A YOUNG CRY FOR JUSTICE

This publication outlines The Trespass Project's official position and findings on juvenile recidivism in the United States and the constitutional deficits inherent in adult-led juvenile adjudication processes.

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Executive Summary

The United States juvenile justice system, as it stands, denies youth offenders one of the fundamental promises of American law – the right to a trial by a "jury of peers." The Sixth Amendment guarantees an accused person the right to an impartial jury, yet this has never fully applied to juveniles in delinquency proceedings. In *McKeiver v. Pennsylvania* (1971), the U.S. Supreme Court explicitly held that juveniles are not constitutionally entitled to jury trials in juvenile court. This decision was rooted in the idea that juvenile courts should be informal and protective rather than adversarial. However, decades later, critics argue that this well-intentioned exclusion has produced an imbalanced system where young defendants are judged either by a single adult judge behind closed doors, or by adult jurors in adult courts – but never by people from their own age group. The result is a justice system that often fails to account for youth perspectives and developmental differences, prompting calls for a revolutionary shift in how we try juvenile cases.

Compounding this concern is the fact that substantial numbers of minors are still funneled into the adult criminal justice system, where they face adult judges and juries. At the turn of the century, as many as 250,000 juveniles per year were being prosecuted as adults in the U.S. justice system. Thanks to reforms in recent years, that figure has dropped dramatically – the latest estimates (2019) indicate roughly 53,000 youth were charged as adults that year. Even so, tens of thousands of minors continue to be treated as adults annually, including children of very young ages. In fact, the Equal Justice Initiative reports that kids as young as 8 years old have been prosecuted in adult courts, and 13 states have no minimum age set by law for trying a child as an adult. Most of these youths are not hardened, violent criminals. The public remains largely unaware that about 95% of juveniles tried in adult courts are accused of non-violent offenses. Nevertheless, once in the adult system, they face the full brunt of adult criminal penalties and prison conditions. Research shows that youths transferred to adult courts suffer worse outcomes: they have higher recidivism rates than those kept in the juvenile system and are far more vulnerable in adult facilities. Alarmingly, youths are 36 times more likely to commit suicide in an adult jail than in a juvenile detention center, not to mention increased risks of sexual assault and trauma. These realities underscore

the urgent need to rethink how we handle juvenile offenders – both to protect young people's rights and to improve public safety outcomes.

Against this backdrop, an innovative alternative has gained traction: *Teen Courts* (also known as youth or peer courts). Teen Courts reimagine juvenile justice by bringing youth into the process not as defendants only, but as judges, jurors, and attorneys. They offer a model that literally provides a "jury of peers" for young offenders, aligning with the spirit (if not the letter) of the Sixth Amendment's jury trial guarantee. This deep-dive will explore how Teen Courts work, the evidence of their effectiveness, and why expanding this peer-driven approach could address many failings of the current system. It combines an advocacy perspective with data from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Equal Justice Initiative (EJI), and other research to argue that empowering youth to judge youth is not only a constitutional ideal but a practical path forward for juvenile justice reform.

The Sixth Amendment and Youth Justice: A Right Unfulfilled

When the U.S. Constitution was written in the 18th century, concepts of juvenile justice barely existed – children were generally tried and punished like miniature adults. Over time, the separate juvenile court system was established (in the early 1900s) to focus on rehabilitation rather than punishment of youth. Yet even as juvenile courts evolved, the promise of a "jury of one's peers" was left behind. In *McKeiver v. Pennsylvania* (1971), the Supreme Court settled the matter by ruling that jury trials are *not* required in juvenile delinquency adjudications. The Court feared that inserting juries would make juvenile hearings more adversarial, undermining the informal, paternal approach those courts were designed for. In essence, the goal was to shield juveniles from the harshness of criminal procedure, but an unintended consequence was shielding them from community input as well.

As a result, today a youth facing delinquency charges in juvenile court is judged solely by a judge; and **if that same youth is instead charged as an adult, they might get a jury – but one composed entirely of adults**, often with little understanding of adolescent life. Both scenarios stand in contrast to the "jury of peers" ideal. Importantly, nothing in McKeiver forbids states from granting jury trials in juvenile

court; it simply isn't mandated. A few states have since chosen to allow juveniles this right in certain cases (for example, *Texas law* provides for jury trials in juvenile proceedings unless waived). However, such instances are the exception. **In most of the country, a teenager could be deprived of liberty on the say-so of a single adult without ever having fellow youths weigh in on the decision**.

