



Learning the System to Overcome the System: Juvenile Justice for High School Students

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Introduction

Several years ago, a few blocks from my school, in the middle of a mile-long stretch with no crosswalks, Thomas, my student, received a ticket for jaywalking on his way to school. He was twenty, fighting hard to graduate from high school while being a father to two children. He had been in and out of Tulsa’s juvenile and adult justice systems and was always working odd jobs to pay off his accumulated fines. The officers who ticketed him knew him by name and were friendly. Assumedly they also knew that he was already trying to pay his way out from under the weight of fines and away from the courts as he neared graduation. Later that month in a wealthy Tulsa neighborhood, another high school student, driving an expensive car in the middle of the night without the owner’s permission, crashed into a yard taking out landscaping, a wrought iron and stone fence, and a large fountain. He totaled the car. He was a white upper-class private school student who received nothing but a warning. These two situations represent extremes, but my students see variations play out on a regular basis. They also witness and live what happens as the consequences—or lack thereof—of these situations play out exponentially, or not at all, over time. Thomas’s story hits on the key problem that this unit addresses: nationally and in Oklahoma, juvenile justice practices are not grounded in research and best practices, nor are they equitable. While Tulsa County is relatively progressive, at each of these levels we need to make a lot of progress, and students have a voice in doing just that.

Rationale

My school, Phoenix Rising, is a partnership between our school district and the county’s juvenile bureau. Most students are fast-tracked into my small school because they are involved in the juvenile justice system; others are not “in the system,” but they share characteristics that make this the best school for them. We began as a program to keep young people busy and out of trouble while on probation, as well as to be a source of school credit—at the time a necessity, but not a priority—when they were out of the traditional school loop. Our district also had a great need for a school or program that could accommodate a concentrated number of students with histories of severe discipline problems, chronic and temporary trauma, the challenges of

substance abuse, mental health problems, and other dysfunctions that accompany these things that hinder school success. This is the last stop for most of them academically; they have been suspended too often or were unsuccessful in the district's large traditional schools. It is a therapeutic, not punitive program. Often students thrive in our small, family-like environment where we can cater better to their needs, interests and talents. Over time many of our students have found success as young adults trying to make their way in the adult world as working, healthy, fulfilled members of society, away from the courts and jail time. But the systems they must navigate, including the justice system, often provide challenges they do not know how to overcome.

My state, Oklahoma, as of today has the highest incarceration rate *in the world*. Women, especially, are over-incarcerated, leaving children to be raised by relatives or DHS. Our prisons have become debtor prisons, housing thousands simply because they cannot pay their legal fines. As a result, children in these situations face many of the maladies as my students: trauma, poverty, substance abuse, and higher likelihood of incarceration. In fact, those children often are my students. Of the 99 students we served last year, 52 were white, 47 were black, 24 were Latino, and 24 were Native American; the last few were other, and some mix is represented in these numbers. On their 99 intake assessments, 76 reported academic deficiencies, 89 reported chronic absenteeism, 59 behavior difficulties, 76 family issues, 26 pregnant or parenting, 68 physical and/or mental health issues (mostly mental health), 9 court-ordered (by adult court or OJA, 47 court-referred, 62 substance abuse, 45 for being in DHS custody, 70 for dropout recovery. Most have had an incarcerated family member; 2 students have custody of siblings because of incarcerated parents. Clearly, most reported a mix of challenges that are directly or indirectly related to their own or a family member's legal struggles. They tend to have high scores on the Youth Level of Service Inventory, as explained later.

Content Objectives

This unit, taking place over three weeks, provides an opportunity to teach students how they or family members have fallen into the legal system, why they may have remained in it, and how to advocate to improve the system and consequently their communities. We will trace how changes in culture and law and the status of race and class have determined not only the reckless and prejudiced state of our juvenile justice systems, but also the challenges young people face afterwards. Critical reading along with reflective and supported writing and research will address necessary state and local ELA standards. Materials may include essays, informational texts, political and social cartoons, a graphic novel, song lyrics, and websites. All of the background and proposals are research-based. As students begin to understand the systems and policies that have affected their encounters with the legal system, I want them to cease seeing themselves as victims or adversaries and instead come to see themselves as advocates for change and appropriate justice.

Content Background

From the beginning, both nationally and in Oklahoma, the juvenile justice system intended to address youth as a vulnerable population to be re-directed and restored in therapeutic environments, not shut away in prisons. That promise was never fully realized, and in the last forty years was almost completely abandoned. Juvenile justice systems, like the adult systems, became harsher and less forgiving. Along the way, racial inequities increased, as well. My student Thomas became the perfect example of our broken system. Like Thomas, my students are often so mired in the system that they cannot see any aspect of it objectively. To give shape to their understanding as we progress through our readings and activities, we will keep our focus on five essential questions.

By the end of the unit, students will be able to discuss and answer these questions: (1) Why are prisons/incarcerations our main tool of punishment? (2) What is the role of race in juvenile incarceration? (3) What does effective juvenile justice look like? (4) How does Oklahoma's juvenile justice system stack up against the rest of the country? (5) What can citizens—especially young people—do to improve our criminal and/or juvenile justice systems?

Why Prisons?

In the United States, prisons have become the default method of punishment for those charged with every variety of crime, from not being able to pay fines to murder, and increasingly for juveniles, not just adults. In fact, over-incarceration is one of the problems for adults and youth that my students will study for solutions. In our first seminar we looked at four possible reasons we might use prisons: (1) as a deterrent—to send a message to other would-be criminals; (2) to punish—to make criminals pay with an unpleasant and extended experience; (3) to incapacitate—to keep criminals away from and to protect society; and (4) to reform—to change criminals so they not want to commit crimes again. Science and statistics show us that our prison system does not reduce recidivism.¹ We've created a system, though, where extricating ourselves from our commercial prison contracts seems nearly impossible, and politicians at all levels of government are afraid that innovation will look like weakness in addressing crime, a mindset we adopted in the seventies that intensified in the 80s and 90s. Now we are dependent on prisons for only two of the four of the reasons listed above: punishment and incapacitation. Policies like mandatory minimums and Three Strikes laws ensure that prisons remain full and that prisoners have no chance at assimilating productively back into society. Prison populations have grown consistently, but crime rates rose and fell depending on variables like the economy and drug trends.² Problematically, as prison use and sentences have increased for adults, the incarceration culture has also influenced how we treat juveniles. Despite the cost and ineffectiveness of prisons and juvenile detention centers, we use them because they are what we know. Understanding how locking up became the norm involves knowing the history of incarceration and of the war on drugs in our country.

