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# WHAT DO "THEY" THINK? THE DELINQUENCY COURT PROCESS IN COLORADO AS VIEWED BY THE YOUTH

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## INTRODUCTION

The statutory purpose of the Colorado Children's Code is to "serve the welfare of children and the best interests of society."<sup>1</sup> Unfortunately, this purpose often finds itself circumvented as the adversarial process of the juvenile justice system takes over. In delinquency proceedings, the often polarized parties do not collectively think in terms of the best interest of the child nor the best interest of the community. While this is the nature of a juvenile justice system, professionals within the Colorado system often ask some very important questions regarding how the system affects the youths involved: Are juveniles treated fairly? Are courts too lenient or too harsh on juvenile offenders? Do juveniles receive the support and skills necessary to rehabilitate and steer them away from future criminal activities? What are the roles of District Attorney (DA), defense attorney, guardian ad litem and judge? How dedicated are professionals who work within the system? Are the juvenile justice system resources being used properly? Is the Colorado Children's Code being properly construed to "serve the welfare of the children and the best interests of society?"<sup>2</sup> These questions often beget difficult and complex answers.

This Article examines some issues these questions pose—not from an "ivory tower" perspective, but from the youths' perspective. We report their thoughts and feelings about the juvenile justice system as expressed by the youths in a recently conducted survey. First, this Article presents an overview of the Colorado juvenile justice system of which the subject youths are a part. Next, this Article details the methodology and reports the findings of the survey. Finally, this Article concludes with the authors' impressions regarding the youths' responses in the survey. Although not every youth within the juvenile court system (for delinquency) was surveyed, and our research is a broad on-going project, we believe it is important to report our findings to date with the

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1. COLO. REV. STAT. § 19-1-102(2) (Supp. 1991).  
2. *Id.*

hope of educating and instigating further discussion amongst professionals in the juvenile court system. While we may not agree with the surveyed youths' responses, we believe it is essential to listen and try to learn from them in order to improve the system.

#### OVERVIEW OF THE COLORADO JUVENILE DELINQUENCY SYSTEM

The Colorado Children's Code<sup>3</sup> (Code), divided into seven separate articles, outlines the law applicable to youth and family in a variety of situations.<sup>4</sup> This section provides a brief overview of Article Two of Title Nineteen—Delinquency. The Code's Delinquency provisions set forth procedures and guidelines to be used in delinquency proceedings.<sup>5</sup> These procedures range from arrest to parole. Juvenile court has jurisdiction over youths between the ages of ten and seventeen and uses the date of the offense as the guide for determining jurisdiction.<sup>6</sup> Generally, rights afforded to juveniles in delinquency cases align with rights afforded in adult criminal cases,<sup>7</sup> with a few exceptions. The parents or guardians are expected to take an active role in the delinquency proceedings and are named as respondents on the delinquency petition. For example, a parent or guardian must be present when the juvenile is being questioned by law enforcement personnel and must enter a waiver of the Miranda rights with the juvenile.<sup>8</sup>

At any stage in the proceedings, the court can appoint a Guardian Ad Litem (GAL)<sup>9</sup> for the juvenile. The GAL is a licensed attorney, who acts in the place of a parent or guardian for the youths. Such an appointment is often necessary when there is no parents or guardians of the youth to look after the best interests of the youth. At times, a GAL is also requested when the victim in the delinquency petition is the parent or guardian. Thus, the GAL represents the best interests of the juvenile, which may conflict with the youth's desires.

If a warrantless arrest is made and the juvenile is placed in detention, a probable cause determination must be made within forty-eight

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3. The Colorado Children's Code is found in Title 19 of the Colorado Revised Statutes.

4. The Code contains seven articles - General Provisions, Delinquency, Dependency and Neglect, Colorado Children's Trust Fund, Uniform Parentage Act, Relinquishment and Adoption, and Support Proceedings.

5. A delinquent is a juvenile convicted of a delinquent act. A delinquent act is a violation of any statute or ordinance if committed by a juvenile. *See* COLO. REV. STAT. § 19-2-101 (4), (8) (Supp. 1991).

6. *Id.* § 19-2-102.

7. For example, in delinquency cases, a court appointed attorney is utilized as defense counsel when the State Public Defender's Office has a legal conflict in the case. The attorney is in private practice, but in such cases is paid by the State Judicial Department for his or her appointment. *See id.* 19-1-103(14) (general definition of court appointed attorney in juvenile proceedings).

