

APPENDIX C

(FORMS)

(Organizational Title) Youth Court
(Youth Court Address)
(Youth Court Phone No.)

Advice of Rights and Consent to Participate in Youth Court

I, _____, have read the Youth Court brochure, and I have had an opportunity to discuss Youth Court with my parents(s)/guardian(s), and to have my questions answered by Youth Court Personnel.

I understand that Youth Court is a voluntary diversion program, that I am not required to proceed in Youth Court, and that I have an absolute right to have my case proceed in the appropriate state court. I understand that in state court I have the right to remain silent and that statements made by me may be used against me in court; that I have the right to have an attorney present during questioning and to represent me throughout the proceeding, and if I cannot afford an attorney, one will be provided without charge; and that I have the right to a trial.

I understand that by choosing to proceed in Youth Court, I am giving up my rights, and that I must admit that I am guilty of the offense with which I am charged. I understand that if I choose Youth Court, the facts of my case, information about me, and related documents, will be made available to Youth Court participants, and that I am giving up certain rights to confidentiality provided for under state law, including the exclusion of the general public from any proceeding and the sealing of accusatory instruments and other documents.

I understand that in order to fulfill my obligations to Youth Court, I must attend all scheduled proceedings, appear on time, serve on at least one (1) Youth Court jury, and complete my community service sentence and all counseling requirements.

I understand that I have a right to consult with an attorney to discuss with me the advisability of choosing Youth Court.

I waive my right to proceed in state court (and all rights associated therewith, including those outlined above) and I hereby request that my case be referred to Youth Court. I acknowledge that I am guilty of the offense with which I am charged.

(Youth Signature)

(Parent Signature)

Judge's Instructions

I. Clerk calls the case

II. **Introductory Comments** – “Ladies and gentlemen of the jury, I would first like to thank you for your time and attention this evening. I would like to remind you that you are here in the interest of serving our community and achieving justice in the society in which we live. It is in our best interest of our society if you are fair and impartial in your deliberations here tonight. The function of the jury in Youth Court is to decide the appropriate sentence for an offender after examining the evidence in the case and hearing from the prosecutor, defense counsel, victim and the offender. This decision should be based on the goals of sentencing in Youth Court: Specific deterrence of other potential offenders, holding the youth accountable for their actions, rehabilitation, and repairing the harm that was done to the victim and the community. One of the purposes of Youth Court is to allow offenders to be judged by a jury of their peers. The right to have a jury of one’s peer’s sit in judgment is one of the basic constitutional rights in our democracy.

As jurors of Youth Court, you each have the following duties and obligations:

1. Be fair and impartial by basing your decision on the evidence in the particular case and not irrelevant factors.
2. Settle disputed issues of fact presented by the advocates.
3. Avoid discussing the case with other jurors until deliberations begin.
4. Communicate with only the judge and clerk by way of written notes.
5. Follow the court’s instructions.
6. Deliberate with other jurors by candidly expressing your opinion as to what the sentence should be and justify the sentence .
7. Identify what harm was done and how it should be repaired
8. Reach a unanimous verdict as to the appropriate sentence.
9. Inform the clerk by way of written note, through the foreperson, that a verdict has been reached and;
10. Announce the verdict in open court through the foreperson.

You have a jury foreperson sitting with you. The function of the foreperson is to lead the deliberations of the jury to the extent of encouraging the participation of all the jurors in the process, mediating any disputes between jurors and keeping the jurors focused on the decision-making process. Despite this responsibility, the foreperson’s vote on a particular sentence is entitled to no greater weight than that of the other jurors.

III. **Plea of Guilty by Offender** – “**Would the defendant please rise. You have been charged with violating New York State Penal Law_____. How do you plead, guilty or not guilty?**” (Offender pleads) “**You may be seated.**”

IV. **Opening Statements** – “**The prosecution may present your opening statement?**” Once the prosecutor finishes opening, say to defender “**The defense may present your opening statement?**”

V. **The Prosecutor’s case** – After openings, ask prosecutor, “**Does the prosecution have any witnesses to call or physical evidence to produce?**” If so state, “**please call your first witness.**” For each witness the prosecutor calls to the stand, the judge instructs the defense that they may cross-examine

the witness prior to the witness stepping down. Then ask the prosecution, **“Please call your next witness.”** If there are no more witnesses or physical evidence to produce, then ask the prosecution **“Does the prosecution rest?”**