Penitence, not punishment, was the philosophy of the first penitentiary, built in Philadelphia in the 1820s. Before that, up to 1790, jails were for holding defendants until trial, not for the sake of punishment, which would take the form of fines, physical labor, and public humiliation. Banishment was an option in the colonies. The death penalty was reserved for murder and theft.³ But after the American Revolution, a war fought for

ideals, corporal and capital punishment came to be seen as barbaric, and imprisonment was seen as a more humane punishment and deterrent. At Philadelphia's Eastern State Penitentiary, the "Pennsylvania Model" kept prisoners solitary with access only to work and a Bible. Other models also centered on work and isolation.⁴ We now know the negative effects of solitary isolation and in many cases have eliminated or reduced it to very specific cases, for both adults and youth; still, isolating prisoners in individual cells is the basic model of modern prisons. Even recently in Oklahoma's secured juvenile secured facilities, pepper spray and solitary confinement were in regular use.

Juvenile Practices

Through most of the 20th Century, juvenile offenders, on the other hand, avoided prison sentences, though their circumstances may not have just as punitive. They were directed by the philosophy of the time that youth could still be rehabilitated with the right direction. "Since the inception of written law, juveniles who have committed a crime have been treated differently than adult-age criminals," and this was the case in Oklahoma.⁵ Even more than a hundred years ago, young people in trouble were not seen as criminals, but as misdirected, in need of assistance or guidance, and able to be rehabilitated.⁶ Youth who were tried in courts were done so in adult courts. Unfortunately, from before Oklahoma statehood in 1907, juveniles in trouble tended often to face dangerous and inhospitable supervision. Still, in 1907, there were a few institutions for "wayward, abandoned, orphaned, and hooligan youth."⁷ Their care and treatment were arbitrary, depending on the values and ethics of the missionary, private, or philanthropic group who provided it. These institutions were well-intentioned, if often misguided. Despite their names, Oklahoma institutions continued to at least try to provide guidance and education. The Central Oklahoma Juvenile Center (its current name) opened in 1917 and has had many names, including the Oklahoma State Industrial School for Incurable Girls and the State Industrial School for White Girls.⁸ The Tulsa Boys Home was founded in 1918 and is still in existence under that name today. Our state started one of the first juvenile courts in 1909, directing youth to appropriate treatment rather than incarceration.⁹

Still mostly maintaining the differences between adult and juvenile systems, in the 1930s Oklahoma state associations started to unify the public and private institutions until the Department of Public Welfare was created by an amendment to the state constitution in 1936. At this time, children who were dependent, delinquent, or neglected had been housed together indiscriminately. They were institutionalized at sites "which were not only segregated, but the care of the children was purely custodial and at times brutal."¹⁰ As their oversight and federal funding increased, the DPW was able to funnel youth to the institution or site which best suited their needs. The Tulsa County Juvenile Court was established in 1950 in its own facility with its own judge. A key improvement in 1959 was the establishment of the Oklahoma Merit System, dictating that employees of these systems were hired for qualifications and competency rather than political patronage, as had been the case. Despite these efforts to make things better, by 1961 the state institutions were in a poor state, littered with trash and human waste. The children were insufficiently clothed and fed, often with only two meals a day.

Nationally in the 1950s and '60s, the effectiveness of the juvenile justice system came under scrutiny as the public became concerned by disparities in treatment. Juvenile court judges, with their differing philosophies or moods, had absolute discretion. For the same offence youth could receive extremely different

sentences—or lack thereof.

Tulsa County began its more progressive departure in the late Sixties. In 1968, a center was built to house the courts and the programs for the juvenile justice system. Since then, the center, now about to be replaced, has provided services for stabilizing families and fostering families, for intervention, and for access to services and resources, in addition to its administering juvenile justice. The approach was more holistic and recalled earlier ideas about youth deserving restoration and second chances, but we were about to fall in line with the rest of the country in some ways.

Johnson’s Wars on Poverty—and Crime

During the second half of the 20th Century, offenders of all ages were victim to the first aggressive attacks on crime, and especially on poorer black neighborhoods, and the beginnings of our modern problems with adult and juvenile justice begin. President Johnson, in an era of modern-day liberal thought, wanted his tenure to be defined by his Great Society policies, yet it was Johnson who set in place our “war on crime” mindset. He advanced a progressive agenda to tackle the War on Poverty that, in theory, might have quashed some of the urban problems like joblessness and inadequate housing that caused much of that decade’s crime. He gave us Head Start and Job Corps programs and Youth Opportunity Centers along with the Housing and Urban Development Act and the Voting Rights Act. In 1965 President Johnson’s Great Society brought federal funds to improve the states of youth crime and prevention. But over Johnson’s five summers in office, the country experienced “more than 250 incidents of urban civil disorder,” involving more than 100,000 black citizens and police and causing and billions of dollars of destruction. Americans were alarmed at the consistent violence, associated it with other violent urban crime in general, and wanted a response. Elizabeth Hinton explains how the merging of his antipoverty and anticrime initiatives in black communities merged to lay the groundwork for our modern mass incarceration system, over-populated by black Americans.¹¹

“During the first half of the 1960s, antipoverty programs expanded the degree of federal influence in the everyday lives of black urban Americans. By fashioning a new liberal synthesis that brought crime-control strategies under the fold of social welfare programs, federal policy makers eased the shift toward national punitive programs in the second half of the decade.”