8. *Id.* § 19-2-210.

9. In delinquency matters this is a court appointed attorney who takes the place of the parent or guardian in delinquency matters. This usually occurs when the parents or guardians are unavailable or there is a conflict between the interests of the parents and the juvenile. *See id.* § 19-1-103(14) (definition of guardian ad litem) and *id.* § 19-1-111 (concerning appointment of a guardian ad litem).

hours. Since the United States Supreme Court's decision in *Riverside County v. McLaughlin*,<sup>10</sup> these probable cause determinations are based on an affidavit from the arresting officer. This determination is made within forty-eight hours, including holidays and weekends, by a juvenile court magistrate or judge. This probable cause determination does not include the setting of bail, it merely determines if the juvenile should remain in detention.

If the magistrate or judge decides the youth should remain in detention, a hearing must be held within forty-eight business hours after the arrest to determine if the juvenile should be detained further and what amount of bail, if any, should be set.<sup>11</sup> Within seven days, if the juvenile is detained because the family can not make bail or the juvenile is held without bail, the DA must file a petition alleging that the juvenile is a "delinquent child."<sup>12</sup> If the juvenile is released or bonded-out from detention, there are no statutory guidelines for when the petition must be filed.

The decision to file a petition is solely at the discretion of the prosecutor. There are, however, alternatives available to the prosecutor to avoid a formal juvenile adjudication. One alternative to filing a petition is placing the youth in a diversion program,<sup>13</sup> a community-based alternative to the formal court system. Depending on the judicial district, the program is associated with either the prosecutor's office or a community-based organization. If the youth formally completes the program, no petition is filed. Even if a petition is filed, the prosecutor may agree to a second alternative, an informal adjustment, whereby the juvenile completes certain conditions and the petition is dismissed.<sup>14</sup> The failure to complete the conditions may result in a formal adjudication. A third alternative to a formal adjudication is a deferred adjudication.<sup>15</sup> The youth either enters a guilty plea or is found guilty at trial, but the prosecutor and judge agree to defer the formal adjudication for a certain period of time not to exceed one year. During this time, the youth is required to complete certain conditions. If the conditions are met, the petition is dismissed.

Once the petition has been filed and served upon the juvenile and parent/guardian, the proceedings follow the same procedure as in adult criminal cases. Felony cases are set for preliminary hearings, while misdemeanor cases are set for either trial or pre-trial conference. Prior to cases being set for either proceeding, the parent/guardian has the opportunity to attain counsel for the juvenile. The Colorado State Public

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10. 111 S. Ct. 1661 (1991). Before *Riverside*, the Court required a "prompt" judicial determination of probable cause after a warrantless arrest. *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).

11. COLO. REV. STAT. § 19-2-204 (Supp. 1991).

12. *Id.* § 19-2-204(3)(a)(V) and COLO. R. JUV. P. Rule 3.1.

13. COLO. REV. STAT. § 19-2-303 (Supp. 1991).

14. *Id.* § 19-2-302.

15. *Id.* § 19-2-702.

Defender's Office accepts applications for representation in juvenile cases.

In Colorado, juveniles have the right to a jury trial, with one exception. If the offense would be *less* than a class-one misdemeanor had an adult committed the offense, there is no right to a jury trial.<sup>16</sup> In this situation, if the DA waives seeking a commitment to the Department of Institutions or a sentence to the county jail the trial is to the court.<sup>17</sup> In a juvenile jury trial, the jury generally consist of six members. However, if the youth is also charged with being an "aggravated juvenile offender,"<sup>18</sup> a sentencing enhancement, the jury has twelve members.<sup>19</sup>

The most drastic deviation from the adult criminal court occurs in the sentencing phase of the delinquency proceeding. One purpose of the Colorado Children's Code is to "secure for each child . . . such care and guidance, preferably in his own home, as will best serve his welfare and the best interests of society" and to "preserve and strengthen family ties whenever possible . . ."<sup>20</sup> The sentencing guidelines attempt to reflect this purpose.<sup>21</sup> At the sentencing hearing the judge may consider any social, psychological and other relevant reports and evidence. This assures that the "proper disposition best serve[s] the interests of the juvenile and the public."<sup>22</sup> In addition, the victim has the right to attend the hearing and express concerns about the alleged crime, the juvenile, restitution and the sentencing orders.<sup>23</sup>