VI. **The Defender’s case** – Once the prosecutor rests, the defense case begins. Ask the defender **“Does the defense wish to call any witnesses to the stand or produce any other evidence.”** For each witness the defense calls to the stand, the judge instructs the prosecutor that they may cross-examine the witness prior to the witness stepping down. Then ask the defense, **“Please call your next witness.”** If there are no more witnesses or physical evidence to produce, then ask the defense **“Does the defense rest?”**

VII. **Closing Arguments** – Once the defense rests, state **“The defense may now present its closing arguments and sentence recommendations to the jury.”** At the end, say **“Thank You.”** After the defense’s closing argument, state **“The prosecutor may now present its closing arguments and sentence recommendations to the jury.”** At conclusion, say **“Thank You.”**

VIII. **Jury Instructions** – “Ladies and Gentleman of the jury, you must now deliberate and determine an appropriate sentence. Again, I ask that you each be fair and impartial and also to keep in mind **(1)** you must find evidence believable or credible to rely on it, **(2)** feel free to express and explain your opinions, but please do not force them upon others, and **(3)** you should reach a unanimous verdict as to a sentence, which you will inform the clerk by way of written note. Please keep in mind the goals of Youth Court which are **(1)** to deter the offender and others from future criminal acts, **(2)** to hold the offender accountable for his/her actions **(3)** to repair the harm that was done to the victim and the community, **(4)** restitution to the victim for stolen or damaged property and **(5)** the rehabilitation of the offender.”

IX. **Judge to Clerk** – **“Please escort the jury to the deliberation room.”** When a decision has been reached, the clerk escorts the jury back into the courtroom.

X. **Jury Returns** – Judge says, **“Has the jury reached a verdict? (Wait for answer) The jury foreperson will now announce the verdict.”** Judge remarks on how the verdict is fitted to the crime and any other final statements to the defendant. For example, **“I think this sentence is fair and appropriate for the offense(s) committed here. We all have to understand that society has rules to protect all of us, and that, even though we are young, we have obligations to follow those rules. I want to remind you that besides the victim of this crime, that there are other people who were hurt or affected by your actions such as your parent(s), and family (Judge should think about the case and add any other people who might have been affected and state them at this time, for example, store, community, police, a friend etc.) I listened carefully to your testimony this evening, and I believe that you are truly sorry for your actions and that you have learned a valuable lesson from this experience. I am confident that you will complete your community service obligations and fulfill any special conditions imposed upon you, and thereafter, you will be an asset to the community.”**

XI. **End Proceeding** – Judge says, **“Being there no further business before the Youth Court, I hereby declare Youth Court adjourned.”**

(rev. 8/05)

Appropriate Questions to Ask Victims

- What happened?
- How did that make you feel?
- What damage was caused?
- How would you like to see the damage repaired?
- How did the offender behave towards you?
- Did the offender take any steps to repair the harm that was caused?
- What affects has this had on your life- emotionally, physically, financially?
- What would you like to see happen?

Colonie Youth Court (10/05)

“Do’s” and “Dont’s” of *COMMUNICATING WITH VICTIMS*

Do:

- Always try to communicate trust, support and confidence
- Be calm and comfort victims. Ask: “How are you doing”
- Allow victims time to tell what happened and describe how they are feeling in their own words.
- Give victims back the control the offender took away by letting them decide when to talk with you.
- Reassure them that their feelings are quite normal and natural, even though they may seem a bit unusual at the moment.
- Assure the victim feelings of anger, distress, frustration, fear, etc. are not uncommon and are perfectly justifiable.
- Be willing to **listen** to the victim share his or her experience if they want to talk about the crime and its effects, and provide empathy and support.
- Be encouraging, but not unrealistic.
- Be alert for opportunities to stress the victim’s qualities and strengths.
- Accept the fact that you may never know whether a victim follows through with your suggestions.
- Offer to talk to the youth court staff for further referrals for services the victim might need or request.
- Ask for assistance from the youth court staff if the case is too difficult for you to handle

Don’t:

- Be judgmental or blame the victim for the crime that was committed against him or her
- “Second guess” how the victim reacted to the crime
- Try to equate another similar situation or experience, including your own to the victim’s situation
- Make decisions or choices for the victim
- Be afraid of silence
- Become flustered by the victim’s anxiety or urgency, remain calm
- Get into argument with the victim, don’t be defensive or arrogant
- Expect to know all the “right answers”. Your job is to listen and assist the victim.
- **Don’t be afraid to ask youth court staff for help or advice.**

