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Juvenile Justice in the Shadows: Texas' Municipal Courts and the Punishment of School Misbehavior

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Juvenile Justice in the Shadows: Texas' Municipal Courts and the Punishment of School Misbehavior

by

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Dedication

This dissertation is dedicated to Dr. Gideon Sjoberg and Danielle Dirks.

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Over the last several decades, punishment in school has become increasingly harsh. Students are suspended and expelled for minor infractions or are being referred to the criminal justice system for behaviors that, in the past, were largely dealt with by school administrators. In addition, school districts are hiring their own police and security forces, and surveillance technologies are becoming a permanent part of school budgets and spaces. Three converging social trends have facilitated these changes in school discipline: (1) the steady growth of a pervasive sense of social anxiety coupled with a political and cultural shift away from rehabilitative to more punitive forms of punishment (e.g., imprisonment, the death penalty, etc.); (2) a series of moral panics in the 1980s and 1990s about drugs, gangs, and violence that heightened fear of, and for, the nation's youth; and, (3) shifts in both policing philosophy and funding towards increased police penetration into community settings. Concerns are mounting that the intertwining of schools and criminal justice has forged a "school-to-prison pipeline" for some students,

especially special education students, poor students and students of color. My dissertation focuses on one aspect of the pipeline: issuing citations to students for school misbehavior. There are three questions I seek to address: For what behaviors or activities are students being ticketed? What are the characteristics of students being ticketed? After school-based citations enter the courtroom, how are these students processed? I use quantitative and qualitative data to address these questions. My larger argument is that school discipline processes not only have significant consequences for the life chances of our country's young people, but they also have very serious consequences for the civil liberties of all public school students and for the socialization of our young people into the principals of democratic citizenship.

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INTRODUCTION

Over the last several decades, punishment in school has become increasingly harsh and inflexible. Students are being suspended and expelled for relatively minor infractions or are being referred to the criminal justice system for behaviors that, in the past, were largely dealt with by school administrators. More and more school districts are hiring their own police and security forces to manage student populations. In addition, surveillance technologies such as metal detectors, closed caption television monitoring systems, and drug sniffing dogs are becoming a permanent part of school budgets and spaces. Why is this happening now?

Three converging social trends have facilitated these dramatic changes in school discipline: first, the steady growth of a pervasive sense of social anxiety about the future coupled with a broad-based political and cultural shift away from rehabilitative to more punitive forms of punishment (e.g., imprisonment, the death penalty, etc.); second, a series of moral panics in the 1980s and 1990s about drugs, gangs, and violence that heightened fears of, and for, the nation's youth; and, finally, shifts in both policing philosophy and funding towards increased police penetration into community settings.

Beginning in the 1960s, our faith in the ability of science, technology and government, to provide us with security and to manage risks has been shaken. We live in a relatively constant state of anxiety about the future and the potential dangers it may hold. Though there are a range of sources from which potential danger emerges, the late 20th century was marked with a near-constant preoccupation with managing the risks related to crime and criminal victimization. Many of the technological advancements and policy initiatives that began during this period focused on reducing the threats of crime and managing those populations believed to be crime-prone.

Much of the efforts to manage crime and criminal groups have focused on punitive forms of social control. Opportunistic politicians have stoked public fears of social change by focusing on a growing crime rate and have crafted a "law and order" image designed to reassure an uneasy populace about the state's effectiveness in managing unruly populations. Though the law and order movement began as a Republican initiative aimed at attracting the political support of disillusioned Whites during the 1960s, current Democratic crime policies have converged with their law and order predecessors to propel punitive trends well into our current century. Since the

1960s, strict criminal sentencing requirements have proliferated, prison populations have swelled, and budgets for criminal justice have mushroomed.

Young people produce unique forms of risk anxiety, and, as a result have not been immune to our zeal for risk management through punitive punishment. Like their adult counterparts, juveniles face ever-stricter and inflexible forms of punishment for wrongdoing. Many states have lowered the age at which young people can be transferred to the adult criminal justice system for criminal processing. In some states, juvenile courts are *required* to transfer young people accused of committing certain serious offenses, such as homicide, to the adult courts for processing. These youth transfer laws are intended to subject young people to more formal and punitive treatment than they would receive in the juvenile courts. Juveniles who are processed within the juvenile justice system also face harsher and more standardized systems of punishment, similar to mandatory sentencing trends in the adult criminal justice system.

The desire for punitive and inflexible punishment has also been adopted in school settings. For the majority of the 20th century, student discipline was largely a local affair, with little federal or state-level intervention, and with local school boards and school-site administrators enjoying significant autonomy in the daily operations of their schools. Beginning in the mid-1990s, the discretion of school administrators to select appropriate punishments for student misbehavior has diminished. Federal and state governments now require local school districts to adopt certain mandatory "zero tolerance" disciplinary policies. The majority of these mandated policies focus on drugs or weapons in schools, but increasingly such policies are being expanded to include a wider range of offenses, including gang activity, fighting and bullying.

In addition to increasing punitiveness of the larger U.S. society, a series of moral panics occurring over the last thirty years about drugs, gangs, "super-predators" and school shootings have paved the way for increased law enforcement involvement and punitive punishment practices in public schools. Though the first two panics about drugs and gangs, occurring largely in the 1980s and 1990s, have received much attention in terms of their impact on adult punishment, less attention has been paid to the significant effects they have had on the social control of young people. Fears of and for young people were further exacerbated in the 1990s by two additional moral panics: social scientists' predictions of an onslaught of "teenage super-predators" who would kill without regard or remorse, and a succession of school-based shootings, the most notable of which was the 1999 shooting in Columbine, Colorado. This series of moral

panics has heightened fears about the nation's youth and served as justification for increased monitoring of their day-to-day activities.

In crystallizing fears of young people, the moral panics of the 1980s and 1990s opened the doors for law enforcement involvement in school discipline. It is no coincidence that the first two major law enforcement initiatives in schools were the DARE (Drug Abuse Resistance Education) and GREAT (Gang Resistance, Education, and Training) programs. In most states, the introduction of these programs into public schools served as the initial step of formalizing relationships between public schools and local law enforcement. With added concerns of violent and remorseless superpredators and unpredictable school shooters, the daily presence of police officers and policing technologies (i.e., closed caption television cameras, metal detectors, etc.) on school campuses have become entrenched.

Changes in policing philosophy and funding have also contributed to firmly establishing police officers in public schools. The popular "broken windows" theory of criminal offending and a "problem-oriented approach" (POP) to policing melded to form what, by the end of the 20th century, would become the new orthodoxy of policing philosophy: community-oriented policing (COP). Beginning in the mid-1990s, the federal government offered significant financial incentives to state and local law enforcement agencies to bring police out of their headquarters and into the new age of COP. Since then, the COP model has gained significant social and political popularity, with most law enforcement agencies in the nation claiming that they participate in some form of community policing. The result has been dramatic expansion of law enforcement into community-settings, including neighborhoods, community centers, and schools.

Activist groups such as the American Civil Liberties Union, the Advancement Project and the NAACP Legal Defense Fund are expressing concern about the unintended consequences of the permanent presence of law enforcement officers on school campuses. Such groups report significant increases in ticketing and arrests of students, and use of force against students by school-based law enforcement. Academics and activists have long argued that educational failure contributes to subsequent involvement in the criminal justice system. The degree to which the criminal justice system appears to have infiltrated schools in the last ten years has increased concerns about this relationship. Some argue that the intertwining of schools and criminal justice has forged a "school-to-prison pipeline" for some students, especially those most vulnerable to

school disciplinary practices (i.e., special education students, poor students, and students of color).

My dissertation serves as the first systematic investigation of school-to-prison pipeline processes. Texas is an appropriate site to study such processes. First, because it is one of the first states in the nation to authorize public schools to create their own police departments. Since 1995, nearly 200 of the states' 1,200 school districts—including all of its largest school districts—have formed their own police departments, with some of them employing as many as 200 police officers. Second, in the last fifteen years, Texas' legislature has expanded the State's regulatory and penal codes to allow students to be charged with criminal offenses for misbehavior on school campuses. Third, the Texas educational model has had significant influence on the national scene—many of the provisions of national education policy, including the 2001 "No Child Left Behind" Act, were based upon Texas' model of educational accountability.

Though Texas has earned a national reputation for its affection for punitive forms of punishment, with regard to school discipline trends, Texas is not unique. National data and media reports suggest that most states now have school-based police officers that actively participate in monitoring public school campuses and students. Despite the national integration of police officers and surveillance technologies into day-to-day school operations, little is known about the consequences of this integration for young people. Unlike other forms of school discipline (i.e., suspension or expulsion) no national or state-level data is collected on school-based policing activities, including ticketing, arrests, or use of force. Though there is evidence that special education, poor, and minority students are over-represented in suspensions or expulsions, we have yet to assess if these patterns are replicated in the issuing of citations to, or the arrests of, students. Further, we remain in the dark about how students are processed by the local courts once ticketed or arrested for a school-based offense and what this processing might mean for subsequent involvement with the juvenile or criminal justice systems.

Lone Star City is a large, urban school district in Texas. There are several advantages to examining school-based policing—specifically the issuance of citations to public school students—in this jurisdiction. First, the school district has maintained its own police department since the mid-1980s. The relationship between school administration, school-based police officers and public school students is relatively entrenched. It is likely that most students and many of the staff have not experienced public schooling without a police presence. As these relationships have

had time to develop, it is safe to assume that certain patterns of interaction between school police officers and students and staff have started to formalize and we can begin to see how police officers have been incorporated into the disciplinary structure of the school. Second, though both justice of the peace and municipal courts are authorized to hear citation cases, the Lone Star City ISD PD submits all school-related tickets to one local court: the Lone Star City Municipal Court. This facilitates consistent observation of school-based citation cases. Third, the LSC Municipal Court maintains computerized records of all its cases. This is not the case in many of the nearly 2,000 municipal and justice of the peace courts across Texas. The local municipal court has maintained computerized records of court caseloads since the mid-1990s. This allows for mapping various school ticketing trends over time (e.g., number of citations given, offenses for which they were given, etc.).

A significant body of sociolegal literature exists on how policing activities and court-processing can vary from one jurisdiction to the next. The value of this study, however, does not lie in its effort to explain previously investigated issues or in its ability to uncover some universal pattern in school-based ticketing; instead, my research makes at least two contributions to advancing our understanding of the social control of young people.

First, it begins to map the complex interaction between macro and micro level punishment processes. The school policing phenomenon is not unique to Lone Star City, nor is it distinctive to Texas. A series of national- and state-level processes have carved out the space for police officers to be on school campuses and given shape to the boundaries of their authority. The first of my chapters is focused on outlining some of the prominent features of the national context from which school policing and punitive school punishment emerges. I pay specific attention to political (e.g., legislation), cultural (e.g., pervasive anxiety about crime) and economic (e.g., police funding) processes that opened the schoolhouse door for police officers. In the first part of Chapter Two, I consider similar processes at the state-level, paying specific attention to social, political and economic shifts in Texas' and how these facilitated the creation of school police forces in the state.