The Children's Code outlines a variety of sentencing options for the court. In short, the options are: probation, probation and up to forty-five days in detention (if the juvenile is over twelve years of age), probation with out-of-home placement in a residential child care facility or with other relatives or a commitment to the Department of Institutions (DOI)<sup>24</sup> in Colorado (if the juvenile is over twelve years of age).<sup>25</sup> The standard terms and conditions that apply to every juvenile placed on probation<sup>26</sup> include: no further violations of the law, no possession or consumption of alcohol or controlled substances, no possession of weapons, school attendance, restitution and reporting to the assigned probation officer as required. In addition to these standard terms and conditions, the court may also order the juvenile to complete commu-

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16. An example of a class-one misdemeanor is third-degree assault. An example of a class-two misdemeanor is second-degree motor vehicle theft.

17. COLO. REV. STAT. § 19-2-501 (Supp. 1991).

18. See *infra* note 36 and accompanying text.

19. COLO. REV. STAT. § 19-2-501(1) (Supp. 1991) and *id.* § 19-2-804(4)(a).

20. *Id.* § 19-1-102(1)(a) & (b).

21. The sentencing guidelines for juvenile court in Colorado are outlined in COLO. REV. STAT. § 19-2-701 (Supp. 1991) and *id.* § 19-2-801.

22. *Id.* § 19-2-701.

23. *Id.* § 19-2-707.

24. The DOI is a Colorado government agency that administers the State treatment, rehabilitation, and mental health agencies, including the juvenile secured facilities (e.g., Lookout Mountain School). *Id.* § 27-1-101 and § 24-1-118.

25. *Id.* § 19-2-703(1)(a)-(k).

26. *Id.* § 19-2-705.

nity service hours, mental health treatment, substance abuse treatment and other conditions the court deems appropriate for the juvenile.

A commitment to DOI cannot be for longer than two years, unless the juvenile has been adjudicated an "aggravated juvenile offender," or DOI petitions the court to extend the period of commitment.<sup>27</sup> The terms of commitment are for a determinate period of time unless a sentencing enhancement applies, in which case the court can set a minimum period of institutionalization.<sup>28</sup>

There are four sentencing enhancers in juvenile court: mandatory sentence, repeat felony, violent juvenile and aggravated juvenile. A "mandatory sentence offender" is a juvenile who has been adjudicated three times. A sentence for such a youth requires a minimum one year out-of-home placement. It does not, however, require a commitment to DOI. Thus, many youths sentenced under this designation are placed on probation, but reside in a Residential Child Care Facility (RCCF)<sup>29</sup> or with another relative.<sup>30</sup> A "repeat felony offender"<sup>31</sup> has at least two adjudications—the latter for what would constitute a felony offense if committed by an adult. This designation gives the court discretion to commit the youth to DOI for a minimum term not to exceed two years. A youth over thirteen years of age and adjudicated for a crime of violence (according to the Colorado Criminal Statutes)<sup>32</sup> can be designated a "violent juvenile offender,"<sup>33</sup> with those fifteen years of age and over being placed out-of-home for at least one year.<sup>34</sup> A commitment to DOI is not mandatory for a "violent juvenile offender."<sup>35</sup> An "aggravated juvenile offender" is a youth twelve years of age or older adjudicated for a class-one felony,<sup>36</sup> or a youth sixteen years of age or older with both a prior felony and subsequent crime of violence adjudication.<sup>37</sup> The judge has discretion to extend the commitment period from two to five years for aggravated offenders.<sup>38</sup> In all cases, the judge also has discretion to sentence juveniles who are eighteen years of age or older on the day of sentencing to the county jail.<sup>39</sup> A probation officer is assigned to monitor the progress of a juvenile placed on probation.<sup>40</sup> If, on the

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27. *Id.* § 19-2-704(3), (4) and § 19-2-804(6)(a).

28. *Id.* § 19-2-704(3).

29. An RCCF is a group home, not locked or secured, and is the least restrictive treatment (outside the home) setting for youths.

30. *Id.* § 19-2-801.

31. *Id.* § 19-2-802.

32. For example, first-degree sexual assault, aggravated robbery and first and second-degree assault are all crimes of violence.

33. *Id.* § 19-2-803.

34. Out-of-home placement is discretionary for those under 15 years old. *Id.* § 19-2-803(2)(a).

35. *Id.* § 19-2-203.

36. Only first-degree murder is considered a class-one felony.

37. *Id.* § 19-2-804.

38. *Id.*

39. *Id.* § 19-2-703(1)(b) & (c).