BAD THINGS TO SAY TO VICTIMS

- I KNOW HOW YOU FEEL.
- I UNDERSTAND WHAT YOU ARE GOING THROUGH.
- I THINK THAT THE OFFENDER WILL RECEIVE (# OF HOURS) OF COMMUNITY SERVICE.
- Why????
- Why were you...didn't you?
- Your case reminds me of another victim I dealt with.
- As a general rule of thumb...
- It's God's will
- You should put this behind you.
- You need to get over it...
- If I were in your shoes....
- You're so strong.....
- You're so lucky...
- At least you weren't hurt.
- You should forgive.
- Time heals all wounds.
- Why didn't you....?
- It could be worse.
- What you need is...
- Get on with your life.
- You're not the only victim I'm trying to help.
- Offenders aren't really bad people...
- The offender had a really tough childhood
- Saying nothing at all.
- Avoid using generalizations.

- Avoid comparisons with other cases or victims.

Seymour, A (July 2002) Communicating with Crime Victims. Washington, DC: Justice Solutions

GOOD THINGS TO SAY TO VICTIMS

- How can I help you?
- What can I do for you?
- I'm sorry this happened to you.
- Your case is important to me.
- I believe you.
- Do you have any concerns about your safety?
- Who else have you spoken to?
- Would you like information on victim services?
- Do you need anything else?
- If you do, you can contact me through the Colonie Youth Court office at 782-2638.
- I'm sorry to bother you.
- I know this is one more interruption in your life.
- If you have a serious problem or crisis you should dial 911
- I can't really understand what you are going through because of this incident, but I will listen and try to help you through the youth court process.
- I don't know, but I'll find out.
- How are you doing?

- What would you like to see happen?
- Thank you for speaking with me.
- Is there anything else you would like to tell me?

Colonie Youth Court (10/05)

Colonie Youth Court Victim Advocate Responsibilities and Duties

- Acts as a liaison between Colonie Youth Court and victim
- Receives and reviews case and victim information from Colonie Youth Court staff
- Contacts victim to explain the Colonie Youth Court program, after Director receives permission from victim to be contacted.
- Reviews with victim their options for participating in the Colonie Youth Court process.
- Accompanies victim to any pre-hearing interviews with the prosecuting attorney.
- Assists victim with writing of victim impact statement (if requested by victim).
- Notifies Defender if victim will: 1. Appear in court and give testimony, or; 2. Appear in court only, or; 3. Provide copy of Victim Impact Statement
- Explains to victim what will happen during the Colonie Youth Court hearing.
- Greets and accompanies victim to hearing.
- Reads statement in youth court hearing at victim's request.
- Advises victim of outcome of hearing.
- Follows up to make sure the offender has completed their obligation to Colonie Youth Court.
- Advises victim of success or unsuccessful completion of offender's requirements (by written letter and/or personal contact)
- Keeps written record of actions taken by Victim Advocate in case.
- Communicates with Youth Court staff about any problems and progress of case.

Victim Advocate Checklist

***** Please Note:** If necessary, the Victim Advocate may meet with the victim ONLY at the Police Station/Youth Court office. Call the Youth Court office to

assist you with scheduling this. The Victim Advocate should NEVER meet with the victim anywhere else.

Please ***check off*** each responsibility you have completed and the ***date*** you completed each task to the right of the box

(Write "N/A" if the item is not applicable to your specific case)

- | <u>√</u> | <u>Date</u> | |
|--------------------------|-------------|---|
| <input type="checkbox"/> | _____ | Received and reviewed case. |
| <input type="checkbox"/> | _____ | Contacted Youth Court staff for victim contact info.(excludes store shoplifting cases). |
| <input type="checkbox"/> | _____ | Contacted victim to explain the Colonie Youth Court program. |
| <input type="checkbox"/> | _____ | Reviewed options with victim for participating in the Colonie Youth Court process. |
| <input type="checkbox"/> | _____ | Accompanied victim to any pre-hearing interviews with the prosecuting attorney. |
| <input type="checkbox"/> | _____ | Assisted victim with writing of victim impact statement (if requested by victim). |
| <input type="checkbox"/> | _____ | Notified Defender if victim will: _____ Appear to give testimony
_____ Appear for court only
_____ Provide a V.I.S. to be read in court |
| <input type="checkbox"/> | _____ | Explained to victim what will happen during the Colonie Youth Court hearing. |
| <input type="checkbox"/> | _____ | Attended Youth Court hearing. |
| <input type="checkbox"/> | _____ | Greeted and accompanied victim to hearing. |
| <input type="checkbox"/> | _____ | Read Victim Impact Statement in Youth Court at victim's request. |
| <input type="checkbox"/> | _____ | Advised victim of outcome of hearing. |