This gap has drawn criticism from youth advocates and legal experts who argue that juries could improve fairness and legitimacy in juvenile courts. Peers might be better equipped to gauge a young defendant's actions in context – understanding youthful impulsivity, peer pressures, and the gap between teenage misjudgments versus true malignancy. Moreover, over the past two decades the Supreme Court has repeatedly acknowledged that juveniles are "different" from adults in ways that matter for culpability and rehabilitation. In landmark cases like *Roper v. Simmons* (2005) and *Miller v. Alabama* (2012), the Court banned the harshest punishments for juveniles, citing research on adolescents' reduced blameworthiness and greater capacity for change. Yet, paradoxically, the basic trial procedure for juveniles has seen no analogous reform since 1971. The *McKeiver* decision's emphasis on informal proceedings endures, despite evidence that the juvenile system's "protections" sometimes fail in practice. When juvenile courts "get it wrong," the youth have no jury to appeal to; when juveniles are tried as adults, the juries they face may carry biases and lack understanding of youth behavior.

In short, **the constitutional right to a jury trial – a cornerstone of American justice – effectively bypasses American youth**. This undermines the perceived fairness of outcomes and, arguably, the accuracy of fact-finding when cultural and generational gaps separate the decider from the accused. It is within this void that *Teen Courts* have emerged, effectively creating a jury of peers where the legal system has not. Before examining Teen Courts, we first consider how deeply the current system involves juveniles in adult processes, and why many see that as a crisis.

Youth Tried as Adults: The Scope of the Problem

One might assume that juvenile courts handle nearly all offenses by minors, but in reality **a significant number of youths are pulled into adult courts each year**. During the "tough on crime" era of the 1980s and 1990s, virtually every state expanded laws to try more kids as adults – fueled by a now-debunked myth of a coming wave of teenage "superpredators". By the late 1990s, roughly a quarter-million juveniles per year were being prosecuted in adult criminal court. These were not just older teens, either: many states set the default adult prosecution age below 18 (some as low as 16), and others passed laws mandating adult charges for certain crimes regardless of age. As noted, **some states still have *no minimum age,* meaning even an elementary-school-aged child can be legally charged as an adult under certain circumstances**. EJI has highlighted cases of 12- and 13-year-olds in adult court, and reports that children under 14 have been subjected to adult prosecution in states without age floors.

Thanks to bipartisan juvenile justice reforms over the past decade (often termed *"Raise the Age"* laws), the tide is slowly turning. Most states now set 18 as the age of adult criminal jurisdiction, and many have curtailed automatic transfers of youth to adult court for specific charges. The impact has been dramatic: where 250,000+ youth once entered adult courts annually, recent estimates show about 53,000 such cases in 2019 – a roughly 80% drop from the 1990s. This is *good* news. However, even at 50-60 thousand per year, the number remains troubling, especially given the nature of those cases. According to the Campaign for Youth Justice, **nearly 95% of juveniles tried in adult courts are there for non-violent offenses** (property crimes, drug offenses, etc.), not the heinous violent crimes the public might imagine. In other words, the vast majority of kids being sent to adult court could be handled in the juvenile system without any threat to public safety – and would likely be better off for it.

The consequences of funneling youth into adult courts and prisons are dire. Research consistently finds that **youth prosecuted as adults re-offend at higher rates than youth handled in juvenile courts**,

even when controlling for offense severity. Rather than "scare them straight," the adult system often *hardens* juveniles or exposes them to abuse. Juveniles in adult jails and prisons do not have access to age-appropriate educational and rehabilitative programs, and they are highly vulnerable within the general inmate population. Perhaps the most shocking statistic: **juveniles are 36 times more likely to commit suicide in an adult jail than in a juvenile facility**. They are also far more likely to be victims of sexual assault in adult lockup. These facts underscore that the current approach – sending thousands of teens into adult courts and facilities – is both unsafe and ineffective. It neither rehabilitates the youth nor adequately protects society, given the higher recidivism. As Marsha Levick of Juvenile Law Center notes, *treating kids as adults in the justice system simply does not advance public safety.*

From a constitutional and moral standpoint, we are effectively withholding from juveniles the same standard of justice we afford adults (a jury trial), yet subjecting them to a harsher punishment regime that even adults struggle to endure. This imbalance calls for a new solution that keeps youthful offenders out of adult prisons while injecting the juvenile process with greater fairness and community engagement. *Teen Courts* have emerged as precisely that solution – diverting youth from the traditional system and giving them a true jury of their peers. The next section explores how these courts work and the promising results they are yielding.