Johnson wanted 1965—the year he funded youth crime prevention—to be the year remembered “as the year when this country began a thorough, intelligent, and effective war against crime.” While Johnson understood poverty to be the root cause of crime, his administration sought to head off crime more immediately—to appease growing anxiety about the rise of urban black crime—with the Law Enforcement Assistance Act of 1965, which won with a unanimous vote in Congress. Crime couldn’t just be eradicated; in the meantime, it had to be controlled. Through the first half of the 1960s, federal influence increased in the daily lives of black urban Americans through antipoverty programs and expanded in a “new liberal synthesis that bought crime-control programs under the fold of social welfare programs,” easing the shift from one to the other in the second half of the decade. Still under the umbrella of his Great Society, Johnson gave us the Omnibus Crime Control and Safe Streets act in 1968. It expanded the prison state by financially incentivizing and often requiring state and local authorities to increase surveillance and patrols in black urban neighborhoods.

Eventually, antipoverty program support leveled, but over time, support for crime management and control increased. US Attorney General Nick Katzenbach worked to supply urban police with equipment as riot prevention measures, getting bulletproof vests, machine guns, and armored vehicles into these neighborhoods.¹² All of these actions and policies reinforced notions of our black urban population as a criminal one.

Oklahoma, benefitting from Johnson's Great Society funding, moved to bring facilities and some practices up to then-modern standards. Work began to bring the 200 buildings in use to code and to humane standards. Social workers, psychologists, nurses, speech and hearing clinicians, special education teachers and recreational aides were either hired or reassigned from other department programs. We were finally making progress. In 1968 Oklahoma was one of the first states to receive a grant through Johnson's Juvenile Delinquency Prevention and Control Act. For a decade outside sources had been recommending a statewide probation system to serve the juvenile courts, in addition to detention and aftercare. These systems along with training programs were finally created that year. Maybe the most important outcome of the Children's Code was mandatory due process for each youth. While the war on crime was just beginning for adults, juveniles were benefitting from progressive policy in Oklahoma—at least for the time being.

The Tough-on Crime Seventies

Nixon and the Seventies continued what Johnson started and brought a shift in carceral philosophy and practice. When Nixon ran for office in 1968, a tough-on-crime stance was a key part of his platform. By pointing a finger at black criminality, he defined it as a problem to be corrected and punished, shifting the role of prisons and putting a spotlight on what some perceived as too lax varied sentencing laws. Prisons were to "isolate and punish."¹³ Crime rates had been rising for several reasons. Marc Mauer cites three main ones: Baby Boomers were coming of age, a heroin epidemic swept through inner-cities, and urban populations increased dramatically with the Great Migration between 1940 and 1970.¹⁴ George Wallace argued that with the Civil Rights movement and integration, we were enabling criminals, forcing that label on black Americans, especially in cities. With our history of racial oppression and segregation, it is no surprise that people of color faced bias in the system, even though they were also more likely to be victims of crime.¹⁵ In 1973, Governor Nelson Rockefeller and the New York state legislature brought us the Rockefeller Drug Laws, the harshest drug laws in the nation, that included mandatory prison terms and plea bargain limits. Other states followed suit with harsh sentencing laws that became the norm over the next decades. As a typical result, in New York—Rockefeller's own state—there were fewer felony convictions, but prison sentences were longer.

At least partly because of the tough-on-crime mindset of the decade, the differences between adults and children in the system continued to erode since the 1970s; however, Oklahoma's juvenile justice history, beginning with its conflicting wild west and harsh missionary-grown beginnings, appears to have evolved in some ways in a more positive direction than other parts of the county, for the first half of the decade, anyway. We see this, for example, in 1972 when the upper age for juvenile males was raised from 16-18, later as more funds were spent on group homes and services rather than detention facilities, and in the juvenile restitution program of 1977, as well as the prohibition of jailing some of our most vulnerable youth in 1982.

The tough-on-crime mindset had not reached Oklahoma juvenile justice yet. In 1970 the first youth services

centers and shelters were built in Tulsa and near Oklahoma City. 1972 saw an infusion of federal funds for juvenile justice. Based on the comprehensive plan for youth justice the federal officials “to designate Oklahoma as a model state in juvenile delinquency prevention.”¹⁶ The Rader Center and the Boys Group Home and Girls Group Home were opened this year. Also, importantly, the state raised the juvenile age for boys from 16-18, greatly reducing the number of young men in the system. (The age for girls had always been 18.) In 1975 all 77 counties had their own intake, probation and parole systems. The next year, those were organized under the state supreme court and more community group homes were built. For the next five years, due to the legislative mandate to align statewide the intake, probation and parole systems, the occupants of these institutions dropped by more than two thirds. In 1977 we see the beginnings of a program that foreshadows today’s interest in at least one restorative exercise: to hold youth accountable for damage or loss incurred by victims by their crimes, the youth would do minimum wage work at non-profit agencies, paid for by federal funds, to provide restitution to the victims.¹⁷ Despite progress in some areas, though, in response to declining conditions, in 1978 a federal class action suit against a half-dozen of the juvenile homes challenged conditions and childcare practices, winning improved children’s care and establishing much higher standards from all of such state institutions permanently.

War on Drugs

Further intensifying the increase in incarceration and tough-on-crime practices of the Nixon era, President Reagan championed the war on drugs, with the government “taking the lead in what had been the job of local law enforcement.”¹⁸ To address increasing urban adult crime that accompanied the heroine and crack cocaine epidemics in the 1980s and 1990s, police forces and courts dealt with urban crime with harsher policing practices and prison sentences. Drug offences increased, but the increase in prosecutions for drug crimes was far greater.¹⁹ The greatest tragedy of this campaign, however, is the racial disparity with which this war was waged. While those in white neighborhoods were doing the same drugs at the same rate, they were less likely to be arrested or serve time. People in black neighborhoods were more likely to be arrested; racial profiling created a population of people with criminal records. They were more likely to be arrested and searched. Because of existing records, they received longer sentences. Racial bias existed in the courtroom just as it did in law enforcement. Pretrial negotiations were more likely to benefit whites, and white people with more money were more likely to be able to seek rehabilitation.²⁰