Secondly, in exploring how one jurisdiction has incorporated policing into the local juvenile disciplinary hierarchy (both in schools and the municipal court) we can begin to hone in on a range of possible consequences (both intended and unintended) for the practice of school

policing, in general. More importantly, we can begin to make concrete the dynamics of the frequently referenced, but poorly understood concept of a school-to-prison pipeline.

There are three over-arching questions I seek to address: (1) For what behaviors or activities are students being ticketed? (2) What are the characteristics of the students being ticketed? (3) After the school-based citations enter the municipal court, how are these students processed?

I use two sources of data to address questions #1 and #2 (the behaviors and the characteristics of students who are issued citations): fourteen years of quantitative data on juvenile citations processed by the Lone Star City Municipal Court and approximately 500 probable cause affidavits (PCAs)[1] written by Lone Star City school police officers. With regards to question one, I use the quantitative data to describe the most common legal descriptors of behaviors (e.g., curfew, trespassing) for which students are cited. This is covered in Chapter Three.

Legal realists argue, however, that law as written "on the books" often differs from how law is used in practice, or from "law in action." In Chapter Four, I use the legal realist frame, to conduct content analysis on approximately 300 PCAs written by school police officers. I go beyond legal descriptions of misbehavior to discern what students are actually doing that brings them to the attention of school-based officers. I pay special attention to both how the student's behavior is described by the police officers and how the police officer describes their involvement with the student (and, in some cases, the accusers and/or witnesses of the student's alleged offense.)

I use the quantitative and PCA data in slightly different ways to describe the characteristics of students who are being issued citations. First, I use the quantitative data to determine demographic patterns in citations by offense, e.g., patterns in age, race/ethnicity and gender of the students being ticketed. Second, I use PCAs to discuss trends in the characteristics of the students that aren't included in the municipal courts records, such as the type of schools were student are most often ticketed (e.g.., elementary, middle or high school; percentage of the student body that is minority). I also use the PCAs to characterize the student's interactions with

[1] Each time a student is given a citation, the issuing officer(s) also writes a Probable Cause Affidavit. The PCA describes the offense for which the student has been cited, how the offense came to the attention of the officer, any information provided by witnesses, etc. The PCA is submitted to the municipal court with the citation for processing by court personnel.

the school police officer. Much of the research on policing demonstrates that policing practices are influenced by both the context and the nature of the suspect-officer interaction (e.g., the suspect's demeanor, who is observing, etc.). To the extent that I am able through the use of historical documents, I analyze the officer's PCA's to get a broader sense of the characteristics of students that are being ticketed and the nature of the police officer-student interaction.

In Chapter Five, I then shift focus to the processing of juveniles in the Lone Star City Municipal Court (LSC MC). Data for these chapters was collected between March 2008 and June 2009. From March 2008 to March of the following year, I conducted observations of weekly juvenile court dockets held in the LSC Municipal Court. Beginning in March 2009, I conducted interviews with fourteen individuals related in some way to the court. This includes eleven municipal court employees (five judges, three prosecutors, two caseworkers, and one court interpreter) and four other individuals with knowledge of, or experience in, the municipal court (one Texas Municipal Court Education Center employee, two local juvenile defense lawyers, and one Texas Education Agency Representative).

In Chapter Five, I focus on the day-to-day processing of juvenile cases, paying specific attention to the way that "justice" is organized as a bureaucratic practice. In many senses, the municipal courts function as an assembly line; municipal court personnel have established relatively stable patterns by which they funnel juveniles and their families through the municipal court bureaucracy. Prosecutors, judges, caseworkers and translators play unique but interdependent roles in the assembly line that vary little even when there are different bodies occupying these organizational spaces. Informal and formal sanctions are often dealt to those who cause too much disruption in the assembly line, thereby insuring that processing of cases remains systematic from one week to the next.

Though national and state courts and policy-makers have yet to pose significant boundaries to school police officer's authority, concerned groups continue to attempt to make change by accessing these bodies in hopes of staving off the "school-to-prison pipeline." In the conclusion, I consider possible futures for school discipline. If allowed to continue to operate in the ways that it has been, school discipline processes not only have significant consequences for the life chances of our country's most vulnerable young people, they have very serious consequences for the civil liberties of all public school students and for the socialization of our young people into the principals of democratic citizenship.

CHAPTER 1

In the morning of October 11, 2002, two Thurgood Marshall High School students—one Asian American and one African American—got into a fight. The fight was broken up by school staff and the school police, and the two students involved were taken to the office. Soon after, several friends of the Asian American student and the cousin of the African American student began a second fight. During the second fight, the school police officer called for back up from the San Francisco Police Department (SFPD). Six SFPD officers arrived on the high school campus to assist with breaking up the second fight. Several of the officers handcuffed the African American student involved in the second fight. The African American student involved in the original dispute emerged from the high school office when he heard the commotion in the nearby hallway. He was "aggressively 'taken down' by police—pushed down to the floor with the officer's knees on his back—and handcuffed" (Lee 2004). Students who were watching the altercation began to protest about the treatment of their schoolmates, some voicing frustration that only the African American students were being detained by the police. School and SFPD officers responded by arresting several of the student onlookers.

Fearing that a "riot" was about to ensue, school administrators and the officers on the scene requested additional back up from SFPD and the local sheriff's office. Between sixty and ninety additional officers (sheriffs and SFPD—ten in full riot gear, including helmets, shields and clubs) and five prisoner transport wagons soon arrived at the high school. Its unclear how many students were detained and taken to the police station, however, one teacher and four students were officially charged for crimes related to the incident. The teacher, who was filming the incident and whose camera was subsequently confiscated by the police, was charged with inciting a riot, battery of an officer and interfering with an arrest. The four students were charged with unspecified misdemeanors. School was cancelled for the remainder of the day and police officers formed a line outside the school to prevent dismissed students from re-entering the campus.

Police involved in the incident argue, "There was a riot going on in that school. If we do nothing, we are derelict in our duties, and someone might have been killed in there" (Delgado, Van Deneken, and Asimov 2002). Others argue that the "heavy-handed" police response was inappropriate for a school setting and unnecessarily escalated the situation (Lee 2004). According

to a task force report, several of the high school students and parents reported being thrown to the ground or hit with clubs by the officers, as well as being called derogatory names or racial slurs.

A week after the incident, the school principal, Juliet Montevirgen, resigned. In her resignation she stated:

> I reflected on my way of looking at the situation. I was brought up in a community and culture where a police uniform is the only thing that can save you. I was wrong to bring that assumption here (Delgado 2002).

The charges against the teacher and four students were later dropped by the district attorney.

A year later, in the early morning hours of November 5, 2003, seventeen armed police officers and at least one police dog descended upon Stratford High School in Goose Creek, South Carolina in search of drugs (American Civil Liberties Union 2003). The search was requested by the school's principal, George McCrackin, after receiving a tip about drug activity from a student informant and observing "consistent, organized drug activity" for several days in some of the school's forty security cameras (CNN 2003). Indicators of this "drug activity": students were "posing as lookouts and concealing themselves from [the schools security] cameras" (CNN 2003).

Police officers hid in the school's utility closets and stairwells until given the cue by McCrackin that students had arrived on campus (Lewin 2003). Once cued, police burst from their hiding places, unholstered their pistols—based on the "reasonable assumption" that students may have weapons of their own (CNN 2003)—and ordered or, in some cases, forced students down to the ground or up against walls. Meanwhile, several members of the school's faculty sealed off the hallway's exits. The 107 students caught in the sealed corridor were pat searched by officers or sniffed by a drug-detecting dog; approximately a dozen of the students were placed in handcuffs[2]. Though African American students compose less that one fourth of the school's student body, two-thirds of the 107 students involved in the raid were African American (Lewin 2003).

The search yielded no drugs nor did it result in any charges against any of the searched students (Lewin 2003). A spokesperson for the Goose Creek Police Department explained the lack of confiscated drugs or weapons should not be interpreted as an indicator that the raid was unwarranted; instead, he asserts that the drug-dealing students had been tipped off prior to the

[2] If the raid had not been filmed by police officers and by the school's security cameras, and popularized on the public video-sharing website, YouTube, the Stratford High School raid would likely be unknown beyond the boundaries of this Charleston, South Carolina suburb.

raid (CNN 2003). Parent and community responses to the raid were mixed—some assert the raid was merely an overreaction; others, including the American Civil Liberties Union, argue that the raid was a gross violation of the students' constitutional rights against improper searches and seizures by the government. An officer involved in the raid defended the strategy as "one tactical method by which we could safely approach the problem to ensure that everybody was safe" (CNN 2003). McCrackin responded to criticisms leveled at his involvement with the raid by commenting, "[O]nce the police are on campus, they are in charge" (Lewin 2003).

The Goose Creek and Marshall High School incidents highlight several important trends in school discipline today. First, they indicate the presence of a new authority in the management of student behavior: the school police officer. Traditionally, teachers and school principals held the disciplinary power over students on their campuses; now police officers vie for authority. Second, they both illustrate the increasing criminalization of student misbehavior and the tensions this criminalization poses for the protection of citizenship rights in schools. In the Goose Creek case, an anonymous tip coupled with behavior read as "suspicious" by the school authority (i.e., avoidance of the school's surveillance system) served as justification for a massive search of students without the necessity of individualized suspicion or a search warrant. Such undifferentiated suspicion and wide-scale invasion of privacy rights would not likely be legally justified in a context where large groups of adults congregate (with the exception, perhaps, of a prison.) In San Francisco, a school fight is responded to with nearly five dozen officers, some donning full riot gear.

For those who have completed secondary education prior to the mid-1990s, the involvement of local police in the Goose Creek and San Francisco episodes may seem unusual. In contrast, it is likely that many of today's school-aged children would be unable to imagine their schools without police officers. The day-to-day involvement of law enforcement in school affairs is a recent phenomenon; this begs the question: How did law enforcement come to be involved in the management of students' behavior in school?

I argue that there are three broad, converging trends which have paved the way for the institutionalization of school policing and the criminalization of school misbehavior: (1) an accelerating political and cultural momentum towards punitiveness and away from rehabilitative responses for deviant and/or criminal behavior, coupled with the emergence of the "risk society" (Beck 1992); (2) a series of moral panics surrounding drugs, gangs, and violence that

concentrated fears of, and for, young people; (3) federal and local shifts in policing philosophy and funding.

FERTILE SOIL: PUNITIVENESS IN A RISK SOCIETY

For the first half of the twentieth century, U.S. strategies for managing crime emphasized rehabilitative sanctions through the coupling of punishment and welfare strategies, or what Garland (2001) calls "penal welfarism." According to the penal welfarism model, governments are responsible for securing minimum standards of social security for their citizenry. Providing for the basic needs of the citizenry is believed to be the most effective strategy for reducing crime because it addresses the social conditions believed to cause crime in the first place, i.e., social disorganization and inequality (Simon 2007). For those who participate in criminal activities, appropriate sanctions emphasize re-training and re-socialization rather than retribution.

