



# A legal lesson

Program allows high school students to act as jury in real juvenile court cases

**I**t was a typical Thursday after school. Cheerleaders practiced their routines in the hallways. Students milled in the quad, chatting and doing homework. But inside one hall at Newport Harbor High School, a 15-year-old boy — we'll call "James" — stood before a real judge and jury to answer for charges of stealing a cellphone.

This was a session of Peer Court, a unique juvenile diversion program that brings an up-close look at the legal system directly into high schools all over Orange County. Instead of appearing in juvenile court, first-time juvenile offenders who have committed non-violent misdemeanors can appear in Peer Court to be sanctioned.

A sitting judge presides over the case, while high school students serve as jurors and asks the defendant questions. The jury then deliberates — under the guidance of a volunteer attorney — and gives a recommended sentence to the judge. Meanwhile, students from the high school watch the proceedings to learn about the juvenile justice system.

Peer Court is run by the nonprofit Constitutional Rights Foundation of Orange County in conjunction with the Orange County Superior Court, Probation Department, District Attorney's Office, Department of Education and the nonprofit Community Service Programs.

"It's definitely a collaboration," says program manager Jennifer Gerstner, who oversees Peer Court programs in 14 different schools in Orange County. "Peer Courts are used in many California counties, but we are one of the only ones that hold its sessions in high schools themselves, and one of the few that actually has student jurors."

The program is designed to benefit first-time juvenile offenders arrested for a nonviolent offense. Defendants are recommended for the program by the Orange County Probation Department. The juvenile defendants have already "plead guilty" by admitting to the offense as a condition of participating in Peer Court, so the only issue is the sentence. The jurors work off a checklist of possible sanctions, and the offense is erased from defendants' criminal records as long as they successfully complete these penalties.

"The advantage is that instead of going into juvenile court, their record is basically expunged. These are offenses that may be teenage mistakes, but are serious enough that the police or probation department feels there should be consequences," says Gerstner.

The students who watch the proceedings and participate as jurors, meanwhile, gain community service hours and a valuable learning experience. The trial takes place in one day (less than an hour), and some Peer Court sessions have two cases in one day. Typically, attending students are from the participating school, but sessions are open to all students. Jurors are selected at random from the audience.

"It really teaches the students who are watching that actions do have consequences," Gerstner says. "It's one of the few chances for students to experience the justice system firsthand."

Peer Court has proven successful, its supporters say. It diverts cases from the crowded courts, and it is 80 percent less expensive than administering cases through the Probation Department, according to the Constitutional Rights Foundation.

A Probation Department study also shows that 75 percent of juveniles who appeared in Peer Court successfully completed the program, and 96 percent of those had not re-offended within one year.

## *New trend in discipline*

Peer Court programs like this one are representative of a broader trend in education where some schools are moving away from zero-tolerance student discipline policies. Under an approach known as restorative justice, these programs seek to resolve conflicts through



talking and group dialogue instead of suspending students for misconduct like fighting or acting out in class.

Proponents say that this approach gets better results than zero tolerance discipline rules, and it counteracts what the American Civil Liberties Union and other advocates call the “school-to-prison pipeline” that funnels children — especially poor and minority children — from public schools into the criminal justice system. Peer Courts address the so-called pipeline because they give first-time offenders a chance to stay in their home schools, instead of the criminal justice system.

Some have criticized restorative justice programs, saying that by removing teachers’ authority to give consequences for disruptive or violent behaviors, these programs put other students and teachers at risk and make it harder to offer quality instruction.

Peer courts have grown dramatically in recent years. In 1991, there were only two youth courts in California. Today, there are 80 in the state and 1,400 nationwide.

### The trial

On this day, Orange County Superior Court Commissioner Richard Pacheco began the session in Newport Harbor’s Social Hall by reminding the students: “This is a real court proceeding” and asking the four students serving as jurors to aim to “fit the punishment to the crime.”

Peer Court identifies all participating students only by their first names to protect their privacy.

A volunteer probation officer shared the circumstances of James’ case, outlined in police reports. In February, he was found with one of two cellphones that had been reported stolen out of PE lockers at his high school. James admitted to taking a cellphone, but he said it had been left on top of a locker. James said he didn’t break into any lockers or take the second phone, which was returned anonymously when he was in police custody.

After hearing the basics of the case, the student jurors were allowed to ask questions.

“Were you alone when you took the phone?” asked one juror.

“Can you elaborate what you meant

“This is to help you so that you’re never in this situation again.”

— Orange County Superior Court Commissioner Richard Pacheco

when you said everything was going so fast?”

“How do you think the person whose phone was stolen felt?”

“Did you have the original intention of keeping the phone?” was another question.

“I was going back and forth in my head, keep it, turn it in,” James answered. “I was going to turn it in in the beginning, but I was thinking about keeping it.”

“It sounds like you have violated the trust of your classmates,” Pacheco said during another exchange.

James added: “The day I came back, they said I was the one who had been arrested. Now they’re always suspecting me. I try not to be in the locker rooms that much, so they know I’m not in there if something goes missing.”

Jurors also asked about James’ below-average grades, whether he had been ditching school, and what he was doing when he ditched.

“I would just ditch school and go out to eat, or to skate. We just ditched to hang out,” James said. “I’ve been trying my best to catch up. I’ve noticed how bad my grades were, and I’ve actually been trying to see if I can get my grades back up.”

Defendants in Peer Court are accompanied by a parent. James’ mother sat with him during the session and answered a few questions from the judge herself. She told the court she was upset when she received a call from police after James’s arrest because he hasn’t been in legal trouble before.

“I was very disappointed. He’s a good kid. If I ask him to be home at a certain time, he does,” she told the court.

Later, when asked by the judge about James’s ditching school, his mother said that she has had more time to watch

him closely since she lost her job two months ago. Before that, she said, she was working 10 to 12 hours a day so she wasn’t aware of what he had been doing.

Later, James told the students he would not steal again. “I learned my lesson. People see you differently. You have to do things like this [Peer Court]. This is going to stay with me for a while. I know it is,” he said.

### The sentence

The jurors deliberated for about 15 minutes, then returned with a recommended sentence of 13 hours of community service, a requirement to attend all of his school classes regularly and have the school report weekly on his performance. Pacheco accepted their recommendations and added another sanction: attending a legal awareness class.

“This is probably what is called a crime of opportunity. Something was there and you shouldn’t have taken it,” Pacheco said. “This is to help you so that you’re never in this situation again. We want you to do better, and to think before you act. That’s a real key,” said Pacheco, adding, “Before you are excused, you do realize how fortunate you are. You could be in juvenile hall right now waiting to have a hearing, and possibly have a juvenile record. But if you complete what you’re supposed to do here, it won’t be on your record.

“If your friends are going to encourage you to do something like this, walk away. Peer pressure is tough. That’s why you have to rise above it,” said Pacheco. “Be a leader. Make good choices.”

After court was adjourned, the student juror who acted as foreperson agreed that the program is valuable to teens like her. This was her third time attending a Peer Court session. She has been a juror twice, but her first time in Peer Court was as the juvenile offender. Since completing her own sanctions, she says she now has an interest in helping other offenders who have made mistakes.

“It’s a great program,” she said. “I have empathy for [the offenders]. They get to realize that it’s not a joke in the real world.”

**Kelly St. John Regier** is the mother of two girls and lives in Foothill Ranch.