrence, rehabilitation, victim restitution, and punishment" (Rodgers, 1995:18).

It is hoped that understanding how the justice system works and giving volunteers and offenders a voice in its operation will increase their belief that the justice system is fair and encourage them to obey the law in the future (Shiff and Wexler, 1996). As Lyles and Knepper (1997) say: "If young people appreciate the rationale underlying the nation's laws, they will be less likely to violate them. Young persons who do not appreciate or respect the nation's laws are less likely to make positive choices leading to law-abiding behavior" (Lyles and Knepper, 1997:233).

Two other goals of teen court are to get youth involved in their community (Vickers, 2000; Peterson and Elmendorf, 2001) and prevent recidivism by building the self-esteem and confidence of both volunteers and offenders (Williamson and Knepper, 1995; Godwin, 1997; Peterson and Elmendorf, 2001; Rothstein, 1985; Godwin, 1998; Butts and Buck, 2000) by having adults validate their contributions to the teen court (Shiff and Wexler, 1996; Godwin, 1996a). "In an age when teens constantly feel criticized, positive statements from adults increase teens' self-respect and self-esteem. Teen courts provide positive attention adolescents need" (Shiff and Wexler, 1996:351). This is also true for young offenders sentenced to perform jury duty because they interact with positive adult and peer role models during training sessions. They are then being given the responsibility of helping to come up with an appropriate sentence for other teens (Lyles and Knepper, 1997).

1.7 Models of teen courts

Teen court programs can be based within the juvenile justice system (as is the case with Hay River), the community or school. They can be operated by youth courts, juvenile probation departments, police departments, private nonprofit organizations and schools (Godwin, 1996a; Godwin, Heward and Spina, 2000; Nessel, 2000). According to a 1998 American survey, 37 percent of teen court programs are administered by local court or probation departments, 25 percent by private agencies, 12 percent by law enforcement agencies, five percent by schools, 19 percent by other types of agencies and another three percent by prosecutors or district attorneys (Butts, Hoffman and Buck, 1999). The type of agency that operates the teen court depends on the position of the person who became interested in the teen court program and the availability of resources to implement it (Godwin, 1996a). According to Godwin, Heward and Spina (2000), there are four different models of teen courts in the United States:

- (1) Adult judge model: While youth volunteers serve in such capacities as prosecuting and defence attorneys, jurors, clerks and bailiffs. An adult volunteer, often a retired or acting judge or a lawyer, serves as youth court judge.
- (2) Youth judge model: Youth volunteers serve as prosecuting and defence attorneys, jurors, clerks, bailiffs as well as youth court judge. Youth judges are usually required to have served as attorneys and/or be of a certain age.
- (3) Youth tribunal model: Youths volunteer as prosecuting and defence attorneys and present their case to a panel of youths, typically three, volunteering as judges. The panel presides over the hearing and determines the sentence.
- (4) Peer jury: A panel of youth volunteering as jurors directly question the youth being tried or sentenced and determine the sentence.

The approach used in Hay River does not fit into any of these models and could, therefore, be considered as a fifth model. Young offenders are sentenced by a youth court judge in consultation with a panel of their peers. All of the court officers are adults while the Youth Disposition Panel is comprised of a group of about 60 grade 10-12 students from Diamond Jenness Secondary School who appear in court in groups of 12 (Pritchett, 1998). A school counsellor ensures the panel is balanced in terms of gender and grade and sits with the panel during deliberations to keep discussions on track and take notes (Latta, 1997). They sit in the courtroom and observe youth court cases where the offender has pleaded guilty, hearing evidence by the Crown prosecutor and the defence lawyer. After all the facts have been presented, the panel retires to discuss the case. Then they return to the courtroom and present their sentencing recommendation to the judge. A panel spokesperson reads out the recommendation (Collins, 2001). Sentencing options can include a combination of fines, restitution, community service, probation or custody (Latta, 1997). Since the youth court judge retains the responsibility for the final disposition, he is free to accept, reject or modify the recommendation of the panel (Halifax, 1996). Defendants appearing before the panel can be repeat offenders (Gibson, 2000). Panels also tend to hear cases of shoplifting, break and enter and minor assaults (Latta, 1997).

Panel participants observed youth court before the program was launched as part of an effort to introduce them to how it operates. The panel can also recommend a sentence more closely linked to the particular offender, one student juror in Inuvik pointed out: "A judge often doesn't know the offender's background so his decisions can be easily dismissed. We, as a panel of his peers, see the offender every day and I think he would take our sentence more to heart" (Gibson, 2000:16).

Butts, Hoffman and Buck (1999) found that 47% of American teen courts surveyed used the adult judge model, 12% used the peer jury model, 10% favoured the tribunal model and 9% chose the youth judge model. The remaining

22% used more than one model. While some programs use peer juries exclusively, others use a combination of trial and peer jury models depending on the type of case being heard. For example, a peer model might be used for less serious offences or younger defendants and the trial model for more serious cases (Godwin, 1996a). It must be pointed out that legislation in at least five states (Colorado, Mississippi, Tennessee, West Virginia and Wyoming) requires an adult judge or licensed attorney to preside.

Butts and Buck (2000) do not indicate specifically why one model is chosen in favour of another, but they do suggest that the choice of courtroom model depends on the agency operating the program. The adult judge model was most popular among courts and probation agencies (58%), followed by schools, private and not-for-profit agencies (48%). Police departments and prosecutors favoured the mixed model primarily (34%) and then the youth tribunal model with 24% (Butts and Buck, 2000).

Programs using the youth judge model were among the newest teen courts. At 19%, less than one-fifth had been in operation for five years or more, compared with 35% of programs using peer juries, 34% using the youth tribunal model and 31% using the adult judge model. Most of the youth judge programs (58%) had been operating for less than two years in 1998. Youth judge programs also had the smallest caseloads. Only 14% reported having more than 100 cases a year, compared with 40% of the adult judge model and 38% of those using peer juries (Butts and Buck, 2000).

Each model offers its own advantages and drawbacks. An adult judge can offer guidance and prevent judicial irregularities. However, one danger is that the judge will have too much responsibility, removing some of the control from the hands of youth participants. Since jurors in a peer jury model question the defendant directly, this can help prevent young attorneys from minimizing the importance of an offence in an attempt to get their client a lighter sentence (which is at odds

with the teen court notion of holding offenders accountable for their actions). However, it is not a realistic representation of the adversarial system of regular courts (Acker et al., 2001). Thus, it loses part of its educational component of teaching teens how the justice system works (Gaines and Skrabut, 1967).

1.8 Legal issues

a) Authority to operate:

Thus far, 25 states in the United States have enacted some form of legislation relating to the operation of teen courts. Another 21 states and Washington D.C. have teen court programs but no legislation. Utah and Vermont have a state teen court advisory board that establishes a certification process for teen court programs (Heward, 2002). Legislation officially recognizes the existence of teen courts, lends a degree of legitimacy, helps achieve some consistency among programs by establishing certain structures and practices. However, it can restrict the ability of a court to meet the individual needs of a community since these may differ between urban and rural settings. "The individuality of a teen court program is a strength, and states should take care to fashion legislation that allows teen courts to maintain their individuality, while providing broad mandates to help all teen court programs maintain acceptable standards" (Heward, 2002:22).

The comprehensiveness of teen court legislation varies from one state to another. Some go as far as stipulating whether teen courts can be fact-finding or only dispositional programs, the age range of participants, the types of offences and behaviours teen courts can address and the types of dispositions they can offer (Godwin, Heward and Spina, 2000). Dispositional programs can only sentence offenders brought before them while adjudicatory programs determine their innocence or guilt as well as the sentence. Eight of the 10 states that specify are dispositional only. They are: Colorado, Mississippi, Tennessee, Texas, Utah, Vermont, Wisconsin and Wyoming. Only Alaska and California have the right to adjudicate. Therefore, the issue is open in 35 states that have teen courts (Heward, 2002). In practice it would appear, however, that most teen courts are

dispositional. A 1998 survey found that only 13% of teen courts were authorized to determine guilt or innocence. Of those, 44% used the tribunal model and 36% used the youth judge model (Butts, Hoffman and Buck, 1999).

In statutes, the role of the courts (municipal, justice of the peace, district, juvenile or family) varies from acting as a source of referrals for the teen court program to actually establishing and presiding over proceedings. As Heward (2002) comments, this may be because courts have the resources to make teen courts successful, the experience working with youths to ensure sound practices are followed and information about delinquent youths. Juvenile courts may want to keep some control over teen court programs to ensure juvenile court standards are met. When legislation doesn't exist or apply, authority to operate comes from an agreement or contract between the offender, parents, referring agency and program. This is similar to youth diversion programs that allow youth to avoid formal processing. Authority can also be granted by a chief youth or municipal court judge or school administrator (Godwin, Heward and Spina, 2000).

b) Confidentiality:

Most youth courts opt for a high degree of confidentiality because it's considered vital for decreasing the risk of retaliation to youth volunteers as well as for decreasing the possibility and consequences of labelling of offenders. Confidentiality may also increase the chances that offenders will agree to appear before their peers for sentencing.

One of the purposes of youth court is to help rehabilitate the respondent. Publicizing the respondent's name could interfere with this goal by causing public humiliation or by causing other individuals to shun the respondent (offender). Parents of youth court volunteers may not want the names of their children published, and therefore, may decide not to allow their children to participate in the program if it is open to the general public. In addition, opening up youth court proceedings to the general public may increase the risk of retaliation to youth volunteers (Godwin, Heward and Spina, 2000:37).

While Mississippi teen court defendants must waive their confidentiality rights, other states offer teen court records the same degree of confidentiality as for juvenile courts. Vermont takes the issue a step further, restricting attendance at hearings to the young defendant, court officers, adult advisors, the court diversion monitor and the defendant's parents or guardian. The state's attorney or a representative are not permitted to attend the hearing (Heward, 2002).

1.9 Referral

Cases are generally referred to teen courts by judges, police, probation officers and schools (Rothstein, 1985; Rothstein, 1987; Peterson and Elmendorf, 2001). In some communities, police officers have the discretion to refer first-time offenders who they feel would benefit from participating in a teen court process and meet such teen court criteria as a willingness to plead guilty to charges (Zehner, 1997). For their part, schools can refer cases, such as truancy, that occur on school property. Offenders can return to the regular court system if they aren't satisfied with the sentence they received or the way teen court is handling their case (Gaines and Skrabut, 1967). Gaines and Skrabut (1967) argue that referring a case to teen court in exchange for the possibility of the offender's record being expunged is similar to a plea bargain where a defendant pleads guilty to lesser charges. Juvenile courts in states such as Mississippi and Vermont can refer any case they deem appropriate. In Utah, referrals are with the permission of juvenile court and the prosecutor who would otherwise handle the case. Rhode Island teen courts can handle felonies, with the written permission of the chief justice of family court (Heward, 2002). In a survey of 42 teen courts in New York State, most referrals came from police (86%), probation departments (62%) and schools (57%), although 14% of courts accepted referrals from parents. While most offenders are diverted to teen courts before being sent to family court, family court makes referrals to 17% of teen courts (Acker et al., 2001). Then the teen court coordinator meets with the young offender and his or her parents to explain how the program works and set a court date (Williamson and Knepper, 1995).

The defendant's decision to appear before a teen court is voluntary, but must be accompanied by parental consent and participation (Godwin, 1997; Nessel, 2000). The level of parental involvement required varies from one state to another. In some, it's limited to requiring parental permission. Others require the teen to appear in court with a parent while still others insist that the youth and a parent must sign the written disposition indicating they accept the terms (Heward, 2002; Rodgers, 1995). In one Illinois teen court, parents must comply with a defendant's contract or the case can be sent back to juvenile court (Shiff and Wexler, 1996). It must be noted that while some states don't legislate parental involvement, it is possible that in practice it is required.

1.10 Types of offenders

Most teen courts have small caseloads: 59% of the programs received 100 or less referrals a year and 13% reported handling 300 or more referrals annually (Butts and Buck, 2000). Nationwide, teen courts handled about 65,000 cases in 1998 (Butts, Hoffman and Buck, 1999). Offenders are generally between the ages of 12 and 18 (Heward, 2002). A 1998 survey by the Urban Institute found that on average, 24% of offenders using the teen court system were under the age of 14 and 66% involved youth under age 16 (Butts, Hoffman and Buck, 1999).

Offenders usually have no prior arrest record and teen court is generally offered as an alternative to the more traditional court system (Butts, Hoffman and Buck, 1999). Teen courts tend to accept less serious offences such as shoplifting, vandalism, disorderly conduct, theft, alcohol and drug offences, traffic violations and truancy (Williamson, Chalk and Knepper, 1993; Lyles and Knepper, 1997; Nessel, 2000; Peterson and Elmendorf, 2001). Although most teen courts handle misdemeanors, some states have legislation specifically limiting the types of misdemeanours that teen courts can treat. Texas, for example, restricts teen courts to misdemeanours punishable by a fine while Wyoming limits it to those punishable by a maximum of six months or \$750,000. Tennessee teen courts can handle violations of several specific sections of the Tennessee Drug Control Act,

offences that were specifically excluded in Utah and North Carolina (Heward, 2002).

Butts and Buck (2000) found that more than one-third (39%) of the teen courts they surveyed said they only accepted first-time offenders, another 48% said they "rarely" accepted youth with prior arrest records and 98% said they "rarely" or "never" accepted youth with prior arrests for serious crimes. Most programs, 91%, also said they "never" or "rarely" accepted youth who had previously been referred to a teen court. Youth tribunal models were the most likely to accept referrals for youth with prior arrest records. Only 28% of programs using the youth tribunal model said they would "never" accept youth with prior arrests, compared with at least 40% for all other program models (Butts and Buck, 2000).

Their study also mentions that in terms of offences, 93% of those handled by teen courts were theft (including shoplifting), 66% were minor assault, 62% were for disorderly conduct, 60% for alcohol possession or use, 59% for vandalism, 52% for marijuana possession or use, 33% for school disciplinary problems, 29% for traffic violations, 22% for truancy and 11% for weapon possession or use (Butts and Buck, 2000). In a study of 42 New York state teen courts, Acker et al (2001) found that 98% handled minor offences including a variety of misdemeanours as well as tobacco, alcohol and/or minor drug violations. Just over a quarter (26%) accept some non-violent, property-related felonies, over half (57%) accept school-rule violations and truancy (52%).

1.11 Courtroom procedure

After a case is referred to teen court, the coordinator meets with the defendant and his or her parents or guardian to explain teen court procedures and schedule a court date (Williamson and Knepper, 1995; Lyles and Knepper, 1997). Teen court officers generally include a judge to preside over the hearing, a prosecutor to represent the interests of the community, a defence attorney to represent the defendant, a clerk/bailiff to ensure smooth court proceedings and maintain

accurate records and a jury foreperson to lead jury deliberations and announce a verdict (Peterson and Elmendorf, 2001). Juries are composed of three to 12 teens (Shiff and Wexler, 1996; Acker et al., 2001).

In a number of states, teen court is held in a regular courthouse and courtroom procedures are similar to adult court.

Jurors are sworn in, and the bailiff seats them in the jury box. The clerk calls the case docket number and the defendant's name. The judge asks the defendant to come forward, seats him or her in the witness chair, and informs the jury of the nature of the charge. Prosecution, then defense, question the defendant. Because guilt has been determined in district court, the attorneys' role centers around character testimony. Defense attorneys highlight scholastic performance, future plans, extra-curricular activities, as well as the defendant's remorse for the offense in order to make a plea for leniency in sentencing. The prosecuting attorney reinforces the facts, points out the defendant was clearly in violation of the law, and requests the jury assign a stringent, meaningful sentence. Prosecution, then defense, give summations. The jury listens to each case then retires to the deliberation room. Here they elect a foreperson and discuss the case until a unanimous decision has been reached. Upon returning to court, the bailiff provides the jury report form to the judge. If the sentence is acceptable, the judge calls the defendant forward and instructs him or her to face the jury. The foreperson reads the constructive sentence to the defendant who is then issued the completed jury form and told to meet with the teen court coordinator to finalize sentencing arrangements. If the jury sentence is unacceptable to the judge, jury deliberations must begin again" (Williamson, Chalk and Knepper, 1993:55).

As Deputy District Attorney Richard D. Huffman, judge for the San Diego youth court, says in Nessel (2000), it's important for teen courts to be similar to regular court if they are to be used to teach youths about how the justice system works. "(I)t has to look, smell, and sound like a court" (Nessel, 2000:6).

Teen lawyers have anywhere from one hour to more than two weeks to prepare their case. In one study of New York teen courts, 90% of the programs allowed lawyers from both sides to interview the defendant ahead of time, 71% allowed

them to interview witnesses and 69% allowed them to interview the victim. As well, 71% allow teen lawyers access to additional relevant information such as police reports and school files prior to court hearings. Less than one-fifth (19%) teen courts, all of which require offenders to plead guilty, rely only on questioning the defendant during the hearing and exclude witnesses. The rest of the courts allow witnesses to testify but it isn't necessary in person. Written or videotaped testimony and other forms of hearsay are allowed. Youth attorneys are allowed to register objections in most of the courts in which witnesses were permitted. Most courts require a unanimous decision (Acker et al., 2001).

In keeping with the goal of teen court as an educational tool, some school boards provide course credit to volunteers for their participation (Heward, 2002; Nessel, 2000). Lawyers, judges and police officers sometimes help teen court coordinators conduct training sessions (Acker et al., 2001; Fisher, 2001). Lawyers volunteer as legal advisors to help the young crown and defence attorneys prepare their cases but are not allowed to participate in courtroom proceedings (Rodgers, 1995). Teen jurors are recruited from local high schools and juries are often split between former defendants and volunteers (Rothstein, 1985; Shiff and Wexler, 1996). Volunteers must be between the ages of 13 and 18 and juries must be composed of at least three members. In Vermont, volunteers must have the written permission of their parents to participate (Heward, 2002). The length and type of training volunteers receive varies from one program to another. Training generally includes court procedure, juvenile justice, evidence and case preparation, principles of sentencing and ends with a mock trial (Williamson and Knepper, 1995; Lyles and Knepper, 1997; Nessel, 2000; Peterson and Elmendorf, 2001).

1.12 Sentencing

The main goal of teen court is to hold young offenders accountable for their actions and prevent recidivism (Butts and Buck, 2000). For teen juries, the challenge is to balance the goals of punishment and rehabilitation (Shiff and

Wexler, 1996). Ideally, sanctions are designed to help offenders improve their life skills and self-esteem (Godwin, 1998). According to Godwin, Heward and Spina (2000), sentences should focus on the harm that the offender caused rather than just on the punishment, devising a sentence that will promote rehabilitation and prevent recidivism by increasing the defendant's understanding of the harm caused. That means using restorative principles during deliberations to hold the defendant accountable for the harm his/her actions have caused. For example, a defendant's sentence could include writing a letter of apology to the victim or pay restitution for damages, to make a more direct connection between their actions and their sentence.

In some states the jury's decision is a recommendation to the judge, who has the legal right to accept, modify or reject it (Heward, 2002). Although no studies have indicated how frequently a judge rejects a sentencing recommendation, anecdotal evidence suggests it is a rare occurrence. For example, the judge in Odessa, Texas didn't alter the sentence in any of the first 766 cases the teen court heard (Rothstein, 1985).

Peer juries have a variety of sanctions at their disposal including jury duty, community service (Rothstein, 1985; Williamson, Chalk and Knepper, 1993; Rodgers, 1995; Shiff and Wexler, 1996; Lyles and Knepper, 1997), victim restitution, attendance at an educational workshop, curfew, letters of apology (Williamson, Chalk and Knepper, 1993; Rodgers, 1995; Shiff and Wexler, 1996; Lyles and Knepper, 1997), essays, counselling referrals (Rodgers, 1995; Shiff and Wexler, 1996; Lyles and Knepper, 1997; Nessel, 2000; Peterson and Elmendorf, 2001). Not all teen courts have the same sanctions available to them. For example, some states allow an offender to be sentenced to attend counselling while others don't. Some permit fines to be imposed while others don't. Teen courts are not allowed to recommend imprisonment (Heward, 2002).

In Tucson, all offenders' sentences include a parent-child program focusing on self-esteem, communication skills and decision-making (Shiff and Wexler, 1996). Community service was the most common disposition given, according to a 1998 survey by the Urban Institute. Dispositions that were used "often" or "very often" included: community service (99%), victim apology letters (86%), apology essays (79%), teen court jury duty (74%) and drug/alcohol classes (60%). But financial restitution was only used "often" or "very often" 34% of the time (Butts and Buck, 2000).

Community service is a popular sentencing option because it combines the goals of punishment, rehabilitation, restitution and offender reintegration into the community (Godwin, 1998). Including jury duty in the sentences of young offenders who appear in teen court gives them an opportunity to see how the justice system operates from a different perspective than the one they've experienced. Offenders are put in a position of responsibility where they are being expected to enforce societal norms and exposed to positive peer role models during their training and jury duty (Lyles and Knepper, 1997; Shiff and Wexler, 1996). As Shiff and Wexler explain:

(I)ncluding jury duty in an offender's sentence helps emphasize the former offender's membership in law-abiding society, allowing him to view the system from the other side. Teen courts can therefore be effective in preventing the negative effects of a "delinquent" label from channeling a teen toward a criminal career, sentences provide a two-way street, which allows offenders to turn back once they have repaid the community (Shiff and Wexler, 1996:348).

Defendants are monitored by the teen court coordinator and have up to six months to comply with their sentence. If it is completed, their record is expunged. If the defendant has not complied, his case is returned to district court (Williamson, Clark and Knepper, 1993; Lyles and Knepper, 1997). Of the first 12 cases heard in Franklin County (Kentucky) Teen Court, nine defendants completed their sentence, two were sent back to district court for noncompliance and one failed to appear at trial (Lyles and Knepper, 1997).

Anecdotal evidence indicates that teen juries tend to be tougher on defendants than youth court judges. In northern Kentucky, two teen court defendants appealed their sentences to district court and received lighter sentences. Teen court had sentenced one defendant charged with alcohol intoxication to 105 hours of community service, serve five times as teen juror, attend five meetings of Alcoholics Anonymous and obey a curfew for two months. Upon appeal, his sentence was reduced to a \$50 fine and 60 days probation. The other, charged with carrying a concealed weapon, had received 90 hours of community service, four months of jury duty and a one-month curfew. A district court judge reduced it to a \$50 fine and teen court jury duty twice (Williamson, Chalk and Knepper, 1993).

A shortage of resources to ensure that sentences are implemented means juvenile court judges tend to impose lighter sentences on first-time offenders. Although Kentucky, social workers are responsible for monitoring juvenile court cases, it doesn't always happen in practice. Their caseload of 39 exceeds the state mandate of 25 (Legislative Record, 1992). In teen court, however, program coordinators closely monitor sentences (Williamson, Chalk and Knepper, 1993; Williamson and Knepper, 1995).

1.13 Role of restorative justice

In a restorative justice approach, crime is not perceived as an act against the state, but rather as a violation against people and the community (Bazemore and Umbreit, 1995). Crime can have physical, financial, psychological, emotional and social repercussions on its victims. The extent varies from one situation to another (Baril, 1984). The emphasis in restorative justice is on repairing the harm rather than punishing the offender (Zehr, 1990). "Restorative justice cannot exist without giving victims the opportunity to participate in the justice process and making every effort to respond to their needs and desire for participation" (Godwin, 2001:1).

The opinions diverge on the process used to achieve it. Some authors see it as a face-to-face process involving the victim, offender and, perhaps, other stakeholders. This approach sees restorative justice as a form of diversion whereby some cases are diverted from the traditional justice system. Others consider it a process that can be part of the formal justice system as long as the final outcome is focused on repair. Thus, more coerced outcomes such as community service or restitution that are imposed in more formal proceedings as part of a sentence are considered to be restorative. Proponents of this approach say the intent of repairing the harm is what makes it restorative justice (Bazemore and Walgrave, 1999). Godwin (2001) admits that no teen court can operate completely with a restorative approach because of some of the practices that define teen courts.

As previously indicated in the above section, sentencing options in teen courts include community service, victim restitution and letters of apology. These are designed to repair the harm the young offender has caused. Some authors might consider this to be restorative justice since the intention is to repair the harm. However, this raises the question of whether reparation can be considered to have been made when it is imposed on the offender rather than having him and the victim play a role in the decision-making process. This issue becomes particularly clear in the case of offenders sentenced to make an oral or written apology to the victim; it must be sincere in order to be effective. "If the respondent feels and is able to articulate his or her remorse in a sincere and respectful manner, then an apology can be a therapeutic option for offenders and victims. However, an insincere apology extended to a victim may cause more damage to an already sensitive situation or relationship" (Godwin, 2001:7). Ultimately, teen court is not much different than a traditional court since courtroom procedure, sentencing process and functions it serves are similar (Gaines and Skrabut, 1967; Lyles and Knepper, 1997).

1.14 Strengths and weaknesses of teen courts

Supporters of teen courts say the programs ease the workload of overtaxed youth courts (Butts, Hoffman and Buck, 1999). They also give youths hands-on experience with the criminal justice system and how it works (Lyles and Knepper, 1997) and teach young offenders the consequences of their actions while keeping their criminal records clean (Shiff and Wexler, 1996). Teen courts could reduce recidivism rates, improved attitudes towards authority and increased knowledge about the criminal justice system among youth. They also have the potential to reduce the amount of time between arrest and sentencing since it can be done more quickly than in the overloaded traditional youth courts.

A perceived benefit of teen court is that it decreases the number of cases handled by traditional youth courts (Shiff and Wexler, 1996; Acker et al., 2001). "Cases that might be overlooked in the regular court system are given thorough attention by teens" (Shiff and Wexler, 1996:346). However, since traditional youth courts often do not have the resources to pursue some of the cases that are referred to teen courts and that the impetus for the modern teen court movement was that too many young offenders were not being held accountable by the traditional system (Rothstein, 1985), it is debatable whether teen courts lighten the caseload of traditional youth courts.

However, Acker et al. (2001) caution against embracing teen courts as a "panacea" that will solve youth crime, because the initiative is largely new and untested. Butts and Buck (2000) found that less than one-third of teen courts had existed for five years. Evaluation studies that attempt to assess the effectiveness of teen court programs have a number of methodological flaws, one of which is the lack of control groups.

While some supporters say it's important to hold first-time offenders accountable for their actions to prevent them from escalating into more serious violations, others are concerned about the potential for negative, net-widening consequences

of processing youths who might not otherwise be prosecuted (Acker et al., 2001). As Acker et al., (2001) point out, teen courts can potentially bring more youths under the thumb of the criminal justice system than would happen otherwise:

For better or worse, youth (teen) courts have potential net-widening effects. Many explicitly limit their jurisdiction to first offenders who are accused of, or who have committed, relatively minor infractions. Supporters urge that it is important to hold those offenders accountable so their transgressions do not escalate into more serious violations, although others express concern about the negative consequences of labeling and processing youths as miscreants when they otherwise would not have been subjected to sanctions through official systems of social control (Acker et al., 2001:198-199).

Gaines and Skrabut (1967) point out that: "Whereas the traditional informal dispositions involve a decision whether to drop the state's charges altogether, referral to the youth court involves a determination of whether a different process should be substituted for prosecution" (Gaines and Skrabut, 1967:954).

1.15 Conclusion

Teen court is often portrayed as being an alternative to or diversion from the traditional juvenile court system, where first-time nonviolent offenders can be sentenced by their peers. However, diversion is generally defined as a process whereby an offender is diverted away from the traditional justice system before being charged in court. Teen courts are an extension of juvenile court rather than a diversion from it for a number of reasons. First, some offenders are referred to teen court for sentencing after pleading guilty before a juvenile court judge. This, quite clearly, is not a form of diversion since the offender has gone through the traditional system before being referred to teen court. Rather, it is a dispositional alternative that allows them to be sentenced by their peers instead of a juvenile court judge. Some of the defendants referred to teen court might not normally have been prosecuted for their offence. This raises questions about net-widening, sweeping up teens into the justice system who might not ordinarily come under its watchful eye.

One net-widening aspect of teen courts is that in school situations a teacher might refer a student to teen court for a disciplinary problem that might previously been dealt with in the classroom. It's also important to recognize that someone can label or continue to label an offender despite that their juvenile record has been expunged. For their part, the offender can self-label or self-identify as being an offender based on the reactions of others around him. In other words, records that are expunged mean the individual isn't labelled by the legal system. However, this doesn't prevent labelling by teachers, others and themselves.

Procedures in teen court, the degree of victim involvement and the approach to deliberation and sentencing of young offenders also point to similarities with the traditional justice system. The degree to which procedures resemble adult court depend on the teen court model chosen; adult and youth judge models most closely mirror adult court. Jurors' deliberations try to take into account the impact the defendant's actions have had on the victim and repairing the harm. However, as in traditional court, victims have little, if any involvement, in the process. The similarities between teen and traditional courts may stem from the fact that many of the teen court programs are operated by staff within the court system rather than the community.

III. THE ROLE OF PEER PRESSURE

Peer groups play an influential role in the lives of adolescents, helping them to establish an identity separate from that of their parents. "Friends provide a sense of belonging, acceptance, and approval to persons beginning to separate emotionally from the only security they have ever known" (Kaplan, 1983:18). Peer groups define the appropriate ways to think and behave. "Not following these rules leaves the disobedient individual open to group disapproval and loss of membership" (Kaplan, 1983:37). In other words, the group's acceptance and approval is given in exchange for conforming to the group's demands.

Teens in early and middle adolescence are more susceptible to peer influences and conforming because they are more sensitive to and anxious about rejection (Ingersoll 1982; Kaplan, 1983). "(T)he adolescent who does not comply may be left out. Because the adolescent - especially the younger adolescent - has a high fear of loss of acceptance, of unacceptability and exclusion, the threat is very effective" (Ingersoll, 1982:171). Kaplan defines peer pressure as "the impact of the group's judgements on persons desiring to become or remain members of that group" (Kaplan, 1983:31).

An important component of teen courts is the notion that young offenders are being judged by their peers. It is argued that their reaction to peer pressure and the need for the approval of their peers are powerful forces shaping an adolescent's life. If peers can influence a teen into committing delinquent acts, then they could, presumably, steer them towards law-abiding behaviour. Within the context of the juvenile justice system, this means the decisions of pro-social teens would have a greater impact than those of an adult authority figure (Butts and Buck, 2000). Defendants are more likely to take responsibility for their delinquent behaviour if they feel teen court volunteers understand them (Shiff and Wexler, 1996). Sanders (1981) argues that teens have certain values that are different from the majority of the population and their subculture supports certain offences. Other adolescents would, then, be better placed than an adult to assess whether they've crossed the boundaries of acceptable behaviour as defined by their peers (Reichel and Seyfrit, 1984). As Nessel (2000) explains, "Teen jurors are not only more familiar with the environment in which the offence occurred, they are also more likely to correctly assess the validity of excuses offered by the defendants" (Nessel, 2000:4).