In the 1960s, however, there was a social and political shift away from rehabilitation. Punitiveness and the desire for punishments that are harsh, inflexible, and vengeful, began to "characterize prominent aspects of government policy and political rhetoric" (Garland 1996: 445). This political and historical shift towards punitiveness can be linked to the rise of neo-liberalism and the emergence of the "risk society." Neo-liberalism and the risk society serve as the ideal social climate, or the "fertile soil," for the emergence of school policing in the mid-1990s.

Neo-Liberalism

One of the fundamental tenents of neo-liberalism is that free markets are the most promising solution to achieving economic prosperity and the most effective means of allocating economic resources (Smart 2003; Garland 2001). From this perspective, a responsible government is one that minimizes formal (i.e., governmental) administration of the market and allows the market to work its economic and social magic (Giddens 1998). Neo-liberalism extols competition and enterprise, and criticizes an intrusive and burdensome "big government". President Reagan's popular phrase captures this criticism: "Big government is not the solution to the problem, big government *is* the problem" (Reagan 1981).

In contrast to penal welfarism, proponents of neo-liberalism argue for the dismantling of social safety nets. Social welfare supports are conceived as "outdated social entitlements" (Gorz

1999:21) that promote values antithetical to the more desirable values of competition, enterprise and productivity. Built into neo-liberalism is a strong rhetoric of individual responsibility. Those who choose not to, or who are unwilling to participate in the market, are conceived as "flawed consumers" who bear the ultimate responsible for their lot in life (Bauman 2001). Rather than victims of a merciless market, the dispossessed are the "architects of their own fate," the makers of their own social conditions (Galbraith 1992:38).

Understanding how neo-liberalism suggests dealing with these flawed consumers is integral to understanding how punitive sanctions became our primary mode of addressing crime. Neo-liberal rhetoric is often coupled with "law and order" rhetoric. "Law and order" refers to the obligation of the government to implement punitive forms of crime control for those who pose a threat to the free market or to its more willing and law-abiding participants. The coupling of free markets with increased social control is evident in the words of one of law and order's most ardent advocates, Barry Goldwater (1964):

> Security from domestic violence, no less than from foreign aggression, is the most elementary form and fundamental purpose of any government…We Republicans seek a government that attends to its fiscal climate, encouraging a free and a competitive economy and enforcing law and order.

The emergence of law and order cannot be properly understood without recognition of the context from which it emerged. The 1960s were a time of tremendous social change. Urban uprisings were occurring in cities across the country, student groups were pushing for the end of segregation and the War in Vietnam, and women were becoming increasingly vocal in their demands for gender equality and reproductive rights. Enterprising Republic politicians framed these ongoing political and social struggles as harbingers of destruction to the moral and social order. Social movements that challenged the status quo were cast as criminal organizations with socially destructive aims rather than as civil initiatives working for social improvement and equality (Beckett 1997; Scheingold 1984). Law and order's reframing of civil protests and urban unrest as criminal activity resonated with nervous White Southerners and Northern working-class Whites, and garnered significant support for neo-liberal law and order politics (Beckett 1997). In fact, it is this reworking that Beckett (1997) credits for the Southern shift from largely Democratic to devotedly Republican.

Risk Society

The realm of "risk" lies somewhere between current reality and the unknowable future (Renn 1992). Until the mid-twentieth century, the United States held tight to the conviction that, through science, technology and rational government, this unknown future could not only be mapped but molded. Beginning in the 1960s, our faith in technology and government has weakened (Beck 1992; Giddens 1990). Though we have not completely abandoned the belief that the future can be shaped by human intervention (Giddens 1991), our confidence in the possibilities of science and government has been infused with a pervasive sense of doom: no matter the advancement of our scientific knowledge or the precision of our predictive instruments, undesirable possibilities lurk in the shadows of the future. As a result, we live in a constant state of social anxiety about risk—we live in a "risk society" (Beck 1992; Giddens 1990).

Though the risk society concept emerged as a way to interpret our modern relationship with a natural world modified by massive industrialization, some scholars have expanded on its applicability and used it to explain our complex relationship with crime (Hudson 2003). Much like the threats of global warming or mad cow disease, crime is a threat that must be managed. Crime has become so powerful a social force that we have "built a new civil and political order" around its management (Simon 2007:3).

Modern reliance on harsh punishments is not merely the rational response to increases in the crime rate or to a growing fear of crime itself. Instead, punitive attitudes are manufactured through the "knowing and cynical manipulation" of fear and insecurity (Garland 1996:460). We are caught between accepting high crime rates as a normal social fact and intense anxieties about crime which propel us to push for levels of "safety and security that can never be satisfied" (Garland 1996; Hudson 2003:44). We place increasing demands on government and our criminal justice system to manage the risks of crime and we give great prominence to the crime-reducing potential of the police and prisons to manage crime risk (Hudson 2003; Garland 2001; Scheingold 1984). Modern political candidates stoke our fears and then capitalize on them by promising to be "tough on crime" (Cavender 2004:346).

In contemporary times, the dangerous populations of the 1960s have been refashioned as those who form the ranks of today's "risky" population: the underclass. The underclass is "a permanent marginal population, without literacy, without skills, without home; a self-

perpetuating and pathological segment of society that is not integratable into the larger hole, even as a reserve labor pool" (Feeley and Simon 1992:467). These threatening outcasts are used to excite fear and hostility and to garner support for severe forms of state punishment (Garland 1996). As in the 1960s, current conceptions of dangerous or risky populations are highly racialized. We use racialized code words to describe those who threaten us—"thugs," "superpredators," "gangsters," and, more recently, "domestic terrorists." These code words stoke public fears that then serve as the catalyst for implementing new and tougher laws aimed at controlling the threatening group (Fleury-Steiner, Dunn, and Fleury-Steiner 2009:6).

The practical consequences of the political and social shift towards punitiveness for adults has been well demonstrated; populations under direct supervision of the criminal justice system have exploded and we have ushered in an era of mass incarceration. Between 1980 and 2007, the number of people on probation has increased from about 1 million to over 4 million (Bureau of Justice Statistics 2008b). Between 1972 and 1988, our prison populations grew by nearly 500% and, between 1985 and 1995, state and federal governments opened at least one new prison every week (Mauer 1999). Between 1979 and 1996, criminal justice expenditures nearly quadrupled, from $25 billion dollars to over $93 billion (Baer and Chambliss 1997). By 2006, direct spending on criminal justice has exceeded $214 billion (Bureau of Justice Statistics 2008a). The U.S. now has the highest rates of incarceration in the western world. England, the western country with the second highest imprisonment rates, has an imprisonment rate of 148 per 100,000; this rates pales in comparison to the imprisonment rate of the U.S: 748 per 100,000 (Muncie 2008).

The impact of our punitive policies toward punishment has not been equally distributed across the U.S. population (Wacquant 2002; Western, Schiraldi, and Ziedenberg 2003). Between 1980 and 1996 incarceration rates (per 100,000) for African Americans rose 184%, Latinos 235% and Whites 164% (Blumstein and Beck 1999). In mid-year 2008, 3,138 per 100,000 African American males and 1,259 per 100,000 Hispanic males were incarcerated, compared to 481 of every 100,000 White males. Women of color are also bearing the brunt of the U.S. incarceration binge: African American and Hispanic women rates of incarceration were 150 and 79 per 100,000 respectively; the rate for White women is 50 per 100,000 (Bureau of Justice Statistics 2008).

Punitiveness and 'Risky' Adolescence

"Childhood" and "children" are shifting social constructions whose specific contours emerge from their larger cultural and historical context (Shanahan 2007; Stephens 1995; Jenks 2005). By being more sensitive to risk and social distinctions including age, gender, race/ethnicity, etc., we can gain a more nuanced understanding of the nature of risk in modern society (Scott, Jackson, and Backett-Milburn 1998:691).

While it is likely that childhood has long been imagined with some sense of risk, in modern conceptions of childhood this sense of risk is pervasive (Jackson and Scott 1999). Unlike children of the past, modern day children are imagined with "surplus risk"—risk that exceeds what might be considered the normal trials and tribulations of childhood (Davis 1999: xiii). Paradoxically, today's children are both feared and feared for. In the public imagination, they are imagined simultaneously as potential victims and possible victimizers (Giroux 2003; Altheide 2002; Scott et al. 1998; Valentine 1996).

Not all children are equally feared for or fear-inducing. Youthful, minority males provoke the most fear and resentment (Sampson and Lauritsen 1997; Tittle and Curran 1988). "Strongly identified with violent criminality by skin color alone, the anonymous young African American male in public is often viewed first and foremost with fear and suspicion" (Anderson 2008:3). Young Hispanic males are similarly feared and often cast as dangerous gangsters, often involved with the illegal drug trade and possessing a questionable immigration status (McCorkle and Miethe 2002; Ngai 2004). Meanwhile, young minority women are framed as aggressive, hypersexual and/or drug-abusing (Chesney-Lind and Irwin 2008; Roberts 1999; Jordan-Zacherys 2007).

Modern fears of young people may be exacerbated by the fact that an increasingly majority of the nation's young people are non-White. Fears articulated about young people in general are coded expressions of concern about young people of color specifically. Current race scholars describe a new form of racism in which "manifestations of race are coded in language which aims to circumvent accusations of racism" (Solomos and Back 2001:351). Modern forms of racist expression use carefully selected code words to evoke racialized images without making

specific references to race or ethnicity (Myers 2005; Bonilla-Silva 2003; Bonilla-Silva and Forman 2000)[3]. Code words are used to mask concerns about young people of color:

> Racial fear is building at a time when racism is impolitic to openly express… Thus, New Democrats led by President Clinton have developed racialist code words such as "youth violence" and "teen pregnancy."… The function of modern crypto-racism is more refined than that of its cruder past: to simultaneously flatter majority constituencies, avoid antagonizing key minority groups, and avail aging America's fear of the rising population of non-White youth. Because racial coding cannot be admitted today, it is hidden behind a false image of an entire generation out of control (Hendrixson 2002).

Managing young people's exposure to risk, and/or the potential risk they may pose, has become central to the modern construction of childhood (Scott et al. 1998). Examples for managing the potential risks to which young people may be exposed are plentiful: cellphones equipped with GPS devices that can track a child's whereabouts, drug-testing kits that can be used at home by concerned parents, "nanny cams" to visually monitor the activities of childcare providers, or micro-chips that can locate children when they are lost or kidnapped (Moore and Haggerty 2001; Berson and Berson 2006). These serve as a few examples of devices that today's nervous parents can purchase in order to ensure their child's safety.

As a nation, we have invested significant energy in managing children we imagine to pose risks to other children or to the social order. Nowhere else is this more evident than in the juvenile justice system. The U.S. has the lowest age of criminal culpability in the western world—6 years old. In other western countries, the minimum age ranges from 10 to 18 (Muncie 2008). We also have a newfound zeal for the incarceration of juveniles (Van Fleet 1999). The U.S. rate of incarceration of young people (under the age of 18) is 1.4 per 1000. Netherlands has the second highest rate of incarcerated young people at 0.57 per 1000 (Muncie 2008). For those children who commit serious crimes, the federal government, and many U.S. states, have implemented systems of "waivers" or transfers for youth to be processed in the adult criminal courts (Tracy and Kempf-Leonard 1999; Schwartz 1989; Rubin 1985; Kupchik 2006). From 1989 until 2005, eighteen U.S. states permitted the execution of individuals convicted of committing a capital offense while under the age of 18. After the U.S. Supreme Court deemed it unconstitutional to execute young offenders in 2005, many states continue to commit young offenders for life without the possibility of parole (Muncie 2008).