40. A probation officer, assigned to work with a youth and family when placed on probation, monitors progress in the community and makes recommendations to the court about the youth's treatment program. *Id.* § 19-2-1002.

other hand, a juvenile is committed to DOI, a client manager is assigned to the youth.<sup>41</sup> The client manager monitors and coordinates the youth's treatment and placement needs. A commitment to DOI often leads to a period of parole. If parole is granted, a parole officer is assigned to the juvenile.<sup>42</sup> The parole officer becomes the primary resource person for the youth; however, the client manager lends assistance when necessary.

The Colorado juvenile delinquency process is adversarial in nature, but with an orientation towards due process. Although judges have some sentencing discretion, the decision-making process is limited by statutes and the formal structure. The Colorado model of juvenile court best fits the structure defined as Autonomous/Noninterventionist - Type Four.<sup>43</sup> Type Four courts restrict judicial decision-making to non-discretionary, offense criteria limited by rules and structure. Youth social service agencies are separate and specialized. Therefore, the alleged crime dominates the judicial process, not the condition of the youth, except at the sentencing phase. At that point, the probation report supplies mitigating or aggravating social information that the judge uses to assess the type and severity of the sentence. The magnitude of the offense is subordinated to the importance of the offender's characteristics (e.g., family composition, education, mental health), which dominate at the sentencing. In Colorado juvenile courts "discretion enters after a legal finding."<sup>44</sup>

#### METHODOLOGY

Youths volunteered and responded to a structured questionnaire containing twenty sections with a total of ninety-six questions. The questions contained close-ended, fact finding items followed by open-ended questions to further examine the thoughts, attitudes and feelings of the interviewees. Each participant in this study was asked to respond to the same questions. This report provides a glimpse of the findings for thirteen of twenty sections.<sup>45</sup>

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41. A client manager, assigned to work with a youth committed to DOI, coordinates treatment and the residential setting for the youth, but does not actually work in the facility.

42. A parole officer monitors youths who are granted parole after a period of commitment to DOI. *Id.* § 19-2-1205.

43. Jeanne Ito, Janice Hendryx and Vaughan Stapleton, *Inside Metropolitan Juvenile Courts: How Their Structure Affects the Outcome of Cases*, STATE CT. J., Fall 1982, 16, 17-18 (research study analyzing various juvenile court jurisdictions, categorizing them and studying how each category affects the treatment of offenders). Type One (or Integrative/Interventionist) courts control probation, intake, social services, detention and adjudication and the prosecutor does not participate in filing the petition. *Id.* at 16. Type Two (or Transitional) courts share control of authority and the prosecutor is involved in the decision to file a petition, but not in probation or administrative control of the court, as in Type Four. Type Three (or Divergent) courts have little centralized control over the juvenile process.

44. *Id.* at 35.

45. The other seven survey sections deal mostly with the youths' family and educational histories, not the youths' opinions regarding the juvenile system. However, since

The population represented a spectrum of Colorado counties as well as a cross section of involvement and history with the juvenile justice system. Even though the number of youths in the study is relatively small (twenty-four), they are reflective of youths involved in the system. The three areas represented in this study are: (1) adjudicated youths on probation who reside in an RCCF/unsecured facility; (2) adjudicated youths sentenced to DOI who reside in an RCCF/unsecured facility;<sup>46</sup> and (3) adjudicated youths committed to DOI who reside in a secured/locked juvenile facility.<sup>47</sup> Of the twenty-four youths, six were on probation, six were in unsecured facilities, eleven were in secured facilities, and one was on parole and living at home. The parolee youth was previously placed in an unsecured facility.

The interviews occurred at the youths' respective residential facilities. The youths were interviewed individually in a private setting. The results of the interviews were not disclosed to placement/residential staff or any other persons working with the youths because they were assured of confidentiality prior to the interview. A research assistant, a Master's candidate in social work at University of Denver, was employed to conduct interviews with the youths on probation and in unsecured facilities. Youths from secured facilities were interviewed by one of the authors. In order to be sensitive to the youths and gain honest answers, the author associated with the juvenile court was not involved in the interview process. The interviews, averaging forty-five minutes each, were conducted over a one-month period. The authors attempted to keep any personal bias out of this Article by reflecting only the opinions of the youths in all sections except the conclusion. Wherever possible, the youths were directly quoted; however, vulgar language was edited. Due to the qualitative design of this article, only basic statistics of means, modes, and ranges are reported.