Researchers have established an association between delinquent behaviour and having delinquent friends (Warr and Stafford, 1991). But just how is delinquency socially transmitted? Sutherland's theory of differential association has frequently

been cited. He believes delinquency is learned from close relationships with peers, where attitudes favouring law-breaking behaviour are acquired (Sutherland, 1947). It assumes that attitudes favouring delinquency are a prerequisite for delinquent behaviour. As Warr and Stafford point out, however, some adolescents may well engage in delinquent behaviour for social or situational reasons without actually condoning their behaviour.

Social learning theorists take this a step further. According to Akers et al. (1979), differential association occurs first, whereby adolescents are associated with groups providing social environments where they are exposed to normative definitions, behavioural models and social reinforcement for certain types of behaviours. Then the social behaviour is learned through direct conditioning and imitation or modelling; it is either strengthened or weakened through positive reinforcement, negative reinforcement or punishment from the group. The importance of imitation decreases as the individual increasingly defines for themselves whether or not a particular behaviour is acceptable. The probability that the law-breaking behaviour will continue depends on the consequences. These consequences can depend on the person's own reaction to their behaviour, that of those who were present at the time it occurred or who find out about it later (Akers et al., 1979).

Unlike in differential association theory, Warr and Stafford (1991) make a distinction between attitudes and behaviours. Using a sample of 1,726 people aged 11-17 in 1976, they examined the question: "Is delinquency a consequence of what peers think or what they do?" They found that although the attitudes of friends are important, it's their behaviour that plays a dominant role. As Johnson et al. (1987) comment, youths don't use drugs because their friends' use makes it seem right. Rather, they use them because their friends do. It would seem, then, that the behaviour of their peers is more important than their attitudes. Findings indicate that integrating pro-social and anti-social teens into treatment groups can

have a positive impact on the behaviour of anti-social teens (Feldman and Caplinger, 1983).

If this perspective is accurate, then it would seem that the bigger the role adolescents play in teen court, the greater the impact on young offenders. The result would be less recidivism among defendants.

One of the strongest prima facie arguments for the use of teen courts is that they expose young offenders to the pro-social influence of non-delinquent peers. When a young person charged with a minor offense appears before a court of similarly aged peers, it may help to counter the adolescent notion that criminal behavior is "cool" and that "everyone does it." If this theory of teen court effectiveness is accurate, the impact of a youth's experience in teen court should be directly related to the quantity and quality of his or her interactions with pro-social, non-delinquent peers (Butts, Butt and Coggeshall., 2002:34).

This is supported by a study of four teen courts, where lower recidivism rates were observed in two courts that used a youth tribunal and a youth judge model. Young volunteers were more involved in the teen court's operations than in the models headed by adults. This would then give offenders more exposure to peers who are demonstrating pro-social behaviour. It is possible that young offenders performed better because the teen court model used provided greater exposure to pro-social peers (Butts, Buck and Coggeshall, 2002).

Young offenders that appear before these courts witness first hand that other young people their own age can be responsible, socially engaged, and respected by the community. In other teen court models, where adults manage the courtrooms and announce the sanctions imposed on offenders, the effect of exposing young delinquents to the influence of pro-social peers may be diluted (Butts, Buck and Coggeshall, 2002:34).

This would suggest that perhaps peer pressure has more impact on offenders when the pro-social teens play a greater role in teen courts.

1.16 Conclusion

Peer groups play a key role in the lives of adolescents as they establish their own identity and make the transition towards adulthood. They help define what constitutes appropriate behaviour. A desire for acceptance and approval and a fear of exclusion tends to make teens more susceptible to the influence of peers. It is the impact of peer pressure and the need for acceptance by peers that teen courts are trying to use to positively influence the behaviour of young offenders who appear before it. Proponents of teen courts tend to credit peer pressure for the program's success. They believe that if it can be used to influence law-breaking behaviour among adolescents, then it should be possible to use it to influence law-abiding behaviour. This means sentences could have more of an impact than one imposed by an adult, particularly if offenders feel that teen court volunteers understand the reality of being a teenager. It assumes that young offenders who participate in teen court are sensitive to being accepted by the peers who are judging them.

A study of four teen courts observed lower recidivism rates in programs where young volunteers were more involved in its operation. It would be interesting to examine whether there is a relationship between the degree of sensitivity to peer pressure, the decision of young offenders to participate in teen courts and recidivism rates. Perhaps young offenders who agree to have their case heard in teen court are more sensitive to peer acceptance than those who do not. If peer pressure and the involvement of pro-social peers plays a role in the success of teen courts, then teens, themselves, need to have a greater role in teen court.

IV A REVIEW OF TEEN COURT EFFECTIVENESS

1.17 Introduction

Although modern teen courts have existed for some 20 years, very few studies have been carried out to assess the impact and effectiveness of teen court programs. As Butts and Buck (2000) note, the broad community support that teen courts seem to enjoy appears to stem from favourable media coverage and high

levels of satisfaction by parents, teachers and youths involved in the program rather than from evaluation research showing that teen courts have positive effects on offenders.

The two main goals of teen court are to reduce recidivism among first-time, nonviolent offenders by holding them accountable for their actions and to teach participants about how the justice system operates. It is believed that young offenders are more likely to react positively to being judged by their peers than when being judged by adults. The majority of research that has been done is of a quantitative nature, evaluating sentence completion and recidivism rates among young offenders who appeared in teen court as well as the attitudes of participants towards authority and the teen court process. A drawback, however, is that quantitative research tends to tell us whether or not a program is achieving its goals - not the experience of participants.

One aspect that receives little attention in the literature is the issue of selection of young offenders to participate in teen court. Lower recidivism rates can be attributed to the types of defendants who are referred and participate in teen court as much as the program itself (Gaines and Skrabut, 1967). Teen courts are involved with minor cases, the more serious ones being sent through traditional youth court. Participating defendants voluntarily choose to participate, generally to clear their records. Comparing recidivism rates between teen and traditional youth courts may well be comparing rates between conscientious first-time offenders and those embarking on a criminal career (Shiff and Wexler, 1996). The teen court program in Santa Rosa, California rejected 2% of the 228 offenders referred to their program in 1993 and almost 19% of referrals refused to participate (SRA Associates, 1994). From January 1995 to June 1996, 32.3% of referrals refused to participate and another 10% were turned away from the program for the following reasons: the youth did not admit guilt for the offence, the parent wanted the child on formal probation, contact was never made because families were in transition or homeless, the youth was rearrested before the intake

interview with teen court occurred or the youth refused to participate after being sentenced in teen court (SRA Associates, 1996). When examining rates of recidivism and sentence completion among teen court participants, it is important to remember that participation in teen courts is voluntary.

1.18 Recidivism

Measuring recidivism is problematic since some studies use data from police arrests, others rely on referrals to juvenile services while still others focus on court appearances. This is important since recidivism rates would likely be higher when counted from the time of rearrest rather than court appearances since not all rearrests would necessarily culminate in court appearances. Additionally, studies tend to look at recidivism within the same county where the original offence and teen court appearance occurred. Therefore, they would not reflect any rates of reoffending outside the county.

Since the types of offences processed by teen courts vary, so will the offences constituting recidivism from one study to another. The types of offences that are included in each study should be clearly identified to see whether there is a relationship between teen courts processing more serious offences and higher recidivism rates.

The length of the follow-up period to assess recidivism as well as when that period begins also varies from one study to another. For some researchers, it starts after the initial intake interview with the teen court coordinator, for others it's following sentencing or sentence completion. This presents two methodological problems. First, it makes it more difficult to compare recidivism rates from one program to another and one study to another. Secondly, comparing recidivism rates based on sentence completion eliminates those defendants who were sentenced but did not complete it. This could make recidivism rates look more impressive than they really are by artificially inflating them and also eliminate from evaluative studies any defendants who could shed further light on what

factors make teen court more or as effective as traditional youth court. By examining why some offenders do not complete their sentences it might be possible to determine what factors hinder or enhance a defendant's chances of completing their sentences. This could then make it easier to determine what types of youths would most benefit from the teen court experience. Not only, then, does the definition of follow-up period vary, so does the amount of time each program allows for sentence completion. While Bay County teen court in Florida require that young offenders complete their sentence within 30 days (Zehner, 1997), Kentucky teen courts allow six months (Williamson et al., 1993; Minor et al., 1999). It is not clear whether the length of time allotted for sentence completion has an impact on sentence completion rates of young offenders from one program to another.

Recidivism also tends to be measured over a short period of time, ranging from five to 12 months and sometimes more (LoGalbo and Callahan, 2001; Minor et al., 1999; Zehner, 1997; Harrison et al., 2000). Just how long should the follow-up period be? Godwin (1996c) found that program effectiveness diminished after a year. Harrison et al (2000) say the 25.3% recidivism rate they found in their study could be due to the fact that some of the young offenders they studied were being followed for up to four years. The greatest risk of recidivism appears to be during the first year or two. Three years is likely enough time to determine the true impact of a program. That is, it is enough time to allow any differences between and treatment and control group to emerge in some cases or to see whether any differences between the two groups disappear over time (Waldo and Griswold, 1979).

The rate of recidivism among young offenders who are processed through teen courts and reoffend varies from 0% - 32%, depending on the program (Rothstein, 1987; Minor et al., 1999). As Minor et al. point out, this discrepancy may be, at least in part, a reflection of the types of offenders different teen courts handle. Teen courts that serve as a pre-adjudication diversion program may be receiving

offenders at lower risk of recidivism than those, such as Kentucky teen courts, whose offenders are referred by a juvenile court judge.

A teen court program in Odessa, Texas, hired a certified drug abuse counsellor to teach a monthly course to defendants and a parenting course was also given; parents were required to attend with their children. The teen court coordinator kept in touch with the parents after the workshop to make sure the behavioural program for their child was being followed. After a year, 96% of the parents reported an improvement in their child's behaviour at home and at school. The recidivism rate among this group was zero.

However, no control group of offenders who participated in teen court but did not participate in these workshops was used. It is possible that parental involvement as well as the teen court coordinator's follow-up after the workshop may have had an impact on the recidivism rate. As Rothstein notes: "Teen court, which channels peer pressure in a positive way, can have an effect not only on teenage driving habits and criminal activity but also on drug usage if this peer pressure is coupled with parental training" (Rothstein, 1987:3). Although only 54 youths were interviewed, 66.7% of defendants from the Santa Rosa, California teen court who recidivated felt their parents were either neutral or didn't encourage them to participate in teen court, compared with 10% of teens who didn't reoffend (SRA Associates, 1996). This suggests that parental training, involvement and encouragement could be a part of the environmental factors that are associated with whether or not a young offender recidivates.

While samples for most studies were relatively small, an evaluation of the Dona Ana County teen court in Las Cruces, New Mexico examined the outcome of 478 cases between 1994 and 1998. It found an overall recidivism rate of 25.3% (Harrison et al., 2001). A study of 226 Kentucky teen court defendants between 1994 and 1997 found a recidivism rate of 31.8% within a year of being sentenced (Minor et al., 1999). However, neither of these studies used control groups to

compare with young offenders who were processed by the traditional youth justice system.

An evaluation of more than 500 young offenders who participated in teen courts in Alaska, Arizona, Maryland and Missouri did use control groups. Youths were followed for six months from the time they were first referred to teen court and they were found to be less likely to reoffend than a control group in two of four study sites. In Alaska, recidivism was 6% for the teen court and 23% for the control group, while Missouri teen court's recidivism rate was 9% compared with 28% for the comparison group (Butts, Buck and Coggeshall, 2002).

The Maryland teen court was compared with a police diversion program that provided many of the same sanctions. The Howard County, Maryland Police Youth Service Division would send first-time offenders to a police department social worker to receive sanctions that could include a combination of restitution, community service, essays and victim apology letters. At less than 10%, the recidivism rate was low for both the comparison and treatment groups. This suggests that teen court is better than the traditional youth justice system but as good as more traditional, adult-run programs that provide meaningful sanctions for first-time offenders (Butts, Buck and Coggeshall, 2002). This raises the question of whether it's the impact of peer pressure or being held accountable for a first offence or a combination of both peer pressure and accountability that reduces recidivism.

In addition to using small samples and the lack of control groups, each study does not define and measure recidivism in the same manner. Studies of recidivism aren't uniform in terms of the sources of data researchers use, the kinds of crimes (or violations) that are included in the study and the length of follow-up (Waldo and Griswold, 1979). This makes it difficult to compare the results of teen court evaluations between them to assess the program's effectiveness. Definitions of recidivism vary from one study to another, as does the length of time used to

follow defendants (LoGalbo and Callahan, 2001) and whether the follow-up period begins from the date of referral to teen court, sentencing or sentence completion. Harrison et al. (2000; 2001), defined recidivism as a rearrest and referral to the Juvenile Probation and Parole Office between 1994 and 1998 until the offender reached the age of 18. This meant earlier defendants were followed for longer periods of time. For Minor et al. (1999) it was a rearrest and court appearance on new offences within one year of being sentenced by teen court, while LoGalbo and Callahan (2001) defined recidivism as reoffending within five months of the initial interview with the teen court coordinator. Butts, Buck and Coggeshall (2001) measured recidivism for a six-month period beginning with the young offender's referral to teen court.

1.19 Sentence completion

Sentence completion among teen court defendants varies from more than 90% (Zehner, 1997) to 63% (Garrison, 2001). Garrison also noted that 84% of the youths who successfully completed their sentence didn't violate the 12-month probation order following their sentence. Teens who completed their sentences were less likely to be rearrested and offenders with prior records were more likely to recidivate (Harrison et al., 2001). Those who had committed prior offences were less likely to complete their sentences and more likely to recidivate (Minor et al., 1999). Thus, it is possible that links between sentence completion and reoffending are, in fact, not as strong as the link between prior offences and recidivism. In other words, having priors is perhaps a greater indicator of recidivism than actual sentence completion.

The degree of monitoring and follow-up of offenders after sentencing is one factor that has received scant attention by researchers but which could be a factor associated with sentence completion. As Williamson, Chalk and Knepper (1993) indicate, teen courts supervise young offenders more closely than do traditional courts. Heavy caseloads mean that traditional youth courts need to focus their efforts on more serious cases (Godwin, 1996b). Resources are therefore less

available for sanctioning and supervising minor cases. For example, social workers in Kentucky are responsible for monitoring young offenders' compliance with their sentence. However, their average caseload of 39 exceeds the state mandate of 25 (Legislative Record, 1992). Therefore, they have less time to ensure their charges are complying with the terms of their sentence. By comparison, Kentucky teen court coordinators monitor young offenders for up to six months to ensure they're complying with the terms of their sentence. If the defendant hasn't fulfilled their sentence after that time, their case can be sent back to youth court (Williamson, Chalk and Knepper, 1993). In Bay County, Florida, the teen court director immediately issues a warning letter to a young offender who misses a deadline for community service and gives him/her 10 days to remedy the situation. Those under house arrest or who have been sentenced to curfew can receive random calls from the director. More than 90% of defendants complete their sentence (Zehner, 1997). This closer supervision is another way to hold offenders accountable for their actions.

1.20 Attitudes towards authority and teen court

As LoGalbo and Callahan (2001) point out, if offenders perceive a legal procedure to be fair, they will have a better attitude toward the authorities. Austin and Tobiasen (1985) reported positive correlations between judgements that justice procedures were fair and attitudes towards authority figures. LoGalbo and Callahan measured attitudes towards nine authority figures including police officer, teacher, court designated worker, parent, judge, principal, mother, lawyer and father. "Yourself" was included as a measure of self-esteem. They found that individuals who didn't reoffend had improved attitudes towards themselves and the "judge" authority figure. Those who recidivated after going through teen court reported less favourable attitudes toward themselves, the judge, father and police officer authority figures than those who didn't reoffend. Knepper (1994) noted that teen court volunteers seem to have a more positive attitude towards authority figures after completing their training.

Defendants are more likely to respond favourably to teen court if they believe the process was fair (Gaines and Skrabut, 1967). Research indicates that young offenders and their parents generally perceive teen court to be fair (SRA Associates, 1996), youth had ample opportunity to express themselves, volunteers and staff working in teen court treated them with respect and cared about their legal rights (Butts, Buck and Coggeshall, 2002). In one of the few qualitative studies to be carried out on teen courts, Reichel and Seyfrit (1984) found that all of the offenders and parents of offenders they interviewed felt the peer jury was fair in setting sentencing conditions. Three out of four parents but none of the offenders thought the jury was harsher than a judge. As one offender said, "You get a better chance because they are about your age and think the same way you do" (Reichel and Seyfrit, 1984:434).

Some defendants return to teen court as volunteers after completing the program (Rothstein, 1985). Among a group of offenders who were processed by the Santa Rosa, California teen court, 36.5% were so impressed with teen court that they expressed an interest in volunteering once they had completed the program. Interestingly, 18.5% of the 27 teen attorneys in teen court were former young offenders who had previously been processed by teen court (SRA Associates, 1996). For one volunteer in a Kentucky teen court: "I participate in teen court because in the last four or five years I have been through hell on the wrong side of the law which wasn't exactly fun. Now I have been given the opportunity to be on the rewarding side of the law" (Knepper, 1995:15). Other defendants sentenced to community service return to the agencies as volunteers after completing the sanctions teen court assigned to them (Rothstein, 1985). For their part, many participants volunteer for teen court because they find the process interesting, they believe they are learning and they want to do something for their community. Seeing teen court in action can be a deterrent for some volunteers. "I have never been in trouble with the law, and after seeing this I don't ever want to be. Teenagers tend to make a much harsher sentence" (Knepper, 1995:17).

1.21 Conclusion

Despite the proliferation of teen courts in the United States, few studies evaluating the program's effectiveness have been carried out. The majority that have been done are of a quantitative nature, few use control groups and the number of subjects is generally too low to produce statistically significant results. In addition, recidivism is defined and measured differently across studies, making comparisons difficult. Teen courts vary in the types of cases they process, their procedures for handling cases, the courtroom models they use, the types of sanctions they impose and the degree of follow-up to ensure sentences are completed. Positive results could be due to any one of these factors or a combination. Others to be considered include the extent to which parents of offenders are involved and supportive of teen court and the degree to which knowledge and an understanding of how the system operates has an impact on teen court's success. More specifically, do teen court coordinators provide offenders with a more comprehensive explanation at the time of intake than s/he would receive if the case were processed by the traditional youth justice system? If so, does this have an impact on the offender's perceptions of fairness and motivation to complete their sentence?

Since young offenders' participation in teen courts is voluntary and is restricted to minor cases, it would be useful to examine the reasons why some young offenders choose teen court while others opt to have their cases processed by the regular youth justice system, the final outcome of their case, sentence completion and recidivism. Could it be that the teens choosing teen court are already more sensitive to peer pressure to begin with? If that is the case, then this could affect their decision to comply with their sentence and not recidivate. They also might be more apt to take responsibility for their action to begin with, which also has an impact on recidivism.

V. CONCLUSION

Although there is evidence that American teen courts have existed since the 1940s, they only began gaining popularity in the past 20 years. There are now more than 900 programs in 46 states and Washington D.C. Young volunteers act as prosecutors, defence attorneys, bailiffs, jurors and sometimes even as judges as well. They don't determine the innocence or guilt of an accused, but rather assess sentences. They aim to prevent recidivism and use a hands-on experience to teach young people who volunteer how the justice system operates.

While teen courts are fairly well developed in the United States, the concept of peer sentencing is still in its infancy in Canada. Teen volunteers are integrated into youth court proceedings as peer jurors. The first youth disposition panel was started in Hay River, Northwest Territories in 1997. Since then, others have begun operating in Fort Smith and Inuvik, N.T. and Iqaluit, Nunavut. Like American teen courts, Canadian youth disposition panels don't determine innocence or guilt; they make sentencing recommendations to the presiding judge, who can accept, reject or modify them.

Peer pressure, the influence that teens can exert on one another to affect their behaviour, is an important component of both teen courts and youth disposition panels. It is believed that if peers can influence a teen into committing delinquent acts, then they could presumably steer them towards law-abiding behaviour. Defendants are more likely to take responsibility for their delinquent behaviour if they feel teen court volunteers understand them.

The purpose of the Hay River Youth Disposition Panel is to give students an opportunity to participate in youth court in a positive manner, gain a better understanding of the justice system and how it operates, as well as to exert peer pressure on young offenders who appear before them in an effort to positively influence their behaviour and prevent recidivism. It is also hoped that teens who

volunteer will be more likely to obey the law in the future if they understand how the justice system works, perceive it to be fair and have a voice in its operations.

Despite the proliferation of teen courts in the United States, the overwhelming majority of studies evaluating the programs' effectiveness have been of a quantitative nature focusing mainly on measuring recidivism rates. Their methodological shortcomings include lack of control groups. In addition, it is difficult to compare recidivism rates from one study to another since each one defines recidivism differently. Few studies have focused on the experience of teen court participants with respect to the process of peer sentencing. In addition, the model used by Hay River youth court differs from American teen courts since the former is integrated within youth courts whereas the latter operate as a separate entity. This distinction is important because it means the youth disposition panel in Hay River is able to hear cases involving repeat offenders - unlike a number of American teen courts.

As noted earlier, the Hay River Youth Disposition Panel has not yet been the subject of research; this current qualitative study will be of an exploratory nature to learn about the experience of participants who volunteer for the Hay River Youth Disposition Panel. It will examine the reasons students give for volunteering, the training they receive to carry out their duties and the experience of sitting on the panel and being involved in making sentencing recommendations about the delinquent behaviour of their peers. The youth disposition panel is nearly seven years old and no studies have yet been carried out on the program, its operation and the impact on panel members. This research project, a first, could lead to a better understanding of the role and impact on volunteers of peer sentencing panels in youth courts and perhaps be considered for implementation by other jurisdictions.

Chapter 2:
Methodology

2.1 Object of study and research objectives

The goal of this research is to understand the experience and points of view of current and former youth disposition panel members who have participated in the Hay River Youth Disposition Panel. Given that the Youth Disposition Panel is a relatively new concept in Canada, it is also important to understand how it is integrated into the proceedings of a traditional youth court. This project has three main objectives:

- (1) To understand the motivations of youths to participate in the peer sentencing process.
- (2) To understand the experience and points of view of participants with the process of peer sentencing. More specifically, whether their experience on the panel met their expectations, their opinion of the peer sentencing process, their perceptions of the effectiveness of peer sentencing with young offenders and other peers in the community, what they learned from participating in the peer sentencing process, how sentencing decisions are made, what factors are considered when making sentencing decisions, the impact of being familiar with the young offender being sentenced, how panels are organized and operate, interactions between panel members and court officers and group dynamics within the panel during deliberations.
- (3) To understand the type of training panel members receive and their perception of its effectiveness. More specifically, the kind of training they received and whether they thought it was sufficient.

These three objectives were selected because the experience and sentencing approach of members of the youth disposition panel could be affected by their motivations for joining and the type of training they receive. For example, are

students who join the panel because they want to contribute to their community more punitive than peers who join for other reasons? How does the panel's training affect how it makes sentencing recommendations and the types of factors it takes into consideration?

2.2 Justification of qualitative approach

This project aims to understand the experience and points of view of youth disposition panel members who participate in the Hay River Youth Disposition Panel. Obtaining the point of view and experience of the participants is the main objective of this research, which is also a key characteristic of qualitative methods; as Poupart (1997) says, it allows for the study of social phenomena from the perspective of the actors. By the very nature of its investigative tools, it leaves more room for subjects to share their reality from their point of view. "Il s'agit d'une science qui envisage les réalités sociales sous l'angle des acteurs sociaux...et qui se veut plus engagée par rapport aux préoccupations des acteurs" (Poupart and Lalonde, 1998:83). It also opens the door to a better understanding of the issues they face (Poupart, 1997). This is particularly important given that research into peer sentencing has focused mainly on recidivism rates from a quantitative perspective.

In general, qualitative research uses mainly observation and interviews, supported by: questionnaires, photographs, audiovisual documents, observation of public places, life histories. To collect the maximum amount of information, researchers usually combine several of these techniques (Deslauriers and Kérisit, 1997). These tools allow researchers to take a more in-depth approach to their research. The current study will use observations and semi-directed interviews to gather data.

Poupart and Lalonde explain the distinction: "...si les questionnaires et les sondages permettent de se faire une idée des représentations que certains groupes ont du système de justice, les méthodes qualitatives, par exemple l'entretien en

profondeur, permettraient de mieux comprendre les processus sous-jacents à ces représentations” (Poupart and Lalonde, 1998:73). Qualitative methods are more likely to yield an understanding of why they participate, their perceptions of the process and what impact, if any, they believe it has on them. In other words, the factors underlying their decision to participate and its outcome on their perceptions of peer sentencing. Research questions will investigate and try to understand what motivates youths to participate in the peer sentencing process, their perceptions and experience of peer sentencing and their perceptions of its impact on panel members, young offenders and other youths in the community.

A qualitative approach will also allow us to take an in-depth look at the point of view of interviewees about the impact of peer sentencing, how and why it works or doesn't work. “Les méthodes qualitatives seraient mieux adaptées à l'étude en profondeur de certaines réalités ou de certains groupes...elles seraient susceptibles d'éclairer davantage certains processus sociaux, ou encore... elles permettraient à leur façon la généralisation” (Poupart and Lalonde, 1998: 83-84).

The current study is the first one to ever be carried out on the Hay River Youth Disposition Advisory Panel. It will allow us to explore and uncover issues around peer sentencing. That could lead to further research and an understanding of the dynamics of peer sentencing. In addition, qualitative research stages aren't consecutive. Different stages, such as data collection and analysis, can occur simultaneously, with the researcher going back and forth between stages as needed (Deslauriers and Kérisit, 1997). That is because “la recherche qualitative met l'accent sur le terrain non seulement comme réservoir de données, mais aussi comme une source de questions nouvelles” (Deslauriers and Kérisit, 1997:106). This requires that researchers must adapt to the particular demands of the field and be on the lookout for aspects that could be relevant to their research (Poupart, 1981:46). This openness is particularly important within the context of the current research project because no previous research has been carried out on the Hay River Youth Disposition Panels.

In grounded theory, analysis and data collection are considered to be inseparable from one another (Jaccoud and Mayer, 1997). This allows theories to be built progressively as data is collected. This allows the research to adjust to the realities of the field. “Le principe clé de cette démarche est que les hypothèses sont constamment révisées au cours du processus de recherche, jusqu’à ce que le phénomène observé soit consistant” (Jaccoud and Mayer, 1997:233). Given that no previous research has been carried out on the disposition panels, this will allow us to be open to new themes or issues within the current project and adjust our project objectives and approach accordingly.

2.3 Justification of research tools

2.3.1 Semi-directed interviews

Given that the current research objectives are to understand what motivates youth to participate in the Hay River Youth Disposition Panel, their experience with the process of peer sentencing and their perceptions of the training they received, interviews are an appropriate research tool. Qualitative interviews open the door to an understanding and knowledge of the issues and dilemmas that people face (Poupart, 1997).

L’interviewé est vu comme un informateur clé susceptible précisément “d’informer” non seulement sur ses propres pratiques et ses propres façons de penser, mais aussi, dans la mesure où il est considéré comme “représentatif de son groupe ou d’une fraction de son groupe, sur les diverses composantes de sa société et sur ses divers milieux d’appartenance (Poupart, 1997).

In-depth interviews would not only allow researchers to learn about people’s realities, but also to give them a voice and compensate for their absence or their lack of power in society (Poupart, 1997). This is particularly relevant to the current study because it gives a voice to young people, who don’t normally have a role in the criminal justice system beyond that of being an offender or a victim.

Non-directed interviews, as described and conceived of by psychotherapist Carl Rogers, is entirely self-directed by the client. That is, the patient chooses the subject to be discussed and the direction that discussion will take. The therapist's role is to mirror the client's comments and reiterate them in a way that will encourage the client to take the discussion further and deepen its scope. This allows him/her to gain greater personal insight into his/her behaviour (Quivy and Van Campenhoudt, 1988). Non-directed interviews tend to elicit more in-depth information because the subject is given more freedom to raise issues that are relevant to them in a way that is meaningful to them and uses their way of expressing it. It can also bring out emotional issues in a way that doesn't come out in questionnaires (Michelat, 1975). "L'entretien non-directif vise à amener l'interlocuteur à exprimer son vécu ou la perception qu'il a du problème auquel le chercheur s'intéresse" (Quivy and Van Campenhoudt, 1988:71).

According to the Rogers ideal, the interviewer must give as little direction to the interview. However, interviewers must provide some direction to ensure the object of study is discussed (Quivy and Van Campenhoudt, 1988). As Poupart (1997) notes, pure and complete non-directivity is a myth because the researcher is the one who introduces the research themes to be discussed during the interview. In the current research, three themes are being studied and introduced over the course of interviews with research subjects. Given the diversity of goals in the current study, semi-directed interviews were chosen as the main research tool.

a) Main and secondary themes

The current study focuses on three particular themes: the motivations for joining the Hay River Youth Disposition Panel, the experience of participating in peer sentencing and the training they receive. Three open-ended questions were used to provide sufficient structure to each interview to meet the objectives of this study. However, the open-ended nature of the questions simultaneously allowed interviewees to raise issues within each theme that are important to them. As

Poupart points out it is "...la souplesse de la méthode qui laisse l'interviewé libre d'aborder les sujets qu'il juge pertinents, favorise l'émergence de dimensions nouvelles non pressenties au départ par le chercheur" (Poupart, 1997:183). The three themes that were introduced during interviews are as follows:

- (1) You decided to become a member of the youth disposition panel. Could you tell me about that?
- (2) Tell me about the experience of being on the panel.
- (3) Tell me about the training you received.

These themes were chosen to encourage participants to explore how and why they joined the youth disposition panel, the process and factors involved in sentencing, the training and what they learned from their participation. The secondary themes that were studied included:

- (1) How students were recruited to join the panels;
- (2) The reasons motivated them to join the panels;
- (3) How the panels operate;
- (4) The process students used to make sentencing recommendations;
- (5) The factors panel members consider when making a recommendation;
- (6) What benefits they derived from participating on the panel, both personally and in terms of what they learned.
- (7) Their perceptions of the impact of peer sentencing on young offenders and on law-abiding peers in their community;
- (8) How students are trained to be on the panel and learn their role.