[3] A common example is using the word "urban" as a synonym for "African American" (Wacquant, 2002).

Managing 'Risk' in Public Schools

In 1990, the federal government made its first explicit attempt to regulate discipline in public schools. In the wake of school shootings in Stockton, CA and Winnetka, IL and out of rising concerns fueled by the Center to Prevent Handgun Violence's report that estimated some 135,000 boys carried guns to school daily during 1987, the federal government sought jurisdiction over gun possession and gun use on, or near, school campuses (Committee on the Judiciary 1991). The federal government amended the 1968 Gun Control Act[4] to create the 1990 Gun Free Schools Act. This act established 'safe zones' of 1000 feet surrounding schools. In these newly created zones, gun possession became illegal and stiffer penalties were mandated for their firing.

Federal intervention with the Gun Free Schools Act is significant in that it marked a major departure from the traditional federalist model of governance which defers to state and local governments to manage their own law enforcement activities (Committee on the Judiciary 1990:14). The Gun Free Schools Act was not without critics. In 1995, opponents argued that the federal government had overstepped its jurisdictional boundaries. The U.S. Supreme Court agreed and in *U.S. v. Lopez* ruled that the federal government had indeed 'exceeded its authority' because it had failed to establish the 'proper nexus' with interstate commerce. Proponents of the Act were quick to respond—the necessary revisions were made to the 1990 Act and it was readopted as the Gun Free Schools Act of 1995.

The Gun Free Schools Act of 1995 was incorporated into "No Child Left Behind" in 2001. No Child Left Behind (NCLB) is comprehensive educational reform legislation introduced by President Bush shortly after he took office in 2000. Based on the Texas "miracle" model of educational accountability (Saenz, Douglas, Embrick and Sjoberg 2007), NCLB implemented sweeping reforms impacting nearly every facet of education, including standardized testing requirements, credential expectations of teachers, and school discipline. Compliance with the requirements of NCLB is tied to the continued receipt of federal education funds (McGuinn 2006).

[4] The 1968 Gun Control Act prohibited gun ownership for various segments of the population, including those who had been convicted of felony offenses, and created a role for the federal government to regulate interstate gun sales.

No Child Left Behind legislation expanded the Gun Free Schools Act of 1995. Under NCLB, any student caught bringing a gun to school is required to be expelled for a minimum of one school year. In addition, the student must be reported to local law enforcement. If a school fails to expel a student or report his behavior to local law enforcement, the school district and/or the state risk losing federal funding (US Department of Education 2004). The following illustrates the logic for this policy:

> These requirements not only remove potentially dangerous students from the school environment but also provide a deterrent, discouraging other students from bringing firearms to school. Over time, this has the potential to make school environments safer by reducing the number of firearms present in schools. As teachers and students feel safe in their schools, they can focus on learning (US Department of Education 2004:32).

Severe, inflexible school punishment (i.e., mandatory expulsion and being reported to law enforcement) is framed as the necessary prerequisite for feelings of safety among students and staff. This sense of safety is then regarded as a requirement in order for learning to occur.

The federal government's commitment to punitive punishment (i.e., suspension, expulsion, and criminal punishment) as an effective means for promoting school safety and learning is a consistent theme in its contemporary education literature. In a factsheet on school safety distributed by the US Department of Education (2007) students are conceptualized as especially vulnerable to "terrorists abroad, criminals at home, or predators or drug dealers in or near schools." The factsheet continues on to state that the 'first job' of the government is to protect American citizens and to emphasize the need to "keep the learning environment safe by enforcing truancy, suspension and expulsion policies and criminal laws" (US Department of Education 2007). We begin to see the merging of a discourse of risk with a law and order orientation towards punishment. Students are characterized as at risk from various foreign and domestic threats and punitive forms of school discipline are framed as the most effective means to managing these internal and external threats.

SOWING THE SEEDS: 'RISKY' ADOLESCENCE AND MORAL PANICS

How does the risk society relate to moral panics? Though similar to moral panics, "risk anxiety is a more pervasive and constant feature of everyday consciousness" Scott et al. 1998:690). Moral panics are considered to be discrete episodes of heightened concern about a

specific social phenomenon rather than a temporally extended state of general uneasiness or anxiety. Further, risk anxiety is largely managed by individuals, whereas moral panics require management by authorities (Critcher 2003). Risk is the permanent state in which we live, while moral panics provide the catalyst for action by giving us a face or an object to which we can attach, albeit temporarily, our risk anxiety. Moral panics make the object of our risk anxiety tangible.

Moral panics are episodes of temporarily heightened levels of concern about a social problem. The social problem is linked to folk devils by claims-makers who frame the social problem in particular ways (Cohen 1980). A heightened level of concern exists when there is a discrepancy between the level of concern and the objective threat posed by the particular social problem. Heightened levels of concern are often measured by media attention to a particular issue. For example, moral panic scholars might compare the amount of media attention that is paid to a particular social problem to the amount of media attention paid to similar threats (e.g., comparing the deaths caused by cocaine with the deaths caused by more socially acceptable forms of drugs such as tobacco or alcohol). Heightened levels of concern can also be indicated by the fluctuation in concern over a particular problem over time, e.g., the level of threat of a particular social problem has remained relatively constant, but concern about the threat has increased dramatically at certain points in time.

Moral panics reaffirm the boundaries of society by nominating people or activities as outsiders to the community—these are the folk devils (Durkheim [1895] 1964; Erickson 1966). Folk devils are those individuals identified as responsible for the undesirable behavior, condition or activity. They are stripped of any redeeming qualities and cast as "others" to the law-abiding and respectful members of society. Their continued existence, if not controlled, is a threat to the entire moral and social order.

Moral panics emerge through a process of claims-making. Claims help us to interpret and make sense of the social problem being highlighted by the claim makers. Claims are the "descriptions, typifications, and assertions regarding the extent and nature of phenomena in the physical world" (Surette 1998:8-9). They not only designate what should be considered a social problem, but also what characteristics are ascribed to the problem (Surette 1998). Claims are made by framing social problems in particular ways. Frames place social problems in a

"schemata of interpretation" that highlight some aspects of the social phenomenon and ignore other aspects (Goffman 1974; Birkland and Lawrence 2009).

Claims-makers use multiple strategies to communicate their interpretation of social phenomenon and to generate public concern: atrocity tales, linkage, metaphors and statistics. Atrocity tales are extreme cases that are presented as representative of the issue of concern. Claims-makers also link their social problem with other issues that are already considered dangerous or threatening; this allows for the social import of the highlighted problem to be heightened (Surette 1998). Metaphors are rhetorical tools used to describe social problems as akin to something else—the most common metaphors used to describe social problems are war and disease. Finally, statistical characterizations are often referenced by claims-makers in order to establish the growth, pervasiveness or extent of the particular problem.

Claims-makers are the activists, professionals and spokespersons that are identified as experts regarding the particular social phenomenon which they are seeking to be addressed. They can emerge from a range of social sectors including grassroots initiatives, elite communities or interest groups (McCorkle and Miethe 2002:16). The state is often an active player in the moral panics process. Not all efforts at generating public concern will be fruitful as resources are limited and competition amongst claims-makers is intense and claims-makers are heavily dependent on the state for fiscal support and legal authority (Hiltgartner and Bosk 1988; Sutton 1994).

Evident from most moral panic literature is that social problems are attributed to marginal social groups, most often racial or ethnic minorities (Goode and Ben-Yehuda 1994). Historically, it has been easier to explicitly link moral panics with a specific racial or ethnic group. In our current racial climate, it is unacceptable to exhibit prejudice overtly; however, the same end can be reached by focusing panics on activities associated with the socially marginal (Geis 2002:259; Myers 2005).

Though moral panics are time-limited, they can leave lasting impacts on society. Repressive policies and laws are "the most obvious legacy of moral panics" (Watney 1988). The repressive legislative and policy changes generated, and the new alliances forged, during a moral panic often prove difficult to purge once the wave of the moral panic has subsided (Irvine 2007).

Typically moral panics are centered on young people:

> Moral panics often entail looking back to a 'golden age' where social stability and strong moral discipline acted as a deterrent to delinquency and disorder... The same anxieties appear with startling regularity; these involve the immorality of young people, the absence of parental control, the problem of too much free time leading to crime, and the threat which deviant behaviour poses to national identity and labor discipline (McRobbie and Thornton 1995: 561-2).

Adolescence is ripe for moral panics. Young people are perceived as occupying a "wild zone" because they are popularly understood as lacking the ability to self-regulate (Bessant and Watts 1998; Kelly 1999; Dean 1999).

The following discussion focuses on four specific moral panics occurring in the U.S. in the 1980s and 1990s: gangs, drugs, super-predators and school shootings. These moral panics are highlighted not only because of their youth focus, but also because they had significant impact on public school disciplinary processes.

Moral Panic: Drugs

Drug scares are nothing new in the United States—drug-related moral panics have been a recurring theme throughout our history. We have cycled through panics about alcohol, opium, marijuana, cocaine, ecstasy, and methamphetamines (Reinarman and Levine 1989; Becker 1963; Dickson 1968; Jenkins 1999). Perhaps more than any other kind of moral panic, the folk devils of drug scares are most often poor minorities living in urban areas (Reinarman and Levine 1989; Musto 1999).

> "Drug policy has from the beginning been driven, in part, by a deep-seated nativist fear about the moral, political, social, and economic implications of an ever larger, polyglot, urban mass of people whose skin color or ethnic heritage differs from that of the dominant group" (Ryan 1998: 228).

Beginning in the 1980s, the detection and control of drug use has become a central political concern. Both Democratic and Republican politicians have been eager to outdo each other in demonstrating their disapproval of illegal drugs (Feeley and Simon 1992; Inciardi 2008). In 1988, the federal government passed the Anti-Drug Abuse Act. The Act advocates for a broad range of "law and order" strategies to manage drug use in the United States. This includes mandatory sentences for drug offenses, increased hiring and training of police officers to enforce drug laws, expansion of drug enforcement against low-level users and dealers, and building new prisons to house the growing number of people caught up in anti-drug efforts. This Act served as one part of a larger "War on Drugs." The War on Drugs has been credited, in part, with the

dramatic expansion of the prison population in the 1980s and 1990s (Tonry 1995; Blumstein and Beck 1999)[5]. Ironically, the War on Drugs in the 1980s emerged as at a time when drug use was declining nationally.