Teen Courts: Peer Justice in Action

Teen Courts are a community-driven alternative for handling juvenile offenses, typically aimed at first-time or low-level offenders. The concept is simple yet radical: **a young person who admits responsibility for an offense can choose to be judged and sentenced by a jury of other teenagers** instead of going through the formal juvenile court. These programs operate in over 600 communities across the United States, often run by local courts, law enforcement agencies, or nonprofit organizations. In a Teen Court proceeding, the roles of prosecutor, defense counsel, court clerk, bailiff – and crucially, the jurors – are all filled by youth volunteers, usually teens from local high schools. *"During a session of Teen Court, the juvenile appears before a jury of their peers and is represented by a teen 'defense*

attorney'. A teen 'prosecuting attorney' questions them, and an adult judge presides to ensure due process," explains a description of the Oakland County (Michigan) Teen Court program. The offender must typically plead guilty or no contest to participate, since the focus is on sentencing and accountability rather than factual guilt or innocence. Once in the program, the peer jury hears the case details, often asks the defendant questions (sometimes the teen jurors or attorneys will do this), and then deliberates to decide on an appropriate "sentence."

Despite the use of legal terms, **Teen Court sentences do not involve incarceration**. Sanctions handed down by the teen jury commonly include things like community service, apology letters, restitution to victims, mandatory attendance at counseling or educational workshops, and even serving as a juror in a future Teen Court session (a form of paying it forward). The entire process is designed to be a learning experience for the defendant and the volunteers. As one Teen Court coordinator put it, *"The courtroom becomes a classroom."* The youthful offenders must face their peers, accept responsibility, and actively engage in their rehabilitation, while the teen volunteers gain firsthand understanding of the justice system and develop empathy and leadership skills. *Judge Thomas Adams*, who founded the Santa Barbara Teen Court in California in the 1990s, noted that initially skeptics said "you don't put kids in a court of law… there's no way kids can be responsible to do this." But Adams persisted, and soon found *"it was working, and working beautifully. I'd even say the Teen Court juries are tougher than I am. Young people are not conned by other young people."* This reflects a core philosophy of Teen Courts: that **a jury of one's peers can have a uniquely strong influence on youth behavior**. In Oakland County's program, for example, it is explicitly built on the belief that *"a jury of one's peers is more influential in dealing with behavioral problems than any other method."*

Unlike the traditional juvenile system, Teen Courts directly empower youth in the justice process. Peers hold their peers accountable, which can increase the defendants' perception of fairness ("my punishment was decided by people like me") and reduce the sense of alienation from the system. It also addresses the Sixth Amendment concern in spirit: while not a formal jury trial, the Teen Court does give the juvenile a

form of jury of peers, something unavailable in ordinary juvenile court. And the outcomes have been impressive. According to the OJJDP and various program reports, **communities using Teen Courts have consistently seen recidivism rates plummet**. One comprehensive evaluation by the Urban Institute compared Teen Court participants with similar youth handled in traditional ways. In Alaska, for example, only 6% of Teen Court defendants reoffended, compared to 23% of those processed in the conventional juvenile system. Missouri's Teen Courts saw a 9% recidivism rate versus 27% in regular court. Across several sites studied, *three out of four* Teen Court programs significantly outperformed the traditional system in reducing re-arrests. And in the fourth site, which had results on par with a high-quality police diversion program, recidivism was still very low (8%) for Teen Court participants. These findings dispel the notion that peer justice might be a soft option – on the contrary, it appears more effective at preventing future crime than business-as-usual. As OJJDP summarizes, many locales report that *"90% or more of the defendants who complete the teen court program are never re-arrested."* This **90% success rate** is a striking figure that has been echoed in multiple Teen Court programs nationwide.