As was previously noted, three themes were introduced in the course of interviews with research participants. However, some of the secondary themes emerged in each interview based on the responses of participants. Since the researcher introduced the themes and allowed interviewees to introduce the secondary themes that were relevant to them, not all interviews addressed every secondary theme. However, every secondary theme was addressed at some point during the research by multiple participants.

b) Sampling strategy

As Michelat (1975) explains, quantitative research picks a random sampling of people that is representative of the total population. However, qualitative research interviews a small number of people who aren't statistically representative, but are as diverse as possible.

L'échantillon est donc constitué à partir de critères de diversification en fonction des variables qui, par hypothèse, sont stratégiques, pour obtenir des exemples de la plus grande diversité possible des attitudes supposées à l'égard du thème de l'étude. Par variables stratégiques nous entendons celles dont, en fonction de réflexions théoriques et des études antérieures, on peut estimer qu'elles jouent le rôle le plus important dans le champ du problème étudié (Michelat, 1975:236).

Pires (1983) notes that a researcher could opt to study a relatively homogeneous group to conduct an in-depth examination of a certain number of cases within this group or aims for a heterogeneous sample to explore and present different variations of an issue involving different social groups. Diversification rather than statistical representation is the hallmark of qualitative research. Internal or intra-group diversification enhances the possibility of achieving theoretical saturation of categories with the data while allowing for some diversification within the study sample.

The current sample is homogenous, since only members of the youth disposition panel were interviewed. No young offenders participated in this research. However, heterogeneity among interview subjects was developed to examine the potential impact of three variables on participation in the youth disposition panel: gender, aboriginal/non-aboriginal and current/former panel member. Gender as a variable was considered important because young men and women may well perceive peer pressure and its impact (a critical aspect of the youth disposition panels) differently. We also wanted to see whether gender or being aboriginal had an impact on the sentencing experience of panel members. Having both current

and former panel members could potentially yield information on whether or not the experience of being on the panel has changed over time.

An additional reason for including both current and former panel members in this current study is that the Hay River youth disposition panel had been operating for less than seven years at the time this study was conducted. It was felt that a research sample should be constructed comprising interviews with current and former panel members to maximize the pool of potential participants. Although some 40-60 students participate in the youth disposition panel each year, many participate for several years, reducing the overall number of current and former panel members. In addition, Hay River does not have post-secondary educational facilities. This means students who wish to attend a community college or university must leave the community to do so, reducing access to them as potential interview subjects.

c) Profile of study participants

As Michelat (1975) mentions, the point of saturation in qualitative research tends to be reached after 30-40 interviews. That is the point at which interviews no longer contribute additional information to the research. Despite efforts to have a larger number of interviews, we were able to build a research sample based on 16 participants. This was not sufficient to attain the point of saturation, but this can be a relevant number given the nature of the research. It must be noted that the Hay River Youth Disposition Panel only began operating in January 1997. Since a number of participants are on the panel for more than a year, this reduces the number of potential participants. The research sample is relatively representative given the pool of potential participants. The Hay River Youth Disposition Panel is a specific approach to peer sentencing and, given the size of the sample, this research could be seen as a case study of one youth disposition panel and peer sentencing approach.

The sampling goal was to have an equal number of male and female participants, current and former panel members as well as aboriginal/non-aboriginal interviewees for the study. However, it is not always possible to control these variables while out in the field (See Annexe I). Our final sample had an equal number of male and female participants. However, it was heavily weighted in favour of former panel members as well as non-aboriginal interviewees. (Interviews were carried out with 16 subjects, five of whom were current panel members and 11 who were former panel members. Among the former panel members, 10 had participated in the program when it was inaugurated in 1997. The sample was evenly split along gender lines, eight being male and eight being female.

As well, 12 were non-aboriginal whereas four were either aboriginal or Métis. A distinction is not made here between aboriginal and Métis because the form which participants filled out only offered, erroneously, the options of circling "aboriginal" or "non-aboriginal." The category "Métis" was not offered, however two participants wrote on the form that they were Métis. This highlights the need for researchers to be aware of and recognize the distinction between aboriginal and Métis when they are pursuing research among native and non-native people as well as in northern communities.

When asked how many cases they heard, five participants said it was less than five cases, another five estimated that it was between 5 and 12 cases, while the final third of the sample said they had heard 15-25 cases. Nearly half, seven interviewees, said they knew the offender in all the cases they heard. Another four said they did in more than half of the cases, three said they didn't know any of the offenders personally. The other two knew the offender in less than half of the cases. The responses to this question highlighted a weakness in the wording of the question. It did not distinguish between knowing the offender personally and knowing the offender as an acquaintance and classmate. This information was

gathered from a personal background information form (see Annexe II) that each study participant filled out following their interview with a researcher.

d) Strategy for establishing contact

The participation of current and former panel members in this research project was facilitated by the staff member at Diamond Jenness Secondary School who oversees the program and was able to provide the researcher with a list of participants from that first year. Their telephone numbers were retrieved from the Hay River telephone directory. In addition, some interviewees offered the names of other former panel members who could be contacted for interviews. It must also be noted that current panel members required parental consent to participate whereas former panel members did not since they were over the age of 18. The consent form was distributed to current members of the youth disposition panel during a gathering to have their photographs taken (see Annexe III). Those who were interested in participating in the research returned the signed form to the researcher.

Interviewees were contacted by telephone. The researcher used the following statement to introduce herself and her research:

“My name is H el ena Katz. I am from the University of Montreal and I am carrying out a research project on the youth disposition panel. I understand that you participated in the youth disposition panel a few years ago. I am interviewing people about what it was like to be on the panel. Each interview takes between an hour and an hour and a half and is anonymous. I was wondering whether you would be interested in meeting with me to share your experience?”

Except for one person, who said they didn't have time, everyone who was contacted by telephone agreed to participate. Interviews with former panel members were conducted in their homes or a location of their choice in order to maximize their comfort level during the interview. Two current panel members

were interviewed in their homes, while the other two were held in a room at the school.

e) How interviews unfolded

Interviews lasted an average of one hour, although half of them took longer than that. The interviewee would reiterate the purpose of the interview before it began and took a few minutes to chat with the participant in an effort to answer questions and try to put the person at ease. After the first theme was introduced in the interview, interviewees tended to offer shorter responses until they were drawn out with follow-up questions that probed their perspectives further. Then they tended to elaborate much more in their responses. Perhaps it's because they sensed the researcher's interest. Three themes were introduced during the interviews with current and former panel members. Once the interview was completed, each participant was asked to fill out a personal background information form that included questions about their age, gender, whether they were aboriginal or non-aboriginal and details about when they participated on the panel.

It is important to note, as do Marshall and Rossman (1989), that researchers are indebted to their subjects for helping them enlarge/extend their knowledge. They must therefore devise ways to show their appreciation. While a researcher "takes" information from his/her subjects, it is important to acknowledge this. "Le chercheur est le débiteur du milieu et doit trouver des manières de le remercier: lui consacrer du temps, faire des commentaires, inviter les gens à boire un café, les complimenter, les aider ou leur communiquer toute marque d'appréciation appropriée" (Marshall and Rossman, 1989:69). To this end, each young person interviewed for the current project was given a pin from Montreal at the conclusion of the interview. This gift was not be mentioned in advance, but rather given at the end of the interview as the researcher's way of acknowledging the value of the subject's contribution to the research. This choice of gift was made after consulting a Montreal-based individual who works with native bands in Hay

River to promote the fur trade. In an effort to share the research results with participants, each person was asked at the conclusion of the interview if they wished to receive a copy. Those who were interested wrote their mailing address on the back of the consent form. A summary of the research results will be mailed to them.

Interviews were also carried out with two key informants, people working within the education and justice systems who are currently working with or did work with the youth disposition panels and could share an overview of how they operate, recruitment, training, etc. These interviews helped frame and offer a context for the disposition panel's origins and operation. These interviews were carried out in a more directed way than those with other subjects. As Jaccoud and Mayer (1997) explain, key informers are people able to supply certain information and "act as a bridge between two symbolically different worlds" (Jaccoud & Mayer, 1997:229). Interviews were carried out with the former Chief Judge of the Northwest Territories, who created and oversaw the panel in the courtroom, as well as with the school counsellor/librarian who oversees the panel's operation within the school.

2.3.2. Observation

Little documentation exists about how the Hay River Youth Disposition Panel operates. Therefore, observation of youth court was used to supplement information that research subjects provided during interviews about how the Hay River youth disposition panel operates and the dynamics between them and the court officers. Observation denotes the basic use of eyes, ears, memory and notepad to write up the description of events that occur in the researcher's presence (Chapoulie, 1998). Observations are often used alongside other qualitative research techniques, such as interviews, life histories and documentary methods (Jaccoud and Mayer, 1997). They allow us to collect information about the structure of a group or institution and how it functions (Quivy and Van Campenhoudt, 1988). The advantage of observation over other methods is its

relative unobtrusiveness. As Angers (1992) notes, it's non-directive to the extent that the observation of reality remains the ultimate objective and that the researcher doesn't normally get involved in the situation being observed. It's qualitative in that researchers make notes to describe and understand a situation rather than jotting down numbers to indicate the frequency of particular behaviours.

Since open Youth Court allows members of the public to observe proceedings, a researcher's presence is likely to be relatively unobtrusive. The use of an ethnographic approach, which aims to exhaustively document a particular situation or culture and devise a model to make sense of it (Lapierre, 1997), will allow for the documentation of how the panel's operation is integrated into that of the traditional youth court and describe a peer sentencing model that is a hybrid between the traditional Canadian youth court system and the American teen court concept.

Observations can be of a more participatory nature or a more passive nature (Jaccoud and Mayer, 1997). However, this research project used a more passive approach, observing how the Hay River youth court is organized and operates with minimal interference and involvement by the researcher. Angers (1992:191) proposes five types of information that researchers can gather in the course of observations: description of the site, participants (number, type, role), the reason for their presence, the activities and interactions, the length and frequency of actions.

Observations were used to examine how the Youth Disposition Panel's operation is integrated into Youth Court proceedings, since peer sentencing with adolescent panels is unknown in Canada. This distinction is important because it means the youth disposition panel in Hay River is potentially able to hear cases involving more serious offences and repeat offenders - unlike American teen courts.

a) Establishing contact

The Montreal Courthouse was contacted by telephone to find out when youth court is in session and to obtain permission to observe. The court was informed that any identifying information about young offenders and witnesses (e.g. names) will not be used so as to ensure the confidential nature of cases being observed as well as remain in keeping with the terms of the Young Offenders' Act. The deputy chief youth court prosecutor indicated that youth court is open to the public, unless it is hearing youth protection cases. Special permission is needed to observe these types of cases. Since we were only interested in criminal cases, special permission was not requested. Two randomly-selected half days of hearings in Quebec Youth Court were observed while it was in session, in an effort to determine common elements and differences from one observation period to another and understand how youth court operates.

Since Hay River's Youth Court, part of the circuit court of the Northwest Territories, is held in the community every three or four weeks, observations were conducted during two half days when open court was in session and the Youth Disposition Panel was operating. The dates were determined by contacting the court clerk at the Hay River courthouse and the liaison counsellor at the school that panel members attend. The chief judge of the Northwest Territories gave permission to observe open youth court in Hay River. As Jaccoud and Mayer (1997) point out, obtaining permission to observe at a selected site doesn't guarantee access to the data that is being sought. Within the context of the current project, it was not possible to observe the Hay River Youth Disposition Panel deliberating cases since it was an activity that occurred in a closed-off jury room.

b) Conducting observations

In an effort to establish a comparison between the operations of a traditional Youth Court and the Hay River court's Youth Disposition Panel, two Youth Court sessions were observed at the Montreal Courthouse. Given that youth disposition panels are unknown in the rest of Canada, it was important to observe the

operations of a youth court in an urban setting. This would help the researcher to establish a baseline against which to compare the operation of the youth court in Hay River. The researcher described the courthouse and courtroom, participants, their roles and interactions between them, why they are present, what happens in youth court, etc. This allowed us to understand how Canadian youth courts generally operate. Then, two youth court sessions in Hay River were observed to establish how Hay River youth court operates in conjunction with the Youth Disposition Panel.

Youth court in Montreal is held in a separate courthouse from adult court. Given the large population and urban setting, there were many people filling the benches outside the courtrooms of Montreal youth court. This provided a measure of anonymity for the researcher when sitting in the courtroom gallery. However, Hay River is a small community where only a few youth court cases are heard during each session. Given the size of the community, a clandestine approach to observation was dropped in favour of open observation in youth court. The researcher therefore introduced herself to the bailiff and explained the purpose of her observation. He immediately brought her into the courtroom before it opened to the public to explain a few rules of protocol and introduce her to the court clerk, court reporter, Crown and defence lawyers. He also introduced her to the school counsellor when she arrived with members of the youth disposition panel. The researcher was then able to observe youth court proceedings on several occasions and take notes to supplement and contextualize interviews with study participants. On one occasion, after court had adjourned for the day, the bailiff brought the researcher to the area behind the courtroom to show her the jury room where panel members deliberate. Observation notes proved to be particularly helpful when outlining how the youth disposition panel operates.

2.4 Method of analysis

Sixteen interviews were transcribed and analyzed for this research, following the 11-week data collection period in Hay River from October to December 2003.

Summaries and key quotes were drafted for each interview following readings and analysis of each transcript. These, in turn, were analyzed to establish themes. Interviews were cross-analyzed with one another to find commonalities and establish larger categories within each theme. A dozen themes emerged:

- (1) Creation and emergence of the panel;
- (2) Organization of the panel;
- (3) Recruitment process;
- (4) Panel selection and composition;
- (5) Confidentiality issues with respect to hearing youth court cases;
- (6) Types of offences in which the panel can make recommendations, sentencing goals and the nature of sentencing recommendations;
- (7) Training process for panel members;
- (8) Motivations for joining the panel;
- (9) Challenges of the sentencing process;
- (10) Factors influencing sentencing recommendations;
- (11) Group dynamics
- (12) Perceived impact of the panel on panel members and young offenders who appear before it.

Each category that was created following analysis of each interview was then examined to determine whether any patterns could be discerned in terms of the sampling factors that were used. That is, whether there were differences between current and former panel members, males and females, aboriginal and non-aboriginal participants. Notes gathered during observations were integrated into descriptions of how the panels operate in youth court.

2.5 Ethical issues

Conducting social science research involving human subjects raises a few ethical issues such as consent and confidentiality. The former is particularly the case for subjects who are considered legal minors. An ethics certificate was obtained from the Comité d'éthique de la recherche de la Faculté des arts et des sciences at the

Université de Montréal. Once in the field, written parental consent was obtained for research subjects below the age of 18. Efforts were made to ensure that the confidentiality of research subjects was maintained. A coding system was used to ensure that personal background information forms and interviews remained anonymous. In addition, pseudonyms were used for each person. Throughout the text, participants who are quoted are identified only by their pseudonym, age and whether they are current or former panel members.

2.5.1 Conducting research in Canada's North

The Northwest Territories Scientists Act requires that all research conducted in the NWT be licenced. Researchers must apply to the Aurora Research Institute, the licensing body, and send copies of their application to relevant community organizations and agencies for consultation. After discussion with the licensing manager, the organizations that were consulted for this project were the Town of Hay River, the West Point First Nations and the Hay River Metis Nation local 51. The licence was issued in July 2003, just over three months after the application was submitted. It was valid from October to the end of December 2003. This process was developed to ensure that communities are consulted with respect to the research being conducted on their land. "In the early days of northern research, many studies took place without the consultation of local people. In some cases, land or artifacts of special value were treated inappropriately by researchers. In other situations, local participants involved in studies became frustrated at giving out information without receiving the results of the research" (Aurora Research Institute, 2003). Researchers are required to submit a brief, non-technical report to the Aurora Research Institute by June 30th of the year following the research. In addition to the steps required by the licensing process, the researcher also consulted the then Chief judge of the Northwest Territories and the principal of Diamond Jenness Secondary School to ensure their consent and support of the research.

2.6 Limitations of the study

This exploratory study was the first research to be conducted on the Hay River youth disposition panel. There were four main limitations. The first was that most former panel members were interviewed as much as seven years after they had last participated in the panels. As a number of them indicated, the lapse of time meant there were certain details they could no longer remember. Secondly, it is unclear to what extent the perspective of former panel members with respect to peer sentencing has changed in the intervening years. In addition, given the small sample and the variations in peer sentencing programs in Canada and the United States, it might not be possible to generalize these results to all peer sentencing programs. A final limitation was that this study only pertains to the experience of panel members - not young offenders who have appeared before them. Although the study was initially conceived as a comparative study of the experience of both panel members and young offenders, this was not possible without the consent of Corrections Services of the Northwest Territories. Although steps were taken to obtain their consent, no response was ever received to our request for permission to interview young offenders. Thus, the current study focuses on the experience of members of the youth disposition panel.

Chapter 3:
How the Hay River Youth Disposition Panel operates

3.1 Introduction

Unlike the United States, Canada has no provisions allowing for the operation of teen courts, where the attorneys, court clerk, bailiff, jurors and sometimes the judge are all under the age of 19. The Hay River Youth Disposition Panel is integrated into and operates within the judicial process of a youth court in the Canadian justice system, playing a strictly advisory role to the presiding judge. As with their American counterparts, youth disposition panels do not determine the innocence or guilt of offenders before them; their involvement begins at the dispositional stage of the judicial process. A key aspect is the belief that youths are more likely to listen to their peers than they are to an adult¹. Thus, it tries to use positive peer pressure, through peer sentencing, to influence young offenders not to recidivate. According to Judge Halifax, “The peer group is, in effect, creating a standard of behaviour” (Latta, 1997).

The Youth Disposition Panel provides students with (1) the opportunity to participate in the youth court process; (2) the experience of accepting responsibility within the justice system; (3) a better understanding of the justice system and how it operates; and, (4) an opportunity to influence young offenders through the positive use of peer pressure (Halifax, 1996). This chapter will examine how the Hay River Youth Disposition Panel was created in 1997, the way in which students are recruited and trained, how panels are selected, a typical day in court, the types of cases the panel is involved in the sentences that are handed down, and the role and training of the student who is selected to be court liaison.

3.2 Launching the program

According to interviewees, Judge Robert W. Halifax, then chief judge of the Territorial Court of the Northwest Territories, met a judge while in Arizona who operated a teen court there. Judge Halifax wanted to bring the program to Hay

¹ Halifax, personal correspondence, 2001.

River, so that students would use their knowledge of their peers and adolescence to make effective sentencing recommendations to the judge for young offenders. Peers would hold young offenders accountable for their actions; teenagers tend to listen to their peers more than to adults because they are seeking the approval of their peers. If adolescents could have a negative influence on their peers, perhaps they could have a positive one as well, it was reasoned. The Youth Disposition Panel would not decide the innocence or guilt of a young offender. Rather, its role would be to make a sentencing recommendation to the presiding judge. Simon, 23, was in grade 11 when the panel was launched. A former panel member, he remembers the judge telling them why their involvement was so important:

...because (a) you're peers, so you know what's going on. You might have a better understanding of what's happening in their lives be it in school, be it in their family life, whatever it might be. And (b) because you are peers because we want to hear how you guys are feeling about what's taking place in your community.

In an interview for this study, the judge said that after some investigation, he realized that Canadian legal statutes would not allow for teen courts to be implemented in Canada in the same manner as they were in the United States. Rather, adolescents could be included as part of an advisory panel with the final authority for sentencing resting with the presiding judge. He and the counsellor indicate that he approached the staff and administrators of Diamond Jenness Secondary School in Hay River in 1996 to gauge their interest. The program was created and implemented with the help of the school counsellor, who was a member of the community's youth justice committee. The counsellor says that since she wasn't committed to a specific class, she was the staff member with the most flexibility to leave the school to accompany panel members to youth court. Students remember that to raise awareness about disposition panels prior to the program's implementation, Judge Halifax visited the school and made a presentation to some of the students. He spoke about the panel's role, how it would operate, its goals, the importance of focusing on the facts of the case and the types of sentencing approaches that are effective. Doug, 24, a former panel member from its first year of operation, recalls what the judge told them: "I'm a

45 year-old male. What do I know about being a teenager, right? Being a teenager now is way different than back then. He's like I want your guys' ideas and input on different ways we could give these kids consequences with the same actions that are going to sink home a little bit better." The judge also explained some of the recommendations a panel could make, such as incarceration, open custody, and community service hours.

Some students recall that a group of about eight or nine students also met Judge Halifax at the Hay River courthouse to discuss what his expectations were for the program and the panel, as well as the philosophy behind the program. He gave them a tour of the courthouse and explained what each area and room was for, including the courtroom. He explained courtroom etiquette, policies and procedures and what happens during hearings, the rules the jury, judge, lawyers and spectators in the gallery are expected to follow. Then he sat down with them in the jury room to explain the program, his expectations for the panel and from panel members, and told them that he wanted a fresh outlook that he felt youth could provide. He hoped they would be able to offer more effective sentences for youths breaking the law. He wanted the students to take a restorative approach and use their knowledge of youth culture to help him come up with more effective consequences to prevent repeat offences. Doug, 24, a former panel member who was present, explains what Judge Halifax told them:

He wanted it to be more of a healing thing. Try to get these kids to...instead of coming back to the same situations over and over and over again. Give them something...a consequence that's going to make them think twice about doing the crimes or whatever they're doing again that's getting them in trouble...drinking or whatever it is. He just basically told us what his expectations were, which were basically just for us to come up with alternative reasons...Instead of incarcerating the kids, let's give them something that's going to teach them a lesson....Not to be harsh or anything but you know what I mean. Just so he thinks about next time he's going to go do that same thing. He'll go out drinking with his friends or whatever, he'll think about doing it again.

Then the students went back to the school and talked to other students about it further, sharing the information they had gathered in their meeting with the judge and trying to “sell” the idea. They say some basic information sessions were held for panel members to discuss what Judge Halifax talked about, including their role. About 40 people signed up. The students held one information session with Judge Halifax and the rest with their school counsellor who was the school contact for the program.

About four months after the youth disposition panels began operating in Hay River in January 1997, some of the panel members said they accompanied Judge Halifax to Fort Smith, a community that straddles the Northwest Territories border with Alberta. They met students of the local high school during an assembly to talk about the youth disposition panel. Then they broke into smaller groups, meeting students in classrooms to explain how the panel operates and the process it uses to make sentencing recommendations. In 1998, Fort Smith became the second community in Canada to have a youth disposition panel. Inuvik launched theirs in early 2000, while the fourth youth disposition panel got underway in Iqaluit, Nunavut, in 2002.

The concept of integrating a peer sentencing advisory panel into a Canadian youth court was inspired by an American teen court program and adapted to a Canadian context by the Chief Judge of the Northwest Territories. Unlike U.S. teen courts, the Hay River Youth Disposition Panel is integrated into and operates within the judicial process of a youth court in the Canadian justice system. Given that it was – and continues to be – an innovative approach to sentencing young offenders, its implementation first required the support of students and staff at Hay River’s secondary school. The former chief judge sought and received the support of the staff and students before the project got underway. Support for the program from judges, the school administrators and staff as well as the students is crucial for its implementation and operation. It cannot exist without it.

3.3 Recruitment

Several former panel members said that when the youth disposition panel was to be launched in January 1997, the school counsellor recruited some volunteers from among a peer counselling program that she coordinated at the high school. Students had been trained to offer counselling and support to some of their schoolmates. Four of the former panel members interviewed said they were peer counsellors when the school counsellor recruited them to join the youth disposition panel. They say about 8-12 peer counsellors were recruited to participate in the disposition panels and helped organize information sessions about this. Other students were recruited from the rest of the school population.

More recent current and former panel members reported being recruited either by signing up using sign-up sheets posted around the school or after the counsellor had visited grade 9 classrooms to tell students about the panels. Students believe that recruitment focuses on grade 9 students, in an effort to give participants a chance to be on the panel for more than a year if they wish. This also allows them more time to understand their role and responsibilities and eventually pass on their knowledge to newer members. Interviewees recall that when visiting classes, the counsellor explains to potential participants that the panels comprise students who form a jury to recommend a sentence for young offenders who have pleaded guilty or been found guilty of a criminal offence. Students who are interested can sign up with the counsellor directly or write their names on sheets posted around the school building. A few former panel members said the counsellor recruited them by approaching them directly. One current panel member said he was aware of the panels because his brother had participated before him. The counsellor indicated that students are often aware of the panels before joining them because they hear an announcement calling for panel members to assemble in the school's concourse the day youth court is to hear cases.

A current panel member explained that grade nine students who sign up accompany the panel to court and participate in sentencing discussions. Following

their first time on the panel, the counsellor speaks with them to find out if they enjoyed the experience and wish to continue on the panel. If so, the school counsellor adds their name to the pool of permanent panel volunteers. A number of interviewees said these new recruits provide a transition point for the panels, as grade 9 students are being brought in and integrated into the panel's operations and grade 12 students are slowly being phased out in their graduating year as they reduce their involvement due to growing time constraints; their school workload demands increase and they had less time to participate on the panels. The counsellor explained that given the difficulty of finding enough students to form a panel during the summer months, the youth disposition panel operates from September to June each year.

3.4 Panel selection and composition

Hay River is a community of about 3,500 people on the south end of Great Slave Lake. It has one elementary school, one middle school and one high school. The Youth Disposition Panel operates out of Diamond Jenness Secondary School and according to the school counsellor and documentation has a pool of 40-60 students who volunteer each year. Once a student is on a panel, his/her name stays in the pool of volunteers until they graduate from high school or decide they no longer wish participate. Each panel is composed of 10-12 students, in addition to the student who takes on the role of court liaison.

According to the interviewees, the school counsellor has been involved with the youth disposition panel from its inception and continues to oversee its operation at the school. She helped organize and launch the panels in January 1997 and is the contact person for the Territorial Court; she is the person they inform as to when the services of the youth disposition panel will be needed and which cases will be on the docket. The students said she brings panel members to the courthouse the day of the hearings, provides them with copies of the docket, guidelines about the conduct that is expected of them in the courtroom and their role as members of the youth disposition panel. She indicated that she also oversees the selection of

participants for each panel and has the final say as to who participates. She recruits students each year to participate in the panels as well as one or two students from among current panel members to take on the role of court liaison. Several interviewees explained that under the counsellor's supervision, a senior student and panel member who has the title of Court Liaison selects a panel of 12 students prior to each court session. One former court liaison said they are careful not to assign the same people to the panel from one month to the next, to ensure that as many people as possible have a chance to take a turn participating on the panel. The list of names of participants on each panel that has heard cases is kept in a binder for future reference. The counsellor said that once the court liaison has drafted a list of participants to sit on the panel for a particular date, the counsellor e-mails a copy to all of the teachers at school to ensure the students can miss school that afternoon. Students can be replaced for a number of reasons, including if they have a test that day, a teacher feels they are not doing well enough in class to be able to miss it, or there is a potential conflict of interest between a panel member and a young offender whose case is to be heard that day.

In addition to ensuring that different students have an opportunity to participate in the panels, a few former panel members pointed out that another reason that the same group of people not work together repeatedly is that alliances could unwittingly be created. These alliances could then be used to pressure the rest of the panel to adopt their point of view with respect to a sentencing recommendation. This could have a negative impact on group dynamics. As Norman, 23, a former panel member who participated early in the program's existence, explained:

It was always a different group of people. We'd never get like two or three buddies on the same thing. Like I mean Jacquie was like the counsellor, school counsellor, so she knew who hung out with who and who's buddy was who's buddy so she never brought in like a group of four friends to hang with eight individual people – that wouldn't work...So it would almost be like eight individuals working against a group of four.

The counsellor and interviewees who have taken on the role of court liaison said that a number of factors are considered when putting together each panel. Using the list of names of volunteers, the court liaison tries to balance the panel's composition for gender and age. Panel members are in senior high school, grades 10-12, with a few grade 9 students being integrated into the panel during the latter half of the school year. The court liaison tries to select an even number of students from each grade (10, 11 and 12). In an effort to create a group dynamic that is most conducive to the task at hand, one former court liaison points out that it is also helpful to consider the personalities of the participants. She said she found that it was best to have a mix of both outspoken and shy people, bearing in mind that shy students often don't speak during deliberations. Given that the school is relatively small, the counsellor knows many of the students, their personalities, and whom they are friends with. This information helps her to try to compose the panels in a manner that would not likely lead to a potential conflict of interest between a panel member and a young offender they are helping to sentence.

While a number of students may know each other in a small community, not all of them are friends. The counsellor explained that in an effort to avoid a conflict of interest, anyone close to an offender (for example, someone they are dating, siblings, a family member, best friends) are not permitted to sit on the panel that will be recommending his/her sentence. Students who have a criminal record are allowed to sit on the panel as long as their case isn't being heard in court the same day. Two students who were interviewed in the course of this research stated that they had each bowed out of participating on the panel on one occasion when a cousin was appearing in court. One of them said he informed the counsellor before entering the jury room to deliberate that he had a conflict of interest and had to step off the panel because a case involved his cousin. He waited in the hallway during deliberations.

Since youth court is part of the circuit that brings a judge from Yellowknife to communities around the North, youth court is held every three to six weeks, A

few days before youth court is scheduled to be in session, the counsellor said that Territorial Court informs her whether the panel's services will be needed and sends her a copy of the court docket with the list of cases that will be heard. The counsellor approves the final composition of each panel and the list of panel members attending court is usually posted at the school a few days before as well. Since students miss an afternoon of classes in order to attend court, they must inform the counsellor if they have a test in class the same day that they are scheduled to sit on the panel so that they are replaced with another panel member.

Balancing each panel's composition for age and gender and bringing together different students for each panel who are not necessarily friends maximizes the possibility of students having different ideas and points of view represented on the panel. It also contributes towards having a panel composition that reflects the school's population. If panel members were all friends, a them-and-us mentality could develop, potentially diminishing the effectiveness of the panel in the eyes of the young offenders who appear before it as well as the rest of the student population. In practice, it is not always possible to balance the panel for age and gender. In addition, panel members hear cases during school hours. This means students who are having difficulty in school could be disallowed from sitting on the panel. To ensure the panel's credibility, it is important that its composition reflect the school's population as well as a diversity of students from one panel to another.

3.5 Confidentiality

As per Canadian law, young offenders cannot be identified outside of court. Prior to participating on their first disposition panel, interviewees said students are informed that they cannot discuss any of their cases outside the courtroom. Confidentiality must be maintained and the panel members are aware that they would be removed from the panel if they breach confidentiality. One interviewee said the privileged information they receive as panel members includes the length of a young offender's sentence, the nature of their offence, the name of the police officer who arrested them, what the judge said to them, what the panel

recommended and what anyone said in their defence. One former panel member believes that in most cases students who are not on the panel are likely aware of the offences and who committed them because sometimes the offender tells other schoolmates and the word gets around the school. However, students not on the panel may not necessarily be aware of the details of the case. Former and current panel members interviewed say confidentiality is respected. This is corroborated by the school counsellor, who says this has never been violated in the youth disposition panel's first seven years of operation. Participants seem to understand the importance of maintaining confidentiality. Quentin, 23, a former member who was on the first panels, said that another reason to maintain confidentiality is that a young offender could be ostracized by members of the community even after the sentence is completed. He believes this could be very damaging, even more than the sentence itself.