Crack and Crack Babies

It is likely that no other drug has inspired as much moral panic as crack cocaine did between 1986 and early 1990 (Goode and Ben-Yehuda 1994:203). The earliest mass media reference to cocaine in a "rock" form was in a 1984 *Los Angeles Times* article. The first time it was referenced as "crack" specifically was in the *New York Times* in 1985. In the summer of 1986, public attention to crack/cocaine increased dramatically. In June 1986, two popular athletes died of a cocaine overdoses: University of Maryland basketball forward Len Bias, and Cleveland Browns' defensive back Don Rogers. In the following month, three major television networks in the United States presented 74 evening news segments on drug-related topics, half of which were focused on crack (Diamond, Accosta, and Thornton 1987). These media stories consistently described crack as the cause of increases in both petty and violent crime. They also emphasized the crack form of cocaine as significantly more dangerous and addictive than powder cocaine. A mid-1986 *Newsweek* articles describes crack-infested cities as "domestic Vietnam[s]" and as having "more crack stops than bus stops" (Morganthau, Greenberg, Murr, Miller, and Raine 1986). An April 1988 ABC News "Special Report" described crack as "a plague" that was "eating away at the fabric of America." According to this report, Americans were spending twenty billon dollars a year on cocaine, the educational system was being undermined by rampant student drug use and the family was disintegrating as a result of the crack epidemic (Reinarman and Levine 1989).

Soon after the initial wave about crack, the media started reporting about a new crack-associated plague: "crack babies." In 1987, Dr. Chasnoff of Northwestern University Medical School was the first to call attention to the "crack baby syndrome." According to Chasnoff's initial reports, exposure to crack in utero caused a host of problems for the child, including physical ailments, learning disabilities and social adjustment issues. Many of these problems were described as irreversible and untreatable: "no amount of special attention or educational programs will ever be able to turn these cocaine-exposed infants into well-functioning or –adjusted

[5] Blumstein and Beck (1999) also note increases in prison populations due to longer periods of time served and an increase in commitments per arrest.

children" (Inciardi 2008:144). Government officials and media outlets claimed that 375,000 crack babies—about 1 out of every 10 births—were being born in the United States in the late 1980s (Goode and Ben-Yehuda 1994:217).

Beginning in the early 1990s, media outlets start reporting on the impact of crack babies who had reached school age. Educators are described as "frustrated and bewildered" by these children (Kantrowitz, Wingert, De La Pena, Gordon, and Padgett 1990). A principal in Fort Lauderdale describes school-age crack babies as "little Jekylls and Hydes…all of a sudden, something will set them off. They start throwing tantrums. They start yelling. They can't control their emotions" (Associated Press 1990). Goode and Ben-Yehuda (1994:218) note, "If a child comes to kindergarten with [crack baby] label, they're dead. They are very likely to fulfill the worst prophecy."

Evidence compiled by the Drug Abuse Warning Network (DAWN) and the National Institute on Drug Abuse suggests that cocaine use generally, and crack use specifically, was nowhere near epidemic (Reinarman and Levine 1989). DAWN was a monitoring project set up in health care facilities across the country to track drug-related emergencies and deaths. Not only did more socially acceptable drugs cause more deaths than cocaine, smokable crack cocaine could not be linked to the majority of those deaths ruled as cocaine-related.[6] For every cocaine-related death in 1987, there were approximately 300 tobacco-related deaths and 100 alcohol-related deaths. Further, in the majority of the cocaine-related death cases, the mode of ingestion was not smoking (Reinarman and Levine 1989).

According to NIDA's national survey of over 8000 households, the peak year for young adults who reported ever having tried cocaine was in 1982, several years before the height of the moral panic about crack. Though there was an increase in young adults who reported daily use of crack in the late 1980s, the total number of daily users was less than one-half of a percent (Reinarman and Levine 1989).

> What is known, on the basis of the official evidence from NIDA, is that the vast majority of the more than 22 million Americans who have tried cocaine do not use it in crack form, do not escalate to daily use, and do not end up addicted, in

[6] Cocaine-related is different than cocaine-caused. Cocaine-related means that cocaine was identified in the system of the deceased or that the injured person mentioned that they had used cocaine in the 24 hours prior to their emergency room visit.

> treatment, in hospitals, or selling their mother's TV set for a fix (Reinarman and Levine 1989:122).

With regard to cocaine use by pregnant women, the National Institute on Drug Abuse asserted that the predictions of a lost generation of cocaine-exposed babies were "overstated" (National Institute on Drug Abuse 1994). Even Dr. Chasnoff also recanted his original statements about the hopeless future of these children. More likely, the children being studied by Dr. Chasnoff were victims of more conventional conditions already known to cause birth defects and other problems in children, including insufficient prenatal care, poor diet, or prenatal exposure to tobacco or alcohol (Gray 1998).

Claims about the addictiveness of crack, its association with criminal behavior, and the permanent damage it caused in children formed the crux of justifications for treating individuals arrested for crack offenses more severely than those arrested for cocaine offenses (Mosher and Atkins 2007). The federal Anti-Drug Abuse Act of 1988 instituted a five year minimum sentence for possessing or selling 5 grams of crack. To receive a similar sentence for powder cocaine an individual would have to possess 500 grams[7]. Perhaps more important, crack is credited as the "catalyst" for the larger War on Drugs that began in the 1980s (McCorkle and Miethe 2002). In addition to harsher penalties for both dealers and users, the War on Drugs increased the flow of federal funds to local drug enforcement initiatives and created a presidential cabinet-level position of "Drug Czar" to orchestrate the war effort (McCorkle and Miethe 2002).

It has not escaped the attention of critics that crack is popularly associated with urban African American and Hispanic populations (Reinarman and Levine 1989). Tonry (1995:123) argues:

> The War on Drugs and the set of harsh crime-control policies in which it was enmeshed were launched to achieve political, not policy, objectives, and it is the adoption for political purposes of policies with foreseeable disparate impacts, the use of disadvantaged African American Americans as a means to the achievement of politicians electoral ends, that must in the end be justified, and cannot.

It is unlikely that the crack and crack baby panics would have achieved the level of success they did had crack cocaine not been popularly associated with minority populations.

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[7] Federal legislation which provides for disparate punishments for crack versus cocaine has yet to be repealed. Current legislation proposes to reduce the disparity to 20 to 1 for crack cocaine versus powder cocaine offenses.

Moral Panic: Gangs

There is little consensus on what constitutes a gang and who should be considered a gang member (Ball and Curry 1995; Decker and Kempf-Leonard 1991; Esbensen, Winfree, He, and Taylor 2001). This poses significant problems for generating accurate assessments of the extent gang participation and the nature of the gang problem. Changing the definition of what constitutes a gang or gang membership, for example, can alter the findings even within the same sample (Esbensen et al. 2001).

The FBI defines gangs as a group of three or more people which has identifying signs or symbols, has an identifiable leadership, continuously or regularly associates in the commission of criminal activities, and maintains a recognizable geographical territory usually identified with graffiti (Langston 2003). Critics of this popular law enforcement definition of gangs point out that fraternities meet the definitional requirements but are not often recognized by law enforcement communities as gangs (Bursik and Grasmick 1993; Schaefer 2004). Further, gang researchers also point out that the boundaries of gang membership are more penetrable than such a definition suggests. Participation in a gang may vary both in terms of degree and longevity. Terms such as wannabe, hardcore, associate, and affiliate elude to these fuzzy boundaries (Maxson 1998).

Despite definitional difficulties, in the 1990s, gangs came to be regarded as "one of the most profound problems we have ever faced in the U.S." (Clinton 1994:37). Estimates of gang membership in the 1990s ranged from 660,000 to 1.5 million (Esbensen et al. 2001). Perpetuated by media reports, the popular view was anyone was a potential target of violent gang members. Further, these dangerous people had access to weaponry far more sophisticated than that of local law enforcement. Communities that insisted that they had no gang problem were told they were in denial (Huff 1996). The gang problem was considered so profound that President Clinton pronounced the second week in September as National Gang Violence Prevention Week (Clinton 1994).

During a U.S. Senate hearing on gangs in 1997, Nevada Senator Harry Reid states, "Our current laws dealing with gangs date back to the days of 'West Side Story,' but instead of the Sharks and Jets wielding knives and stealing candy, we have got sophisticated crime syndicates turning our cities and towns into war zones" (Committee on the Judiciary 1997). During the same hearings, Senator Orin Hatch from Utah argues:

> Gang activity has spread across the country at a startling rate and is placing more and more of our people at risk. We are facing a national crisis…Gangs, in a word, have franchised… The reality is that, nationwide, 95 percent of major cities and 88 percent of smaller cities report problems with gang violence… I am not one to advocate unbridled, unwarranted expansion of Federal jurisdiction and I am not doing that here today, but in the case of criminal gangs that are now moving interstate to commit crimes, it is proper for the Federal Government to step in and to play a larger role (Committee on the Judiciary 1997)

The horrors of uncontrolled gang activity were used to push for more funding for anti-gang law enforcement efforts, harsher penalties for crimes deemed to be gang-related and greater surveillance of those suspected of being gang-members (Geis 2002; Maxson 1998; Klein and Maxson 2006; Davis 1992).

In the 1990s, many states introduced new legislation that enhanced penalties for crimes committed while participating in a gang or committed by gang members. For example, Georgia allows for up to three additional years of incarceration if an individual commits a felony while in a gang. The Florida code allows for crimes to be prosecuted at the next level of severity (i.e., a second degree offense can be charged as a first degree offense) if the crime is deemed as gang-related (Menard Covey and Franzese 2006). In Arizona, points can be added to a juvenile's dangerousness assessment score for gang membership—the higher the score, the more likely the juvenile is to be committed to a secure facility or, if already committed, to be committed for a longer period of time (Zatz and Krecker 2003). A violation of the federal Criminal Street Gangs Statute of 1999 can result in a ten-year sentence enhancement. In Illinois, those convicted of gang-related crimes are statutorily denied probation.

During this time, we also see the proliferation of computerized gang databases. In addition to a national database created in 1995—the Violent Gang and Terrorist Organization File (VGTOF)—state and local jurisdictions also began developing gang databases. Perhaps the most well-known of these local gang databases is California's CalGang, (formerly, the Gang Reporting, Evaluation and Tracking System (GREAT)). This statewide database includes information on over 200,000 suspected gang members. Though it began as a local effort in Los Angeles in 1987, in 1997 Governor Pete Wilson designated $800,000 in funds to centralize the data and make it available throughout the state. He also provided an additional $7 million to local law enforcement agencies to develop their own databases that could be linked with the state database. Today, CalGang contains 200 fields of data that are accessible in real time to

jurisdictions throughout the state (Leyton 2003). There have been efforts to develop similar databases in Texas, Nevada, Hawaii, Colorado, Florida, and Illinois (McCorkle and Miethe 2002).