Moreover, Teen Courts deliver benefits beyond just reduced re-offending. Cost savings are a notable advantage. **Handling a case through Teen Court is dramatically cheaper than formal court processing or detention**. For instance, in California it costs about $4,800 to supervise a minor on probation, whereas it costs only about $500 to process a case in Teen Court. That represents a savings of thousands of dollars *per case* for taxpayers. Much of this savings comes from the fact that Teen Courts are largely volunteer-driven (peer jurors and youth attorneys are not paid) and they divert cases away from costly court dockets and detention facilities. A Teen Court case also frees up probation officers and judges to focus on more serious offenders, easing the overall system workload. Judge Adams recalled that these economic arguments were key to getting buy-in: *"The probation department wouldn't have to handle petty cases and taxpayers would save money."* In an era of tight public budgets, such efficiency is no small matter.

To summarize, key benefits of Teen Court programs include:

- **Lower Recidivism:** Peer-driven efficacy philosophy has proven effective at deterring repeat offenses. Many programs report **re-offense rates under 10%**, far better than traditional juvenile justice. The positive peer pressure and rehabilitative focus help break the cycle of crime.
- **Cost Effectiveness:** Teen Courts are inexpensive to operate relative to formal court or incarceration. On average, a case handled via Teen Court costs only a few hundred dollars versus several thousand in the conventional system. This translates into substantial savings for communities.
- **Youth Accountability and Engagement:** Offenders must actively participate and take responsibility in front of peers, which can be more impactful than a lecture from a judge. At the same time, **teen volunteers (jurors, attorneys) gain legal knowledge and civic engagement experience**, harnessing positive peer influence for community good.
- **Second Chances without a Record:** If a defendant successfully completes their Teen Court sentence, **the original charge is often dismissed, leaving the youth with no criminal record**. This clean slate is crucial for their future education and employment prospects, reinforcing rehabilitation over punishment.

In practice, Teen Courts function as a restorative justice model. They seek to repair harm and integrate the youth back into the community, rather than impose harsh penalties. Victims' involvement is encouraged (some teen court hearings include the victim's perspective), and the focus is on learning and growth. Notably, because teen juries can sometimes be quite strict in their expectations, youth offenders often report that they take the process very seriously – "*it's not a joke when your own peers are judging you,*" said one Teen Court participant. And unlike in traditional court, many Teen Court programs require the parents or guardians of the offender to attend certain sessions (for example, parenting workshops as part of the sentence), thus addressing family factors that might be contributing to the youth's behavior. The end result is a more holistic approach: **justice that educates**. A former teen

defendant who went through the program in Michigan noted that being judged by fellow teens felt fair and motivating: *"Adults don't understand things the same way... Being put in front of people who are a true jury of your peers is beneficial to make sure you get the justice you deserve and are entitled to."*

Advocacy and Policy Imperatives

Given the evidence and successes outlined above, there is a strong case for scaling up Teen Courts and integrating the peer-jury concept more deeply into juvenile justice policy. Advocacy organizations and forward-thinking jurisdictions are already pushing in this direction. The *Office of Juvenile Justice and Delinquency Prevention (OJJDP)* has supported research and resources on Teen Courts for decades, viewing them as an evidence-backed diversion strategy. Many states have formed associations or networks of Teen/Youth Courts to share best practices. Meanwhile, the *Equal Justice Initiative (EJI)* and similar advocacy groups emphasize the broader goal of keeping children out of adult courts and prisons altogether. EJI argues that *no child under 14 should ever be tried as an adult*, and it works to end the placement of minors in adult jails and prisons. Expanding Teen Courts aligns perfectly with these aims: it offers a constructive outlet for youthful offenders within the juvenile system, thus reducing the push to charge them as adults. When minors have a viable alternative like Teen Court, prosecutors and judges may be less inclined to transfer cases to adult court in the first place.

Policy-makers should consider several concrete steps. First, support for Teen Courts can be increased through legislation or funding grants that establish or expand such programs statewide. Some states have already passed laws formally recognizing Teen Courts as part of the continuum of juvenile justice options, often with bipartisan support (saving money while reducing recidivism appeals to both "tough on crime" and "smart on crime" philosophies). Second, courts could be encouraged (or required) to refer eligible cases to Teen Court as a diversion before formal adjudication. For example, a minor first-time offender caught in a low-level crime might automatically be offered the Teen Court route, with consent of the victim if applicable. This could dramatically cut down the number of youths getting criminal records for minor mistakes. Third, there could be exploration of **peer juries in more serious cases** in

some capacity. One visionary idea is to incorporate youth jurors into certain juvenile court trials (for instance, having a mixed jury of youth and adults for older teens, or an advisory youth jury for juvenile judges to consult). While this would be a bold step and raises practical questions, it underscores the principle that **youth voices need to be heard** whenever youth lives are being judged.