Juvenile crime increased during this time, as well; nationally, juvenile arrests for violent crime rose rapidly, from 300/100,000 to 500/100,000 between 1985 and the peak in 1995. The public saw the increase in juvenile crime and perceived that the system was too easy on them. Many states passed more punitive laws, implemented mandatory sentences, and allowed automatic transfers to adult courts for certain crimes.²¹ At the same time, with parallel increases in juvenile crime, corrections sought to make the processes “faster, cheaper, and easier to understand,” and the juvenile court system in America expanded. These new systems were ripe with abuse and inequities, so that the “child receives the worst of both worlds: that he gets neither the protections accorded to adults or the solicitous care and regenerative treatment postulated for children.”²² In an era of due process requirements for juveniles, nationwide the juvenile courts were becoming more like their adult counterparts. In 1985 President Reagan’s administrator of the OJJDP said that juvenile offenders are “criminals who happen to be young, not children who happen to commit crimes.” His statement reflected the

fact that we were seeing young offenders in a different light.²³ Detention was more frequently became the default.

Also during Reagan’s administration though, the Supreme Court was starting to heed neuroscience between the adult and growing adolescent brain. Consequently, the courts eliminated the juvenile death penalty and life without possibility of parole for non-homicide and homicide offenses. There were positive federal changes in 1988: the legislature mandated that the Office of Juvenile Justice and Delinquency Prevention (OJJDP), an office of the Justice Department, track and reduce the racial disparities in youth incarceration by use of grants and training for local law enforcement agencies.

Oklahoma’s juvenile facilities had become the subject of national publicity for its uncovered abuse and neglect of children under DHS custody. In response, statutes were created to monitor allegations of abuse or mistreatment by youth in custody as well as to create diverse placement alternatives so that youth may be placed in the least restrictive place according to the treatment needs of the youth. Oklahoma’s juvenile justice moved under the direction of the Department of Human Services. New state supreme court guidelines and new laws prohibited jailing of “deprived and in need of supervision children,” and programs for mental health intake and in-patient services were provided by new state-run institutions for what appears to be the first time. Jails and other adult lock-up facilities were prohibited as sites for detaining youth. These and several other positive reforms came under the new creation of the Oklahoma Council on Juvenile Justice in responses to the negative publicity. At the same time, with a change in legislative focus, the state also moved to better address more violent and aggressive offenders, prevent delinquency, and protect the public, in addition to providing rehabilitation. Subtly, though, purpose and language indicate a shift in how we treated delinquent youth, who came to be seen as a group to protect citizens from. This followed national trends as other states found that tough-on-crime measures were a hit with the public. In Oklahoma juvenile arrests for violent crimes during that same period went up from 624 in 1985 to 1,510 in 1995, significantly greater than the national increase.²⁴

Sentencing Laws and Race

The war on drugs continued in the courtroom, and federal sentencing laws continued to increase prison populations, especially for people of color. At the time, 100 times the amount of powdered cocaine received the same sentence as 1 portion of crack cocaine, a disparity that mostly affected those arrested in black, urban, under-served neighborhoods. Drug offenses are more likely to receive mandatory sentences, and black communities are more likely to be charged for drug offenses. In the late 1980s whites received eight or fewer years in state courts while African American mid-level or low-level drug dealers received longer federal sentences, while. Nearly a quarter of that population had no history of large-scale dealing, violence, or prior convictions, or gun offenses.²⁵

The sentencing trends affected youth in Oklahoma, as well. The Juvenile Reform Act of 1995 better defined Oklahoma’s juvenile justice system as we know it now. No longer under DHS, all services for juvenile justice came under the new state agency named the Department of Juvenile Justice, Office of Juvenile Affairs. County offices became the Juvenile Services Unit. To this point, juvenile justice work in Oklahoma had been increasingly progressive in terms of moving from punishment to treatment and providing more appropriate resources according to the needs of individual youth. But this new more punitive direction most likely

reflected trends across the country to focus on harsher accountability through sentencing rather than treatment. For example, under the second director of OJJ (who had previously been at the federal level of juvenile affairs), Oklahoma saw its first boot camp. “His philosophy of increased accountability and earlier consequences for juvenile offenders in order to create safer neighborhoods and begin building a ‘Wall of Prevention’ became his mantra.”²⁶ The third director had 35 years of law enforcement experience. While his emphasis was on public safety (often code for harsher penalties), he also worked to address rehabilitative services, substance abuse prevention, treatment and aftercare for delinquent youth, and increased procedures for supervision and risk assessment for juvenile sex offenders. Beginning after the peak in 1995, nationally juvenile detention numbers have decreased from 105,000 to 48,000 in 2015. Between 1997 and 2013, when most states decreased the number of incarcerated youths, some of them dramatically, Oklahoma also reduced theirs by around 45%.²⁷

Today, as we are understanding the real costs of mass incarceration, however, we are beginning to understand what the real damage is to all parts of our communities, including youth. Through legislation and other actions, we are implementing alternate, healthier, more sustainable methods or reducing incarceration and helping, not punishing young people.

The Present

Most recently, in 2018 the Juvenile justice reform bill called Juvenile Justice and Delinquency Prevention Act (JJDP A) was reauthorized as an updated version of a 1974 law that had expired in 2007. Since 2007, mandated oversight of the juvenile justice system has waned, and racial disparities have dramatically increased. For example, between 2003 and 2013, when 16 percent of American’s youth population was black, the number of committed juveniles increased from 38-40 percent—one number that did go up. During the same decade, white youth made up 56 percent of the population, and their number of committed youths dropped from 39 to 32 percent, further increasing the disparity between the levels of incarceration between white and black youth. The racial disparity between black and white youth in custody overall increased 22 percent since 2001. Over the same fifteen-year period, native American youth were more than three times as likely as whites to end up in a juvenile detention facility.²⁸ The JJDP A brings increased legislative oversight to states’ work towards decreasing racial inequality in juvenile justice.²⁹ It requires states receiving federal dollars to collect data on racial disparities in the juvenile system and to come up with concrete plans for addressing those inequities. These are good news, for today, only 40 percent of the country’s youth are of color, yet on probation caseloads they are over-represented at 55 percent and are less likely to be diverted to other programs than their white peers. They represent 68 percent of the youth being locked up for technical violations—for breaking rules, not laws.³⁰ The new laws also keep all youth out of adult prisons even if they’ve been charged with adult crime. Also passed in 2018, The Juvenile Justice and Delinquency Prevention Act bans the shackling of pregnant girls and provides funding for tutoring, mental health, and drug and alcohol programs for kids.