(Over)

- | | | |
|--------------------------|-------|---|
| <input type="checkbox"/> | _____ | Advised victim of successful or unsuccessful completion of offender's requirements. *** |
| <input type="checkbox"/> | _____ | Communicated with Colonie Youth Court staff about any problems and progress of case. |

If the Victim Advocate and the Victim had a meeting in person other than minutes before the case, state the date, time, and place where the meeting occurred.

***Youth Court staff will notify Victim Advocate of successful completion at a later date. Victim Advocate will then complete this step and notify Youth Court staff.

Signature of Victim Advocate: _____

Comments on your experience: _____

Please mail or drop off this form within 24 hours of the hearing:

**Colonie Youth Court
312 Wolf Road
Latham, NY 12110**

Victim Impact Statement for a Store as a Victim

Defendant's Name: _____

6. If community service is recommended as part of the sentence/disposition, do you have favorite cause or charity that you'd like to recommend as a placement?

7. Is there any other information that you would like to share with the Colonie Youth Court program regarding the offense and how it affected you or your store?

___ Please check here if you would like to be notified about the outcome of this case.

**Victim Impact Statement for a Police Officer/Police Department
as a Victim**

Defendant's Name: _____

Case Number: _____

6. If community service is recommended as part of the sentence/disposition, do you have favorite cause or charity that you'd like to recommend as a placement?

7. Is there any other information that you would like to share with the Colonie Youth Court program regarding the offense and how it affected you or the police department?

___ Please check here if you would like to be notified about the outcome of this case.

Victim Impact Statement for a School Official as a Victim

Defendant's Name: _____

Case Number: _____

6. If community service is recommended as part of the sentence/disposition, do you have favorite cause or charity that you'd like to recommend as a placement?

7. Is there any other information that you would like to share with the Colonie Youth Court program regarding the offense and how it affected you or your school?

___ Please check here if you would like to be notified about the outcome of this case.

Victim Impact Statement for an Adult Victim

Defendant's Name: _____

Case Number: _____

Please answer the following questions as they apply in your case.

Victim Impact Statement for Parents of Victims

Name of parent or guardian: _____

Name of child: _____

Case Number: _____

1. Has your child been emotionally affected by this crime? If yes, you may wish to discuss how the crime may have affected your child's relationships with you, family members, and those close to you. If your child received any form of victim services such as counseling by either a licensed professional, member of the faith based community or a community-support group, you may wish to mention this. Please use additional paper as necessary.

2. Was your child physically injured or hurt as a result of this crime? If yes, you may wish to write about the type of injuries your child had, what medical treatment your child received, and how long these injuries lasted or are expected to last. Please use additional paper as necessary.

3. Has this crime affected the way your child relates to his or her friends, either at school or in your neighborhood? Has this crime affected your child's school work in any way? Please use additional paper as necessary.

4. How has this crime affected you, your family and those close to your child? You may wish to write about changes that may have occurred in your family, in your ability to perform your work, make a living, run a household or enjoy any other activities you enjoyed before the crime. You may also wish to include any victim services or counseling that you and those close to your child have received. Please use additional paper as necessary.

5. What do you think should happen to _____ as a result of him/her committing this crime against your family member?

6. If community service is recommended as part of the sentence/disposition, do you have favorite cause or charity that you'd like to recommend as a placement?

7. Is there any other information that you would like to share with the Colonie Youth Court regarding the offense and how it affected you or your family?

___ Please check here if you would like to be notified about the outcome of this case.

Victim Impact Statement for the School-Aged Victim

What is your name? _____

How old are you? _____

What grade are you in? _____

1. Please write or draw anything you would like the Colonie Youth Court to know about how you feel because of what has happened to you. You may want to write about anything that has changed in your life or in your family. You can even tell a story or write a poem if you would like. You can add more paper if you run out of room.

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2. Please write or draw anything you want the Colonie Youth Court to know that may be different at school, in your neighborhood or with your friends because of what has happened to you. You can add more paper if you run out of room.