3.6 Types of offences

As we saw in the literature review, young offenders in the United States must generally consent to participate in teen courts and are referred by judges, police, probation officers and school officials. However, the referral of cases to the Hay River Youth Disposition Panel for a sentencing recommendation is solely at the presiding judge's discretion. This is because peer sentencing is not a diversionary program in Canada as it is in American teen courts. Most teen courts handle cases where the offender has pleaded guilty, whereas the Hay River Youth Disposition Panel sees cases of young offenders who have pleaded guilty as well as those who have been found guilty by the youth court judge.

Almost every interviewee indicated that the Hay River Youth Disposition Panel makes sentencing recommendations in cases of break and enter. Many also mentioned alcohol and drug-related offences such as underage drinking and driving under the influence of alcohol. Other offences over which they mentioned having made sentencing recommendations included theft, vandalism, breach of probation conditions (such as skipping curfew), destruction of property, and

minor assaults. As with its American counterparts, the panel is not involved in more serious offences such as sexual assaults, attempted murder, and murder.

The types of cases in which the Hay River Youth Disposition Panel can become involved are similar to those seen in American teen courts, with a few exceptions. In a survey undertaken by Butts and Buck (2000), most teen court programs said they “rarely” or “never” accepted youth who had previously been referred to a teen court. This would eliminate repeat offenders who have already appeared before their peers. It is also important to note that not all American teen courts are created equal. Some states have legislation allowing teen courts to handle certain types of drug offences while others do not. Since the Hay River Youth Disposition Panel operates within the regular justice system rather than as an alternative to it, cases are referred by the presiding judge. This means the panel does not consider school disciplinary problems but it does consider parole violations, drug offences, and repeat offences. This means it has the potential to see a wider range of cases, including more serious and repeat offences, than some American teen courts. But without the potential for net widening, a concern that has been raised about the fact that some defendants referred to American teen courts might not have been prosecuted for their offence.

3.7 A typical day in court

According to the court staff in Hay River, youth court is held in the community on a Tuesday afternoon every 3-6 weeks and starts at 1:30 p.m. Since the court is part of a circuit that visits a number of communities, the judge and Crown prosecutor fly in from Yellowknife to hear cases. Hay River has a few local defence lawyers who participate. Since Hay River is one of three communities in the Northwest Territories to have court registries, the court clerk, court reporter and bailiff are also from the community.

Current and former panel members said that on the afternoons that the youth disposition panel will be hearing cases, students who are to participate gather in the concourse of the high school just after 1 p.m. and walk over to the courthouse

together. The courthouse is just across the street from the school. Before entering the courtroom, the counsellor gives the students a quick briefing that lasts a few minutes. She reminds students that everything they will hear in court is to remain confidential, she tells panel members which cases are to be heard that day and checks to make sure there is no conflict of interest with panel members serving that day. A few interviewees mentioned that students could also ask questions since there is no opportunity to do so once inside the courtroom. Norman, 23, a former panel member, says the counsellor would also remind the students what their role was as panel members:

She'd always tell us too, you're gonna end up with people here you know or maybe even people you hung out with before but you know we have to put our personal feelings aside and we have to understand that they're here for a reason and so are we. We are here to view them as persons on trial for whatever and depending on what the judge decides you have to go from there.

Besides reminding students of their role, a former panel member believes that these short meetings helped students focus on attending court rather than other things happening in their lives. As Simon, 23, a former panel member, said:

Because we obviously knew there was a level of professionalism and that expectation that when we entered that courtroom that we were going to act responsibly and that meant no fighting, pushing, shoving, yelling, all those kinds of things that are not unexpected with a group of high school kids. But that just kind of get the focus on. So we went over as a unit, sat down as a unit, behaved as a unit and proceeded with the court from there as a unit.

Students enter the courtroom about 10 minutes before the scheduled 1:30 p.m. start time and take a seat in the jury box. Interviewees reported that before court begins, as officers of the court and members of the public continue to enter the courtroom before the judge's arrival, the counsellor reminds students not to swivel in their chairs, don't fall asleep, don't look bored, pay attention, and sit up straight. She also gives each panel member a copy of the docket of cases being heard that day and tells them which ones they may be called upon to give a sentencing recommendation. They explained that the docket lists the name of each

accused appearing in court that day and the offence(s) they are charged with. Some afternoons in court could last as long as 2 – 2 1/2 hours.

While panel members sit in the jury box, the senior panel member who acts as court liaison says he sits in the gallery with the audience and the counsellor. Current and former court liaisons said they attend every youth disposition panel session, taking notes about the details of the case in the courtroom as they are being presented. The notes that are taken in court include information about the life and background of the accused, where they live (at home with his mother and father?), the nature of the offence, whether it is a first or repeat offence, whether or not they attend school. These notes are brought into the jury room for panel members to refer to during deliberations, particularly if panel members have forgotten a detail. A former court liaison said that if, for some reason, the counsellor is not in the courtroom before proceedings begin, the court liaison's duty includes checking with the judge whether the docket has changed since it was issued several days earlier. This is a task the former court liaison says she only needed to perform on one occasion.

Students said once the judge enters the courtroom, he acknowledges the panel's presence and welcomes them. A former panel member recalls that Judge Halifax would sometimes ask if there were any new panel members present. If in the affirmative, he would take a few moments to briefly explain how the court and panel were going to proceed and some of the cases for which they could be asked to make a sentencing recommendation. Then the court clerk would call the first case and youth court would get under way.

Panel members sit quietly in the jury box listening to the Crown prosecutor and then the defence lawyer present their cases one at a time. Interviewees said that sometimes, before the details of a case are presented to the court, the judge or the Crown prosecutor indicates that the particular case might be referred to the youth disposition panel for a sentencing recommendation. This alerts the panel that they

need to pay particular attention to that case as it was being presented. The Crown uses the arrest report prepared by a member of the Royal Canadian Mounted Police to present his case, including how the offender behaved during the offence and arrest. Then the defence lawyer enters a plea on behalf of his client and offers his client's point of view of events. Discussions ensue between the two lawyers and the judge, as the young offender stands by silently. The Crown prosecutor recommends a sentence for the young offender. As Francis, a 17-year-old court liaison commented, the Crown gives "a pretty detailed report" of how the young offender behaved during the offence and arrest. "It's almost like a video the way they describe it." Sometimes the defendant is asked questions as well.

Current and former students say that once the presentation of the case has been completed, the judge addresses the panel and sometimes indicates the types of sentences allowed by law. This gives panel members a starting point for their discussion on an appropriate sentencing recommendation for that particular case. Then he asks the panel to go into the jury room behind the courtroom to have a discussion and return with a sentencing recommendation. An adjournment is called to allow the 12 panel members to retire for deliberations. Interviewees report that inside the jury room, panel members sit around a table while the counsellor takes a seat behind them, taking on advisory rather than a decisional one in the deliberations. Former panel members say the counsellor reminds students that they cannot be involved in sentencing discussions on a case if they have a relationship with the defendant. If they do, they must leave the jury room while that particular case is being discussed.

Then discussions get under way. According to participants, the panel relies on the notes the court liaison had taken, to remind them of the details of the case and assist them in making their recommendations. Students can ask questions of the counsellor if they don't understand some aspect of the case, legal terminology or legal issues. Members share their feelings about the case and what they think the sentence should be and a discussion ensues. Deliberations usually last about 10

minutes, but can take as little as five and as much as half an hour because panel members could propose a number of different suggestions that the panel needs to consider. Everyone indicated that sentencing recommendations have to be unanimously agreed upon before they can be presented. Once an agreement has been reached as to the sentence the panel wishes to present to the judge, the court liaison and the counsellor write it down along with a justification of why the panel is making that particular recommendation. These justifications could include the fact that the offender is a heavy or frequent drinker, misses a lot of school, or is a repeat offender. One panel member volunteers to read out the panel's recommendation to the judge in the courtroom. The same person does not necessarily perform this task each time. Sometimes the same person presents all of the recommendations made that day, but other times students take turns from one case to another the same day. It depends on how comfortable they feel standing up in court to read the recommendation.

When the panel returns from the jury room, members take their places in the jury box and, according to participants, the judge asks them if they have come up with a recommendation. The student who has volunteered to be the spokesperson stands up and addresses the judge. "Yes, your Honour. We the youth disposition panel recommend that X receive (sentence) due to the fact that (reason)" and reads out both the sentencing recommendation and the justification for it. Sometimes the judge asks for clarification if he is uncertain or unclear about an aspect of the recommendation. One former panel member mentioned that if the student was having difficulty responding, the counsellor could sometimes help by offering an explanation. After reading out the recommendation, the court clerk takes the paper on which the recommendation is written and hands it up to the judge on the bench. The judge thanks the panel member and the person sits back down. The young offender is present in the courtroom when the panel reads out its sentencing recommendation, so is able to see the offender's reaction to it.

Several interviewees said the judge considers the panel's recommendation, comparing it with his own thoughts on the matter. Sometimes he agrees with the recommendation, but other times he modifies it if he feels it is too lenient or too severe. If he agrees with the recommendation, he indicates his agreement and announces the offender's sentence. If he disagrees with the panel, he explains why, amends it and announces the final sentence. This concurs with the information the judge provided during his interview for this study. Sometimes he modifies the number of community service hours, the length of probation or the amount of the fine that the panel has recommended for the young offender. The final sentencing decision remains with the judge, as the panel's role is of an advisory nature. This is in keeping with the Canadian statutes, according to the judge. Then court proceedings continue and the next case is heard. The panel hears and discusses one case at a time. As court proceeds, the court liaison writes down the panel's recommendation and the offender's final sentence on a copy of the court docket. This sheet is then placed inside a binder that is kept at the school and put away at the end of the day. As the youth court session draws to a close, the judge thanks the panel for their services.

Unlike in American teen courts, which tend to operate as a diversionary program, the Hay River Youth Disposition Panel plays an advisory role to the presiding youth court judge in terms of making sentencing recommendations. Being integrated into a traditional youth court allows the panel to potentially be involved in a wider range of cases than a diversionary teen court. The trade-off is that young people have a much smaller role in the Canadian adaptation of the American teen court, since they do not take on the roles of prosecutor, defence lawyer, court clerk and bailiff. As Heward (2002) noted, in some American states the jury's sentencing decision is actually a recommendation to the judge, who has the legal right to accept, modify, or reject it. This is similar to the way the Hay River Youth Disposition Panel operates.

Another similarity is that it retains a goal of using peer pressure to try to effect positive change on young offenders. Being included in youth court's operations gives the panel members a front row seat from the jury box from which to see how the Canadian justice system operates. Panel members said that during the panel's deliberations in the jury room, the counsellor sits in a chair behind the students rather than with them at the table. This offers them a physical indication that the counsellor plays an advisory role rather than a decisional one as a part of the panel. Once the panel returns to the courtroom, having a member read out the panel's sentencing recommendation in open court indicates the importance of its role in the sentencing process. It accords them a positive exposure and role within the criminal justice system. It also sends a signal to the young offender that his peers are condemning his law-breaking behaviour. By explaining to the panel why he is altering a sentence, the judge helps them to better understand the goals of sentencing.

3.8 Training for panel members

Current and former panel members agreed that they did not receive formal training to participate. Informal training for new panel members appears to have changed from the program's inception, evolving from greater involvement by the school counsellor and the former chief judge of the Territorial Court to more emphasis on new recruits learning from more experienced peers.

Some of the students who sat on the first panels in 1997 said they received an informal orientation to the program and youth court operations from the judge. He gave them a tour of the courtroom, jury box and jury room. He also visited the school and met with interested students before the project was launched to explain the goal of the program and how it would function. Simon, 23, a former panel member, recalls what they were told:

...each and every one of you are going to be working on this disposition panel that serves like a jury. So you'll be listening to what the court has to say and each of you will be taking what the court says into the back room and then you'll be discussing it. So each and every one of you will be responsible for retaining what

you're hearing. Be aware if you need to take notes because you're going to need to remember these things. This isn't something to take lightly obviously. So basically you'll be going to that back room and you guys will be working together to make decisions and recommendations about what the court should pass on to me, to what I should pass on to the individual.

They said the counsellor also held information sessions for students who had volunteered, to outline how the panels would function and its role in youth court, so that panel members would have some sense of what to expect before stepping into the courtroom. She would explain what would happen in court: lawyers would each present a case, the judge would decide if the accused is guilty or not. If guilty, the judge would outline the maximum and minimum sentences allowed for that offence under the law. Then the panel would retire to the jury room to discuss a sentencing recommendation before returning to the courtroom to present it to the judge. The judge would decide whether or not to adopt, modify or ignore the panel's recommendation.

While not all former and current panel members remember attending an information session, they all indicated that the counsellor held a short briefing before entering the courtroom. She would inform panel members which cases were on the docket that day, verifying that there was no conflict of interest with panel members that day. She would remind them about the need to maintain confidentiality, courtroom decorum (don't swivel the chairs in the jury box, no chewing gum, stay awake and pay attention to proceedings, sit up straight) and their role once they enter the jury room. She would also remind them to listen closely because they will need to hear every detail in order to help them make their sentencing decision.

Students said they received no formal training in how to conduct deliberations and make sentencing recommendations. Rather, this knowledge seems to be transmitted informally from senior panel members to their newer counterparts. Rebecca, 17, a current panel member, says that students in their senior year have

less time to sit on youth disposition panels because their workload at school increases, making it difficult to take an afternoon off school since that would demand several days afterwards to catch up on class notes and homework. This marks a period where new panel members, mostly from grade 9, are slowly integrated as grade 12 students are reducing their involvement with the panels. Panels are composed of at least four members who have more experience and a few new people so that new members learn about deliberations and sentencing by listening to and watching their more experienced counterparts. With new members joining the panel each year, grade 12 students who remain on the panels usually take on more of a leadership role in making decisions and recommendations during deliberations since they have more experience with what types of sentences have been recommended in the past for certain types of offences.

When Elizabeth, 17, a current panel member, joined the panel she recalls that she was told to observe how the panel functions and listen during discussions. More experienced members would show the younger ones what to do. Part of that learning process happened by example. More senior members would make sentencing suggestions during discussions and explain "...this is what we usually do, this is what we did last time, 'cause a lot of the offences that are the same." As Quentin, 23, a former panel member, explained: "Show them what to do, show them how to do it right." Less overt but equally important has been to demonstrate to newer members the importance of taking their new role seriously by behaving in a "professional" manner, as a former panel member put it. Senior members of the panel lead discussions so that younger members learn. One day, newer members will be experienced; they will then be the ones leading and teaching by example. This process allows students to learn about the justice system, judicial process and devising appropriate sentencing recommendations as they perform the tasks on the panel. Learn by doing. As they gain confidence in their abilities, they start to take a more active role in discussions, knowing that one day they'll be helping a new member through the same learning process they

experienced. As Gary, a current panel member, explains: "At first, you might tell a friend what you think and they'll say it out loud to the panel. Then you gain confidence and maybe next time you say what you think out loud. When you learn, you might do the same thing for another friend who is new on the panel."

A similar approach is adopted for training the students who take on the role of court liaison. During the youth disposition panel's first year of operation, the school counsellor handled the task of selecting participants for each panel and taking notes during the court proceedings. The following year she created the court liaison position and recruits one or two students from the panel to take the position of court liaison. Given that they will be attending every youth court session and missing an afternoon of school each time, the student needs to have good marks. Current and former court liaisons said the counsellor explains to them that they will be responsible for copying down the information about the case that is presented in court and that will be discussed by the panel as well as the sentence the young offender is ultimately given. The student they are replacing trains them for a few weeks; this includes accompanying them and the counsellor to court a few times to observe how the court liaison carries out his/her duties. They listen to the case being presented and watch to see what information the court liaison writes down. This means writing, listening, and being attentive. Once the initial training has been completed, the counsellor continues to sit beside the court liaison in the gallery of the courtroom during hearings.

One of the first court liaisons said she and the other student with whom she shared the role learned how to fulfil their duties by working with the counsellor and observing how she handled panel selection and what information she made note of during court hearings. The year the court liaisons were preparing to graduate, they trained someone else to take over their duties, just as they had been trained. They said they explained to their successor how to carry out the tasks required of the position and had the person accompany them to court to observe what information they needed to write down for the panel to refer back to during

sentencing discussions. Janet, 22, a former panel member and one of the first court liaisons, admits it was intimidating at first but got easier with time and practice.

We'd just watch Jacquie, what Jacquie did and then later on it was like okay here you guys go you take over. And then it was just like holy man we actually have to do this by ourselves?...After a while it was like a job. It was like when you first started a job; it's a little bit scary you're not sure what to do and then after you've done it for so long you know what to do.

A more recent court liaison said that being trained in this manner allowed him to know what to expect, so that he wouldn't be surprised or lost when he had to listen and write down information during hearings. Both panel members and court liaisons learn their roles by observing others. One distinction that sets their training apart is that most panel members have never set foot inside a courtroom prior to their participation in the Hay River Youth Disposition Panel.

The type of training that panel members and court liaisons receive differs from volunteers in American teen courts. Although the length and type of training teen court volunteers receive varies from one program to another, it generally includes information about court procedures, juvenile justice, evidence and case preparation, principles of sentencing and ends with a mock trial (Williamson and Knepper 1995; Lyles and Knepper 1997; Nessel 2000; Peterson and Elmendorf 2001). Given that Youth Disposition Panel members are not presenting youth court cases, receiving training in evidence and case preparation would not likely be of benefit. Panel members currently learn about court procedures, juvenile justice and sentencing principles by observing their peers in the jury room and court officers inside the courtroom.

Is the current approach of learning by doing sufficient or should students be given more formal training or an orientation? Former and current panel members were not in agreement. Alexandra, 23, a former panel member who participated in one panel during its first year of operation, believes students don't really need

training. “If you’re on a jury, you don’t get training before you go sit on a jury for real in a real court situation either. You go in there and discuss and deliberate and come out with it.” She says she doesn’t believe it is possible to prepare students for their role on the disposition panel. “I don’t think it’s something you can plan ahead for because you don’t know what’s going to happen. You don’t know in youth court what cases are going to be happening until you get there.” Janet, 22, a former panel member, joined the panel when she was 15 and subsequently became court liaison. She agrees with Alexandra that no training is needed for panel members. “We did OK without any training.”

Two other former panel members weren’t so sure. Doug, 24, participated three times on the panels during its first year of operation. He believes that panel members needed more training than they received, particularly in courtroom etiquette and procedures, the Criminal Code and the Youth Criminal Justice Act. It would have been helpful to have more information on the different programs and agencies of the justice system as well as the role and functions of the people who work within it. Doug believes the young people up on charges would benefit from the panel members’ increased knowledge and understanding of the criminal justice system and its institutions because panel members would be making more informed decisions. Quentin, 23, another interviewee who was on the earliest panels, had mixed feelings. Other than getting a weekend workshop, he said he was not sure what kind of useful training the youth disposition panel could receive. Perhaps a half-day to explain what is expected of panel members, the oath of confidentiality and what it means if you break it, how to examine a situation from different angles, and protocol and procedures in the courtroom. The jury is still out on this question.

Members of the Hay River Youth Disposition Panel learn as they perform their duties. The counsellor believes this is the most effective method for most people, who are visual learners. While most current and former panel members who were interviewed did not comment on the training they received, two of the 16

interviewees did express some reservations. They believed that more training on courtroom protocol and etiquette, the youth justice system, and sentencing approaches would be helpful.

3.9 Conclusion

Inspired by an American teen court in Arizona, the concept of peer sentencing was modified in Hay River so as to be able to operate in accordance with Canadian statutes. Unlike in the United States, where most teen courts operate as an adjunct to the juvenile justice system, the Hay River Youth Disposition Panel plays an advisory role to the judge in sentencing and is integrated within the judicial process of youth court. Despite these changes, the Hay River panels retain the original premise of trying to use peer knowledge of adolescence and positive peer pressure among teenagers to effect positive changes on the lives of young offenders by recommending more effective sentences.

The former Chief Judge, who brought the idea to the Canadian North, sought and received the support of staff and students before implementing the program. The support of members of the justice system and the community are essential for the program's implementation and operation. Students were recruited to join the panel by signing up. They volunteered themselves and any student was allowed to participate, regardless of whether they were a student leader or a young offender. Having interested students volunteer to participate, rather than handpicking who will be allowed to join the youth disposition panel, maximizes the chances of having a panel whose members are more representative of the student population ranging from student leaders to former young offenders. Just as the general population in a society is comprised of different cultures and subgroups, so, too, is the adolescent population. This diversity of backgrounds and experiences can enhance the panel's operations, particularly as it examines the facts of a case and tries to devise appropriate sentencing recommendations for each one. This is why it is also important that the youth disposition panel be balanced for both gender and age, as it is currently. Since young offenders can vary in age and gender,

having diversity on the panel means panel members are more likely to have people who understand the young offender's reality. Ensuring that the panel composition changes from one court session to another minimizes the possibility that alliances will be formed among some members of the panel that will pressure others into endorsing their point of view with respect to sentencing recommendations. It also likely adds to the panel's credibility because the diversity and rotation of panel members from one court session to another maximizes the chance that it will continue to reflect the school's student population in terms of both demographic composition and attitudes.

The types of cases in which the youth disposition panel can be called upon to make a recommendation are similar to those seen in American teen courts. However, there are a few exceptions. Unlike many teen courts, the youth disposition panel can - and does - get involved in cases involving repeat offenders, including those who have previously appeared before the youth disposition panel. The youth disposition panel can also handle drug-related offences, which not all teen courts can. But it does not get involved in school disciplinary problems. Cases can only be referred to the youth disposition panel by the presiding judge. This minimizes the possibility of net-widening, which is a concern that some authors have raised with teen courts.

Rather than receiving a formal orientation, training occurs using a hands-on, peer-centred approach where more experienced panel members model appropriate behaviour for their newer counterparts. New recruits are told about their role and courtroom decorum, but use listening skills, observation, and trial and error to learn about the process involved in making sentencing recommendations. Knowledge is passed on by more senior and experienced members, who share information about the types of factors of a case that need to be considered and the types of sentencing recommendations that have been made in the past for specific types of offences. With time, experience and the informal guidance of their peers, the newer members become more comfortable and knowledgeable about their

roles on the panel. As they become the most experienced panel members on the verge of graduating from high school they, in turn, mentor the new recruits. This gives the older participants a particular role and responsibility that could contribute positively to their self-esteem and self-confidence.

The Hay River Youth Disposition Panel operates within a regular youth court and two adults (the judge and the school counsellor) played a more active role at the outset. With time the program has become more peer-centred in its approach; a senior student has taken on the role of being court liaison, and others train and help integrate their younger peers into the panels. The school counsellor remains in a more advisory role. The disposition panel uses peer knowledge, peer influence and peer modelling to try to have a positive impact on participants on both sides of the courtroom and in the community.

The information that former and current panel members offered during their interviews for this study is consistent with that which was previously available through written documentation such as newspaper articles and background information supplied by the office of the Chief Territorial Court judge of the Northwest Territories. In fact, their contributions complement already existing information and helps fill in the gaps in knowledge about how the Hay River Youth Disposition Panel operates. This chapter has taken a descriptive look at how the youth disposition panel operates in order to better understand how this innovative approach to sentencing young offenders functions within a Canadian context. The next chapter will examine the experience of panel members, from their motivations for signing up for the panels, to sentencing deliberations, and the perceived impact of participating in the peer sentencing process.

Chapter 4:
The experience of participating in the
youth disposition panel

4.1 MOTIVATIONS FOR JOINING THE PANEL

Most current and former members of the Hay River Youth Disposition panel who were interviewed said their role provided them with their first opportunity to enter a courtroom and see firsthand how the Canadian criminal justice system works. They often cited more than one reason for joining the panel, but the interviewees' motivations tended to fall into three types of categories. Self-centred reasons were manifested as an opportunity to miss school, a search for status through access to privileged information and a role normally accorded to adults rather than adolescents, the chance to be with their peers, or the desire to learn more about the possibilities of pursuing a career within the criminal justice system. Knowledge-centred reasons were expressed as a desire to learn how the criminal justice system operates and community-centred motivations were marked by a desire to make a difference in the lives of their peers and their community. It must be noted that most participants in this study were a hybrid of two or three categories of motivations. Few people's motivations fall exclusively into one type.

Thirteen interviewees indicated that self-centred reasons played a role in their decision to participate in the youth disposition panels. Seven of them were influenced by the involvement of friends or a sibling who were participating in the panels. Four of them were peer counsellors at the school when they were recruited to join the panel during its initial phase. Although most students on the panel were not peer counsellors, Doug, 24, a member of the first panels, says the peer counsellors played a key role, helping with the information sessions that were held to talk about the youth disposition panel that was then a new project. Some of his friends were also peer counsellors. Signing up to participate on the panels would give them a chance to work together. The social aspect was one reason, though not the most important one, for Doug's participation. He says he thought "This will be cool and fun and I get to hang out with some of my friends and do something new and interesting." The other three interviewees were not peer counsellors, but said a number of their friends were joining the panel. Their participation gave the seven current and former panel members an opportunity to

spend time with friends and heighten their sense of belonging since they would be part of a recognized group within the school that has a defined role - that of member of the youth disposition panel.

Six of current and former panel members were partly motivated by the self-centred chance to miss an afternoon of school, but sitting in court wasn't quite what they had expected. As Marianne, 23, a former panel member, commented: "Sometimes it was just as boring as school." Rebecca, 17, a current panel member pointed out that students who miss the afternoon are still required to catch up on the class notes and homework they missed because they were sitting in court. It is likely that the opportunity to skip half a day of school may have attracted more students to sign up for the panels than if court had been held after school. However, having to spend some of their own time to catch up on notes and homework would likely dissuade an individual's repeat participation if the opportunity to miss school was their sole motivation for joining the panel.

Four current and former panel members among the 13 who mentioned self-centred reasons, pointed out the panels provided them with an opportunity to see if they would want to pursue a career in the Canadian criminal justice system. Being on the youth disposition panel would allow them to step inside a courtroom for the first time and take a closer look at the field to see if it would be a good fit; this first-hand experience would give them a "taste test" they might not be able to access otherwise to evaluate their career options. As Janet, 22, a former panel member explained "Some kids just signed up just to get the afternoon off of school. And you'll get that everywhere...myself, I was really interested in it because eventually that's the kind of work that I wanted to do." She wanted to work with youths as a counsellor or a probation officer. She did subsequently work some shifts at an open custody facility until staff positions were cut back in preparation for eventually closing it. Another one of the four who were interested in a career in criminal justice hoped to become a member of the Royal Canadian Mounted Police. He saw his participation on the youth disposition panel as an

opportunity not only to learn more about the justice system, but also become involved in the field while still in high school. He eventually applied to the RCMP but was not able to meet their medical requirements. For this subgroup of individuals who wanted to learn about the criminal justice field, being a member of the youth disposition panel gave them the opportunity to investigate what a particular career might entail before investing the time and energy to pursue a particular field of study.

Four of the current and former panel members who mentioned self-centred reasons for participating saw being on the panel as a chance to gain a special status through access to privileged information and a role normally accorded to adults rather than adolescents. Privileged information includes the nature and circumstances surrounding the offence, who arrested them, the length of an offender's sentence, what the judge said to them, the panel's sentencing recommendation and what was said in their defence. Four current and former panel members who were interviewed said that although this wasn't their only reason for joining the panels, it did influence them even though they knew any details they obtained in the course of their duties on the panel would have to be held in confidence. "You can't talk about it, but you feel important because you have access to information other people don't," says Quentin, 23, a former panel member. Norman, 23, also a former panel member, admitted that part of his reason for volunteering was a chance to have access to the details of youth court cases that he might not have otherwise and, as he explained, separate fact from rumour:

Because of course when you're a kid too you hear different stories like I heard so and so robbed the store and had a handgun and da da da da da, and it turns out he got caught for shoplifting a stick of gum or something like that. You don't really know until of course you actually go and see this.

Rebecca, 17, a current panel member echoes his sentiments. She says she wanted to "see what kids do to get themselves into trouble." Even though the privileged

information cannot be shared, having access to it gives participants a sense that they have a special status as keepers of that information.

Nine interviewees were motivated to join the panel for knowledge-centred reasons, a curiosity about and desire to learn how the criminal justice system operates. They had an interest in the justice system and were looking to take advantage of an opportunity that was presented to them to gain first-hand knowledge about it. As was mentioned earlier, many interviewees stated that their participation in the disposition panels was the first time they had set foot inside a courtroom. When presented with the opportunity to participate, more than half of the current and former panel members interviewed said they signed up because they wanted to learn more about how the Canadian criminal justice system operates. Being able to sit in a courtroom and watch lawyers present their cases and an offender be sentenced provides youth disposition panel members with a hands-on opportunity to watch the justice system in action. This type of experiential learning can be a more effective method than the passive approach of sitting in a classroom taking a course on the Canadian legal system, points out former panel member Tamara, 22. "Instead of just hearing about it, I would rather experience it firsthand, like actually be there and see how everything runs." Marianne, 23, a former panel member, echoed similar sentiments. She was taking a law course at school and thought the hands-on experience of being inside a courtroom might help her better understand and complement what she was learning in the classroom. For former panel member Wendy, 18, her desire to learn more about the criminal justice system was connected to the fact that her father was a justice of the peace. She saw her participation on the youth disposition panel as an opportunity to spend time in the courtroom learning firsthand about her father's area of work.

Four former panel members said their participation was influenced by community-centred motivations, which were marked by a desire to make a difference in the lives of their peers and their community. All four were student

leaders in high school at the time of the disposition panel's inception. They saw joining the panels as an opportunity to hold young offenders accountable for their actions by condemning the negative behaviour of some of their schoolmates and hopefully making a positive impact in stopping the law-breaking behaviour. They wanted to make a positive difference in the lives of their peers and in their community. Former panel member Simon, 23, joined the disposition panel during its inception and wanted to support the project because he saw it as an opportunity to have a say in what was happening and was hoping to have an impact in some small way, either on young offenders going through court proceedings or to send a message to other students that they would be held accountable by a panel of their peers for law-breaking behaviour. Doug, 24, who was also on the panel when the program was first launched, was working at the community's youth centre and says he crossed paths with a number of his peers who were incarcerated. He believed there were other ways, besides custody, to deal with youth crime and saw his participation on the disposition panel as an opportunity to share them. "Personally, I thought I had a lot of really positive, exciting ideas and ways for them to work or pay back their debt to society in some positive ways because I dealt with kids on a daily basis and that was my job, right?" he said.