#### FINDINGS

Of the twenty-four youths interviewed, twenty-three were male and one was female. The average age was 17.04 years old. The youths' ethnic breakdown is as follows: one Turkish, four African-American, one Native American, four Caucasian, seven Hispanic, six multi-racial and one unknown.<sup>48</sup> Six are currently on probation, six are in unsecured facilities, eleven are in secured facilities and one is on parole. All the youths, except the parolee, are currently placed out-of-home.

The offenses that resulted in their current placement represent a wide variety of crimes. They include: theft by receiving, motor vehicle theft, burglary, sexual assault, incest, aggravated robbery and murder.

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this project is on-going, the authors hope to correlate the family and educational information with the incidence of self-reported crime and publish those results in a future article.

46. See *supra* note 29 and accompanying text.

47. This is the most restrictive treatment setting for youths.

48. The youths were asked to identify their own ethnicity within the structure of open-ended questions. The responses contained many different ethnic terms, such as black, African-American, Spanish, Mexican, Hispanic, white, and Caucasian.



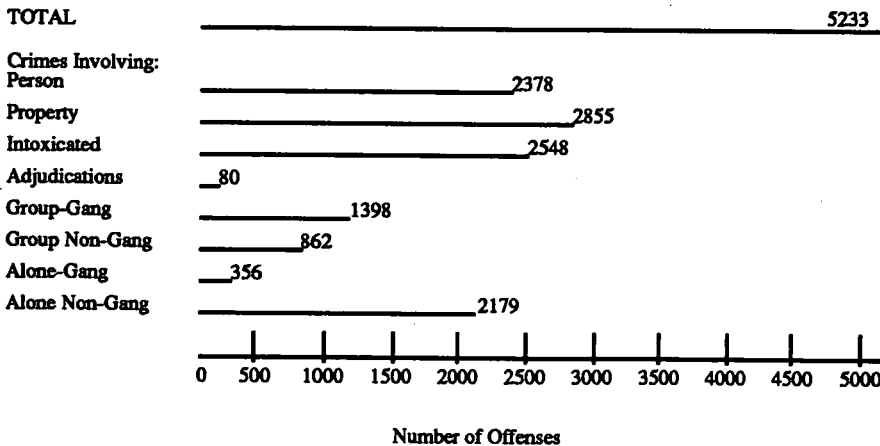
The youths self-reported<sup>49</sup> a total of 5233 crimes, yet had only a total of eighty adjudications. The mode number of crimes self-reported was 120 and the mode number of adjudications was three. Using these numbers, each youth participated in an average of 218 crimes prior to his or her current situation.

Out of the 5233 self-reported crimes,<sup>50</sup> 1398 committed as a group were gang related, 862 perpetrated as a group were non-gang related, 356 offenses committed alone were gang related and 2179 committed alone were non-gang related.<sup>51</sup> Approximately thirty-four percent of the self-reported offenses were gang related and fifty percent of the youths claimed gang affiliation. The youths reported that 2548 of the offenses were committed while they were intoxicated or under the influence of drugs and/or alcohol. The drug of choice was alcohol, and most often the alcohol was combined with marijuana. Only five percent stated that they were never under the influence of alcohol or drugs when they perpetrated their crimes. On the average, the youths were 12.10 years old at the time of their first experience with drugs and/or alcohol.<sup>52</sup>

Although the number of self-reported crimes for this population seems quite high, it correlates well with the research completed by the Colorado Division of Youth Services (DYS)<sup>53</sup> in 1986. That study found that each juvenile committed to DOI reported "breaking into a building or a vehicle an average of 27 times *in the year* before commitment."<sup>54</sup> In

49. Self-reported offenses include both those crimes the youths reported which they were not arrested for, along with those that resulted in arrest. A single incident may result in several self-reported crimes (i.e. a burglary involving violence to a person, committed by a gang-member acting alone while intoxicated).