There are a range of criticisms leveled at these databases. First, being involved in a gang is not a criminal activity. Most often individuals are entered into these databases for minor offenses that are unrelated to gang affiliation, including curfew violations or disturbing the peace (Miller 1996; Davis 1992). Second, the accuracy of these databases is dependent on the least rigorous definition used by any of the agencies entering suspected gang members into the system. Given the problems with creating a standardized definition, it is likely that some law enforcement agencies are more lax in the criteria they use to identify individuals as gang members. Further, individuals not involved in a gang may be assumed to be gang members by virtue of living in a particular neighborhood, and/or interacting with particular neighborhood residents (Leyton 2003:117). Finally, most jurisdictions lack uniform procedures for notifying someone that they are included in the database, much less informing them of how they may go about removing themselves from the database (Mosher, Miethe and Phillips 2002)

Some gang researchers suggest that law enforcement measures of gang activity are inaccurate or, in some cases, "wildly exaggerated" (Zatz 1987). In one study, statistical increases in gang activity were the result of two practices that had little to do with actual increases in gang activity: changes in the way community members described the activities of local groups of rowdy young people and changes in official reporting by law enforcement of these activities (Meehan 2000). Residents who were irritated by the disruptive behaviors of groups of young people in their neighborhood (e.g., drinking, fighting, hanging out on corners, etc.) and wanted law enforcement to respond quickly began to categorize these problem groups as "gangs" or the group's behaviors as "gang related." In framing a range of activities that had little to do with "real" gang activity as gang-related, community residents could trigger a prioritized and rapid response from the local law enforcement's gang unit. Meehan argues (2000:362):

> [Though] gangs are real and not themselves an artifact of organizational recordkeeping practices…[A]ctivities by groups that police considered to be 'real gangs' did not constitute a significant proportion of the incidents handled by the gang car that resulted, nonetheless, in official 'gang' statistics. Treating these gang statistics as reflecting actual gang activities reifies gangs to the point where a fiction *is* created: 'gangs' and their activities are the primary source of trouble for the community that the political organization can 'solve.'

A number of researchers have argued that concerns about gangs in the United States have the necessary indicators of a moral panic (Tovares 2002; Jackson and Rudman 1989; McCorkle and Miethe 2002; Zatz 1987). One of the ways in which concern about gangs in the U.S. has been heightened is through the perpetuation of the "mythology" surrounding gangs. This includes the myth of intimate ties between drug sales and gang violence (Klein and Maxson 2006:91). Rather than the highly organized, corporate-style gangs described by Venktatesh (2000), most research suggests that involvement with drugs is individual and informal (Curtis 2003; Fagan 1995; Decker and Kempf-Leonard 1998). Further, recent research suggests that gang membership is not determinative of drug involvement (Bjerregaard 2010)

As with the moral panic surrounding crack, the "folk devils" of the gang moral panic are most often young people of color. The most common image of gang members are that they are African American or Hispanic males living urban areas (Denzin 1998, Duran 2009, Zatz and Krecker 2003; Moore 1993; McCorkle and Miethe 2002; National Youth Gang Center 1999).

Moral Panic: Violent Youth

There are two distinct images of violent youth that emerged in the popular imagination in the 1990s and 2000s: the "teenage superpredator" and the school shooter. The image of violent, emotionless young people who harbored little regard for their own lives or the lives of others were used to advance critiques of a (juvenile) justice system that was too lenient, adults that were too permissive and crumbling social institutions (i.e., families, churches, schools) (Lindsay 1998). The image of these violent young people provided powerful motivators for forging a more punitive juvenile justice system as well as a system of waivers (or transfers) that could funnel those considered most violent directly into the adult criminal justice system.

Superpredators

The political scientist John DiIulio, Jr. is credited with coining the term "superpredator." However, a number of social scientists and government organizations, including the U.S. Justice Department, helped to fan the flames of panic over violent youth in the 1990s. Based on rising arrest rates between 1985 and 1994 and the coming of age of the children of the baby boomers, the Justice Department projected that, by 2010, murder arrests of juveniles would increase by 145 percent, forcible rape arrests by 66 percent, robbery arrests by 58 percent, and aggravated assault arrests by 129 percent (Elikann 1999:24). These predictions were featured in popular national

media outlets including *The New York Times, Time Magazine* and *Newsweek* (Butterfield 1995; Zoglin 1996; Morganthau 1995).

James Alan Fox, department head of Criminology at Northeastern warned, "So long as we fool ourselves in thinking that we're winning the war against crime, we may be blindsided by this bloodbath of teenage violence that is lurking in the future" (quoted in Zoglin 1996). According to Ross, the violence on the horizon was going to be so horrific that we would look back at the violence of the 1990s fondly as "good old days." (Zoglin 1996).

The kids committing these terrible acts weren't your typical wayward delinquents, they were super-predators.

> "Born of abject 'moral poverty'…the poverty of being without loving, capable, responsible adults who teach you right from wrong…In the extreme, it is the poverty of growing up surrounded by deviant, delinquent, and criminal adults in chaotic, dysfunctional, fatherless, Godless, and jobless settings where drug abuse and child abuse are twins, and self-respecting young men literally aspire to get away with murder" (Dilulio Jr. 1996).

James Q. Wilson, professor of public policy at UCLA, describes these superpredators as 'youngsters who after [committing their violent crimes] show us the blank, unremorseful stare of a feral, presocial being " (Dilulio Jr. 1996).

In addition to predicting the coming wave of violence, social scientists were also quick to offer strategies on how to minimize the damage caused by these "feral" beings. The emphasis was on incapacitation and strict punishment.

> "No one relishes the idea of locking up more juveniles. But it must be done…Of course, how many juvenile jails we need will depend largely on how many of today's at-risk 4- to 7-year-old boys become the next century's first crop of 14- to 17-year-old superpredators" (Dilulio Jr. 1996).

The School Shooter

Though one of the earliest school shooting occurred in the early 1970s[8], concern about school shootings did not emerge as an object of national concern until the late 1990s (Newman 2004; Vossekuil, Reddy and Fein 2000). The first school shooting to receive national media attention on was in Pearl, Mississippi in October 1997. Sixteen-year-old Luke Woodham shot nine people at his high school, killing two and injuring seven. However, the school shooting that

[8] Earlier if you include shootings at the university level, such as the 1966 shooting at the University of Texas at Austin.

has received the vast majority of media attention was the shooting at Columbine High School in the suburbs of Denver, Colorado in 1999 (Muschert and Carr 2006; Muschert 2007; Mifflin 1999). Two students, Eric Harris and Dylan Klebold, shot and killed twelve students, one teacher and themselves as well as injured 24 others. This was the longest lasting school shooting episode—lasting about three hours compared to twenty minutes or less for other school shootings (Vossekuil et al. 2000). Columbine was the most widely watched news event of the year and is considered the peak of panic around school shootings (Birkland and Lawrence 2009). In the year following Columbine, nearly 10,000 about school shootings stories were printed in the nation's fifty largest newspapers, with an average of about one story printed every other day (Newman 2004).

What is considered unique about the concern about school shooters is that images of male youth violence shifted, at least temporarily from urban, African American and Latino young people to White young men living in suburban or rural areas (Bowman 2001). In the public imagination, the "everywhereness" of youth violence was confirmed and schools emerged as the epicenter for concern about violent youth. This is despite that there is little empirical support for growing violence in schools (Muschert 2007; Dinkes, Cataldi, Kena, Baum, and Snyder 2006; De Mause 1974; Prothrow-Stith and Quaday 1996; Midlarsky and Klain 2005). In fact, all evidence suggests that schools are actually safer places than the communities in which students reside (Del Prete 2000). Between 1992 and 2006, violent deaths at school accounted for less than one percent of the homicides and suicides among children ages 5 to 18 (National Center for Injury Prevention and Control 2008).

Bringing Moral Panics to School

Fears about the threat posed to young people by drugs, gangs and violence (or, alternatively, the threat posed by young people who use drugs, are involved in gangs or who have predilection for violence) has led to the application of a "crime control paradigm" to the definition and management of student deviance (Hirschfield 2008; Simon 2007). The criminalization of school misbehavior includes the dramatic expansion of punitive school policies, the increased adoption of security measures in public schools, and the erosion of the privacy rights of students (Birkland and Lawrence 2009; Crepeau-Hopson, Filaccio, and Gottfried 2005).

Table 1.1 Percentage of School Districts Adopting Zero Tolerance Policies			
Type of Policy	**1994**	**2000**	**2006**
Prohibition of Physical Fighting	87.0%	97.1%	98.6%
Prohibition of Student Weapons Possession or Use	80.0%	99.1%	100.0%
Prohibition of Gang Activities*	22.0%	62.5%	78.5%
Data Obtained from the Centers for Disease Control's School Health Policies and Programs Study (SHPPS) for 1994, 2000 and 2006. http://www.cdc.gov/healthyYouth/shpps/index.htm			
* For 1994, "Prohibition of gang colors and symbols"			

Data obtained from the Center for Disease Control's School Health Policies and Programs Study (SHPPS) indicates that many of the nation's school districts have adopted "zero tolerance" policies for fighting, weapons and gang-related activities (Table 1.1).[9] In addition to policies prohibiting weapons and gangs, by 1996, 87% of schools had also adopted zero tolerance policies for alcohol, 79% had adopted zero tolerance policies for tobacco, and 88% had adopted zero tolerance policies for other drugs (National Center for Education Statistics 2002).

To combat drug use by students, there has been a push for implementing random drug-testing policies at the federal level. During his State of the Union address on January 20, 2004 President Bush discusses the allocation of funds for drug testing in testing in schools:

> One of the worst decisions our children can make is to gamble their lives and futures on drugs. Our government is helping parents confront this problem with aggressive education, treatment, and law enforcement…In my budget, I proposed new funding to continue our aggressive, community-based strategy to reduce demand for illegal drugs. Drug testing in our schools has proven to be an effective part of this effort. So tonight I propose an additional $23 million for schools that want to use drug testing as a tool to save children's lives. The aim here is not to punish children, but to send them this message: We love you, and we I don't want to lose you (Quoted in Hyman 2006).

[9] Prohibition of weapons is required by the federal government in the 2001 No Child Left Behind (subpart Gun-Free Schools Act) in order to receive federal education funds

Though school-wide drug testing programs have yet to been implemented on any broad scale, school districts have been relatively successful in requiring students who participate in extracurricular activities to submit to drug testing[10].

Generalized searches of students who participate in extracurricular activities that are not based on individualized suspicion have been considered acceptable by most courts based on the argument that there is a "special need" beyond crime detection or the normal need for law enforcement (The Levin Legal Group 2004). In 2002 in *Pottawatomie County v. Earls*, the U.S. Supreme Court argued, "The nationwide drug epidemic makes the war against drugs a pressing concern in every school…[Drug testing] is a reasonably effective means of addressing the School District's legitimate concerns in preventing, deterring, and detecting drug use" (The Levin Legal Group 2004:39). Despite the Court's claim, there is little evidence to suggest that school drug testing programs reduce student drug use (Yamaguchi, Johnston, and O'Malley 2003).