Lianne, 24, a former panel member, joined the disposition panel during its first year of operation along with a number of her friends. She explained that bad behaviour has a negative impact on students' environment and also makes other teenagers look bad in the eyes of adults in the community. She and her friends were "fed up" with some of their peers' lawbreaking behaviour and thought they could make a difference by condemning it. She said that she and her friends on the panel felt that having peers condemn negative behaviour might make the negative behaviour more unacceptable in the young offender's mind, particularly given that they were being judged by peers they see at school every day in a small town. "...you have a group of bad kids which reflect on the whole group of all of you the same age....there are some positive influences you can have, and you don't often have the opportunity to do it, to have those influences," she says. She joined

the panel because she wanted to change the negative perceptions that adults tend to have of teenagers:

It's just a total opportunity to make a difference in some positive manner when a lot of the time there's such negative about teenagers and young people and, because you only often hear about the kid who broke into somewhere, or the kid who got caught with drugs, or you don't hear about the kid who got an A on science test, you don't hear about the kid who helped some other little kid off the street who fell off his bike, you know you don't often hear about the positives.

Like others who espoused community-centred motivations, Lianne saw joining the panel as an opportunity to make a difference in her community by trying to effect positive change on her law-breaking peers.

There were no differences between the motivations of current and former panel members, nor any along gender lines. The only discernible characteristic was that three of the four individuals who were influenced to join for community-centred reasons were male. However, this may well be a reflection that males tend to be more prominent in positions of authority, whether as student leaders in a high school or political leaders among the wider society at large.

The motivations that drew two interviewees to join the panel clearly fell into one category: one was knowledge-centred while the other was self-centred. However, most former and current participants who were interviewed cited more than one reason that motivated them to join the youth disposition panel; this means their motivations were a hybrid of two categories. Self-centred reasons dominated. Within this type of motivation, opportunities to interact socially and connect with peers played the most influential role. This was followed by the chance to miss school, the possibility of weighing a career in the criminal justice field and, finally, the status that could be gained by having access to privileged information. Knowledge-centred reasons, or the opportunity to learn first-hand about the criminal justice system, also played a role. Only four of the 16 interviewees were influenced to participate for community-centred reasons - a desire to make a

difference in the lives of their law-breaking peers and in their community. It is interesting to note that all four of them were student leaders and became involved when the program was first launched in January 1997. This may well be an indication that student leaders were sought out at the outset because of their role as opinion leaders in the school, which was confirmed by the judge, a key informant.

The community-centred and knowledge-centred factors that influenced interviewees to participate in the Hay River Youth Disposition Panel closely mirror two of the program's four goals, as was outlined in the previous chapter. The Youth Disposition Panel provides students with (1) the opportunity to participate in the youth court process; (2) the experience of accepting responsibility within the justice system; (3) a better understanding of the justice system and how it operates; and, (4) an opportunity to influence young offenders through the positive use of peer pressure (Halifax, 1996). The self-centred motivations (social interaction with peers, missing school, assessing the possibility of a justice career and access to a special status) are not reflected in the program's goals. This suggests that participants are not necessarily influenced to join the panels because of the program's goals.

II. SENTENCING EXPERIENCE

4.2 Challenges of the sentencing process

Members of the youth disposition panel found that making sentencing recommendations was difficult for two primary reasons. The first one was the judge's expectation that panel members would take their role in a position of authority seriously and help reduce youth crime in their community. The majority of interviewees said they keenly felt the weight of having an "adult" responsibility resting on their shoulders as they made sentencing recommendations on the Youth Disposition Panel and spoke about the need to take their role seriously in order to meet what they perceived to be the judge's expectations. They perceived to have met them when they had their sentencing recommendations adopted. The second

important challenge was their acute awareness of the impact their recommendations would have on a young offender, particularly given and the small size and closeness of the community.

Carl, 23, a former panel member, says members of the youth disposition panel felt their role was important because the judge acknowledged them when he entered the courtroom, would ask for their sentencing input and paid attention to them in court. Former panel member Tamara, 22, said being on the panel made her feel as though she was a part of the court staff. At the same time, she was very conscious of the role and responsibility with which the panel was being entrusted and wanted to show the judge they were taking it seriously.

You know it's like you're taking your own adult role you know. You want to be serious and show that you take it serious. I guess that's the main thing that I felt is that I had to show that I was taking it really seriously and that you're not just there to, you know, give them a great big sentence or laugh and talk to your friends. You weren't going in there to chat with your buddies. You were going in there to take on the experience and see what was going on. You have to take it seriously. You can't not.

Like others, Tamara was clearly concerned about making a positive impression on the judge by showing him the panel members were taking their role seriously and handling it responsibly to ensure that he would see the youth disposition panel as being an asset to the court. As she explains: "You want the judge to know that having a youth disposition panel is a good idea and that members are taking it seriously. Otherwise he won't want to have youth involved." Rebecca, 17, a former panel member, echoes the importance of proposing well thought out recommendations to the judge. "...you have to make sure your recommendations are educated and good or else he wouldn't take them into account at all, and the disposition panel would be useless."

The panel would give their recommendation and the reasons for it to the judge in court. These justifications could include, for example, the fact that the offender is a heavy or frequent drinker, misses a lot of school or is a repeat offender. The

judge was not required to accept the panel's recommendation, but according to a number of interviewees often did. Sometimes he would adopt it as is, while other times he might modify it by, for example, adjusting the number of community service hours, length of probation or amount of a fine. Elizabeth, 17, a current panel member, said the judge would let the panel know if he disagrees with a recommendation and explain why. Gary, 17, a current panel member, and Janet, 22, a former panel member both said that having the judge adopt the panel's recommendation gave them a sense of pride because it indicated the panel was doing a good job. Rebecca, 17, a current panel member enjoyed the judge's approval. "It's kinda neat to see like such a powerful figure taking into account what a bunch of kids say, kinda thing, to think that they're intelligent enough to make a good decision on something like that."

Norman, 23, a former panel member, remembers the judge's reaction when the judge thought a sentencing recommendation was completely inappropriate. A youth had been charged with vandalism using rocks, so the panel recommended that, as part of his sentence, he teach young children how to paint rocks. Students on that panel quickly saw that the impact of an inappropriate suggestion was not only the judge's disapproval. It also damaged their credibility, making the judge question their ability to provide him with reasonable and appropriate sentencing recommendations:

...the judge just looked at us like we were retards and dismissed the idea and was pretty pissed after that...So basically we kind of ruined it 'cause I think there was two other cases after that and he didn't really take into account anything else after that....I think there was three before and he actually used some of the ideas that we presented, but then they came up with the rock thing and that just, he thought we were just joking....so he basically trashed it and gave the kid some probation and some community service and sent him on his way...to me it didn't seem like he was, almost like we soured him on the whole situation 'cause he didn't really seem too gung-ho about us after that. He wasn't using our ideas or anything like that.

One of the challenges facing members of the youth disposition panel stems from trying to devise and recommend an effective sentence for young offenders, particularly given their concerns about the impact on the youth in question and the expectations that they will play a role in reducing youth crime in their community. Former panel member Alexandra, 23, was worried about making the best sentencing recommendation possible and whether they had properly taken into account all possible factors surrounding the circumstances under which the offence took place and what led the young offender to commit it. The responsibility was felt most acutely when having to recommend that a young offender be incarcerated.

...like when I was there once we had to send someone into custody and that's a hard thing to do because maybe he was not in his right state of mind there and maybe he's capable of better. It's difficult...you don't want to get personally involved and feel like it's your fault that this guy's in jail or this girl's in jail or whoever it is. But at the same time it's hard.

Janet, 22 a Métis who is a former panel member, says she was particularly nervous the first time her panel recommended an offender be put in custody, because of the implications for the individual. "I was like whoa, because it's somebody's actual life that you're deciding...it was a lot of pressure knowing that you've got somebody's life in your hands, somebody's going to jail because you recommended it." She also remembers feeling sad about the outcome.

Simon, 23, another former panel member, said panel members sometimes felt sorry for offenders but also understood there were likely factors that led them to engage in law-breaking behaviour:

I mean here they are sitting at this giant desk before the judge with all the lawyers, with everybody in court and with us, 12 of their peers sitting up there. You can't help but feel that if you were in that circumstance or that situation, that you could really use an extra little bit of encouragement....We were dealing with a lot of break and enter cases and just things that should never have happened. But they did and that might've been because of the people that they were rolling with, it might've been because they were bored. It might've been because that's kind of been a pattern

for them. Regardless, there's a lot of things that bring them to that point. It's not like they just woke up that morning (snaps fingers) and said this is going to happen. There are probably a lot of circumstances and situations that led to that final outcome.

Even panel members who believed young offenders needed to be held more accountable for their actions agreed that making sentencing recommendations wasn't easy. Former panel member Lianne, 24, believed the Young Offenders Act was not holding young offenders accountable for their actions because sentences were too light. Nonetheless, she was concerned about the responsibility involved in going into the courtroom, having to sit in front of a peer to try to decide on the "right punishment" and was nervous about giving an "excessive" sentence.

Making sentencing recommendations within the context of a small community that has one high school with a population of about 400 students provided further challenges for members of the youth disposition panel. Hay River is a small community where many people know each other personally or by acquaintance. Norman, 23, a young aboriginal man who used to sit on the panels, said knowing the offenders increased the pressure he felt when recommending a sentence:

I mean you're sending someone to jail so it's kind of like, it's not exactly, I guess not the easiest thing. Especially with someone you know. I mean like I never had to sentence a buddy or anything like that but you know all these kids, you see them in school, you see them around. I mean some of them you play sports with, or sports against, things like that. So you know these people to a certain extent. Or maybe you party with them, who knows, play a card game with them whatever, but it's just not, it's not the easiest thing to tell someone you want them confined for nine months or however long.

Eight interviewees discussed the potential negative repercussions of being on a disposition panel and the reactions of offenders towards the panel members after being sentenced. Three of them were former male panel members, whose comments simply described the reactions of the offenders they observed. The other five were all young women, who expressed fears about possible retaliation by offenders whom they helped sentence. Former panel member Alexandra, 23,

found the most difficult part of the sentencing process was the moment when the panel would emerge from the jury room and announce their recommendation to the judge as the offender would watch. That was because she knew living in a small town meant she would have to face them again at school or on the street. She was particularly concerned that the person would "hate" her and confront her for her role in helping to sentence them.

The worst part is the coming out of the jury room and saying what you decided the fate of this person for the next year or two. What you've decided while they're standing there in front of you obviously upset and it's hard not to feel sorry for the person.... And they look at you when you come in. You come in one by one and they see you and they look at you...Small town. You know who they are. They know who you are. It's not like uh Toronto, you walk in there, you've never seen the person before, you say, you feel bad because you still have some emotion but then you walk out and never see the person again. The person, well if they're in the young offenders facility here you still see them, they still come to school. You still see them when they get out walking down the street. Every time you see the person you think back to when you walked out of the jury room.

Janet, 22, a former panel member, said she was particularly nervous the first time her panel recommended an offender be placed in custody. She was partly concerned that the accused would be angry with the panel members for recommending his incarceration and look for revenge after he had completed his sentence. Although she didn't experience any problems, it's a fear she continued to have with other cases because some of the teens the panel played a role in sentencing would attend the same school as her and other panel members. "My biggest thing was always (that) I hope they're not mad and aren't going to say anything. I've never had anybody confront me about the panel or anything. So that was good."

Former panel member Lianne, 24, was also worried about such repercussions as being threatened by offenders who had appeared before the panel with her. But she also felt that being one member on a panel with a group of 11 other students

provided some sense of safety in numbers because everyone on the panel is collectively responsible for decisions that are made:

...nobody wants to stand alone, like twelve voices is bigger than one, and you're not the only one saying it, so you, it kinda takes the weight off yourself, you don't really have your own personal involvement, you're part of a group that is doing this, so there's a sense of security in a group.

She thinks the panel's collective decision-making approach would make it more difficult for an offender to blame one specific person for his sentence. Nonetheless, current panel member Elizabeth, 17, recalled the stress she felt when dealing with the case of a young offender whose mother was also her teacher. She said it was one of the hardest cases she has ever been involved with because it involved her teacher's son. She worried about her teacher's reaction to the sentencing recommendation for custody and community service, but Elizabeth said she didn't experience any problems as a result.

As stated earlier, the three male interviewees who spoke about the reaction of offenders did not express concern about possible retribution. Rather, their comments were restricted to making observations about the young offender's behaviour in court. Quentin, 23, a former panel member, said that on a few occasions he noticed the offender glaring at the panel members inside the courtroom, but nothing more. There was no retribution or retaliation against panel members who had recommended a sentence to the judge in their case. Quentin thinks the offenders knew that the judge would react swiftly to any threats or confrontations. "I think the kids got the point that if they would have even tried, (Judge) Halifax would've been very, very protective of the disposition panel and you would've been screwed twice as long." Judge Robert W. Halifax and the school counsellor concur. The former Chief judge said he believes young offenders "got the message the judge would be climbing all over them" if they tried to intimidate panel members. The counsellor said panel members were told to speak up if an offender ever threatened them. To her knowledge, retaliation has

never been an issue. No student has ever brought threats from offenders to her attention.

Members of the youth disposition panel found making sentencing recommendations challenging for a variety of reasons. They were keenly aware that they were being given a role and responsibility not normally accorded to youths. They felt it was important to demonstrate to the judge that they were taking their role seriously by making appropriate sentencing recommendations that were adopted by the judge. Given the role entrusted to them, panel members were concerned about ensuring they met the judge's expectations, validating their role and proving their worth to the judge and the community. Another reason that panel members found sentencing challenging was because of what can best be described as the intimate nature of having a peer sentencing program in a small community. Panel members were acutely aware that their sentencing recommendations could affect the lives of their lawbreaking peers and potentially alter them – for better or worse. This was especially difficult given that they knew many of the young offenders they were helping to sentence and often crossed paths with them at school. Several mentioned that custody was especially difficult because they would be significantly curbing a peer's freedom. Panel members also worried about being able to devise and propose an effective sentencing recommendation that would help prevent the young offender from recidivating and reduce youth crime in the community. This stemmed from a belief that they had been included in the sentencing process to help curb youth crime in Hay River. Even panel members who believed young offenders needed to be held accountable for their actions worried about ensuring they gave an effective and appropriate sentence to their peers. Young women were also more likely than their male counterparts to worry about possible repercussions and revenge by young offenders they helped sentence. This is particularly a possibility in a small community like Hay River, where there is only one high school and students know one another. However, this has never occurred, both interviewees and the key informants report. One interviewee believes the young offenders got the

message that the judge would be made aware of any attempts to intimidate panel members and could prolong the young offender's sentence.

4.3 Factors influencing sentencing recommendations

When members of the Youth Disposition Panel sit down in the jury room to discuss a case and decide upon a sentencing recommendation, the four types of factors interviewees said they must consider are: offence-centred, offender-centred, the legal context and, finally, peer knowledge.

The nature and seriousness of an offence, its impact, the extent of the offender's involvement, his/her behaviour at the time of arrest and the factors and circumstances that may have led the young offender to break the law are all offence-centred factors that current and former panel members say they consider in the sentencing process. Seven participants mentioned the nature and the seriousness of the offence was a key factor in assessing sentencing recommendations. As Wendy, 18, an aboriginal woman who is a former panel member explained, if a young offender is charged with breaking & entering, the panel will take into consideration what the person stole and what damage they made while committing the offence.

Six interviewees indicated that panel members examine the factors and circumstances that may have led the young offender to break the law. Quentin, 23, a former panel member, said some of the questions panel members would examine during sentencing discussions included: What is the offender's home and family life like? What is the offender's degree of emotional stability? Has the offender suffered a recent trauma that could explain his actions? Is the offender from a broken home? Are they at risk, suicidal or depressed, or did they likely commit the offence because they're from an affluent family and are looking for a "thrill". Did alcohol or substance abuse play a role in committing the offence? What teens do they hang out with and does it appear that they were influenced by a peer to commit the offence? Is there any history between the victim and

offender involved in the offence? Another factor was whether the offender acted alone and whether they might have been influenced by another member of their peer group. Norman, 23, an aboriginal man and former panel member, said the panel would consider whether the offence was committed in a group and who was the likely ringleader. Although the offenders were tried separately, panel members knew from the information provided in court that the offenders acted together. He recalled how his cousin's case was handled:

I know when my cousin was on trial he was on trial with two other people but they were all being tried separately. So if he came up to his thing and then after that the other two people came up one by one. And we knew that, well basically my cousin was like the ring-leader, everyone knows him, so we knew that he is usually the instigator and well both of these kids were basically - the reason why it happened was more than likely more to do with him than it was with them, so I think we went a little bit easier on them as opposed to him 'cause we knew he was gonna do it again and maybe they had a chance kind of thing.

Four interviewees indicated that a young offender's behaviour towards arresting officers also play a role in sentencing. Francis, 17, a current panel member, explained that a cooperative attitude towards arresting officers suggests the lawbreaking behaviour may have been a one-time, random act. However, resisting arrest indicates the lawbreaking behaviour is likely a recurring problem.

A second type of factor the youth disposition panel considers is centred on the offender. This includes whether they are first time or repeat offenders, their age, the degree of remorse they demonstrate for their law-breaking behaviour and their character and social situation. Whether or not the accused was a first-time or repeat offender was at the top of the list, having been mentioned by 9 of the 16 study participants. Marianne, 23, a former panel member, said the panel would know if the person was a repeat offender because the judge would ask the accused in court "You were here for this before and you got this long" or "Aren't you still on probation because of this?" referring to a previous offence. Elizabeth, 17, a current panel member, said the panel recognizes the need to sentence first-time offenders who "messed up," but will not be as harsh with them as they would with

a repeat offender. She agreed the panel is harsher on repeat offenders because it is deemed the person hasn't learned from their previous lawbreaking experience before youth court not to re-offend, and the panel hopes a harsher sentence will have an impact. Former panel member Marianne, 23, agreed the panel needed to be harsher with repeat offenders in an effort to try to rehabilitate them and prevent recidivism:

I don't think any of those kids had fun being there, but some of them just don't learn. You know and eventually there has to come a point where somebody's really harsh with them and they have to learn and that's what we tried to do with people who had been back time and time again...So these kids do these things and you just keep saying community service or you know probation or you just keep giving the same, they get used to that. Oh who cares you know I'm on probation, who cares. But if you make them actually take the time to sit down and actually write a sorry letter to these people and you know pay back these people and actually spend some time thinking about this in a facility or something, like Young Offenders or whatever, they'll learn more I think. I think he'd learn faster. You know obviously if you give this person probation time and time again they're not going to learn from it. You gotta be a little bit harsher on them.

The degree of remorse the young offender appears to display in court would also influence the severity of the disposition panel's sentencing recommendation. Elizabeth, 17, a current panel member, said their remorsefulness was evident in their courtroom demeanour. If they speak respectfully towards the judge and other officers of the court, this suggests they will take their sentence seriously. If they are slouching, dressed badly and behave in a defiant manner, as if they don't care, they may need a more severe sentence to understand the importance of abandoning their lawbreaking behaviour. As Elizabeth explained:

We look at the way they act in court. If they act, if they come to court dressed nice, they're like I'm sorry, and the way they look at the judge and the way they speak to the judge, the way they talk to their lawyers. You look at the way they respond to everything 'cause I mean it's easy, you can see it. Characteristics of the kid. He comes in he's slouched. It's like yeah, whatever judge you know. And then there's the kid who's like yes sir, I understand that sir. And they treat it with respect. They know that they were stupid.

Marianne, 23, a former panel member, agreed that a young offender's defiant attitude is evident in his body language in court. A "bouncy" walk and defiant "I did it" attitude were some of the behaviours panel members would observe:

Like you could just see them in court. Like literally they would stand up and walk up to the front. You know, the big swaggered walk and they'd walk up there and they'd have the whole attitude and sit down like this, you know (laughing). And you'd just know. Like you just know and they're just like yeah I did it type attitude right. And then when their lawyer's talking they're just rolling their eyes and looking at the ceiling. Yawning. The whole body language of, you know, I don't care. Like I'll do it again. It's basically, you pick up a lot on their body language. Like teenagers have body language like you wouldn't believe. (laughing) And you pick up on that. And that's how we would know.

Their courtroom behaviour was indicative of the degree of remorse they felt for their actions or the degree of responsibility they took for their lawbreaking behaviour. Panel members believed offenders who took responsibility for their actions were deemed less likely to re-offend, explained former panel member Alexandra, 23. "...like know they did wrong and feel like they're going to fix it or are they repeat offenders who if you don't do something they're going to do it again." Simon, 23, another former panel member was one of the four interviewees who raised this as a criteria used in sentencing decisions. He recalled a drinking and driving case in which the accused didn't appear to show remorse for his behaviour. The panel recommended a heavier sentence because they wanted to show him they were condemning his behaviour and trying to prevent it from continuing.

The youth disposition panel also relied on peer knowledge to make sentencing recommendations. This included familiarity with the offender and the realities of being a teen, in addition to using the panel's past recommendations as a benchmark. As noted in the previous chapter, the student who fulfils the role of court liaison maintains a binder that includes information on every case in which the panel makes a sentencing recommendation to the judge. The court liaison brings it to each court session. As Francis, 17, the current court liaison explained,

panel members can use it as a reference, if needed, when discussing a sentencing recommendation in the jury room, although it isn't used frequently. "It can be particularly helpful if the panel is facing a tough case, for example, that of a repeat offender," Francis said, "so we have evidence to back it up and are not just giving random sentences." He recalled that the panel relied on the binder in one case where the person had been to court several times and not everyone on the panel was familiar with the offender's record. The panel went through the information in the binder pertaining to that offender and described some of the cases in which the panel had made a sentencing recommendation, describing the person's behaviour and whether they completed their sentence. Former panel member Tamara, 22, pointed out this benchmarking isn't always as overt as consulting the court liaison's binder. Sometimes she would think back to the outcome of previous cases that were similar in nature. "I just used past experiences to scale it where on the scale this person should be placed kind of," she explained.

As previously discussed, being familiar with an offender can be a drawback for panel members. However, four interviewees perceived familiarity with young offenders to be an advantage when trying to make a sentencing recommendation. They believe this perspective would give them a broader picture of the individual. As Norman, 23, an aboriginal man who is a former panel member explained, this familiarity allows the panel to recommend a sentence that is more personalized to the needs and situation of each young offender who comes before them. He said some of the information that panel members might know and find relevant includes the offender's home situation, whom the young offender hangs out with and whether "...he's a guy who just hooked up with the wrong buddies one weekend and did something stupid and we may know that he is for the most part a good kid who usually doesn't hang out with these kids that he's hanging out with and getting in trouble." Doug, 24, a former panel member agreed:

Sometimes we knew the kid, sometimes we didn't. So knowing more about the kid helped us make better choices and decisions on what kind of things we could maybe get this kid doing that might

help him in the future, some consequences that are maybe going to make him think twice about this thing again. So we needed some more information about what his life was like.

Rebecca, 17, a current panel member, said background information about an accused is particularly helpful for understanding whether a young offender's lawbreaking behaviour was the result of an ongoing situation or an unusual act. They use familiarity with the offender to evaluate the person's behaviour within a larger context:

I don't know more than the adults, but like I know the kids a little more up there, so then I kinda know their personality and what they're always like. And if I can, if I know that they're a nice person, and that they just happen to get drunk and they got caught, and then I don't think that they should be punished that much because obviously it was a mistake. They probably won't do it again. But if it's a kid that I've seen do this numerous times, and hasn't got caught before and he finally has got caught, well then I'm gonna say that he deserves to face the consequences of his actions...I guess adults don't see everything that goes on. 'Cause they're not always there. Kids go to the same parties as other kids and they see everything, so that's how they know.

Norman, 23, also believes the types of sentences the panel could propose differed from a more "general" and "by the book" approach that a judge might give.

Norman explained the panel's approach:

The judge would just hand off the regular community service and probation and three months in jail and whatever it is. But we'd be like, okay well we know he comes from a broken home so he's probably having some parental issues or something like that. So maybe we should look into him seeing a counsellor about that or we know he's been drinking a lot. Or he just started drinking in the last year and you know, he obviously can't control it so maybe he should see an alcohol counsellor about that 'cause clearly he's having a problem with it. Things like that that normal people wouldn't see every day. Like I mean you could commit thirty thousand crimes but it's not a crime unless you get caught and basically there's under age drinking every day, probably every day of the week. So that's a crime being committed that no one ever sees. So I mean that's like one thing that, as teenagers you would see it every day. You would know if this kid was showing up to school drunk. The teachers don't always know. They might have an idea, but they wouldn't always know.....No one knows about it. But

we would because they come to school the next morning and say 'oh man we got so wasted last night.' So we'd be like 'oh okay.' And they'd done that for the last like twenty-one of the thirty days.

Simon, 23, a former panel member, said that knowing offenders can also yield information about whether the type of behaviour for which they are being charged is ongoing or not. He explained that in the case of a first-time offender, it was the first time their peer was caught by police but not the first time he had committed the offence for which he was being charged.

....it's like in any kind of social group. You hear and see a lot of things that are going on within that group and so we would see the continual drinking and driving from this one individual. It would be taking place every weekend. Multiple times on a weekend and seeing that it was dangerous. If I didn't see it, one of my buddies saw it, and so I heard about it through him or I had first contact with it as well. There were a number of times where I was almost hit by a vehicle, by a snow machine in my vehicle when I'm driving and he's jumping over the road. So it was a lot of those kinds of things that we'd all seen. So it was very much common knowledge among the youth that this was something that was taking place.

Several interviewees believe that having a disposition panel might not be as effective in a larger community precisely because panel members wouldn't necessarily know the individual who is being charged. Consequently, they could give the person a sentence that might be too harsh or too lenient. As Quentin, 23, a former panel member commented, panel members in a large city wouldn't know the accused "from a hole in the wall" and whom they associate with. This would deny panel members the ability to offer inside background and knowledge that could have an impact on sentencing. He said that while the judge is knowledgeable about the law, panel members could provide knowledge about the offender.

..the majority of the panel knew all the kids forwards and backwards. They knew who was doing what, what their favourite colour was, if they were drinking and driving. Who helped them break into little Jimmy's house. You know, word travels in a small town. And that's why it's so effective here, is because the minute something happens, within 24 hours, you know who did it.

Unlike other interviewees, former panel member Alexandra, 23, was a dissenting voice. She believes the intimacy of a small community puts the offender at a disadvantage because panel members have likely heard a story that has been circulating around the school about what happened before the case even gets to court. "You know, like, if they broke into a store in town, you know exactly what happened. It's a small town," she says. Knowing each other also means panel members may have formed their opinions about the person before they hear the details of the case in court. This can affect the sentence the panel recommends, putting forward a harsher one for someone who is not as well liked. "You know who it is. People make their judgements in high school a lot on who the person is, whether you like them or not, not on what they did." She recounted the story of someone she knows who was caught for driving under the influence and had been known to engage in this behaviour before he was first charged. It was the first time he was caught, but the panel recommended a heavy sentence that included having his automobile and pilot's licence suspended. The presiding judge agreed, but the decision was subsequently overturned on appeal. This has raised questions in Alexandra's mind about the potential negative impact of familiarity with the young offender:

With the guy I know, the situation where if you don't like the person are you giving him the sentence for not liking him or are you giving him the sentence because that's what they deserve, truly deserve in this situation. So knowing them plays a huge part. Same thing opposite. If you really really liked somebody, are you giving them an easier time because 'oh, well they're an OK person. They're nice. Or are you giving them what they really deserved and what's best for them for the situation.

But several interviewees said panel members weren't allowed to include personal feelings about the offender in sentencing discussions. Should any be raised, the counsellor would step in to put a stop to it, one of them said. As Norman, 23, pointed out, personal issues, problems and encounters with the accused were not allowed to factor into the decisions.

They see him spit on a kid or see him be not nice to someone or something like that. And that isn't what he's on trial for so we can't use that against him other than the fact that we know that's how he

acts, which is different....And then we were supposed to be unbiased about personal issues and leave them behind and be putting him on trial for what he was on trial for...

A number of panel members who were interviewed believe familiarity with the accused helped provide them with a broader context within which to evaluate the young offender's behaviour - information to which a judge might not have access. However, they also appeared to understand there was a fine balance to walk between using personal knowledge and personal issues they may have with the young offender.

The legal context was the final set of factors that members of the youth disposition panel would consider before making a sentencing recommendation. More specifically, the sentence the Crown prosecutor proposed for the offender, and the minimum and maximum sentences allowed for each offence under the law. The Crown prosecutor's proposal was made in court, but former panel member Alexandra, 23, said information about legal sentencing was made available to the panel either by the presiding judge or the school counsellor who oversaw the panels. The counsellor would also tell the panel about the range of sentences they could give, including community service, fines, restitution and custody. Alexandra credited her with helping panel members understand some of the limits of sentencing in each case, limits that are important to observe, given the degree of responsibility with which panel members are entrusted:

Well I've never read the Criminal Code or anything like that. I probably didn't know the Criminal Code existed back then. So you need some guidance in the room telling you that it's not normal to give somebody 10 years for their first break and enter or something like that. Even adults don't get 10 years for their first break and enter...Like you don't want to give outside what you can give because you're put in somewhat a position of power. You don't want to abuse the power.

When trying to devise an appropriate sentencing recommendation, members of the Youth Disposition Panel consider factors that are offence-centred, offender-centred, the legal context and, finally, peer knowledge. Offence-centred factors

include: the nature and seriousness of an offence, its impact, the extent of the offender's involvement, his/her behaviour at the time of arrest and the factors and circumstances that may have led the young offender to break the law. Offender-centred factors include whether s/he is a first-time or repeat offender, their age, degree of remorse they demonstrate in court through body language and actions for their law-breaking behaviour and their character and social situation. Peer knowledge was also brought to the table during sentencing discussions, including familiarity with the offender and the realities of being a teenager as well as the panel's past recommendations. Familiarity with the young offenders offered panel members the opportunity to view the person before them as an individual and propose a sentence that was tailored to that person's situation. As one former panel member said, they could suggest a sentence that wasn't as "general" as what a judge might give. This personal knowledge is why some interviewees believed a youth disposition panel might not be as successful in a city or larger community, where there is more anonymity among teens because of the sheer size of having a large population. However, one former panel member cautioned that familiarity could be a double-edged sword; she suggested an offender who is not well-liked could be given a harsher sentence than one that is more popular. Several interviewees stated that the school counsellor, who takes on an advisory role in the jury room during sentencing discussions, ensures recommendations are made based on the facts of the case and that personal feelings are discarded. The final type of factor the youth disposition panel considered in making sentencing recommendations was related to the legal context. That is, they would examine the Crown's sentencing recommendation as well as the minimum and maximum sentences allowed under the law for each offence being discussed. Collectively, this lengthy list of factors would be used to try to determine a fair and appropriate sentencing recommendation for their peer.