50. SELF-REPORTED OFFENSES



51. There was no standard definition for gang. Each juvenile defined the term for him or herself.

52. The age range for this first experience was three to seventeen years old.

53. DYS, a branch of DOI, is responsible for coordinating services to juvenile delinquents committed to the DOI.

54. COLORADO DIVISION OF YOUTH SERVICES, A REPORT TO THE COLORADO ALCOHOL AND DRUG ABUSE DIVISION, EXECUTIVE SUMMARY: THE RELATIONSHIP BETWEEN DRUG USE,

addition, this same study reported a *yearly average* of thirty-nine felony thefts and 101 acts of selling marijuana.<sup>55</sup> The study found that "compared to a national sample of youths from the general population, the involvement of the Division of Youth Services population was from three to ten times greater for most offenses."<sup>56</sup>

We began our examination into the justice system by asking the youths questions regarding the first juvenile justice professionals the youths encountered, the police officers on the street. Unfortunately, youths have a poor opinion of law enforcement. Fifty-eight percent of the youths interviewed stated that they had negative and often abusive experiences with the police. One youth reported that a police officer told him: "Obviously the Judge hasn't taught you a lesson, so I will." The most common experiences expressed by the youths were of harassment and "alley rides"—when police officers hit the youths after arrest. This certainly leaves a very impressionable youth with an incorrect impression of the purpose of law enforcement and results in fear of the police. The majority of the youths expressing negativity towards the police also recognized that their own behavior may have contributed to the situation. Many stated that, in retrospect, if they had been respectful upon arrest, the police may have been respectful in return. Several youths expressed respect for the police. Thirty-four percent stated that they understand that the police have a difficult job. Eight percent were neutral on this issue.

Court is the next step for the juvenile. The court process, to those inexperienced, is often confusing. What do the youths say? Fifty percent reported that they understood what happened in court when they attended. Those who did not understand had difficulty with the "long words," the rules and procedures, people who spoke too fast and a process that moved so quickly that no time was left for the youths' input. Youths who did understand asked questions and/or had attorneys who explained the process to them. In one case, a youth stated that he did not understand because he did not pay attention. He expressed a lack of control over his court situation as his reason for not paying attention.

There are many professionals in the courtroom during delinquency hearings: the judge, the defense attorney, the probation officer, the DA and often a GAL.<sup>57</sup> Do the juveniles understand what role each plays in the process? This query divulged an overwhelming amount of confusion for the youths. Although eighty-three percent of our population did not have a GAL, those who did (seventeen percent) reported that they did not know what the GAL was supposed to do. Comments on this issue of the GAL ranged from: "Don't know what they do" to

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DELINQUENCY AND BEHAVIORAL ADJUSTMENT PROBLEMS AMONG COMMITTED JUVENILE OFFENDERS 9 (1986) (emphasis added).

55. *Id.* (emphasis added).

56. *Id.* at 28.

57. *See supra* note 9 and accompanying text.

“Didn’t do anything.” The youths were disappointed that the GAL never met with them outside of court and never got to know them.

When asked about the DA, three participants, twelve percent of the youths, did not know who the DA was or what he or she did. Twenty-nine percent of the youths spoke to the DA and reported positive experiences. One youth reported that the DA was a shrewd person, but that he was just doing his job. Others reported that the DA dropped charges and at times dismissed cases. Seventy-one percent stated that they did not speak to the DA, but sixty-four percent of these youths stated that they wanted to. If the sixty-four percent had spoken to the DA, they would have told the DA about themselves, asked the DA what his or her role is, asked what the DA’s intentions were and would have asked the DA for alternatives. One youth found the DA too accusatory and another youth stated that the DA would not take the time to speak to him.

Most of the youths did have defense attorneys—only thirteen percent were pro se. Of those with attorneys, thirty-four percent had positive experiences and fifty-three percent had negative experiences. Fourteen percent remained neutral on this issue. Of those with attorneys, at least fifty-three percent had Public Defenders (PDs) (five youths that had attorneys did not designate whether the attorney was court appointed, PD or private attorney). Those with positive experiences stated that their attorneys presented the case well, did a good job and spoke well for them. Comments from the youths who had negative experiences with their attorneys included feelings that their attorneys gave up, would not explain what was happening, would not tell the judge what the youths wanted and was not on the youths’ side. These youths had never met their attorneys before their court appearances.

Fifty-eight percent of the youths *wanted* to talk to the judge at sentencing. Of this fifty-eight percent, seventy-one percent actually did speak at their sentencing. This left twenty-nine percent of the youths silent who wanted to speak and forty-two percent who *never* wanted to speak. The most common issues the youths desired to address with the judge were to explain the circumstances of the offense and let the judge know *who* they are. The primary reasons for not speaking in court were intimidation, fright and a sense that the judge did not care anyway. Some youths wanted to speak about how unfair a probation officer had been, but they thought it would make the situation worse. Once again, at times the hearing proceeded too quickly for the youths to have time to formulate and express ideas.