Despite the documented decreases in juvenile crime and detention or prison enrollment, our justice system continues several detrimental practices that crept into the system during the high crime decades and reduced the differences in treatment between adults and juveniles. The United States still leads the industrialized world in number of youth incarcerations. In all states it is now easier to move juveniles *into* the adult system,

and at increasingly younger ages (in some states as low as 14). Young people are incarcerated for technical violations of probation, low-level offenses like property or drug offenses or issues that are not considered adult crimes, like possession of alcohol or truancy.³¹

The continued treatment of youth like adults, often based singularly on age, does not take into consideration their lower levels of education and life experience, their less-developed brain function, or their greater susceptibility to peer pressure and momentary emotions. Also, unlike adults, youth are likely to “age out” of their delinquency, through establishing mature relationships, getting jobs, or starting their own families.³² Further, the natural process of aging not only is interrupted by incarceration, it is reduced by pulling youth away from schools, activities, and jobs—the interactions with which usually help them through aging out. Solutions to some of these problems are discussed below.

Oklahoma Governor Mary Fallin along with the House and Senate agreed in 2013 that juvenile justice in Oklahoma was due for another overhaul. According to Mason, our system had not been able to account for the “differences in culpability and the rehabilitative potential between adults and children; at the same time, costs were increasing—both financial and social. Individual plans for rehabilitation, though required, could not be sustained. The result was the risk that more children, whose offenses were often simply the result of temporary bad decisions, would become lifetime criminals because of their treatment.³³ The more intense and punitive the environment a youthful offender is placed in, the greater the chances for recidivism.³⁴

Today, the state now runs two mechanically secured and guarded facilities in the state. They provide treatment, health and education services—a far cry from the state of early 1960s institutions. Staff-secured programs like group homes or the Tulsa Boys Home have a seven-month maximum. These provide internal structure and extracurricular activities in addition to treatment, health and education services. We see more innovation in county courts, like Tulsa’s. Oklahoma will have to adhere to new 2018 mandates to track and create plans to improve persistent racial disparities in our juvenile system. This is an important development: as of 2015, per 100,00 people, the custody rates for whites was 84; for blacks, 516; for Latino, 72; and for native American, 119.³⁵

Youth fall under oversight by the state for four reasons: youth adjudicated delinquents (ages 13-19 who have committed an offense that as adults would have been a misdemeanor or felony); Children in Need of Support, or CHINS (youth no longer under supervision of adult, such as runaways, school truants, or those whose guardians can no longer control them or provide safety for them—not adult offenses and only relevant to juveniles); and youth In Need of Treatment (youth who pose a threat to themselves or others). The fourth is Youthful Offenders, or youth offenders of more serious specific crimes, like murder or armed robbery, and who have separate requirements and needs of treatment. All of these are represented at my school, and my students often come to us from the institutions described above.

After a drastic increase in juvenile crime Oklahoma between the 1970s and the 1990s, movement towards the more punitive has taken place and differences in treatment of you of color persists. Today, however, we look to Tulsa County for more progressive juvenile justice practices.

Tulsa County Today

The juvenile bureau in Tulsa is named the Family Center for Juvenile Justice. The name reflects the philosophy that juvenile justice issues are family issues that don't exist in a vacuum. Tulsa has been following the Missouri Approach to programming for youth. With the goals of restoring youth to their families, schools, and communities as healthy, law-abiding citizens, they use smaller, close-to-home programs, family-like groups, and least-restrictive environments. The approach is therapeutic rather than correctional and involves the whole family. Emphasis is on prevention, intervention, and treatment in partnership with community resources.³⁶

A few years ago, Tulsa supported a bond election to fund the design and building of a new comprehensive facility to house the detention center, juvenile courts, counselors, classrooms, and other family resources, with the goal of facilitating all of the complex transactions among the courts, lawyers, detention, and wraparound services. From the architect's webpage:

"From the very beginning of the design process, every effort was made to create an environment of transparency and hope. The juvenile housing pods will emulate home and the courtrooms will speak to the imagination of children. A spacious entry lobby with whimsical lighting will include a children's area that incorporates playful geometric structures - providing a fortress for children to explore on their own. When complete, this new center will serve the families of Tulsa County and help the Juvenile Bureau accomplish their mission of hope."³⁷

The language in the description suggests a huge change in philosophy from the norms around the country. "Whimsical," "imagination," "home," and "hope" are unexpected and indicate that punishment is being replaced by hope as the mission of the county system. The facility is a few months short of completion so that we cannot yet draw our own conclusions.

In my interview with Doris Fransein, retired family judge and influencer of reform in the Tulsa system, she explained that Tulsa County has had a more holistic philosophy than states around us in dealing with juvenile offenders, trying to engage parents and give them tools to help their children. Tulsa judges are active in keeping youth out of detention while many states work to push them in. Probation is always their first goal, not detention. Youth at the Tulsa detention center can stay no more than 14 days before they are released to guardians or DHS, as appropriate. Few remain locked up post-adjudication. Tulsa County uses objective assessments like the YLSI (Youth Level of Service Inventory) to place them. The detention center has a counselor on staff, which she says is rare but extremely effective in keeping disregulated kids calm. Since Fransein began her time there in 2005 the center added a full-time mediator to the deprived child docket. The result was a resolution of about 70 percent of those cases without trial. Tulsa's family drug court is a national model, as its Safe Babies Court Team; this division of the juvenile court coordinates with child welfare and child service organizations to serve infants and toddlers who are under the court's jurisdiction. Tulsa County now receives national recognition for its trauma-informed practices in dealing with families in their court system.