4.4 Sentencing goals and nature of recommendations

As we saw in the previous chapter, the types of offences that interviewees said come before the Hay River youth disposition panel include break and enter, drug

and alcohol-related offences such as underage drinking and driving under the influence of alcohol, theft, vandalism, breach of probation conditions (such as skipping curfew), destruction of property, and minor assaults. As with its American counterparts, the panel is not involved in more serious offences such as sexual assaults, attempted murder, and murder. The range of sentences that current and former panel members mentioned using include: community service, custody, restitution, fines, probation (with such conditions as a requirement to attend school), curfews, apology letters, essays, counselling and suspension of the offender's driver's licence.

According to Article 718 of the Criminal Code of Canada, sentences have six goals:

- (1) To condemn illegal behaviour;
- (2) To deter the offender and others from committing offences;
- (3) To isolate the offender from the rest of society, if deemed necessary, to protect the community;
- (4) To promote the reintegration of offenders into the community;
- (5) To repair the harm caused to victims and the community;
- (6) To hold offenders accountable for their actions and for them to take responsibility for their lawbreaking behaviour.

These goals are directed at adult offenders. However, current and former members of the Hay River Youth Disposition Panel often articulated similar goals for sentencing. The main difference appears to be their addition of the goal of rehabilitating the young offender. Former panel member Doug, 24, was a member of the first disposition panels when the program was created. He was part of a group of students who met with the judge who initiated the panels. He remembered the judge telling them he wanted the students to take a restorative approach to sentencing, focus on deterrence and on finding ways to heal young offenders to prevent repeat offences. "...Instead of incarcerating the kids, let's give them something that's going to teach them a lesson....Not to be harsh or anything

but you know what I mean. Just so he thinks about next time he's going to go do that same thing."

The sentencing goals and recommendations of members of the youth disposition panel are punitive, rehabilitative or restorative in nature. A punitive approach includes punishment and condemning the offender's behaviour. Interviewees perceived custody as being more punitive in nature, often reserved for repeat offenders. As Carl, 23, a former panel member explained, imposing jail time doesn't benefit society but "hopefully" teaches the young offender a lesson so that he doesn't harm society again. Current and former panel members appear to reserve a more punitive approach for repeat offenders because they are deemed not to have been rehabilitated following previous brushes with the law. This emphasizes the need for an effective sentence that is meaningful to the offender, said former panel member Tamara, 22:

I think that they need to get something that's going to actually affect them and something they're actually going to learn a lesson from. If it's just, you know, go clean garbage for an hour, you don't learn from that.

As current panel member Elizabeth, 17, explained, sentences tend to get harsher with each successive offence. Many interviewees saw custody as more of a sentence of last resort usually reserved for repeat offenders. When faced with a repeat offender, panel members deemed that less serious sentences, such as fines, community service and probation - to which the young offender had been sentenced in previous cases, hadn't been effective. She added that the panel also believes that a young offender who shows remorse for his actions indicates that they understand the negative impact of their actions and take responsibility for their behaviour. This indicates they understand their lawbreaking behaviour is unacceptable and can be rehabilitated. Norman, 23, a former panel member, said the panel would also sometimes come down hard on a first-time offender who had committed a "semi-serious" offence to send them a signal not to pursue a life of crime:

I remember talking about that a couple time too was that we thought if we hit him hard right off the bat, I think we did that a couple times with first time offender who did something semi-serious, not really serious, instead of just giving them the light opening punishment, which I know happens a few times. Instead of doing that we felt that throw the whole book at him and let him get a taste of why he's doing it and why he shouldn't be doing it again as opposed to just easing into the criminal life.

A harsh sentence could also be recommended for a first-time offender who was known to have engaged in lawbreaking behaviour previously without getting caught. This was the case with a young offender who was being charged with drinking and driving for the first time despite that, according to interviewees, he had been repeatedly committed this offence before finally being caught and charged by police. According to Lianne, 24, a former panel member, the youth disposition panel recommended the offender lose his licence to drive motorized vehicles (including a car, all-terrain vehicle and snowmobile) as well as his pilot's licence. It was also recommended that he write an essay on the effects of drinking and driving and pay a fine. Although the presiding judge adopted the recommendation, the sentence was overturned on appeal. Seven years later, the same young man lost his arm in an accident that involved drinking and driving.

Two interviewees clearly indicated that making sentencing recommendations was *not* about exacting vengeance on the young offender. Alexandra, 23, a former panel member, says: "My belief is that justice is learning from your mistakes, you do something wrong, you should get another chance. Everyone gets another chance. It's not about someone did something wrong, let's attack them until they're, I'm going to use the analogy, beat into a little pulp." She favours a rehabilitative approach, believing that offenders should be punished for their law-breaking behaviour and be given a sentence that will allow them to learn from their experience:

Being on the panel made me see that these people aren't bad people just because they're there. They're there because they made a mistake. They have to pay for their mistake. They don't get away with their mistake. But you want to give them a sentence that's

suitable so they can learn from their mistakes and that you're not just locking them up for the next 10 years of his life and leaving him there because he did something wrong. You've got to have the opportunity to fix it, whether it's restitution, even just having to pay for the damages you make or community service. Learning to like your community so you're not going to break into the stores downtown or something like that.

She and other interviewees said an effective sentence that makes a link to the offence is an important aspect of holding an offender accountable for his actions in the rehabilitation process because it promotes learning and accountability. This, in turn, favours preventing recidivism.

You've got to make the sentence suitable to what happened. So I kid breaks into the library or something. Do you just give him jail time? A year in jail and probation or do you give him community service directly involving the library? Having him help out with maybe, helping out beautifying their building outside, maybe painting it and give him restitution to pay for the damages, pay for your mistakes. It's a big thing in society. You do something wrong, you pay for it, right? So what is best for the kid is it time in jail or making him directly involved in proving himself in the process.

The panel's efforts to link the nature of the offence with the type of sentences they would recommend appears to be particularly evident in the probation conditions the panel recommends. A teenage mother who was arrested for underage drinking and for resisting arrest was given a curfew. She was also ordered to apologize to the police officer for being rude. Ordering a young offender to write an apology letter to the victim was not unusual. A number of current and former panel members mentioned it during interviews as a possible sentencing recommendation. Former panel member Marianne, 23, thinks having to apologize would likely rate as one of the most difficult sentences for offenders. "I think the worse sentence for those kids to have was to write 'I'm sorry' and swallow their pride and say 'I was wrong' because as a teenager you're never wrong." When a young offender wrote an apology letter, the judge would read them before being sent to ensure they were appropriate and the person took responsibility for their behaviour and its impact on the victim.

Doug, 24, a former panel member said the panel would sometimes recommend a curfew in an effort to keep the young offender from recidivating. A young offender who tended to commit offences after 11 p.m. was given a 10 p.m. curfew as part of his probation conditions. He used an example to illustrate how familiarity with the offender can be an asset in making sentencing recommendations. "If you make a kid go into his house at 11:00 (and) he's in his house every day at 10:30 because he's always done that, then it's not much of a consequence..." Current panel member Francis, 17, agreed that a meaningful sentence plays an important role in an offender's rehabilitation: "...we know that if it's too little it won't be effective because it's sort of like doing chores at the house. If you don't get enough you won't really care. Sentencing won't do any good for you. So we have to make sure it's the best one possible." He said an effective sentence affects the young offender's decisions in the future, such as who they are friends with and whether to stay out until the wee hours of the morning. He believes some people are repeat offenders because they don't change their lifestyle.

Another type of sentence that several interviewees said tends to promote rehabilitation is recommending community service hours rather than having the young offender pay a fine. Community service, for which an offender is not paid, takes time to perform whereas a fine is quickly dealt with and can be paid by an offender's parents. Alexandra, 23, a former panel member, echoed the sentiments of other interviewees when she said that community service can be a deterrent if it is well-matched to the offence:

I know with community service you're actually in the community helping to make it, if it's planting flowers, let's say, you're helping to beautify the community. You're not going to go the next week and destroy all of the work you just did in vandalism because you know you're going to be right back there scrubbing off the building and planting flowers, cleaning up your mess. I think it helps if you're directly involved. Like b & e's are huge around here and I think if people were more directly involved, they wouldn't do it as often. If they're working at the store, are you

going to break into the store knowing you're just going to have to clean it back up in the store the next day? I don't think so.

Another reason that sentencing recommendations usually include community service is because it keeps offenders out of trouble while they're working off their hours, said Gary, 17, a current panel member. He explained that this is particularly important if they don't attend school because community service means someone is keeping an eye on them during the day. Four interviewees indicated that it took into account the social situation of an accused, such as whether or not they were a good student or had a part-time job. This was particularly the case when assigning community service hours. As some current and former panel members pointed out, a young offender who doesn't have a part-time job has more time on their hands to get into trouble, so it would be better to assign them more community service hours to perform as part of their sentence. Elizabeth, 17, says it's also effective because teenagers are more likely to care about having to perform 15-20 hours of community service without being paid for their work.

As part of the rehabilitation process, the panel would sometimes recommend that a young offender be ordered, as a condition of his probation, to attend school. Failure to fulfill this order would result in a breach of probation. Former panel member Janet, 22, pointed out that "...it was kind of an incentive for kids to keep going to school. They didn't want to breach their probation."

The youth disposition panel used a restorative approach to recommend sentences that would hold a young offender accountable and repair the harm that his actions caused. Janet, 22, said the panel would try to address the impact of an offence and build that into the sentencing recommendation. "Well if somebody did a break and enter in somebody's house, most of the time it was...like if they broke a window then we would recommend that they pay for the window and write up an apology letter and then we recommend community service hours." Lianne, 24, a former panel member, said the panel would try to think of a sentence that would

force a young offender to examine his/her actions. This could include having them do community service with the people who were affected by their lawbreaking behaviour. Several interviewees mentioned that financial restitution could be part of a young offender's sentence. Marianne, 23, a former panel member recalled that a young offender who had vandalized a parking lot was ordered to clean it up. In another case, a girl who broke into a restaurant was ordered to clean up the damage, apologize to the owner and serve jail time since it was a repeat offence. Doug, 24, a former panel member, recalled a case where a young offender had stolen a car and smashed into a fence.

Norman, 23, a former panel member, commented that panel members tended to fall into one of four groups in terms of their approach to sentencing recommendations:

I'd have to say there'd almost be four types of people in the group. There's your extremists, you had your soft people, you had your mediator, and then you had your passive people who would just kind of sit back and be the yes people who would just say yes to everything...and basically you had a couple people who would just kind of pull the group together like okay, I know you guys want this and I know you guys want that, but this is what we should do.

Most members of the Hay River Youth Disposition Panel articulated more than one approach to sentencing. Each sentencing recommendation tended to reflect a mix of approaches, although repeat offenders were more likely to be dealt with in a punitive manner. Interestingly, two of the seven interviewees who mentioned punishment as a sentencing goal were among the four Aboriginal or Métis study participants. Two of the four interviewees who mentioned repairing the harm that was done and making restitution were, again, Aboriginal or Métis. Although the sample is small, this represents a proportion that is higher than the number of Aboriginal and Métis people in the study sample. Their belief that punishment and repairing the harm are both goals raises the question as to whether this is a reflection of the dichotomy between Native perceptions of a European-based, adversarial and punitive system versus that of a more traditional Aboriginal

approach based on making reparations to victims and re-establishing harmony and balance within a community.

As we have seen, the youth disposition panel's sentencing goals and the nature of their recommendations tend to be punitive, rehabilitative or restorative in nature. The extent to which they lean towards a more punitive, rehabilitative or restorative approach tends to vary according to the outcome of the sentencing factors they consider during deliberations. For example, the panel tends to be more punitive with repeat offenders, whom it deems not to have learned from their previous brushes with the law. Particularly if the offender does not appear to show any remorse, another sentencing factor they take into consideration. They may be more inclined to focus on rehabilitation with a first-time offender, particularly if s/he seems to show remorse in court by being respectful of the proceedings and the courtroom staff and there may be some factors within the offender's social situation that may have played a role in leading them to engage in lawbreaking behaviour. These coalesce around the legal context, which means the Crown's sentencing recommendation and the minimum and maximum allowable under the law. If the youth disposition panel believes the young offender needs a harsher sentence to understand the impact of lawbreaking behaviour, it will be more likely to lean towards recommending the maximum allowable under the law along the continuum between the minimum and the maximum. However, it will be more lenient for a first-time offender who may have made a "mistake" and is deemed to have a better understanding that his/her lawbreaking behaviour is unacceptable.

The presiding judge set the tone from the outset, telling the first members of the youth disposition panel that he wanted them to take a restorative approach to sentencing and focus on deterrence to prevent repeat offences. It is likely this approach may have continued overtime for two reasons. First, the senior students on the panel have played a key role in teaching their less experienced counterparts how to devise appropriate sentencing recommendations that are more likely to be

adopted by the presiding judge. As this knowledge is transmitted, so, too, is the sentencing approach the chief judge initially suggested at the program's inception in 1997. Secondly, the presence of an adult counsellor in an advisory role during sentencing discussions can also play a role in ensuring the panel is not overly punitive in its sentencing approach.

4.5 Group dynamics

As we saw in the previous chapter, once the Crown prosecutor and defence lawyer have finished presenting their case, the youth disposition panel retires to the jury room behind the courtroom to deliberate before returning with a sentencing recommendation. Inside the jury room, the 12 panel members sit around a table and review the court liaison's notes to remind them of the details of the case and assist them in making their recommendations. The school counselor is also present in the room, playing a more advisory role. Students can ask questions of the counsellor if they don't understand some aspect of the case, legal terminology or legal issues. During the ensuing discussion, members share their opinions about the case and what they think the sentence should be. Deliberations usually last about 10 minutes, but can take as little as five and as much as half an hour because panel members could propose a number of different suggestions that the panel needs to consider. Sentencing recommendations have to be unanimously agreed upon before they can be presented. According to several interviewees, more senior panel members tend to take a leading role in the discussions. They use their experience with making sentencing recommendations to indicate to the newer panel members what factors to consider and what types of sentences are generally accepted by the presiding judge. The challenges that group dynamics raise are linked to the differing personalities and sentencing perspectives of participants. These must be addressed and worked through in order for panel members to meet the need for unanimous agreement on a sentencing recommendation.

While some panel members were shy, others were more outspoken, explained former panel member Alexandra, 23. This meant the opinions of more vocal students could sometimes prevail during disagreements if others didn't respond. "We get the loud people who say exactly what they think. There are three or four loud people," she says. "They're the same people that are loud at every school assembly, every classroom and they're going to be loud in the jury room too." This made her realize that she needed to overcome her own shyness and speak up in the jury room to defend her opinions.

When you're in a jury room if you're quiet and back, then you just get walked all over. You have to say what you think and you have to deliberate in there. Me, I found it very hard because I would sit back and I was disagreeing with things but if you don't say that you disagree with something then it goes on and carries on without you and things happen that you don't agree with and if you're on a jury you have to agree with the decision to be in there....You have to step up. You can't fade into the walls and pretend you're not there....You had to say look I don't believe what you're saying....Otherwise the three or four loud people out of twelve in there get what they think and that's it. You go back out and I don't think that's how it's supposed to work.

Carl, 23, a former panel member, said he was also nervous about expressing his opinions during discussions; he was afraid of having his ideas rejected. He added that he was not alone. A number of panel members would not speak during discussions because they didn't have any ideas for a sentencing recommendation or, like Carl, were too shy to express themselves. This highlights one of the challenges of working in a group: some participants are more outspoken than others. This creates a challenge of trying to ensure each panel member has their say during sentencing discussions. Carl said having friends on the panel made it easier for him to express his opinions and ideas in the jury room. Gary, 17, a current panel member, explained how the presence of friends on the panel can help a shy panel member overcome their hesitation about expressing their point of view. At first they might tell a friend what you think and then the friend will say it out loud to panel. As the shy person gains confidence, they will express themselves out loud.

Another challenge was the need to bridge the different sentencing perspectives to achieve a consensus on a sentencing recommendation. Janet, 22, a former panel member, recalled students sometimes needed a bit of prodding to get the discussion under way. Someone would make a suggestion, like recommending community service hours, and then others would speak up. Marianne, 23, a former panel member, explained how discussions tended to unfold:

We'd sit there and actually have an active discussion about what we think is best. Like we'd go around the table and ask everybody what they think and then we'd just kind of all agree on something. You know like say somebody says I think they should have to write an apology letter and we'd be like hey that's a good idea and right away we'd put that down. Well I think they should serve five months. Yeah but they had an offence before so I think they should serve nine. Yeah you're right. So we'd put that down. You know like we'd discuss. We wouldn't vote and we wouldn't argue about it. We'd just discuss it and put it all down.

The discussion would continue until panel members had agreed on a recommendation, explained former panel member Alexandra, 23. "You have to have one decision and when you've got twelve people in there, they don't all have the same opinion. So you argue back and forth, you've got facilitators and eventually you come to a decision that everyone agrees on - most people agree on. I can't say everyone agrees." She recalled compromising on how harsh a sentence to recommend in one case. This isn't unusual, says Francis, 17, a current panel member. During deliberations, some panel members favour heavy sentences while others prefer light sentences. The challenge is to try to find one that is in the middle and that will both satisfy everyone and be effective for the offender. More experienced panel members would sometimes let others know if they felt a particular suggestion being discussed was unlikely to be accepted by the judge. Occasionally discussions could get heated if passions for different perspectives ran high, said former panel member Norman, 23:

Sometimes when you like get your extremists versus your other people, there was arguing going on and voices get raised and tones get deeper and blah blah blah and so of course everyone's going to

start getting emotional. Not like overly emotional like crying or anything, but personal. 'He did this once.'

Norman explained how that could play out during discussions:

You just have your extremists come out, they'd say give him the whole works. And then you'd have your soft people were like whoa, you know, maybe you should take this down a little bit. And then you'd have someone in between them saying 'well this is what you guys think and this is what you guys think' and then behind him is all the people just going yeah. Do what you guys say. Do whatever.

Ultimately, disagreements would be bridged and the panel would reach a consensus on a sentencing recommendation.

Two factors maximized the youth disposition panel's effectiveness: the diversity of its composition and the presence of the counselor in an advisory capacity. As was outlined in the previous chapter, the student who acted as court liaison would try to balance the panels' composition for grade, gender and types of personalities (shy versus outspoken members). They would also ensure that the same group of students didn't work together repeatedly. As Norman, 23, a former panel member, explained:

We'd never get like two or three buddies on the same thing. Like I mean Jacquie was like the counsellor, school counsellor, so she knew who hung out with who and who's buddy was who's buddy so she never brought in like a group of four friends to hang with eight individual people – that wouldn't work.

As he explained, having a group of friends together on the same panel wouldn't work because they might team up and try to persuade as many people as possible to agree with them. "So it would almost be like eight individuals working against a group of four," he pointed out. Doug, 24, a former panel member, saw the diversity as a strength. He recalled participating in a panel with a number of students who attended his school but weren't his friends. One person had previously been on the wrong end of the law. "Not like a usual peer group where they all dress the same, look the same, act the same....it just brought up a lot of

different ideas and different concepts and different talking and different ways of looking at stuff.” Sitting on panels comprised of different types of people gave participants a chance to meet and work with different types of people outside of their immediate peer group.

Another factor that maximized the youth disposition panel’s effectiveness is the presence of an adult advisor. Interviewees said the school counsellor in the jury room during the panel’s discussion helps the panel members review the details of the case to ensure the information is clear and relevant information is considered, answers questions panel members may have and indicates the types of sentences the panel could give for the case being discussed. Interviewees said she wouldn’t tell the panel what to do, but, rather, plays an advisory role. She helped ensure discussions stayed focused on the issues, said former panel member Alexandra, 23. “Well if you’ve ever seen a room with 12 kids, it’s not always civil and professional when there’s nobody else around. They make sure it’s run smoothly, you have actual deliberation and you come to a final decision like most people do, that everyone agrees on. And that was her role.” The counsellor also helped facilitate and mediate during disagreements.

Like Carl, 23, a former panel member, most interviewees said the presence of an adult is needed in the room to point panel members’ discussion in the right direction and encourage students to express their opinion, Norman, 23, another former panel member, agreed:

Jacque was a good mediator that way. She wouldn’t let one group sway too much cause of course you’re gonna have your people in there who have your idea but are quiet and shy and won’t really come out and say it, but then you’re gonna have your people who are really pushy. Try to get their point across and want it to be done this way. And that’s the way it would work is it would come down to that. And she would just be kind of like well okay what do you think and then she’d bring other people who weren’t really involved into it a little bit at least. So that way we could get a bunch of different ideas and that should mix it together and come out with something anyway.

She also ensured students stayed focused on the relevant issues of a case, particularly if students got distracted by small disagreements that kept them from making a decision, Norman added:

Jacque would cut in and say ...he's not on trial for spitting on you two years ago or tripping you or whatever it was, but he's on trial for this. And you guys know what kind of person he is and you know whether this is gonna help him or not and that's what you're here for. Basically that's what she kept saying is that we were there to help the person. We would know, have a better idea of what was better for him as opposed to the judge, who's fifty years older.

Senior panel members tend to take a leading role in the sentencing discussions, mentoring the newer members on the factors to consider and the types of recommendations that are more appropriate for each case being discussed. Panel members must work through differing personalities and sentencing perspectives to reach a consensus on a sentencing recommendation. While some panel members are shy, others are more outgoing. Participants need to be conscious of these differences and address them to ensure that everyone is heard during discussions. Having a diversity of students on the youth disposition panel also means that different sentencing perspectives will likely be brought to the table. Some students will have a more punitive approach, while others will propose a more rehabilitative type of sentence. This is another gap the group needs to bridge. While diversity of membership could increase the amount of perspectives, it can also be crucial to ensuring its effectiveness by minimizing the possibility that alliances among some members are formed to lobby the rest of the panel to adopt their point of view. A second key to the panel's effectiveness is the presence of an adult advisor to ensure the information presented in court is clear, answer questions, keep the discussion focused and ensure that personal issues with the young offender are set aside.

4.6 Conclusion

The sentencing experience is a challenging one for members of the youth disposition panel. They have been accorded a responsibility that is seldom given to teenagers – that of helping a judge to sentence young offenders. Aware of the

hope and expectation of the judge and the community that their contribution will have a positive impact on their lawbreaking peers and reduce youth crime, panel members feel it is important to demonstrate that they are taking their role seriously. They want to validate their role and prove their worth in this unusual role. They carry out their role under the scrutiny of a judge and the expectation that they will be able to use their knowledge and familiarity with lawbreaking peers to help reduce youth crime and recidivism in their community. They also face the challenge of trying to propose appropriate sentencing recommendations within the context of a small community, where they are familiar with most of the young offenders who appear before them. They are clearly aware that their recommendations could affect the lives of their lawbreaking peers, heightening their desire to recommend an appropriate sentence that is neither too harsh nor too lenient. For some young women, there is the fear that young offenders they help sentence will seek revenge. However, interviewees and key informants say this has not been an issue.

Members of the youth disposition panel consider a variety of factors in their efforts to come up with an appropriate and effective sentencing recommendation. Offence-centred factors include the nature and seriousness of an offence, its impact, the extent of the offender's involvement, his/her behaviour at the time of arrest and the factors and circumstances that may have led the young offender to break the law. Offender-centred factors include whether s/he is a first-time or repeat offender, their age, degree of remorse they demonstrate in court through body language and actions for their law-breaking behaviour and their character and social situation. Peer knowledge, including familiarity with the offender and the realities of being a teenager as well as the panel's past recommendations, were also considered during sentencing discussions. Familiarity with the young offenders allows the panel to propose a sentence that takes into account the particular situation of an offender, such as character and social situation. The legal context, which means the Crown's sentencing recommendation and the minimum

and maximum allowable under the law, are also sentencing factors the youth disposition panel considers.

As they deliberate, panel members must also decide whether to adopt a punitive approach, one that focuses on rehabilitation or repairing the harm the offence created. The extent to which they lean towards a more punitive, rehabilitative or restorative approach tends to vary depending on such sentencing factors as whether the accused is a first-time or repeat offender. They may be more inclined to focus on rehabilitation with a first-time offender, taking a punitive approach with recidivists. A more rehabilitative approach that is focused on helping the young offender turn his/her life around appears to be passed on over time by senior students on the disposition panel who teach their younger peers how to devise appropriate sentencing recommendations that are more likely to be adopted by the presiding judge. In addition, the presence of an adult counsellor in an advisory role during sentencing discussions can also play a role in ensuring the panel does not adopt an overly punitive sentencing approach.

Senior panel members tend to take a leading role in the sentencing discussions, mentoring the newer members on the factors to consider and the types of recommendations that are more appropriate for each case being discussed. The group has a few gaps to bridge before it can reach a consensus on a sentencing recommendation. Panel members must work through differing personalities and sentencing perspectives; some students have a more punitive approach, while others will propose a more rehabilitative type of sentence. Maintaining a diverse composition on the panel will increase the panel's effectiveness by reducing the possibility of alliances being formed among some panel members to lobby the rest of the panel to adopt their point of view. The presence of an adult advisor is also key, because that person can make sure the information presented in court is clear during sentencing discussions, answer questions, keep the discussion focused and ensure that personal issues with the young offender are set aside.

III PERCEIVED IMPACT OF THE YOUTH DISPOSITION PANEL

The youth disposition panel was created in 1997 to give students the opportunity to participate in the youth court process and have the experience of accepting responsibility within the justice system; gain a better understanding of the justice system and how it operates; and, have an opportunity to influence young offenders through the positive use of peer pressure (Halifax, 1996). Interviews with current and former panel members indicate that participating in the youth disposition panel has an impact on them and is also perceived to have an impact on the young offenders who appear before them, other peers in the community as well as the judge and other court officers. This section will outline what impact and perceived impact the youth disposition panel has on each of the players involved.

4.7 Impact of participation on panel members

In keeping with the goals of the youth disposition panel, current and former panel members said their participation helped them increase their knowledge about the criminal justice system and gave them a positive role and voice in the community to express their opinions on youth crime. They said it also served as a deterrent to committing offences, exposed them to different points of view and types of people they might not necessarily encounter and humanized offenders in their eyes. It also helped some to increase their self-confidence and gave others a chance to see if a career working in the criminal justice system was in their future.

a) Acquisition of knowledge about the criminal justice system.

Twelve of the current and former panel members who were interviewed said that being on the youth disposition panel allowed them to learn how the criminal justice system works and how sentencing decisions are made. Carl, 23, a former panel member, said he learned how the justice system works because being on the panel was a hands-on experience where participants had to devise a sentencing recommendation for an offender.

Former panel member Alexandra, 23, admitted that before she participated on the youth disposition panel, her only knowledge about the criminal justice was what she saw on television dramas. “The structure is pretty much similar (to what is seen on television) but you don’t have the judge yelling or anything like that like you imagined in high school.” Marianne, 23, another former panel member, said she was motivated to join the panel because of her interest in such television dramas as *Law & Order*. However, “it’s nothing like the TV show though,” she said. She thought *Law & Order* was much more dramatic than youth court. “*Law & Order* is all about these murder cases and stuff and you’re like Wow. Or there’s like this person stole a car and it’s like wow, and then lawyers are like grilling them and stuff and your student panel, it’s like the judge giving this kid shit and that’s it.” She said youth court didn’t meet her preconceived notion based on television legal/courtroom dramas. It wasn’t as dramatic and she thought youth court was ‘kind of boring.’ She explained the difference between what she expected and what would actually happen in youth court:

That it was just gonna be this big dramatic lawyers grilling these kids and they’re gonna be like crying and freaking out like on the shows, but it wasn’t... It was just you know it was kind of boring. Like there was the kid standing there with their lawyer and the Crown. And the Crown is presenting stuff and then the lawyer’s presenting stuff. And then the judge is standing there giving the kid shit and then asking us what we should do with him. And then we go sit in a little jury room for I don’t know. We’d hear everything and then we’d go sit in the jury room and decide on every case what we thought was sufficient of a sentence or whatever.

She also discovered that “It’s very quiet and it’s very professional. It’s not like you would expect.” The vocabulary can be difficult to understand, the proceedings are formal, lawyers are respectful with each other, participants don’t yell at one another and are not rude. As Rebecca, 17, a current panel member said, “It’s very calm and polite.”

Janet, 22, a former panel member, was one of the interviewees who said she learned that the administration of justice and processing young offenders is more complicated than it might initially appear. “It’s not what it seems. You don’t just

get charged and go to court. There's a lot more to do with it. There's little investigations and stuff like that. I know that a lot of that happens and I didn't know that from when I first started it." Wendy, 18, a former panel member, said she learned that the judge is not the only person involved in dealing with offenders in youth court. A number of people including lawyers, a judge, clerk, police officers and the court reporter, are also involved:

...And they all come together on one case, like one person presents what happened, like a police officer to a judge. And then you know, like, and then there's someone who's typing it all that. So there's quite a lot of work that happens in a courthouse that was for somebody that was accused of doing something wrong. And then you also have the people on the disposition panel that listen to the cases. And if they are asked to come up with a disposition then you talk about it for a while... So I guess it's basically like it's a lot of people coming together to come up with a sentence for what's wrong with, or come up with a sentence for the accused person.

As she added, she didn't realize how much work was involved in sentencing someone, and believes many people don't realize it either. "...like I didn't realize that there was so much that had to be done just for one crime, you know? Like all this paperwork and plus like what the convict or whatever has to go through too. Like they have to come to court and they have to do a certain action that they were given from the judge..."

Being on the youth disposition panel showed participants that court was a process, said Simon, 23, a former panel member.

So when you see how the judge dealt with things and the sentences that he passed on or the repercussions of their actions in the courtroom, you would see that there was a process to it. Like a first time offender would get a little bit, second time, don't come in front of Judge Halifax a third time doing it again or breaking your probation again without expecting him to drop the hammer. You know what you're going to get when you walk into that courtroom with Judge Halifax if you're not making any kind of effort to change or do what you're supposed to do. He was very much an individual who would cut you some slack and give you the benefit of the doubt at times. But don't take advantage of that.

Simon said this is particularly important, given that adults' criticism of the justice system could leave youths with the impression that it doesn't function well and tends to give offenders lighter sentences than it should:

So I found that this really gave opportunity for us as youth to see why and how the system works the way it does and why there are things that we would consider loopholes, what is a loophole and what isn't. Sometimes, 'oh that person got away with murder,' if one of the kids got was asked to do community service hours or something instead of getting eight months in the slammer. Well maybe because open custody and eight months would be the best thing for that individual, not throwing them in. I think what it did is it said to the kids, said to us was what is going to be the biggest benefit for this individual.