When asked: “Do you think you were treated fairly or unfairly in court?” the youths focused on their sentences as a measure of fairness. Sixty-seven percent thought they were treated fairly, while twenty-nine percent thought they were treated unfairly. Four percent remained neutral on this issue. The youths’ comments reflect that they understand the adage: “Do the crime, do the time.” Most said they were treated fairly because they did the crime, the judge gave them a break, the judge gave them multiple chances and that they got counseling. A few youths

even commented on their sentence as "not much time." Those who thought they were treated unfairly often did not understand the process, felt no one listened to them and felt that there was not enough investigation into their case.

Seventy-five percent of the youths had some experience with probation. Of these, fifty-six percent had a helpful probation officer. The most common positive comments made about probation officers were that the officers were "too lenient," "cool," "nice," and "good." On the flip side, the negative comments included that the officer did not care, was on a power trip, was not too helpful and did not do any good. Sixty-one percent reported no behavior changes while on probation; instead they continued their pre-conviction behavior. Of those youths who did report a behavior change, forty-one percent reported a negative change—they "got worse." Thirty-nine percent of the youths on probation reported to the officer under the influence of drugs or alcohol. Most of these youths reported intoxicated more than once. Thirteen percent of the youths also appeared in court intoxicated or under the influence of drugs/alcohol.

The topic of client managers was discussed by all the Division of Youth Services (DYS) clients—seventy-five percent of the population. The range of time spent in DOI was three months to four years and five months, and the mode was ten months. One youth reported being a DYS client on and off for six years. Most comments about the client managers were positive. "Nice," "polite," "cool," "good," "great guy," "helpful" and "concerned," are sample comments. A few youths expressed concern that their client manager did not take care of business, was lazy, was inflexible and treated them as "a number".

#### SUGGESTIONS FROM THE YOUTHS

A majority of the youths, seventy-nine percent, agreed that juveniles should be treated apart from adults. The advantages of a separate juvenile system allowed them to get help, rehabilitate and avoid the more violent adult prisons. Some youths thought that juveniles should not be held as responsible as adults for their offenses because juveniles are immature and curious. However, twenty-nine percent of the youths thought that the more serious juvenile offenders should be placed in the adult system. Twenty-one percent of the youths did not want separate systems. Comments from youths who did not like the separation ranged from "treatment is unnecessary" to "there are less hassles in the adult lock-up facilities." One youth responded: "You make a decision as an adult, so you should be treated as one."

The message was clear—the juveniles want to be treated separately from adults, but they also want change in the current juvenile justice system. They offered several simple suggestions to improve the system. First, they want people to *speak* to them. This includes defense attorneys, GALs, judges, probation officers, and client managers. The juveniles repeatedly said that they are much more than a piece of paper.

The people handling their cases should make the time to meet with them before court and get to know them as people. Second, they want people to *listen* to them. They believe that they have valuable information, which is often over-looked by the professionals. The youths reported that "importance" is a subjective term, and what they view as important should be treated as such. The youths viewed family dynamics, their peers and their own fears of sharing information as important. In addition, they want to be heard before the sentencing phase of the proceedings. They would like the juvenile court system to be less offense oriented and more "offender characteristic" (family, mental health, education, etc.) oriented at all stages of the system. Such a change, the youths feel, would make the court and professionals more likely to listen and not simply pass judgment. Most youths believe they know what is best for themselves, but this rarely gets expressed. Third, the youths ask the professionals for patience. Juveniles have difficulty processing all the information flowing around the courtroom. They ask for time to formulate questions and comments. In addition, they ask for patience to build trust. Many youths felt that they could not be honest due to a lack of trust and the power structure of the system itself. Fourth, the juveniles ask to be educated about the juvenile system. They want to know the role of each person in court and out of court. This would facilitate communication, honesty and trust. They would know who to ask questions of and what questions to ask.

All of the youths recognized that their own conduct led to the consequences. They also recognized that they should have taken a more active part in the court process. All of the youths expressed some regret for not asking questions or for not speaking up in court. However, they cited intimidation and a desire not to ruin their case as reasons for minimal participation. Although the youths suggested making the process less intimidating, the only specific suggestions regarding that ideal were those listed above.

The youths gave several specific suggestions for the system. Most asked for more restrictions on the behavior of police officers. They also stated that the court, as well as the probation and client managers, should be more consistent—enforce sanctions instead of just threaten. One youth thought the law should allow more than three adjudications before out-of-home placement is enforced. Another juvenile felt he should have a choice of where to go if placed out-of-home.