Still, this description of Tulsa County's facilities and philosophies are over-gilded, and there is a lot of work to be done become the facility that our voters endorsed and that our youth need. In 1915 my student Ariel

narrated her experience at the Tulsa Juvenile Detention Center: "I remember going to JBDC and getting locked up. When I got to the back they made me take off my clothes and get in the shower but only for 5 minutes. They only let me sleep in a long t-shirt and socks and that's it. It is always cold in the jail cells. And all they give you to sleep with is a cot and a blanket." She describes a facility that looks and feels like a jail. The mentality that is inherent in the setting and actions here are not going to go away overnight, just because there are new buildings.

Many my students do not know that our school, Phoenix Rising, is a product of the Tulsa County Family Center for Juvenile Justice's plan to interrupt the life-choices or situations that have directed them to their current situations either in the system or headed towards it. As described above, we are a restorative practices school, and we provide as many resources as possible, such as transportation, a therapist, a food pantry, and a clothes closet, to eliminate the factors that keep them from coming to school or falling into regrettable situations. This year we began a two-month partnership with the Tulsa Police Department called Project Trust. Officers worked intimately with students to explore topics in policing and civil rights and to help each group see things from the other's perspective. After the police shooting of Terrence Crutcher three years ago, the department looked for ways to build relationships with the community while addressing their frustration and anger over the incident. It was successful example of a how a relatively small investment in time and resources can begin to bring some equilibrium back to the stressed dynamic between an urban police department and its damaged community.

Without knowing the context of their school in the larger picture of our country's and state's juvenile justice systems, my students cannot fully appreciate the efforts towards rehabilitation that have been made on their behalf. But our local and state systems still have a long way to go, and students can be agents of improvement by challenging the problems above the advocating for improvement, as described below.

Solutions—Not Incarceration

Today, all fifty states and D.C., along with the federal government, have separate systems for dealing with juveniles and adults differently; and the *intention*, often, has been a restorative, not punitive approach. However, all through the content discussion of this unit we bump into problems with juvenile justice. To summarize, the numbers on racial disparities show us that some communities and families are generationally adversely affected. We have ignored neuroscience and statistics that tell us that young people are more likely to come out of juvenile incarceration no more contrite or productive than then they went in; in fact, they are likely to be more emotionally and socially damaged. But there are also known solutions. Federal and state legislators have enacted laws to document and change the system, and communities have stepped up to fill in the gaps, but in our own states and communities, even young people, when they understand they system, can advocate and educate to make common sense improvements. The solutions below are only a few of many. Some we are working towards already. I will briefly introduce these, and students will work with some of them, or they may discover some of their own. They will become research topics for students as they start down the other side of this unit, moving from an understanding of the problems towards finding their voices to fix them.

1. The Missouri Approach and rehabilitation: Several other solutions below are encouraged as part of the Missouri Approach; we must shift our focus to rehabilitation and treatment rather than to default to adult-appropriate incarceration practices. The Missouri approach has the goals of restoring youth to

their families, schools, and communities as healthy, law-abiding citizens. The approach is based on three core beliefs: (1) that all people, including young people, want to do well and succeed; (2) that with appropriate help all youth can make behavioral changes that will lead them to success, and (3) that the missions of youth corrections systems is to provide just the right help to enable young people to make the right choices towards their success (keeping public safety in mind). They use smaller, close-to-home programs, family-like groups, and least-restrictive environments. The approach is therapeutic rather than correctional and involves the whole family. Emphasis is on prevention, intervention, and treatment in partnership with community resources.³⁸ Danielle Sered explains that in contrast, prisons protect people from what they have done. There is no reckoning, no chance for restitution or closure or understanding. "All one has to do to be punished is not to escape."³⁹ We rob young minds from the opportunity to develop and learn and to consider how to make things right. If we want young offenders to heal, atone, restore, incarceration is the least likely solution. Previous incarceration is the most significant factor in predicting recidivism—"greater than a poor parental relationship, gang membership, and weapon possession." And suicide rates for previously incarcerated offenders is two to four times that for other youth.⁴⁰ David Muhammad said, "It's not like those young people don't need something. They just don't need a probation officer. They don't need searches and monitors and surveillance. They need adults in the community who care about them to engage them."⁴¹

2. Community-based programs: Community-based programs are an aspect of the Missouri Approach, as well. Youth placed in supervised, close-to-home facilities rather than detention or prison are 14% less likely to re-offend.⁴² Nonprofits have initiated change with programs like Tulsa's Women in Recovery. In this program a court liaison works with attorneys, judges and prosecutors to identify candidates for Women in Recovery's counseling and rehab program as an alternative to prison sentences "based on individual risks and needs assessment."⁴³ Its capacity is limited, however. Programs like Tulsa's Project Trust have the potential to improve understanding and communication between youth and the police department. In the interest of balancing the state formula for funding corrections, money could be directed to diversionary and therapeutic programs like these *instead* of prisons and detention centers.
3. Neuroscience and aging out: We should pay attention to neuroscience and human behavior that tell what common sense already has. The adolescent mind brings challenges—youth are more likely to succumb to peer pressure or make emotionally-driven decisions. Dramatic and crucial changes are happening in the brain's structure and function; brains of children and adolescents are developmentally different and therefore should not be treated the same. Fortunately, an adolescent's brain is also rich with opportunity to benefit from appropriate guidance and support. We should also consider the phenomenon of "aging out," as described in the problems above. Most of us engaged in some degree of delinquent behavior as adolescents without incurring legal consequences. We tended to outgrow the behaviors that often got us into trouble. Neuroscience and human behavior confirm that incarceration not only stunts socio-emotional development, but also deprives us of opportunities for development and healing.⁴⁴ Mike Keefe has a cartoon that addresses this.
4. Preadjudicatory detention: We should stop holding alleged offenders in detention while we determine court proceedings. In addition to previous documentation against locking up, we know that youth held in detention are more likely than those with the same offenses who were not detained to be sent to a juvenile facility. Pre-trial detention is also used for minors' protection, further assaulting a vulnerable young person. Unnecessary detention interrupts education, employment, and their physical and mental well-being. Additionally, "upwards of two thirds of young people in detention centers meet the criteria for having a mental disorder."⁴⁵ Except for serious concern for public safety, preadjudicated detention does more damage than good.