Disposition panel participants said they also learned about such aspects as courtroom rules, etiquette and protocol, as well as the type of language used in court and the relationship between police officers, clerk, court reporter, the lawyers and judge. Former panel member Janet, 22, said being on the panel allowed her to get to know some of the justice workers. She admitted she was initially intimidated by the judge but learned to see him as an individual. "When we first started, he was scary at the beginning, looking at him. After I got to know him, it's just like joke around and stuff with him," she recalled. This humanized court staff and the justice system.

b) A positive role and voice in the community

Ten interviewees said that being on the youth disposition panel gave them an opportunity to be involved in the criminal justice system in a positive way, make a contribution to and have a voice in their community. This can empower them. Lianne, 24, a former panel member, said being on the panel gives teens an opportunity to perform tasks that adults do, including sit on juries, express their opinion and make positive changes in their community. It was satisfying to panel members that they were able to work together to make a decision and allowed to express their opinions rather than having something imposed on them. In that way, it encourages a sense of community and collective responsibility towards the community. Lianne felt a sense of pride at being part of something positive,

“something that all the adults talked about” and of doing something that was accepted by the adults. She had a sense of acceptance from adults and other peers on panels. The panel members got positive encouragement from the judge. There was also a sense of pride that they were part of something that was a first in Canada. As Norman, 23, a former panel member said: “It’s not too often when a kid gets put in that position. Where they can have an opinion towards a criminal and actually have it matter.”

For Marianne, 23, a former panel member, it was an opportunity to have a role of authority and a say in what was happening in her community. “If you’re a kid, it’s nice to have some authority...I have a say finally. I have a say that what this person did is wrong. Like it was nice to have that say is what it was. Yeah it’s nice to have a say, ‘cause you never get one when you’re that age. Like it’s a chance to have your say and that doesn’t happen very often.” As she further explained, she liked having someone ask her opinion on something rather than being told what to do.

In high school you don’t have any say about anything. You know it’s, well, we say when you’re going to class and we say when you’re doing this, and it was nice to go to the jury panel and have somebody ask our opinion about what we thought for a change instead of what they thought. I mean it’s not very often you get to say what you think. So we got our say to say what we thought and why we thought it and you know it was kind of nice to have our say. That’s about it. Like it was just nice to have your say because nobody listens to you when you’re a teenager. Well I have little sister who is fifteen and nobody listens to her so you know. I know where she’s coming from though.

For Simon, 23, a former panel member, being in an actual courtroom makes panel members feel important. “Most kids aren’t used to proceedings. They don’t even attend meetings that are properly functioning. So when you go into a courtroom and the court starts and you go through all the processes of calling out the names and all those kinds of things, it’s almost like putting on a uniform. You just kind of feel a little bit more important, that you’re having an opportunity to get involved with something like this and that it’s something official and that it’s

something with the government or whatever it may be. So on that level too it kind of gives kids insight into how things work and the importance of process I think.”

Tamara said that being on the panel made her feel important and like she was part of the court staff. Carl, 23, felt the same way because the judge spoke with the panel, recognized them, would ask for their input and pay attention to them in court as though they were part of the process and they mattered. It was more than having authority, it was the sense of respect panel members felt from the judge and other officers of the court, said Rebecca, 17, a current panel member. “The experience is kinda cool because you can have control for a little while, the judge kinda takes your opinion into consideration...It’s kinda neat to see such a powerful figure taking into account what a bunch of kids say, kinda thing, to think that they’re intelligent enough to make a good decision on something like that.” Janet, 22, a former panel member, said that respect extended to the court clerk as well. “She was a nice lady and she treated us like adults...if somebody had wrote something to the judge, like a letter saying that he’s sorry or whatever, she would give a copy to us and then a copy to the judge.” That extended beyond the courtroom, said Doug. “..if they saw us on the street they’d say hey you guys are doing a good job, keep it up “ That was supported by the judge’s frequent decision to adopt the panel’s sentencing recommendations, Janet said. “Knowing that what we recommended he pretty much always went by what we recommended. So that was a good feeling too. Knowing that our recommendations were good enough for him to use.”

c) Deterrence

Nine interviewees said their participation on the youth disposition panel has been a deterrent to committing offences for three reasons: they want to avoid the embarrassment of facing their peers and sitting in youth court has enabled them to see that their peers do get caught for committing offences. They also believe their presence is modeling positive behaviour for their peers. As Carl, 23, a former panel member, said, being on the panel might cause members to look at their own

behaviour. Rebecca, 17, a current panel member, said being on the panel teaches members that people will get caught if they commit lawbreaking behaviour. This can be particularly important if youths commit offences believing they won't get caught. Francis, 17, another current panel member, said attending youth court frequently in his capacity as a court liaison helped him realize how much youth crime there is in the North, particularly stemming from alcohol. A lack of activities in a small town, coupled with peer pressure and the use of drugs and alcohol can lead to youth crime and perpetrators getting caught. Sitting in court made Francis realize that he wouldn't want to get into trouble because people get caught because of police patrols. "There's always someone watching," he said. Once in court, panel members also see what types of sentences are recommended by the panel and adopted by the presiding judge. Francis said the presiding judge would be particularly harsh with youths who were repeat offenders, yelling at them and asking them what they were doing back in court when they said they were going to get better. "...You just didn't want to be in that seat when Judge Halifax was telling them," Francis said. "I've seen the judge's reaction and the sentences that are carried out and I figured there was no sense in getting in trouble 'cause I'd be up there against the judge and it doesn't look like fun. So it helps you realize that the law is there for good reason."

Another reason that interviewees said they wouldn't want to find themselves in youth court is to avoid the embarrassment of having to face a panel of their peers, who would hear the details of their lawbreaking behaviour. Janet, 22, a former panel member, said she would find it embarrassing to have to stand up and be sentenced by her peers and have them know the details of her offence and her sentence. It would deter her and she believes it could deter others as well:

If I was younger and I was bad, I wouldn't want to have to stand up there in front of my classmates and they're sentencing me and they're knowing everything what I did. So I think it was a good idea, it made, I don't know if it dropped the crime rate, I doubt it but I know that I wouldn't want to, if that happened to me if I had to stand up in a court room in front of all my classmates I wouldn't go out and do something again. That would be rather embarrassing...It might scare kids away from doing crimes, I

know, myself...like I said before I wouldn't be out breaking the law knowing that...and even if I did and then I had to stand up in front of all these kids knowing that if I break the law again I'm going to have to do it again. I don't know, that would keep me away from doing it.

Lianne, 23, another former panel member, pointed out that group acceptance matters to teenagers. She remembers thinking how embarrassing it would be to have to sit alone facing 12 people you go to school with. She wouldn't have wanted to be singled out after doing something wrong, something that would be embarrassing because of the need for group acceptance by peers. "If you've done something wrong and then you're all of a sudden told you have to go in front of twelve of your peers, I personally would be absolutely even more mortified than if I just had to go in front of like a judge, or one person."

d) Exposure to different types of people and points of view

According to seven interviewees, participating in the youth disposition panel gives members an opportunity to meet and work with students with whom they don't normally cross paths and associate with. Former panel member Alexandra, 23, said being on the panel forced her to talk to students she had never spoken to before. Doug, 24, another former panel member, said the panels gave him an opportunity to work with students who attended school with him but he didn't really know or talk to. The benefits of having panels comprised of different types of people is that panel members got a chance to meet and work with different types of people other than their immediate peer group. Many of his friends sat on other youth disposition panels. The group of students on the first panel in which he participated was varied and included two or three peer counselors and a young male offender who was on probation. "Not like a usual peer group where they all dress the same, look the same, act the same...it just brought up a lot of different ideas and different concepts and different talking and different ways of looking at stuff," Doug said. Having a young offender was particularly helpful because "he had some really good ideas on things that would've sucked for him."

The exposure to a diversity of people on the panel also increased participants' exposure to a range of points of view. Doug said that "...it really made for good conversation." He thought having different points of view was a positive experience.

I mean, if you were going to sit there with all your friends it's going to turn into you guys hanging out. It's not going to turn into a serious conversation about what needs to be done, which you can't really help because you all know each other and hang out with each other all the time. It's bound to happen. So I think that it worked out...it was definitely for the plus because it helped us focus a little better. It helped us stay on track and get our job done.

Simon, 23, a former panel member, said that experience teaches participants to look at both sides of an issue and not make up their mind based on just one aspect or information you initially receive. You ask questions to find out the whole story before making up your mind. As Lianne, 23, another former panel member pointed out, since everyone's mind works differently, panel members get exposed to different points of view and learn to be more open-minded about issues and differences of opinion and learn to think in different ways. They learn to come up with an idea that everyone is comfortable with. Alexandra, 23, a former panel member agreed that panel participants learn problem-solving skills and how to compromise as they work towards a decision. She said she gave in on how harsh she thought a sentence should be for one offender because she thought it should've been harsher than what the panel ultimately recommended. Former panel members Quentin, 23, and Tamara, 22, said being on youth disposition panels also exposes participants to people whose lives are different than their own, particularly young offenders.

e) Humanizes offenders

Three interviewees said being on the youth disposition panel helped to change the way they viewed young offenders. Alexandra, 23, a former panel member said it made her see them in a more humane light, as individuals who made different choices than her:

Being on the panel made me see that these people aren't bad people just because they're there. They're there because they made a mistake. They have to pay for their mistake. They don't get away with their mistake. But you want to give them a sentence that's suitable so they can learn from their mistakes and that you're not just locking them up for the next 10 years of his life and leaving him there because he did something wrong.

The result is that panel members judged their lawbreaking peers based on the various aspects of a person's life and the factors and circumstances that likely led them to offend in the first place. It taught them to focus on offenders as individuals and see things on a case-by-case basis rather than focusing only on the offence itself. Simon, 23, another former panel member, agreed that being on the panel forced members to look beyond first impressions and see the better side of young offenders, instead of seeing a "punk with a bad attitude."

I think that was one thing that the panel does a really good job at. I guess you could say it almost brings out the humanity of the person, that they're human. When you see them there maybe their attitude sitting in that courtroom isn't the punk that you thought that they were. Because I mean in high school a lot of people have the jump to conclusions kind of attitude about a person.

Seeing the young offender break down and get upset after being sentenced made the panel have more empathy towards the person and the factors in their life that may have contributed to their being in court. It highlighted to the panel that this person is human and the role the justice system can play in helping them to mend their lawbreaking ways, he added.

I think it definitely brings in the whole pity factor from like the perspective of the disposition panel, especially if you have a preconceived notion of who this person is. They're this hardened criminal and they don't care about anything or anybody and nothing affects them and they're a stone kind of thing. I think it just kind of brings in the reality factor to the panel and the people in the courtroom that these people are still human....I think that what it really did for me was just kind of showed the role that the justice system can play in the development of some of these kids that are kind of going through having troubles, having difficulties, getting into trouble, that like I said sometimes slapping everything at them and throwing them in jail and stealing every right and freedom they have that you can take from them, giving them a five

o'clock curfew may not be the best thing for them. So I think it just gives you a new appreciation of the way that the system works and like I said the fact that there is a system and that it's something that's in process, it's something that's always moving.

Simon said panel members sometimes felt pity for the young offender and began to understand some of the factors that might have brought them to offend.

We were dealing with a lot of break and enter cases and just things that should never have happened. But they did and that might've been because of the people that they were rolling with, it might've been because they were bored. It might've been because that's kind of been a pattern for them. Regardless, they're not in there, there's a lot of things that bring them to that point. It's not like they just woke up that morning (snaps his fingers) and said this is going to happen. There are probably a lot of circumstances and situations that led to that final outcome.

While seeing a young offender break down in court contributed to panel members seeing young offenders in a more humane light, it sometimes led panel members to second-guess their sentencing recommendation. Simon said they would wonder if they should've given the sentence they did, but the judge sometimes talked to students after a particularly difficult case to encourage them and reassure them that their decision was sound.

f) Improves self-confidence

Three interviewees said participation on the youth disposition panel bolstered their self-confidence. Alexandra, 23, a former panel member, said she learned to express her opinion and defend it.

When you're in a jury room if you're quiet and back, then you just get walked all over. You have to say what you think and you have to deliberate in there. Me, I found it very hard because I would sit back and I was disagreeing with things but if you don't say that you disagree with something then it goes on and carries on without you and things happen that you don't agree with and if you're on a jury you have to agree with the decision to be in there....You have to step up. You can't fade into the walls and pretend you're not there....You had to say look I don't believe what you're saying....Otherwise the three or four loud people out of twelve in

there get what they think and that's it. You go back out and I don't think that's how it's supposed to work.

Carl, 23, another former panel member, said having to come up with ideas and take a "leap of faith" to express them is a life skill whose benefits live on long after the participation on the panel. Simon, 23, another former panel member, said that being on the panel gave participants confidence in their ability to make decisions and connect with issues happening in the community and in people's lives. It also instilled confidence in their ability to be decision makers and have an impact and a sense that what they have to say is important, he added:

I think that it really instilled a new confidence in our ability to be decision makers and to have an impact that what we had to say actually makes an impact and what we have to say is important. I think sometimes that a lot of youth are afraid to say anything because they feel inferior. Be it to the elder people that are involved, or different groups and organizations and you'd see that when you had student council even going into say a district education authority meeting where you have the kind of people that are really kind of timid going before a town hall not really confident in I'm here because I'm supposed to be and I'm supposed to share information. It's kind of like well I don't have anything good to say. I'm just a kid.

g) The opportunity to consider a career in the justice field

A few students indicated that one reason they had joined the youth disposition panel was because they were considering a career in the criminal justice field. Quentin, 23, a former panel member thought it could give students a chance to see if they want to go into law. Norman, 23, a former panel member said he enjoyed the experience of being on the panel but realized it wasn't a career he wanted to pursue. "It wasn't my cup of tea that's all. It was something interesting to be a part of and just because the way it was our students were in there doing it. It was nice to be part of that but not something I'd want to actually step out and put on a suit and do it every day for the rest of my life." However, it strengthened the interest of Janet, 22, a former panel member. After she graduated from high school, Janet worked with the RCMP for 11/2 years, first in a summer student

position and then an office position. She also worked in the courthouse once a month doing justice of the peace court work, preparing probation and warrants forms for the judge to sign.

4.8 Perceived impact on young offenders and other teens in the community

Another goal of the youth disposition panel was to use peer pressure in a positive way to influence young offenders to mend their lawbreaking ways. As we saw earlier, in chapter one, peer pressure can play a key role in the lives of adolescents as they try to forge an identity of their own as they set out on the path of independence from their family. They begin to look at where they belong and as former panel member Simon, 23, said, the need to belong can be so great that some teens feel the need to belong to a group. Consequently, some align themselves with the wrong crowd – a group that engages in lawbreaking behaviour.

I found that was the case in high school with a lot of these groups that we saw that were either formed or forming, was that they were just people trying to find a place, some sort of place of belonging. So that I think that peer pressure in those groups belonging to either go this way, to get involved in that would usually land the kids, a lot of these kids in the courtroom. And so it was that peer pressure from those groups that they were in regardless of whether or not they were actually friends or whatever but just hanging out with them or on that Friday night or whatnot that would kind of push them into that.

The chief judge who launched the youth disposition panels in 1997 hoped to use positive peer pressure to show lawbreaking teens that there was another path to acceptance by their peers. Being condemned by peers, would, in turn, have an impact on other peers in the community by indicating that lawbreaking behaviour is unacceptable.

More than half of the interviewees mentioned deterrence as one of the perceived benefits of having the youth disposition panel. That is, they believe it plays a role in deterring some young offenders from re-offending and other students in the community from offending in the first place. Current panel member Francis, 17,

said he has seen “a lot” of students who went before the youth disposition panel and are doing better in school and staying out of trouble. This occurs because the panel uses peer pressure and the importance of peer acceptance among teens. As Simon, 23, a former panel member said, “That, I think, will strike fear into the heart of anybody, the peer pressure factor. So if peer pressure is what got you into the courtroom, then maybe peer pressure might be the very thing that can keep you out of it as well.” As Kaplan (1983) pointed out, peers play an important role in the lives of adolescents, providing a sense of belonging and acceptance as they establish an identity that is separate from their family. Peers set a standard of behaviour and individuals who don’t conform leave themselves open to disapproval and possible rejection by the group.

Janet, 22, a former panel member, believes that peer sentencing can be a deterrent for some teens because of the potential embarrassment of having to appear before a panel of peers with whom they attend school, a panel that leaves the courtroom knowing the details of the offence committed by the accused. Quentin, 23, another former panel member, agreed. He believes the youth disposition panel has made a difference and reduced youth crime in Hay River because students know one another, which has added to the shaming aspect of appearing before the disposition panel.

When you’re sitting in that chair, you’re sweating bullets when you look across and see all the people you go to school with. That makes it very hard to go out and do it again because you’re, eh, you’re embarrassed all to hell. Why do you want to do that?...Embarrassment is a better punishment than a lot of other things we came up because if you’re embarrassed to hell out of something you’re not going to do it again. Or you are less likely. Embarrassment is harsher punishment than standing before a judge and getting community service.

The second reason that interviewees believe the presence of the youth disposition panel is a deterrent is because it uses its knowledge of teen culture and personal knowledge of young offenders to recommend sentences that are individualized and more likely to be effective with their peers. Interviewees also indicated that a

sentencing recommendation from a panel of peers tends to be considered more credible than from an adult. Young offenders are more likely to fulfil a sentence that is the result of input from their peers, a group of people who understand the realities of being an adolescent. Doug, 24, a former panel member, says having a peer-recommended sentence adds an element of credibility that one coming solely from a judge can lack in the eyes of teenagers:

I think that holds a lot of water than coming from some stuck up judge with the big robe and sitting on his big chair. And who cares what he has to say. He's just an adult who doesn't understand. But kids who you go to school with and you see every day, they're saying what you did is wrong and you should belong in jail. That's a different story. I think that's part of the philosophy as well was that it may hit home a little bit more if it's somebody your own age. Especially teenagers, teenagers are all about other teenagers, right?...they don't have the ability to say what the hell do you know you're just a stuffed up adult, right? They don't have that ability because what happens is we're not stuffed up adults we're peers, we're kids your age, we know what you're going through in life and in going to school and we know what you're going through because we're going through it too.

Doug thinks teenagers are more likely to think about what their peers have said and consider the possibility that what they have done may be wrong and look at the possibility of not doing it again and take their peers' statement more seriously. Carl, 23, a former panel member, said being a teenager is difficult. Having a panel of peers who understand that adds an air credibility to the youth disposition panel:

Their actions will be better understood from you know like the frame of mind that they were in when they were committing the crime. You know, when you're young like you're messed up in the head you know, like you're just like you know being a teenager is just like one of the craziest things a person has to go through. Like to have a panel of people you know there that are just as messed up in the head as you are you know, they're just young, they may be, I mean, you may not know any of them or like any of them if you do know them, but they're still young so you can kind of relate to them. And your actions may be better understood by them just because they're going through the same things you are.

Elizabeth, 17, a current panel member, said members of the youth disposition panel are also able to recommend sentences that are more likely to be effective

because they use their knowledge about their own age group to propose sentences that will “hit home.” She said teens know what is meaningful to their peers and what they don’t care about so can more easily come up with a meaningful sentence. In one case, her panel took an offender’s licence away for the summer.

Janet, 22, a former panel member, cautioned that peer pressure and the potential embarrassment of appearing before a panel of peers may not be effective for all young offenders. Some teens might not care about peer pressure, so this factor might not have an impact on their recidivism rates. This is an attitude she experienced while working in a youth corrections facility after high school. “Like I know from working in the jail that a lot of them were like ‘I don’t care’...there was a few that would have the attitude of ‘I don’t care.’ So I’m pretty sure that going up there in front of their classmates and their peers wouldn’t bother them, a lot of them.” Another factor to bear in mind, she pointed out, is that a number of the teens appearing in youth court were not from Hay River but rather from neighbouring communities. Therefore, standing before the youth disposition panel might not necessarily be a deterrent for them since they might not consider panel members to be their peers. “A lot of the kids weren’t from Hay River, so I guess it wouldn’t really have an impact on them, like they didn’t know any of us so that it probably wasn’t really a big deal to them,” Janet said.

For students in the community, the presence of the youth disposition panel can serve as a general deterrent because as Simon, 23, a former panel member explained, students at school would hear what sentence a young offender was given. This set a precedent in the sense that other students knew what types of sentences the panel recommended for different types of offences. This sent youths the message that peers considered that certain types of behaviour “wasn’t cool” and this is what the consequences would be of engaging in certain behaviours. Current panel member Rebecca, 17, clearly explains that although the panel can’t talk about cases because of confidentiality, the young offender and other students can. That is how word of sentences the panel recommends is spread.

The youth disposition panel is perceived to have had a variety of intended and unintended consequences on current and former panel members, including increased knowledge about the criminal justice system, a role and voice in the community, deterrence, exposure to different types of people and points of view, humanized offenders, boosted the self-confidence for some participants and helped others decide whether or not to pursue a career working in the criminal justice system. The presence of a peer sentencing program was perceived to have a deterrent effect on young offenders and other youths in the community.

4.9 Conclusion

Current and former members of the Hay River Youth Disposition Panel were motivated to volunteer for a variety of reasons, which tended to be self-centred, knowledge-centred or community-centred. The panels provided many of them with their first opportunity to set foot inside a courtroom and learn through a hands-on experience how the Canadian justice system works. Interviewees generally had more than one reason for joining the panels, but not all are reflected in the program's goals. This suggests that participants are not necessarily influenced to join because of the youth disposition panel's goals.

Panel members found that making sentencing recommendations was challenging for two reasons. Being familiar with the offender could provide panel members with personal knowledge that could be useful for making sentencing recommendations that were more tailored to each young offender. However, that familiarity with young offenders led some female panel members to worry about being the victim of revenge at the hands of the same offenders they helped to sentence. While familiarity has the potential to be an asset to the panel, the possible negative aspect needs to be handled with care by adults overseeing the panels to ensure that the safety of participants is not jeopardized and their ability to make recommendations without outside interference remains intact. However, panel members are not completely free from influence external to the panel itself.

A second challenge that interviewees raised was trying to demonstrate the need for panels and their asset to the court by making recommendations the judge is likely to adopt. Since youth disposition panels are not commonly used in youth court and play an advisory role to the judge, this makes them vulnerable to being excluded from youth court at any time.

Interviewees were also concerned about taking offence-centred and offender-centred factors, the legal context and peer knowledge into account to try to devise an appropriate and effective sentence. Panel members believe their personal knowledge of an offender allowed them to personalize a sentence more than a judge could, particularly since they can also use their personal knowledge of what would “hit home” with a teenager to devise an effective sentence that would most likely to have an impact on the young offender. It is important that any personal conflicts between a panel member and the young offender being sentenced do not play a role in the sentencing discussions of the youth disposition panel. This is where an adult advisor in the jury room can play a role. They can help the panel by ensuring legal terms and issues are understood, that discussions stay focused and personal conflicts between a young offender and a panel member do not become a factor during sentencing discussions. It is essential that the adult retain a strictly advisory role and not participate in the teen panel’s decision making process. It must be pointed out that the panel’s recommendations must be unanimous. This means panel members with a more punitive or a more lenient approach to sentencing may have to compromise if others do not share their views. Thus, individual members’ reasons for joining the panel might not necessarily be reflected in the types of sentencing recommendations they make. Having a panel composition that is diverse in terms of age, gender, personality and background maximizes the possibility that different points of view will be reflected in sentencing discussions. Changing the panel’s composition for each court session minimizes the possibility of alliances being formed between panel members, which could then be used to pressure other panel members to adopt a particular sentencing recommendation.

The influence of the criminal justice system and, more particularly, that of the judge also appear to make their mark in the types of sentences the youth disposition panel recommends. The goals of accountability, punishment, deterrence and repairing the harm that interviewees mentioned tend to be similar to those found in the Criminal Code of Canada. Sentences the panel recommends appear to focus on probation conditions such as curfews and attending school, performing community service and sometimes custody. Restorative types of recommendations, such as having the young offender repair a fence or window s/he broke appear to be additions to sentences the Criminal Code recommends rather than being the centre point around which restorative sentences are built.

The Hay River Youth Disposition Panel was created to give students a hands-on opportunity to learn how the justice system works and try to positively influence their lawbreaking peers. Interviewees said their participation helped them to learn about the justice system, understand how sentencing decisions are made, gave them a role and a voice in their community. It has also given them exposure to people with points of view that may be different than their own and also taught them to see offenders as individuals. That is, it humanized offenders. On a more personal level, some said it helped improve their self-confidence and gave them a chance to see if they might be interested in pursuing a career in the justice field.

This study did not examine the youth disposition panel's impact on young offenders who appeared before it. However, current and former panel members believe it can deter youth crime because the need for acceptance in adolescence is so great that peer pressure can be used to positively influence peers to mend their lawbreaking ways. One former panel member did point out that the panel's effectiveness is contingent on whether a young offender is concerned about peer acceptance. Since some of the young offenders who appeared before the panel were from other communities besides Hay River, it is possible that the presence of

a panel of teens from Hay River might not be perceived as peers, thereby losing some of the potential impact of peer pressure.

Discussion and conclusion

American teen courts have enjoyed phenomenal growth and popularity in the past 20 years, based mostly on anecdotal evidence of the program's benefits. Although more than 1,000 teen court programs exist in 48 states, peer sentencing of young offenders has received scant attention from researchers.

Most studies are quantitative, measuring sentence completion and recidivism rates among young offenders. Given that few studies use control groups and each researcher defines recidivism differently, it is difficult to compare the results of studies. In addition to using control groups, it could be beneficial if future quantitative studies used the same definition of recidivism and measured it at three-month intervals rather than at the end of the test period. This way, a portion of the results from studies that use a longer time frame for measurement can still be compared against those of studies that use a shorter time frame. In other words, if recidivism rates of different programs were defined as being three, six, nine, 12, 15 and 18 months after referral to the program studied, every study would likely be able to make and report measurements at the three and six-month marks. This means the recidivism rates across programs could be studied at least at the first two time markers, making it easier to compare results from one study to another. Attention could then shift towards trying to understand the reasons for different recidivism rates across programs, such as the impact of parental involvement in ensuring their lawbreaking offspring completes the sentence assigned to him/her by a teen court.

The few qualitative studies that have been carried out examined volunteers' attitudes towards authority and whether offenders felt the teen court process was fair. The current study is the first one to examine the Hay River Youth Disposition Panel and may be the only one of its kind to examine the motivations and sentencing experiences of peer sentencing volunteers. It offers insight into the different types of reasons youths volunteer, whether they are for knowledge-centred, community-centred or self-centred reasons. It also presents how youths make sentencing decisions, including the factors they consider when devising a

recommendation, and some of the challenges they face in the process. It also enabled interviewees to outline the benefits they derived from their participation, ranging from increased self-confidence and knowledge about the justice system to humanizing offenders in their eyes. Since the Hay River Youth Disposition Panel does not have a formal training program, this study also offers some insight into how youths can learn and gain knowledge from one another.

Participation in the youth court process

Although the Hay River Youth Disposition Panel was inspired by American teen courts, its participants enjoy a much smaller role and profile in Canadian youth court. Rather than being an adjunct to the justice system, as they are in the United States, Canadian volunteers are included in the operations of a Canadian youth court as peer jurors who play an advisory role to the judge in sentencing young offenders. This is similar to sentencing circles, where members of the community sit in a circle with the judge, accused and victim to express their points of view about the offence to come up with a recommendation that will guide the judge in his sentencing decision. The main differences are that the youth disposition panel uses teens, it deliberates behind closed doors and the victim and accused are not involved in the discussion.

Students volunteer to participate in the Youth Disposition Panel rather than being handpicked by an adult, which maximizes the possibility that the panels will be representative of the school's population. Just as the general population in a society is comprised of different cultures and subgroups, so, too, is the adolescent population. Having a diversity of backgrounds and experiences can enhance the panel's operations, particularly as it examines the facts of a case and tries to devise appropriate sentencing recommendations for each one. Being more representative of the student population can also bolster its credibility in the eyes of peers because it makes it more difficult for young offenders to dismiss members of the panel as not being able to understand their reality. Although efforts are made to balance each panel for gender and age it is not always possible

in practice. Young offenders are allowed to sit on the panel – and have done so – as long as their case is not being heard the same day that they will be involved in making sentencing recommendations. However, the fact that cases are heard during school hours may mean that students who have fallen behind in their schoolwork or are not enrolled in school might not be included in the panels. This reduces the chances that students most vulnerable to breaking the law may be included on the panels – reducing the representative nature of the panel.

Having young offenders sit on the panel not only provides firsthand knowledge and experience about what it's like to be on the wrong side of the law, it also gives them an opportunity to interact with pro-social teens that could model positive behaviour. This, in itself, could also help to reduce recidivism rates. Efforts in American teen courts to include former offenders on panels is a positive step because it gives them a chance to gain special status through positive behaviour rather than negative behaviour.

Training

American teen courts offer training for the variety of roles volunteers will be asked to fill, from juror to prosecutor. However, members of the Hay River Youth Disposition Panel use a hands-on approach to acquire the skills they need to fulfil their duties as peer jurors. More senior students explain to their less experienced counterparts during deliberations the types of sentencing recommendations the judge is most likely to accept. Students learn from each other, which can be a validating experience for the leaders on the panel. However, it could tip the balance of power on the panel in favour of senior and more experienced students when discussing sentencing decisions.

A possible drawback of the hands-on approach to training is that, as some interviewees pointed out, they didn't necessarily understand the implications of some of the sentences they were proposing such as custody, probation conditions and community service hours. Interviewees said they were nervous the first time

they attended court as part of the panel because they had never before stepped inside a courtroom. Students who participated in the panels when it was launched said the judge gave them a tour of the courtroom beforehand. This raises the question of whether a tour of the courtroom in advance of their first session on the panel would alleviate some of the initial stress of participating. In addition, would panel members benefit from field trips to a detention facility and a community service location to better understand the implications of some of the sentences they are proposing for young offenders who appear before them?

Experience of accepting responsibility within the justice system

A second goal of the Hay River Youth Disposition Panel is to give students the experience of accepting responsibility within the justice system (Halifax, 1996). Current and former panel members who were interviewed said they were keenly aware of the responsibility being placed on their shoulders by a member of the justice system. It's a responsibility they did not take lightly, particularly since they knew it was a privileged role not normally entrusted to adolescents. This responsibility brings with it a special status, since it also gives them access to privileged information. For some, the search for status may draw them to participate on the panel.