Some suggestions involved complicated theories of law. For example, one youth wanted a shorter statute of limitations. Suggestions to make the civil rights law more positive were made along with reformation of the education system. The youths suggested making the educational system more flexible to meet student needs, possibly through individualized instruction. The youths also suggested stricter laws for police misconduct and getting rid of laws which "pick on youth" as ways to improve the system. One suggestion was very simple: Change all the private property signs that prohibit skate boarding.

The overall theme for the youths' suggestions was respect. They do not feel respected as people when they go through the court process. This lack of respect causes many of them to close up and not communicate.

Once a youth has become involved in the juvenile justice system, the role of a parent becomes overshadowed by the court process. Parents, like their children, are often intimidated by the court proceedings due to a lack of understanding or fear of saying something that will make the outcome worse. One youth reported that his parents are Spanish-speaking and did not understand what happened in court. Thus, when his parents did speak, their comments were misunderstood.

All the youths discussed what they wished, in retrospect, they would have done or said regarding their parents. Seventy-seven percent said they should have respected and listened to their parents. (It is important to mention that ninety-two percent of the youths specifically identified their mothers in this section.) They went on to say they would have "trusted their mothers better," "explained that it wasn't their fault" and apologized for the trouble they caused. They felt they could have tried to talk to their parents, sharing their feelings and frustrations.

The youths also provided some great insight into what their parents could have done. Sixty-three percent stated their parents should have *enforced* punishments such as grounding and restrictions. These youths reported needing more structure, less rescuing and getting away with "things" without consequences. Although we did not ask if the youths had been abused at home, twenty-five percent stated they were, and that their parents should not have treated them in that way. Other input was that parents should spend more time with their children, listen to them and ask how they are doing. They felt that going places with their parents would have helped structure time and left less time for negative peers. Being given better values, not being taught to be prejudiced and parents leaving the past alone were all cited as important. Only twenty-five percent of the youths felt their parents did everything they could.

#### CONCLUSION: THE AUTHORS' IMPRESSIONS

It was surprising to discover that each youth, in his or her own way, and to different degrees, accepted responsibility for his or her involvement in the juvenile justice system. The findings and suggestions reported above are the honest and sincere thoughts of the youths interviewed. The youths took a risk in participating in this research and they trusted the writers to accurately reflect their comments and feelings. We have made every effort to do so.

The youths' reaction to the interview process was interesting. Some youths shied away from volunteering because they did not think people would listen. Others were enthusiastic about the opportunity to give input into a system that they feel controls their lives. We thank each of the youths for participating, for their candor, and for caring enough to spend time completing the interview.

One important issue this research did not touch upon is victimization. The self-reported crimes among our population totaled 5,233. This denotes 5,233 primary victims for only twenty-four juveniles. It is not our intention to minimize victimization. We recognize, professionally and personally, the tremendous impact these juveniles have had on society. Yet, this project focused on the youths' perceptions of how they "fit" into the juvenile justice system. Victim awareness is an issue that deserves further research (e.g., how does the victim "fit" into the justice system and how do the juveniles view their victims). The limited scope of this Article prevented us from addressing such significant issues.

As mentioned above, each youth, in his or her own way, accepted responsibility for his or her involvement in the juvenile justice system. Prior to the interview, the youths did not understand how they could actively participate in the system and play a responsible role in the court process. They understood the connection between the offense and the resulting sentence, but they did not understand the process of getting from one point to the next.

It should be noted that a circumscribed group was involved in our research—our sample is in out-of-home placement with treatment. This might account for the youths' ability to accept responsibility for their offenses and to be more insightful about themselves. Even though we did not interview youths who were placed at home or not in treatment, responses from the interviewed youths demonstrated the value of treatment over probation.

It was obvious to us that communication gaps exist within the juvenile justice system. The questionnaires revealed the youths' frustration with mixed messages. Often times, they were not treated consistently and did not experience what they were told they would experience. As professionals, we need to develop a method of communication among ourselves and with the juveniles, which would allow us to have a more positive impact upon youths without confusing them. Needs and expectations must be clarified for youths, and follow-through must be completed. The youths in our survey view communication, information and respect as important ingredients in the court process. Communication among professionals and youths can only enhance the purpose of the juvenile court system "to serve the welfare of the children and the best interests of society."<sup>58</sup>

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58. *Id.*