In addition to adoption of strict disciplinary policies and drug-testing of students, schools have been making dramatic changes to the physical landscape of the school though the adoption of security devices and personnel. As Table 1.2 indicates, the most common security strategies of schools have been the adoption of security guards and video cameras (Centers for Disease Control 2007; Addington 2009). Other surveillance measures include night-vision cameras in parking lots, bomb-sniffing dogs, random locker checks, armed police guards, metal detectors, and computerized student ID cards (Pressley and Chojnacki 1999; Firestone 1999; Beaupre and Southwell 1999). Though some of these devices are not foreign to schools, historically, they have been used to deter property crimes such as graffiti and vandalism rather than for the active monitoring of students [11] (National Institute of Education 1978). Some schools have adopted even more sophisticated security technologies:

- A New Jersey school district uses iris recognition software to screen individual entering the school (Cohn 2006)

[10] See *Schaill v. Tippecanoe County School Corp.*

[11] In at least one case, security cameras were installed to monitor teachers rather than students. In the Freeport School District in North Dakota, security cameras were installed in special education classrooms after allegations of student abuse by teachers. The teachers sued the school district, alleging violations of their 4th Amendment right to privacy. The court disagreed and ruled that they had no expectation of privacy and, therefore, their privacy rights were not violated. See *Plock v. Board of Education of Freeport School District*.

- A California school has implemented a radio frequency identification to quickly identify students (RFID) (Leff 2005)
- Schools in Nebraska, Illinois, and Massachusetts have installed surveillance systems that allow police to monitor the school directly from the police station (Rosik 2002; Kirchofer 2001)
- Students in Pottstown, Pennsylvania are no longer allowed to drive to school for fear of hidden car bombs and soda cans and backpacks are not permitted on school grounds unless they were transparent (Cannon 2001)
- Columbine High School's new library includes multiple surveillance stations where staff can monitor the entire room from a fixed position. Bookshelves are no higher than forty-eight inches in order to maximize visibility (Zissman 2001)

Table 1.2 Percentage of Schools Using Security Strategies

Type of Strategy	**1994**	**2000**			**2006**		
	Middle/ Junior & High Schools	Elementary	Middle/ Junior	High	Elementary	Middle / Junior	High
Uniformed police	No Data	5.9%	19.2%	30.1%	25.7%	36.4%	50.0%
Routinely check bags, desks and/or lockers*	61.0%	18.0%	37.5%	44.7%	No Data	36.5%	43.2%
Use metal detectors	10.0%	3.3%	10.0%	10.0%	2.6%	5.5%	8.4%
Use surveillance cameras	No Data	12.3%	21.0%	24.2%	34.7%	46.7%	60.3%
Security guards	23.0%	No Data	No Data	No Data	5.2%	9.3%	19.4%
Security staff are armed	No Data	No Data	No Data	No Data	9.2%	23.8%	29.6%

Data Obtained from the Centers for Disease Control's School Health Policies and Programs Study (SHPPS) for 1994, 2000 and 2006. Available from http://www.cdc.gov/healthyYouth/shpps/index.htm

An additional trend aimed at detecting and combating potentially dangerous students in schools has been a push for reducing the legal barriers prohibiting information-sharing between educational, mental health, and criminal justice institutions. In a recent report published by the National Association of Attorney Generals, 27 of the nation's attorney generals advocated for loosening restrictions on information-sharing imposed by the Health Insurance Portability and Accountability Act (HIPAA) and the Family Educational Rights and Privacy Act (FERPA). In the report, federal lawmakers are encouraged to consider an exception to HIPAA and FERPA regulations that allow information-sharing with schools that goes beyond the current "imminent danger"[12] exception (2007:5). No attention is paid in the report to the privacy concerns of students or to the possibility of detrimental effects on students' educational opportunities if their private information is shared.

While the force of the moral panics over drugs, gangs and youth violence has waned, fear of these social problems, especially in schools still lingers and continues to shape educational policies and practices. The U.S. Department of Education, while willing to admit that these problems are not as pervasive as they once appeared to be, continues to advocate for attention to be paid to these concerns. "While overall crime rates have declined over the last few years, violence, gangs, and drugs are still present, indicating that more work needs to be done" (US Department of Education 2004).

National Trends in Traditional School Discipline

Though national student victimization rates for theft, violent crimes and serious violent crimes have declined since the early 1990s, the use of suspensions has increased. Between 1974 and 1998, the nationwide suspension rate nearly doubled: 3.7% of students were suspended in 1974 compared to 6.8% of students in 1998 (Justice Policy Institute 2001).

As with punishments in the criminal and juvenile justice systems, African Americans bear the brunt of traditional school discipline (Skiba 2001; Eitle and Eitle 2004). African American students are 2.6 times as likely to be suspended from school as White students (Justice Policy Institute 2001). African American students with an identified disability may be at even greater risk (Krezmein, Leone, and Achilles 2006). According to school discipline data collected

[12] Mental health providers are allowed to release relevant elements of a student's private mental health records if they believe that there is an immediate threat to the safety of the school's students or staff.

by the Office for Civil Rights (Table 1.3), African American students represent about 17% of the national student body but about a third of all suspensions and expulsions in 2000, 2004 and 2006.

Table 1.3 National Trends in Traditional School Discipline						
	2000		2004		2006	
Total Enrollment	46,306,356		48,139,803		48,497,768	
American Indian/Alaskan Native	539,374	1.2%	593,885	1.2%	600,261	1.2%
Asian/Pacific Islander	1,917,432	4.1%	2,168,361	4.5%	2,331,028	4.8%
Hispanic	7,467,873	16.1%	9,116,374	18.9%	9,896,732	20.4%
African American non-Hispanic	7,865,407	17.0%	8,125,379	16.9%	8,308,762	17.1%
White non-Hispanic	28,516,270	61.6%	28,135,804	58.5%	27,360,985	56.4%
Out-of-School Suspensions	3,053,418	6.6%	3,279,745	6.8%	3,328,755	6.9%
American Indian/Alaskan Native	41,558	1.4%	42,885	1.3%	47,607	1.4%
Asian/Pacific Islander	55,636	1.8%	60,366	1.8%	63,219	1.9%
Hispanic	458,773	15.0%	594,462	18.1%	670,699	20.1%
African American non-Hispanic	1,043,567	34.2%	1,222,616	37.3%	1,244,821	37.4%
White non-Hispanic	1,453,884	47.6%	1,359,416	41.4%	1,302,409	39.1%
Expulsions	97,178	0.2%	106,221	0.2%	102,077	0.2%
American Indian/Alaskan Native	1,664	1.7%	1,912	1.8%	1,545	1.5%
Asian/Pacific Islander	1,945	2.0%	1,797	1.7%	1,718	1.7%
Hispanic	17,084	17.6%	21,346	20.1%	22,144	21.7%
African American non-Hispanic	28,747	29.6%	36,665	34.5%	38,642	37.9%
White non-Hispanic	47,738	49.1%	44,501	41.9%	38,028	37.3%
Data obtained from the Office for Civil Rights http://ocrdata.ed.gov						

REFORMS IN POLICING AND CRIME CONTROL: GETTING COPS INTO SCHOOLS

Community policing was initially developed as a means by which city police departments could build community trust. Community members' trust in the police was lacking as a result of well-publicized incidences of police harassment and racially-motivated arrests and shootings (Casella 2001:100). Below I offer a brief history of community policing. I then highlight how the growth of community policing significantly contributed to the proliferation of school-based law enforcement.

Growing Critiques of Policing

Prior to the 1960s, policing was relatively insulated from widespread criticism (Walker 1980). The growth of television brought national attention to a series of clashes occurring between police forces and communities around the country. Allegations of wide-scale police abuses and the mishandling of incidences of civil unrest caught the attention of the federal government, the courts, scholars, and local citizens, many became vocal in expressing concerns surrounding the nature of policing in America (Walker 1980).

In a report issued by the National Advisory Commission on Civil Disorders (1968), the "deep hostility between police and ghetto communities" was cited as one of the primary causes of numerous uprisings that occurred in urban centers across the country. Many of these incidences began as a response to a police encounter (e.g., a shooting, a traffic stop, or a raid) (Stark 1972; Walker 1980). In addition to this report, two additional reports issued by national advisory boards advocated for sweeping reforms in local policing: The National Advisory Commission on Criminal Justice Standards and Goals, and the President's Commission on Law Enforcement and the Administration of Justice (Maguire and Wells 2002).

Although the federal government agreed that crime control is a local responsibility, problems with local law enforcement were seen as significant enough to warrant greater federal involvement. The Law Enforcement Assistance Administration (LEAA) was designated as the organization that would lead federal police reform efforts. The LEAA's initial efforts were primarily in the form of federal subsidies to local law enforcement. Rather than use these funds for police officer training or professionalization efforts, however, most jurisdictions used the monies to purchase more advanced weaponry (e.g., guns, riot control gear), transportation (e.g..,

high speed cars, helicopters) and/or information technology (e.g., computers, intelligence gathering software) (Center for Research on Criminal Justice 1977).

U.S. courts also began to take issue with police conduct in the 1960s. The U.S. Supreme Court, under Chief Justice Earl Warren, began to closely scrutinize the activities of the police. In several "landmark" cases[13], the Court restricted the powers of the police to conduct searches, obtain confessions, or prevent detainees from consulting with an attorney (Cassell and Fowles 1998; Leo 1996).

Finally, policing also became the object of much critical and academic attention as citizens and scholars began to openly critique the significant amount of discretion that police officers had in arresting, detaining, and searching suspects (Maguire and Wells 2002; Greene 2000; Goldstein 1960). Academics were especially interested in police abuse of power and racist attitudes harbored by law enforcement officers (Bayley and Mendelsohn 1969; Reiss 1971; Westley 1970).

Reforms in Policing

One of the earliest policing philosophies that sought to repair relationships between the community and local law enforcement is "team policing." There are three key features of team policing that are carried over into the philosophy of community policing: (1) a team of two or more officers are assigned to a specific geographic area, (2) a focus on improving the communication and cooperation among the members of a team (and breaking down some of the hierarchical structure of policing), and, (3) a focus on improving communication between the local law enforcement team and members of the community (Sherman, Milton, and Kelly 1973; Maguire and Wells 2002.)

These components of team policing merged with two other ways of thinking about policing: problem-oriented policing and "broken windows." Problem-oriented policing is a policing philosophy proposed in 1979 by Herman Goldstein. Goldstein argues that criminal incidents are symptoms indicative of underlying social problems; in focusing on such symptoms, police officers are not addressing the core of the problem. Rather than focus narrowly in crime

[13] 1961 *Mapp v. Ohio*- evidence obtained without a warrant is inadmissible; 1963 *Gideon V. Wainwright* and 1964 *Escobedo v. Illinois*- rights of indigent people to be appointed counsel; 1966 *Miranda v. Arizona*- informing suspects of their right against self-incrimination and right to counsel; 1967 *In re Gault*- children are entitled to same due process protections as adults

control, Goldstein recommends that police work in collaboration with community members to identify and solve problems (Goldstein 1979; Robbin 2000). In working with the community to address concerns generally considered beyond the scope of conventional policing, police increase the potential for their activities to reduce and prevent crime in the future (Robin 2000). An added benefit of working closely with the community, according to Goldstein, is increased trust and confidence in the police. Rather than agents of social control, police officers are recast in the public eye as problem solvers (Goldstein 1979). To effectively solve social problems, police officers need to become a part of their local community (Robin 2000).