Given that adolescence is a time when teens are trying to define their own identity and find a place in society, participating on the panel may indirectly help them in their search for their place in society. It is at that moment, when they are trying to define their role that they are given an opportunity to participate in youth court in a positive manner. This gives them a voice in the community that is not normally accorded to teenagers and a place that bears the approval of adults at a time when they may frequently feel criticized. Having the approval of adults can contribute to increasing their self-esteem. It also gives them a responsibility that is not normally accorded to people their age. Contrary to law-breaking behaviour, this is a role that meets the approval of adults in the community, such as the presiding judge. As one former panel member pointed out, teenagers tend to be perceived

by adults in society in a negative light. This image likely added to the pressure panel members felt of wanting to prove their value to the judge and other adults in the community. For them it was an opportunity to turn a negative stereotype around.

A desire to prove their value and demonstrate that adolescents can have a positive impact on their community can make panel members more susceptible to the influence of the adult court officers and the judge. That is, students are aware that their role is not enshrined in youth court operations. Therefore, it can be eliminated at any time. Students who were interviewed for this study indicated that they were frequently concerned about making a positive impression on the judge by recommending sentences that he would be most likely to adopt. Some former panel members who participated in the first youth disposition panels indicated that they tended to recommend sentences the Crown prosecutor proposed. Over time, as they gained more confidence, they became more willing to test the boundaries of what the judge would accept, proposing ideas that went beyond what the Crown prosecutor had suggested.

American teen courts are more anchored within their respective jurisdictions because their existence is not solely at a judge's discretion. The Hay River Youth disposition Panel serves at the pleasure of the judge and can only continue to hear cases as long as the judge is prepared to refer them for the panel's recommendation. According to a key informant, the youth court judge has not called upon the services of the disposition panel since early 2004.

Understanding of the justice system

More than half of the current and former panel members who were interviewed said they were motivated to participate in the panels because of their desire to learn more about the Canadian justice system through this hands-on opportunity. This suggests there is a need and thirst for knowledge in that area, one that having youth disposition panels can address.

Interviewees said that being on the panels helped them gain a better understanding of how the justice system operates. Some, who participated in the first panels in 1997, recalled the judge telling them he hoped they would be able to recommend more effective sentences for young offenders. This suggests that reducing youth crime was a driving force behind the program's creation, and that giving teens a role and a chance to learn about the justice system was a secondary motivation. Involving peers was perhaps more of a means to try to reduce youth crime in the community. This study did not examine the impact of the panels on youths who appeared before them, nor recidivism rates. However, it appears that the knowledge and understanding panel members gained about the justice system and how it operates may be the most under-rated benefits of peer sentencing. A frequent remark from interviewees was that youth court operations were not like the courtroom dramas they see on television.

The types of offences that are handled in teen courts and by the Hay River Youth Disposition Panel are similar, although the range of sentences is wider for the disposition panel. Unlike teen courts, the disposition panel has incarceration and fines at its disposal since it's only restricted by the sentencing options listed in the Criminal Code of Canada. This is because teen courts operate on the periphery of the justice system while the disposition panel operates within it. This allows students to learn about the parameters of the law in terms of the types of sentences that can be imposed for specific offences. For example, a harsh sentence cannot be imposed to the first time offender involving a minor offence. The disposition panel's sentencing goals and approach appears to differ little from those listed in article 718 of the Criminal Code of Canada. That is, condemnation, deterrence, reintegration, repairing the harm and holding offenders accountable for their actions. Rather, it appears that they use the various sentencing options and their own knowledge of their own age group to make a recommendation to the judge that they believe will be more relevant to their lawbreaking peers. That is, they

use their understanding of being an adolescent to try to create a sentence that may be more meaningful to a young offender than what a judge might devise.

Panel members stress that the goal of sentencing isn't to exact revenge on young offenders. Rather, it is to send them a message that their peers condemn their lawbreaking behaviour, want to hold them accountable for their actions and prevent them from re-offending by showing them there is a negative consequence to their behaviour. Although some interviewees spoke about including a restorative component to some sentences, such as repairing a fence an offender drove into with a car, the Hay River Youth Disposition Panel's sentences are not generally restorative in nature. Restorative justice focuses on repairing the harm rather than punishing the offender (Zehr, 1990) and gives victims the opportunity to participate in the process. However, American teen courts mirror the regular justice system, in which the youth disposition panel is directly involved. As Lyles and Knepper (1997) and Gaines and Skabut (1967) indicate, teen court is not much different than a traditional court because courtroom procedure, sentencing process and the functions it serves are similar. Neither leaves much room for a role for victims.

The motivations that draw students to join the youth disposition panel don't appear to have a strong impact on the sentences they recommend. This may be because decisions are made as a group and must be unanimous. As long as members of each panel don't share the same reasons for joining and the same approach to sentencing (e.g. punitive or more restorative), each person's motivation will not be as evident in the types of sentences they recommend. This collective approach to sentencing also theoretically makes it more difficult for a young offender to blame a single panel member for the sentencing outcome. As several former panel members pointed out – and the former Chief Judge indicated – this is in addition to the knowledge among young offenders that they could return to court if they intimidate or try to exact revenge on a panel member.

Being familiar with the offenders they are helping to sentence is, in fact, one of the challenges of having a youth disposition panel in a small community. Knowing an offender can be both a blessing and a curse. On one hand, it can help the youth disposition panel tailor a sentence more closely to the particular situation of an offender than could a judge, who has far less contact with them. On the other hand, it can make sentencing more of a challenge if panel members fear revenge by the young offender. This is one of the few areas in the current study where gender appeared to have an impact on the experience of participating in the youth disposition panel. Although a number of interviewees said they were aware of the young offender's presence in the courtroom when delivering the panel's recommendation, girls were far more likely to express fear that the young offender would be angry with them and perhaps take revenge for their role in sentencing. This may be an indication that teenage girls tend to be more sensitive to peer pressure than their male counterparts or that they are less confident in their ability to handle conflict and a possible physical attack.

While being part of a small community can provide inside knowledge that can potentially lead to more effective sentences or young offenders, it can also add more pressure on panel members who fear the reaction of the offender. This is a delicate balance that needs to be handled with care so as to maximize the advantages of having a youth disposition panel in a small community while minimizing the disadvantages. Sending the message that the judge could impose a harsher sentence if a young offender retaliates against a panel member can be an effective means to curb this potential risk.

As was previously indicated, senior members of the youth disposition panel play an important role in passing on their knowledge of the sentencing process to newer members during deliberations. Although each person ideally has a chance to share their point of view and sentencing recommendations are unanimous, it can be difficult for shy people to speak up and have their voices heard. This is a common challenge of working in a group. What appears to be particularly key in

establishing some balance during deliberations is the presence of an adult who can ensure legal issues and terms are understood, the relevant issues are considered, ensure each person has a chance to speak and any personal conflicts/issues between a panel member and an offender do not have undue influence on the panel's sentencing recommendation. However, this adult must play a strictly advisory role to ensure the panel's recommendation is its own – not the advisor's. The adult's presence may also be particularly important for the youth disposition panel because they have a wider range of sentencing options than do teen courts, such as fines and incarceration. Given the consequences of these two types of sentences on offenders makes it even more crucial that disposition panel members understand the implications of the sentences they recommend.

Lyles and Knepper (1997) and Shiff and Wexler (1996) say it is hoped that understanding how the justice system works and giving volunteers a voice in its operation will increase their belief that the justice system is fair and encourage them to obey the law in the future. However, it must be pointed out, as did at least one member of the Hay River Youth Disposition Panel, that frequently observing youth court cases also teaches young volunteers that they will likely be caught if they break the law. Fear of being caught may serve as a far greater deterrent for some people than a belief that the justice system is fair. While the outcome is the same, the reason for it is not.

Influence on lawbreaking peers.

The current study did not examine the experience of young offenders who appeared before the youth disposition panel because permission to do so was not forthcoming. However, interviewees who were current or former panel members believe their role did help to reduce youth crime in Hay River for two main reasons. Firstly, they believe a panel of teenagers may be better able to propose sentences that are relevant to adolescents. Secondly, many mentioned wanting to avoid the embarrassment of having to appear before a panel of peers who would hear the details of an offender's misdeeds. The latter raises the question of

whether panel members and young offenders who do not recidivate after facing their peers across the courtroom are more vulnerable to peer pressure than repeat offenders.

Certain differences between the operations of the youth disposition panel and teen courts bear mentioning because they could play a role in recidivism rates among young offenders. The fact that referrals to the Hay River Youth Disposition Panel come directly from the judge and cannot be sent by police, probation officers and school officials avoids the net-widening concerns of teen courts. An appearance before the disposition panel also doesn't depend on parental consent, a requirement in a number of American teen courts.

This means young offenders from more troubled homes who don't have parental support can still participate. A requirement for parental involvement in some American teen courts can be a benefit in perhaps maximizing the chances an offender will complete their sentence and not recidivate,, but is also restricts the types of offenders who can participate. As well, young offenders have no say as to whether or not they agree to be sentenced by the youth disposition panel, nor will their record be expunged if they plead guilty and complete the sentence the panel recommends. This means they don't derive any immediate benefits by participating in the peer sentencing process. Not having a say in who decides their fate also means young offenders can't try to "manipulate the system" by choosing whichever sentencing option they feel would be most beneficial to them. A factor that could play a role in the recidivism rates of American teen courts is the types of offenders who are choosing to appear in teen court rather than being sentenced by a traditional youth court judge. That is, perhaps they are already more vulnerable to peer pressure to begin with, so are less likely to recidivae when faced with the condemnation of their peers for lawbreaking behaviour. This, in addition to American teen courts' requirement for parental consent to participate, can affect the types of defendants who are accepted into teen court programs by limiting it to those whose success is most promising.

Another notable difference is that the youth disposition panel's role in youth court is significantly smaller than that of their counterparts who volunteer in American teen courts. Canadian youth serve as peer jurors, while American teen courts have adolescents serving as lawyers, bailiffs, clerks, jurors and sometimes judges as well. Butts, Buck and Coggehall (2001) suggest that a greater involvement in youth court operations may lead to a greater impact on lawbreaking peers. If this is, indeed, the case, any positive results the Hay River Youth Disposition Panel may achieve could be reduced because of the limited scope of young people's positive involvement in youth court.

Within a peer sentencing context

In American teen courts, young volunteers fill the roles of lawyers, jurors, clerks, bailiffs and sometimes that of judge. The approach used in Hay River does not fit any of the four American teen court models, since young volunteers are solely used as peer jurors in an advisory capacity to the presiding judge.

The Hay River approach minimizes the risks of net-widening, a concern that teen courts sweep up a number of young, first-time offenders who wouldn't ordinarily be processed by the criminal justice system. The reason for this distinction is that the Hay River Youth Disposition Panel only becomes involved in cases that have already been processed by youth court, whereas teen court referrals can come from a wide range of sources including police, probation officers, schools and judges. The Hay River Youth Disposition Panel could be qualified as a fifth type of peer sentencing model, but the advisory role it plays to the youth court judge in determining sentencing can also be seen as a type of sentencing circle.

There appears to be little difference in the types of offences both teen courts and the youth disposition panel handle. Neither becomes involved in serious cases such as sexual assaults or murders. However, a significant difference is that the youth disposition panel can – and does – offer sentencing recommendations in the

case of repeat offenders. Although youths on the youth disposition panel have a much smaller role than their teen court counterparts, overall the range of cases in which they can be involved is larger. The types of sentences they can propose is broader as well. Unlike teen courts, which do not allow custody and often cannot impose fines as a sanction, the youth disposition panel is only restricted by the sanction in the Criminal Code of Canada.

The youth disposition panel appears to be more closely aligned with the traditional justice system than teen court programs because it is a part of youth court operations. This makes it more vulnerable to following a similar approach as the traditional justice system for a few reasons. Teen volunteers play a significantly smaller role than in teen courts, which shifts the power balance in favour of the adult court officers. In addition, students are aware that adolescents tend to be perceived in a negative light by adults. Panel members are being accorded a role that is not normally given to teens, at a stage in their lives when they are trying to define a role for themselves. They want to make a positive impression on the judge because they are aware that their presence in the courtroom depends on the judge's perception that the input of a panel of youths is an asset to him.

This desire to meet the judge's expectations and gain his approval, as well as that of other adults, encourages them to propose sentences the judge is most likely to adopt. This may steer the panel towards sentencing recommendations that appear to centre on provisions listed in the Criminal Code of Canada. Additional sentencing conditions that are of a more restorative nature, such as ordering an accused to repair a fence he broke, appear to be more add-ons to traditional types of sentences than playing a central role in the panel's approach to sentencing recommendations for their peers.

As with teen courts, the youth disposition panel was created as a way to use peer pressure to help reduce recidivism among young offenders, while giving teens a

hands-on opportunity to learn about the justice system. Both types of peer sentencing approaches are relatively new and untested in terms of their impact on youth crime and as a teaching tool for volunteers. It must be stressed that the impact of having a youth disposition panel is largely anecdotal, since this is the first study to be carried out on the Hay River Youth Disposition Panel and its results cannot be generalized to all disposition panels and peer sentencing programs. However, it does suggest that youth disposition panels could provide a hands-on opportunity for volunteers to learn about how the justice system works, from courtroom operations to the types of factors that are examined when making sentencing recommendations. Follow-up research testing panel members' knowledge before and after their participation would need to be carried out to assess the youth disposition panel as a learning tool. Since no quantitative and qualitative information is available about the impact of the panels on youth crime and the offenders who appear before them, it is important to be cautious about embracing the youth disposition panel as a means of reducing youth crime and recidivism.

Avenues for future research

The current study was the first one to examine the Hay River Youth Disposition Panel and the experience of current and former members. It was also one of the few qualitative studies on peer sentencing, and it examined the motivations of volunteers, their experience on the panel and the training they received. Given the paucity of research on peer sentencing among adolescents and the Hay River Youth Disposition Panel in particular, opportunities for future research are wide.

- How do young offenders perceive their experience of appearing before youth disposition panels? What did they perceive to be the impact (if any) on them, their perception of the sentencing process and of youth court? As this study has indicated, members of the youth disposition panel and previous research suggest that peer pressure is a driving force behind any successes in reducing recidivism rates. Aside from some of the

methodological shortcomings of quantitative studies into recidivism rates and sentence completion in teen court programs, one must remember that quantitative research can suggest what is happening but not the experience of participants. This is where qualitative research into the experience of young offenders would be helpful for better understanding the nature of the peer pressure dynamic and its impact on youth crime.

- A comparative study of youth disposition panels in Hay River, Fort Smith, Inuvik and Iqaluit could be carried out to examine what factors play a role in maximizing the panels' effectiveness and making it an asset to the presiding judge.
- Many interviewees perceived that being on the youth disposition panel had allowed them to gain a better understanding of the justice system and how it operates. But to what extent are they more knowledgeable than their peers who haven't been involved in peer sentencing? A comparative study could use a control group to examine this issue.
- Anecdotal evidence indicates that youth crime dropped in Hay River after the disposition panel began operating. A study could compare the youth crime and recidivism rates in communities that have a youth disposition panel and those that do not, in an effort to see whether the presence of peer sentencing appears to have an impact on youth crime rates. It could also be useful to examine Hay River's pattern and rates of youth crime for a 10-year period beginning five years before the panel began operating in order to establish a baseline for comparison.
- Are youth disposition panels more punitive than an adult judge? As we have seen, the youth disposition panel tries to balance rehabilitation and a restorative approach. Anecdotal evidence suggests that members of youth sentencing panels in Canada and the United States tend to be harsher on

lawbreaking peers, but is this true? This study could compare the sentencing practices of a disposition panel with a control group that has been sentenced by a judge alone.

- Given that teen courts and the Hay River Youth Disposition Panel are trying to use peer pressure to make a positive impact in the lives of young offenders, it begs the question to what extent there is a link between sensitivity to peer pressure and lower recidivism rates. That is, are young people involved in peer sentencing less likely to engage in lawbreaking behaviour or continue to do so the more sensitive they are to peer pressure? As well, are they more likely to obey the law if they perceive members of the youth disposition panel to be their peers?

Peer sentencing using teenagers within the criminal justice system is a relatively new concept. While there is public support for the idea and some evidence that it helps adolescent volunteers to better understand the criminal justice system, the jury is still out on the effectiveness of both teen courts and youth disposition panels. This leaves much room for further research.

REFERENCES

- Acker, J. R., Hendrix, P. N., Hogan, L. and Kordzek, A. (2001). Building a Better Youth Court. Law and Policy, 23 (2) 197-215.
- Akers, R. L., Krohn, M. D., Lanza-Kaduce, L. and Radosevich, M. (1979). Social Learning and Deviant Behavior: A Specific Test of a General Theory. American Sociological Review, 44, 636-655.
- Austin, W. and Tobiasen, J. M. (1985). Legal justice and the psychology of conflict resolution. In R. Folger (Ed.), The sense of injustice. New York: Plenum.
- Courts Where Teens Sentence Peers Gain Popularity. (1998, January 12). American News Service. Brattleboro, Vt.
- Angers, M. (1992). Initiation pratique à la méthodologie des sciences humaines. Montréal: Centre éducatif et culturel inc. (CEC).
- Aurora Research Institute (2003) <http://www.auresint.nt.ca/licen.htm>.
- Baril, M. (1984). Tout ça pour si peu! In L'envers du crime, Cahier No. 2. Montréal: Centre international de la criminologie comparée, Université de Montréal, 200-250.
- Bazemore, G. and Umbreit, M. (1995). Rethinking the Sanctioning Function in Juvenile Court: Retributive or Restorative Responses to Youth Crime. Crime and Delinquency, 41, 296-316.
- Bazemore, G. and Walgrave, L. (1999). Restorative Juvenile Justice: In Search of Fundamentals and an Outline for Systemic Reform. In G. Bazemore and L. Walgrave (eds.). Restorative Juvenile Justice: Repairing the Harm of Youth Crime. (pp. 45-74). Monsey, N.Y.: Criminal Justice Press.
- Butts, J. A. and Buck, J. (2000, October). Teen Courts: A Focus on Research. Washington D.C.: Office of Juvenile Justice and Delinquency Prevention.
- Butts, J. A., Buck, J. and Coggeshall, M. B. (2002). The Impact of Teen Court on Young Offenders. Washington D.C.: The Urban Institute.
- Butts, J. A., Hoffman, D. and Buck, J. (1999). Teen Courts in the United States: A Profile of Current Programs. Washington D.C.: Office of Juvenile Justice and Delinquency Prevention.
- Chapoulie, J.-M. (1998). La place de l'observation directe et du travail de terrain dans la recherche en sciences sociales. In J. Poupart, L-H. Groulx, R. Mayer, J-P

Deslauriers and A. Lapierre (eds.). La recherche qualitative: Diversité des champs et des pratiques au Québec. Montréal: Gaëtan Morin.

Collins, G. (2001, April 3). Judged by their peers. In The Hub p. 9. Hay River, NT.

Deslauriers, J.-P., Kérisit, M. (1997). Le devis de recherche qualitative. In J. Poupart, J.-P. Deslauriers, L. Groulx, A. Laperrière, R. Mayer and A. Pires (eds.). La recherche qualitative: enjeux épistémologiques et méthodologiques, (pp. 85-111). Montréal: Gaëtan Morin.

Feldman, R. A. and Caplinger, T. E. (1983). The St. Louis Experiment: Treatment of Antisocial Youths in Prosocial Peer Groups. In J. Kluegel (ed.). Evaluating Juvenile Justice. Beverley Hills, CA.: Sage Publications Inc.

Fisher, M. E. (Summer 2001). Training of Youth Court Volunteers. In Session, 1 (2), 1, 7. Lexington, KY.: National Youth Court Center.

Gaines, J. E. and Skrabut, P. A. (1967). The Youth Court Concept and its Implementation in Tompkins County, New York. Cornell Law Quarterly, 52, 942-974.

Garrison, A. H. (Summer 2001). Evaluation of a Delaware Teen Court. Juvenile and Family Court Journal, 52 (3), 11-21.

Gibson, D. (2000, February 4). Bringing the justice home. The Yellowknifer p. 16. Yellowknife, NT.: Northern News Services.

Godwin, T. M. (1996a). Teen Courts: Empowering Youth in Community Prevention and Intervention Efforts. Perspectives, 20 (1), 20-24.

Godwin, T. M. (1996b, August). A Guide for Implementing Teen Court Programs. Washington D.C.: Office of Juvenile Justice and Delinquency Prevention.

Godwin, T.M., (1996c). Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs. Washington D.C.: Office of Juvenile Justice and Delinquency Prevention.

Godwin, T. M. (1997). New Order in the Court. Law and Justice (January/February), 14-16.

Godwin, T. M. (1998). Developing and Using Teen Court Programs. Juvenile Justice Update. 4 (2), 1-2, 10-11.

- Godwin, T. M. (2001). *Role of Restorative Justice in Teen Courts: A Preliminary Look*. Lexington, KY.: National Youth Court Center.
- Godwin, T. M., Heward, M. E. and Spina Jr., T. (2000). *National Youth Court Guidelines*. Lexington, KY.: National Youth Court Center.
- Godwin, T. M., Steinhart, D. J. and Fulton, B. A. (1998). *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs*. Washington D.C.: Office of Juvenile Justice and Delinquency Prevention.
- Halifax, R. W. (1996, November). *Youth Court Student Project: Student Disposition Advisory Panel*. Hay River, NT.: Unpublished manuscript.
- Harrison, P., Maupin, J. R. and Mays, G. L. (2000). *Are Teen Courts an Answer to Our Juvenile Delinquency Problems?* Juvenile and Family Court Journal (Fall), 27-35.
- Harrison, P., Maupin, J. R. and Mays, G. L. (2001). *Teen Court: An Examination of Processes and Outcomes*. Crime and Delinquency, 47 (2), 243-264.
- Heward, M. E. (2002). *Organization and Operation of Teen Courts in the United States: A Comparative Analysis of Legislation*. Juvenile and Family Court Journal, 53 (1), 19-35.
- Ingersoll, G. M. (1982). Adolescents in School and Society. Lexington, Massachusetts: D. C Heath and Company.
- Jaccoud, M. (1999). *Les cercles de guérison et les cercles de sentence autochtones au Canada*. Criminologie, 32 (1), 79-105.
- Jaccoud, M. and Mayer, R. (1997). *L'observation en situation et la recherche qualitative*. In J. Poupart, J.-P. Deslauriers, L. Groulx, A. Laperrière, R. Mayer and A. Pires (eds.). La recherche qualitative: enjeux épistémologiques et méthodologiques. (pp. 211-249). Montréal: Gaetán Morin.
- Johnson, R. E., Marcos, A. C. and Bahr, S. J. (1987). *The Role of Peers in the Complex Etiology of Adolescent Drug Use*. Criminology 25, 323-340.
- Kaplan, L. S. (1983). Coping with Peer Pressure. New York: The Rosen Publishing Group, Inc.
- Knepper, P. (1994). *Attitudinal Change Among Teen Court Participants*. Frankfort, KY.: Administrative Office of the Courts. Unpublished manuscript.

Knepper, P. (1995). Teen Court, Law Related Education, and Service Learning: An Evaluation of Kentucky's Teen Court Program. Frankfort, KY.: Administrative Office of the Courts. Unpublished manuscript.

Lapierre, A. (1997). La théorisation ancrée (grounded theory): démarche analytique et comparaison avec d'autres approches apparentées. In J. Poupart, J.-P. Deslauriers, L. Groulx, A. Laperrière, R. Mayer and A. Pires (eds.). La recherche qualitative: enjeux épistémologiques et méthodologiques. Montréal: Gaëtan Morin.

Latta, M. (1997, February 11). Students decide the fate of their peers in local justice experiment. In The Hub p. 3. Hay River, Northwest Territories.

LoGalbo, A. P. and Callahan, C. (2001). Evaluation of Teen Court as a Juvenile Crime Diversion Program. Juvenile and Family Court Journal, 52 (2), 1-11.

Lyles, J. and Knepper, P. (1997). Teen Court's Potential as a Law-Related Education Medium: The Experience of Franklin County, Kentucky in D. Williamson, K. I. Minor and J.W. Fox (eds.). Law-Related Education and Juvenile Justice. Springfield, Il: Charles C. Thomas. P. 224-236.

Marshall, C and Rossman, G. B. (1989). Designing Qualitative Research. Newbury Park, California: Sage.

Michelat, G. (1975). Sur l'utilisation de l'entretien non directif en sociologie. Revue française de sociologie, 16, 229-247.

Minor, K. I., Wells, J. B., Soderstrom, I. R., Bingham, R. and Williamson, D. (1999). Sentence Completion and Recidivism Among Juveniles Referred to Teen Courts. Crime and Delinquency, 45 (4), 467-480.

National Youth Court Center (2003). <http://www.youthcourt.net/history.htm>

National Youth Court Center (2005). http://www.youthcourt.net/national_listing/overview.htm

Nessel, P. (2000). Youth Court: A National Movement. Technical Assistance Bulletin, 17. Chicago, Illinois: American Bar Association, Division for Public Education.

Peterson, S. B. and Elmendorf, M. J. (2001). Youth Courts: A National Youth Justice Movement. Corrections Today, 63, 54-56, 58, 112-113.

Pires, A. (1983). L'échantillon. In Stigmate penal et trajectoire social (pp. 86-99). Unpublished doctoral dissertation. Montreal: Université de Montréal.

Poupart, J. (1981). La méthodologie qualitative en sciences humaines: une approche à redécouvrir. Apprentissage et socialisation, 4 (1) pp. 41-47.

Poupart, J. (1997). L'entretien de type qualitatif: considérations épistémologiques, théoriques et méthodologiques. In J. Poupart, J.-P. Deslauriers, L. Groulx, A. Laperrière, R. Mayer and A. Pires (eds.). La recherche qualitative: enjeux épistémologiques et méthodologiques, (pp. 173-209). Montréal: Gaëtan Morin.

Poupart, J and Lalonde, M. (1998). La méthodologie qualitative et la criminologie au Québec, de 1960 à 1985. In J. Poupart, L. Groulx, R. Mayer, J.-P. Deslauriers and A. Lapierre (Eds.). La recherche qualitative: Diversité des champs et des pratiques au Québec. Montréal: Gaëtan Morin.

Pritchett, J. (1998, November 2). Youth handing out justice: Hay River teens spread new brand of justice. Yellowknife: Northern News Services.

Quivy, R. and Van Campenhoudt, L. (1988). Manuel de recherche en sciences sociales. Paris: Dunod.

Reichel, P. and Seyfrit, C. (1984). A peer jury in juvenile court. Crime and Delinquency, 30, 423-438.

Rodgers, F.B. (1995). How to Create and Conduct a Teen Court Program. Judges' Journal, 34 (3), 16-20; 42-45.

Rothstein, N. (1985). Teen Court. Corrections Today, (February), 18-22.

Rothstein, R. (1987). Teen Court: a way to combat teenage crime and chemical abuse. Juvenile and Family Court Journal, 38, 1-4.

Sanders, W. (1981). Juvenile Delinquency: Causes, Patterns, and Reactions. New York: Holt, Rinehart & Winston.

Seyfrit, C.L., Reichel, P. and Stutts, B. (1987). Peer Juries as a Juvenile Justice diversion technique. Youth and Society, 18, 302-316.

Shiff, A. R. and Wexler, D. B. (1996). Teen Court: A Therapeutic Jurisprudence Perspective. Criminal Law Bulletin, 32, 342-357.

SRA Associates (1994). Teen Court Participant Profiles Appendix I Frequencies and Crosstabulations. Sebastopol, CA.: Unpublished.

Sutherland, E. H. (1947). Criminology (4th ed.). Philadelphia: Lippincott.

Vickers, M. (May 2000). National Youth Court Center Fact Sheet. Washington D.C.: Office of Juvenile Justice and Delinquency Prevention:

Waldo, G. and Griswold, D. (1979). Issues in the Measurement of Recidivism. In L. Secrest, S.O. White and E. D. Brown (eds.). The Rehabilitation of Criminal Offenders: Problems and Prospects. Washington D.C.: National Academy of Sciences.

Warr, M. and Stafford, M. (1991). The Influence of Delinquent Peers: What they think or what they do?" Criminology, 29 (4), 851-865.

Williamson, D., Chalk, M. and Knepper, P. (1993). Teen Court: Juvenile justice for the 21st century? Federal Probation, 57 (2), 54-58.

Williamson, D. and Knepper, P. (1995). Teen Courts and Violence Prevention. Update on Law-Related Education, 19 (2), 33-35.

Zehner, S. J. (1997). Teen Court. FBI Law Enforcement Bulletin, 66 (3), 1-7.

Zehr, H. J. (1990). Changing lenses: a new focus for crime and justice. Waterloo (ON.): Herald Press.

ANNEXE I

Profile of interviewees

	Current panel members	Former panel members
Males	2	6
Females	2	6
Aboriginal/Métis		4
Non-aboriginal	4	8
Age: 17 years	4	
Age: 18 years		1
Ages 22-24 years		11
Joined panel in 1997		11
Joined panel in 2000		1
Joined panel in 2001	4	

ANNEXE II

PERSONAL BACKGROUND INFORMATION FORM**General demographics:**

Age at time of interview: _____

Gender: Male Female

Aboriginal Non-aboriginal

Participation on the panel:

When did you join the panel? _____

How old were you when you joined the panel? _____

Are you still on the panel? _____

If not, how old were you when you stopped being on the panel _____

How often did you hear cases? _____

What is the total number of cases you heard on the panel? _____

In how many cases did you know the offender? _____

Thank you very much for your participation!

ANNEXE III

CONSENT FORM FOR PARTICIPANTS

Researcher: _____

This research is about the experience of people who have participated in the Hay River Youth Disposition Panel. Information will be gathered through confidential interviews with participants. Each interview will take about 1 1/2 hours.

Youth disposition panels don't exist anywhere else in Canada. Sharing your experience about the Hay River panel will help people elsewhere to learn more about them and how they work.

Panel members who participate in the study will be asked the following questions:

- You decided to become a member of the Youth Disposition Panel. Could you please tell me about that?
- Could you please tell me about your experience?
- Please tell me about the training you got in order to be on the panel.

Consent forms and transcripts of interviews will be kept separately from each other to make sure that each participant's identity will be kept confidential. Pseudonyms will be assigned to each interviewee to make sure their identity is kept secret.

Research results will be sent to the Aurora Research Institute and any participants who wish to have a copy. The results could also be sent to academic journals.

I have freely agreed to participate in this research project. I understand that I will be giving 1.5 hours of my time for an interview about my experience with the Hay River Youth Disposition Panel. I understand that I can withdraw my participation at any time.

Name of parent/guardian: _____

Signature: _____

Date: _____

Name of panel member: _____

Signature: _____

Date: _____

If you would like to receive a summary of the research results, please provide your mailing address:

If you need more information, please feel free to contact Helena in Hay River at