At a minimum, the Teen Court model should be replicated in every jurisdiction as a means of empowering youth and building trust in the justice system. The benefits extend beyond the defendants. Communities gain a cadre of civically engaged young volunteers. As noted by the National Association of Youth Courts, participants in teen courts (both offenders and volunteers) often report improved attitudes toward law and authority, improved self-esteem, and a greater sense of connection to their community's welfare. These are exactly the kinds of pro-social outcomes one hopes for in any juvenile justice intervention. By contrast, a traditional juvenile court experience – or worse, an adult court experience – can be alienating and stigmatizing, pushing youth further toward delinquency. Teen Courts flip that script: they say to a young person, *"We still consider you a part of this community, and we trust your peers to guide you back on track."*

It is important to acknowledge that Teen Courts are not a panacea. They primarily handle less serious offenses and first-timers; youth who commit violent felonies or repeat serious crimes will still be dealt with in traditional courts. However, by preventing escalation at the lower end, Teen Courts can **shrink the pipeline of youth who graduate to more serious criminal behavior**. And philosophically, they plant a seed that justice can be collaborative and rehabilitative, not just punitive. For the broader juvenile justice system, embracing the ethos of peer involvement could spur other reforms – such as including youth advisory councils in juvenile justice agencies or having formerly system-involved youth help design intervention programs. It is a move toward a *more democratic* juvenile justice system, one that reflects the values and voices of the youth it serves.

Conclusion

The United States has a proud tradition of trial by jury, yet for too long that tradition has excluded the very population that might benefit most from it: juveniles. The current system's failure to provide juries of peers for youth, combined with the harmful practice of funneling kids into adult courts, constitutes a serious flaw in our justice system's promise of fairness. Teen Courts have risen to prominence as a powerful answer to this problem – **reinstating peers into the process, revitalizing the meaning of a "jury of peers," and producing better outcomes as a result**. The data are compelling: lower recidivism, lower costs, and higher satisfaction for victims and communities. Equally important are the stories behind the data – stories of teenagers who, after being judged by a Teen Court, went on to college or jobs with a clean slate and renewed sense of responsibility, and stories of teen volunteers who discovered a passion for justice or mentorship through their service. Every Teen Court session is a reminder that youths are capable not only of redemption, but also of leading and judging with wisdom and compassion.

Transforming juvenile justice will require commitment from policymakers, law enforcement, judges, and communities. It will mean overcoming skepticism about youth capabilities – a skepticism that Teen Court successes have already begun to dispel. The youth of America are demanding a louder voice in matters that affect them, and juvenile justice is no exception. As our Executive Director, then 16-year-old Teen Court participant, put it, *"we're often told we have to wait to do things … I'm gonna make a change right now."* The message from the next generation is clear: they want a justice system that trusts and involves them, not one that simply shuffles them through adult institutions or paternalistic processes. We should listen. By embracing the peer jury concept and expanding Teen Courts, our society can finally honor the constitutional spirit of a jury of one's peers for juveniles, while at the same time enhancing public safety and youth development.

In the end, ensuring justice for youth is not just about protecting their rights – it is about fulfilling our own obligations to raise the next generation responsibly. A system that includes youth voice, understands youth behavior, and focuses on rehabilitation over retribution is one that not only serves juveniles better, but ultimately serves us all. **The constitutional promise of a fair trial by one's peers should extend to every American*, including those who are young*.** It's time to dismantle the remnants of a failing approach and build a new one that nods to the rights and dignity of those who will one day inherit the mantle of running our society. Teen Court is a bold step in that direction. The youth have spoken, and their verdict is in: **justice and fairness demand peer juries and a juvenile system that believes in kids.** It is now up to today's leaders to act on that verdict – to stand with this youth-led revolution in justice, or stand in its way. The jury (of peers) is no longer out; its decision is clear. Will we heed it?

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