5. Juvenile facilities: The new Tulsa County Family Center for Juvenile Justice, in description, addresses researched-based suggestions for improved juvenile justice facilities. They tend to be institutional and depend on confinement, suggesting to youth that they are criminals from the minute they enter. Instead, juvenile facilities should be rehabilitative, trauma-informed, and family-centered, with access to mental and physical health needs, and family and legal services. Families served by the system often face challenges of transportation and other basic needs that make it harder to work with their youth through their problems. These resources should be easily at hand.
6. Quality education: Education is a legal right to youth at all times, even when incarcerated or detained. However, the quality of education in many facilities is inferior to that in regular schools. Like all students, these youth need access to quality education for academics, communications, and/or vocational training as appropriate to their needs and situation to help them succeed after release. However, traditional schools and strategies often have not worked for the youth in question, so we must offer curricula that is relevant and supports to fill in their individual gaps.
7. Risk screening: Objective, judiciously selected risk screening should be used to determine if secured detention is necessary for any child or adolescent in consideration for it. It should be able to objectively measure “the risk of re-offending before adjudication and the risk of failing to appear at a court hearing.”⁴⁶ Tulsa County uses the YLSI (Youth Level of Service Inventory) for risk-assessment. Objective assessments can also help isolate other risk factors that should be addressed to support a young person’s success. These may include mental health, addiction, and trauma.
8. Other alternative outcomes: As students discover their own interests through the unit’s activities, they may also look into other solutions, like restorative programming and youth courts.

Strategies

Socratic Seminars

In Socratic teaching the dialogue is driven by questions, not answers. The method invites participants to go deeper into the topic rather than feeling the sense of closure that comes with providing an answer. Participants must understand objectives, shared terminology and guidelines. There are generally six key rules for the leader to follow in a proper Socratic seminar, but my class needs sometimes dictate that I adjust to accommodate challenges students may have, for example with attendance issues or general agitation from a rough morning. The Socratic questioner should do these six things: keep the discussion focused; keep the discussion intellectually responsible; stimulate the discussion with probing questions; periodically summarize what has and has not been dealt with and/or resolved; draw as many students as possible into the discussion. Often my students come without strong class discussion skills. This takes practice, but the specific guidelines help them to use restraint and to develop ideas they may not otherwise. We’ll look at some of our essential questions and maybe tackle some relevant larger concepts, like how we define crime, punishment or justice.

Simulations

In addition to reading and writing varied texts, we’ll work on organizing ideas for expression and presentation in several other formats. One will be in the form of simulations where we will re-create debates at several possible levels of government. For example, we can simulate a city council meeting where speakers debate whether or not to add additional sales tax to build a new juvenile justice center. At the state level, we can

simulate a senate or house debate on possible legislation to divert funds from secure facilities to restorative or therapeutic programs. Following some research, we can simulate a youth court hearing. For simulations to be well done, each participant must prepare in advance to understand clearly her role and responsibilities in the situation, the standard structure and order of the debate or situation, and the intricacies of the issue at hand.

Field Trips

We have small classes with access to county vans, so field trips are always an option. My non-traditional students love to use their hands, be out of the classroom and be surprised by activities that do not involve reading and writing, but these activities are centered around academic skills and standards. We will travel to two sites to compare what juvenile justice centers should and should not be like, according to the best practices we study. In our case, at least for this one year, we can visit both the current and new, almost completed county juvenile justice facility. Accompanying activities for this trip would be to compare and contrast the facilities in writing, by studying plans, and comparing the new site to what research says are best practices today in juvenile facilities. Another field trip is likely to be to the state capitol to visit our own legislators and to watch the session in progress on the Senate and House floors.

Guest Speakers

This unit lends itself to the possibility of guest speakers. As those “in the system” move through the system, they encounter police officers, judges, probation counselors, and even school officials who participate in their experience in some way. Further removed but just as significant to their process are the district attorney, county and city officials and state legislators. We will invite several throughout the unit into our classroom. Students will prepare for visitors by doing some background research and preparing some questions in advance.

Activities

Legislation Drafting

Our school is fortunate to have close connections with two state legislators. With the help of one or both, students will draft a piece of legislation that addresses a specific problem with juvenile justice as it currently exists at the state level. We will study the development and format of several relevant pieces of state legislation. Then, working in groups, students will identify the specific problem, research all aspects of it in Oklahoma, research what other states are doing, and draft their proposed solution incorporating that information. Following requirements from provided templates, students will have to do research to support their proposals. Our legislators will provide guidance on language, length, format, and effectiveness. Students will encounter built-in language arts lessons on usage issues, verb tense, voice, and organization as they write to the provided requirements. This will be one option for a class-wide or small group final project, depending on the nature of the class. The US Congress, the National Speech and Debate Association, and several other institutions provide models and templates for writing or proposing legislation. Most state legislatures (but not Oklahoma) have manuals on writing bills. This activity should take a week with our two-hour class periods alongside other daily work and pieces of this unit.

Political Cartoons

With a google search of the key words “juvenile justice cartoons” dozens of relevant cartoons come up. We’ll look at a selection of cartoons that may include one that compares identical jail cells for both youth and adults, another showing Lady Justice stealing a baby from her family, and another criticizing the Youth Criminal Justice Act. It shows the handcuffed arms of a torso wearing a t-shirt that says Violent Youth. On each wrist is a tattoo reading “slap here.” Another cartoon has a boy addressing the bench: “Not guilty by reason of a growth spurt, your Honor.” This one speaks to science behind developing brains and behavior, which our courts have generally ignored. We will analyze these for basic elements of occasion, speaker, characters, setting, audience, purpose, and imagery by annotating the cartoons. Depending on the cartoon, a shorter list of just speaker, audience, occasion and perspective may work. Then students will create their own cartoons by selecting first a juvenile justice issue, then working through the same list of elements: setting, characters, conflict, imagery, and purpose. An effective cartoon can be made from stick figures as long as there are details to support these elements. The Library of Congress has excellent resources for teaching cartoons as primary documents.

Literary Essay Analysis

James Baldwin in his essay *Fifth Avenue, Uptown* describes his neighborhood in Harlem in 1960. I include the essay for Baldwin’s literary value, and because the essay explains the source of many of the problems that are shared by many American criminal and juvenile justice subjects. His Harlem is one with little to no opportunity for its residents who fall too easily victim to either the over-oppressive police or to drug use. With detail he narrates daily activities of its residents, describes the physical details of the neighborhood and its community members, and analyzes why the neighborhood has become what it is—a slum riddled with poverty, drug use, struggling workers, crime, and police problems, all tainted by “white contamination.” While the content of the essay takes place sixty years ago, we see the foundations of the us versus them mentality of community verses cop conflict that is ubiquitous in the news today. We will read and annotate the essay for theme, relevance to the unit, and tone. Key themes in the essay include race, class, poverty, drug use, conflict b/t police and community, lack of upward mobility, white domination, and the nature of freedom. His tone is at times journalistic, but more prominently political:

“The people, however, who believe that this democratic anguish has some consoling value are always pointing out that So-and-So, white, and So-and-So, black, rose from the slums into the big time. The existence—the public existence—of, say, Frank Sinatra and Sammy Davis, Jr. proves to them that America is still the land of opportunity and that inequalities vanish before the determined will.”⁴⁷

Other passages echo church gospel, such as a “. . . flaming sword laid across this Eden” and “Before the dust has settled or the blood congealed, editorials, speeches, and civil-rights commissions are loud in the land, demanding to know what happened.”⁴⁸ The weight of the church gives gravity to his message.

Baldwin ends his essay with “Walk through the streets of Harlem and see what we, this nation, have become.” In in-class, one-draft essays, students will write about what he means and how the statement is true today, supported by text and supporting personal evidence.

Fifteen-Minute Activism

I wrote this unit intending to get students thinking about how a certain aspect of their lives has been impacted by policy, culture, and history. Regardless of their perspectives and opinions, through the course of the unit they will participate in fifteen-minute activities that turn them into activists. We will identify key players, such as city council members, legislators, and specific county officials, along with specific issues that might affect my students. Alone or in small groups, students will have fifteen minutes to create and edit a message to tweet, email, or call to a selected recipient. We can mix up the procedure to adapt to groups or individuals or to practice certain kinds modes of writing. All these communications they can send on their own after school if they like. The point is to see how easy it can be to let their voices be heard.

Classroom Resources

James Baldwin's essay *Fifth Avenue, Uptown*: In this essay Baldwin describes his Harlem neighborhood in 1960. The essay clearly depicts a typical neighborhood in which the history of the war on drugs, ramped-up policing policies, and mass incarceration evolved over the last forty years.

Political cartoons: There are political cartoons online for any issue this unit touches, from juvenile justice to prison history. Pat Bagley is one cartoonist with an excellent suggestion. Others include Mike Baldwin and Mike Keefe. Comics from comics.com and usprisonculture.com have many relevant cartoons, as well. The latter has cartoons and images that include historical perspectives and images.

Jim St. Germain's memoir *A Stone of Hope*: we probably will not have time to use this full-length memoir in my class, though I'd like to. It is St. Germain's story of leaving Haiti as a child and ending up in Crown Heights in Brooklyn. He details his story from recent immigrant to gang member. At risk from the beginning, he appears to be a lost cause until he ends up in a rehabilitative low-risk security facility where he is out of the punitive cycle and supported to find his way as a productive adult. He moves back to the projects he grew up in to help break the cycle for others like himself. It is an accessible read with high interest and still has literary value making it a reasonable choice for a language arts classroom.

Race to Incarcerate: A Graphic Retelling by Sabrina Jones and Marc Mauer: This graphic retelling of Marc Mauer's well-known book gives an easy-to-understand and brief explanation of juvenile justice practices over the last forty years without learning this history that begins with the war on drugs in the 1970s. I will begin the unit with this; however, many individual pages are good stand-alone illustrative resources.

Annie E. Casey video on transforming probation: This video documents proposes changes in juvenile probation that reflect best practices from the Missouri Approach to juvenile justice. The three-minute video explains how to transform juvenile probation and can be found with those search words.

Jay-Z video, *The War on Drugs Is an Epic Fail*: With the help of artist Molly Crabapple, Jay-Z narrates the history of the war on drugs and the racial disparities within it. It covers policy, policing, sentencing, and current drug laws, including the role of race in each.

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Appendix

Oklahoma State English Language Arts Standards

The ELA standards for grades 9-12 vary little from grade to grade. For simplicity, I include the tenth-grade standards.

9.1.R.3 Students will engage in collaborative discussions about appropriate topics and texts, expressing their own ideas clearly while building on the ideas of others in pairs, diverse groups, and whole class setting. *This standard will be addressed as we develop our skills in Socratic seminars about a few of the essential questions the unit addresses.*

9.2.R.1 Students will summarize, paraphrase, and generalize ideas, while maintaining meaning and logical sequence of events, within and between texts.

9.3.R.7 Students will make connections between and across multiple texts and provide textual evidence to support their inferences. *For both of the above standards, throughout the unit we will look at a variety of texts and media to see how different perspectives might be presented. Students will analyze individual texts and complex relationships between texts, such as between an essay and a political cartoon.*

9.6.R.1 Students will use their own viable research questions and well-developed thesis statements to find information about specific topics. *Final project work will include students communicating their ideas for solutions to the problems we learn about in the unit. They may write letters, draft legislation or write other kinds of convincing text.*

9.7.R.2 Students will analyze the impact of selected media and formats on meaning. *Students will analyze their own perceptions of information as presented to them from a variety of formats such as editorial pieces and song lyrics; conversely, they will have to discern the most effective kinds of communication media to get their own messages out to their selected audiences.*

9.3.W.2 Students will compose essays and reports to objectively introduce and develop topics, incorporating evidence, and maintaining organized structure and formal style. *Final project work will include students communicating their ideas for solutions to the problems we learn about in the unit. They may write letters, draft legislation or write other kinds of convincing text.*

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