Some of the themes of problem-oriented policing resonate with arguments about policing advanced in 1982 by James Q. Wilson and George Kelling and by Kelling and Coles in their 1996 book, *Fixing Broken Windows*. In their influential article, "Broken Windows" Wilson and Kelling argued that the police focus too much of their attention on serious crime and, instead, should be focusing on markers of "disorder." Disorder—which includes low-level, "quality-of-life" offenses such as public intoxication, littering, and loitering—serves as a signal to potential wrong-doers that the neighborhood is ineffective or unconcerned with curbing illegal or socially inappropriate behavior. Additional indicators such as homelessness, graffiti, abandoned buildings or cars and "broken windows" serve as a physical expression that the social fabric in the neighborhood is weak or worn and the community is unwilling or unable to defend itself (Newman 1972:3). Left unattended, these indicators of disorder will breed additional disorder and more serious crime (Robin 2000). According to "broken windows" logic, the best way to prevent more serious crimes is to target minor ones.

Community Policing: The New Orthodoxy in Policing

Despite resistance from some law enforcement circles and at least one state,[14] and a belief that community policing was a "passing fad" (Zhao, Thurman, and Lovrich 1995; Weisel and Eck 1994), community policing models have grown very popular in recent decades and has "become the new orthodoxy for cops" (Eck and Rosenbaum 2000:30). Community policing represents the most dramatic shift in policing since the invention of the telephone, the automobile, and the two-way radio (Reiss 1992).

[14] Arizona Senate committee voted to prohibit state and local police agencies from participating in the federal community oriented policing program. (Robin 2000:36)

In the mid-1980s, we begin to see significant scholarly activity around community policing. In 1983, the National Center for Community Policing was established at Michigan State University. The Center became the hub for training and technical assistance to local police departments around the world who wished to implement or improve their community policing practices. Two of foundational texts on community policing were also published in the late 1980s: *The New Blue Line* by Skolnick and Bailey (1986) and *Community Policing: Rhetoric or Reality* edited by Greene and Mastrofski (1988). By the early 1990s, the rhetoric of community policing was used extensively by local law enforcement agencies and by the federal government.

President Clinton pushed for community policing as a major part of his election platform and federal support for community policing models was solidified in the Public Safety Partnership and Community Policing Act. In this Act, community policing is advanced as the method to change policing from being reactive and incident-specific to proactive and preventative (Robin 2000). The Act allotted $8.8 billion of federal funds to be distributed over six years to local law enforcement agencies who were willing to implement community policing strategies. The following are the key characteristics of community policing: direct interaction with the community, training of officers in problem-solving, innovative programs that give community members a role in law enforcement and/or crime prevention, and employment of crime prevention technologies. As a result of these funds, an expected 100,000 police officers trained in community policing would be hired by the year 2000. The Office of Community-Oriented Policing Services (COPS) was created to implement and administer the program. According to recent statistics, COPS has given $11.3 billion to local police agencies (COPS N.D.).

Thousands of police agencies throughout the United States claimed to practice community policing (Maguire, Kuhns, Uchida, and Cox. 1997; Wycoff 1994; Gutierrez 2003). From 1997 to 1999, the percentage of police agencies reporting that they have adopted community-oriented policing doubled from 34 percent to 64 percent (Hickman and Reaves 2006).

Despite the popularity of, and significant resources dedicated to, community policing, there is an emerging body of literature that is critical of its philosophical assumptions as well as its actual implementation. With regard to its assumptions, the community policing model assumes that community members have a desire to see police regularly and to form closer relationships with law enforcement officers. Yet, sustaining citizen motivation in community policing programming has proven difficult (Stretcher 1991). Further, there are concerns over which

citizens are actually being solicited to partner with police. Research suggests that those marginal groups which are the most alienated from the police are not the groups being targeted for participation in community policing initiatives (Findley and Taylor 1990; Robin 2000).

The second disputed assumption of the community policing model is that, upon more regular and casual contact with the police, people will not only begin to regard the police more fondly and but will also feel safer. This is not likely to be the case in communities with a long history of antagonistic relationships with the police (Schuck and Rosenbaum 2005; Skogan, Steiner, DuBois, Gudell, and Fagan 2002; Webb and Marshall 1995). "One contradiction that must be reconciled is the vast difference between the popular rhetoric of community policing and the reality of strained and even murderous relationships that exist between police officers and many city youth, especially those who are African American" (Casella 2001:83).

Community policing advocates often frame community policing as a return to an earlier period when policing was more caring, accessible and humanistic: "Officer Friendly re-invented and transposed to the 21st century to grabble with the problems of a more complex society" (Manning 1988). Not only is it unlikely that such a time existed in the past, it is questionable whether such a time could exist in a modern pluralistic and fragmented society (Walker 1980; Manning 1988).

Third, the COP model assumes that the police have a critical role in the community as problem-solvers and as active participants in shaping the "common good" of the local community (Manning 1988). Some question whether this is an appropriate role for law enforcement to play. "We have been grappling with the forces of urban decay for decades. Why, then, should the police be any better at resolving them than [real] social workers or urban redevelopment authorities have proven to be?" (Maguire 1997:555). Further, some argue that engaging police officers as providers of social services creates a "bureaucratic nightmare" and forces police officers to take on an "ever-increasing number of loosely-defined city services" for which they poorly trained and poorly resourced to effectively manage (Goodbody 1995; Robin 2000).

In addition to community resistance, evidence suggests that local law enforcement agencies are also experiencing internal resistance to community policing. Some researchers have highlighted resistance to the adoption of community policing amongst law enforcement officers in the nations largest municipal police forces (Moore 1992; Maguire et al 1997). Others have demonstrated that community policing efforts are often structurally isolated and have been

ineffective at changing the relational dynamics between the community and the larger law enforcement agency (Maguire and Wells 2002).

"A Shining Example": COPS in Schools

There is little written on the first school-based police officers in Los Angeles in the late 1940s and in Detroit in the 1950s (Browne, N.D). It was with the introduction of the D.A.R.E. (Drug Abuse Resistance Education) program in the 1980s that police officers first began to enter schools on a significant scale. School policing is now the fastest growing law enforcement field (Hirschfield 2008).

The D.A.R.E. program was created in 1983 by the Los Angeles, California Police Chief Darryl Gates and the Los Angeles Independent School District. D.A.R.E. officers are uniformed law enforcement officers placed in public schools to teach structured lessons about decision-making, conflict management, and abstinence from drugs. The program embodied the popular "Just Say No" principle and lessons included group activities, role-playing scenarios and homework assignments. "The idea behind D.A.R.E. is simple. If drug use spreads like a virus, the thinking goes, then inoculating children before they're exposed could slow the spread...[Its creators] chose cops as the ones to deliver the vaccine" (Grim 2009:92). Training of each officer costs about $2000 and program costs per year for each officer have been estimated at $90,600 (Mosher and Atkins 2007). In 1993, total national expenditures for the program were estimated at $700 million (Wysong, Aniskiewicz, and Wright 1994). Shepard (2001) later estimated that in total, D.A.R.E. costs between $1 and $1.3 billion per year.

In the 1986 Drug-Free Schools and Communities Act, the federal government demonstrated its support of the D.A.R.E. program. Two-hundred million dollars of federal money was appropriated for school districts and police departments to develop drug and alcohol use prevention programs. Four years later, the Act was amended with the addition of "The Drug Abuse Resistance Education and Replication of Successful Drug Education Programs." This amendment expressed the federal government's intention to continue to support police and education partnerships around drug use prevention (Casella 2001).

By the mid-1990s, D.A.R.E. had pushed beyond the United States to become an international phenomenon. The D.A.R.E. Drug Abuse Resistance Education was proclaimed as the "largest and most effective drug-use prevention program" by Clinton in 1995, when he proclaimed April 20th National D.A.R.E. Day. Part of D.A.R.E.'s popularity is owed to the image

it projected of police officers and young people working together to reduce drug use (Inciardi 2008). Further, D.A.R.E was perceived as a means to "humanize" the police: "D.A.R.E. permits students to see officers in a helping role, not just an enforcement role" (Grim 2009: 92).

D.A.R.E. has been effective at reaping the symbolic benefits of legitimacy and public support for politicians, corporate sponsors, law enforcement, and school administrators (Wysong et al. 2003; Klein and Maxson 2006). However, most assessments of the program's ability to reduce drug use by young people suggest that D.A.R.E. is ineffective (U.S. General Accounting Office 2003; Clayton, Catarello, and Johnstone, 1996; Lynam, Milch, Logan, Martin, Leukefled, and Clayton 1999; Dukes, Ullman, and Stein 1996; Wysong et al. 2003; Reddington 2007). One of its more recent critics has described it as "a uniformed officer conduct[ing] an intentionally frightening version of show-and-tell" (Grim 2009:92).

Following the D.A.R.E. model, in 1991, police officers in Phoenix, Arizona created a school-based gang prevention program called "Gang Resistance Education and Training (G.R.E.A.T). Like D.A.R.E., the G.R.E.A.T. program is taught in public schools by uniformed police officers and is intended to be "an immunization against delinquency, youth violence, and gang membership" (Bureau of Justice Assistance 2009). The content of the lessons are markedly similar to those covered by D.A.R.E., but gang issues are substituted for drug issues (Klein and Maxson 2006). Both emphasize life skills, conflict resolution, peer pressure resistance skills and cultural sensitivity.

G.R.E.A.T. funding was soon picked up by the federal Bureau of Alcohol, Tobacco, and Firearms. By 1996, officers in 43 states had received G.R.E.A.T. training (Esbensen and Osgood 1997). By January 2000, 3,500 officers from every state and the District of Columbia had been trained to administer the program (Klein and Maxson 2006).

G.R.E.A.T. has received much of the same criticisms of the D.A.R.E. program. "The fact that G.R.E.A.T., the gang prevention program, was modeled on a failed program with a positive image is, itself, a study in the application of conventional wisdoms in the face of contrary empirical knowledge" (Klein and Maxson 2006:96). Like its predecessor, G.R.E.A.T. has not shown to be effective at reducing juvenile delinquency or gang membership (Esbensen, Osgood, Taylor, Peterson, and Freng 2001). Though police officers involved in G.R.E.A.T. feel the program helps to build positive relationships between police and young people, they also are

skeptical of its effect on reducing delinquency or gang-related crime (Menard Covey and Franzese 2006).

At the height of D.A.R.E. and G.R.E.A.T. popularity, the federal government began pushing for more consistent, long-term involvement of police in schools (Martini, Fields, McGinley, Robinson,and Morash 2002). In the 1998 amendment to the Omnibus Crime Control and Safe Streets Act of 1968, the federal government sought to establish school and law enforcement partnerships and to use school-based police officers "to operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities" (Casella 2001:98). Thus began targeted efforts by the federal government to bring police into schools. The first wave of funding of the School-Based Partnership grant program was awarded to police agencies who sought to address one school-related crime or disorder problem occurring in or around a middle or secondary school. Specific problems eligible for consideration include drug dealing or use, victimization of students on the way to or from school, assault/sexual assault, alcohol use or alcohol-related behavioral problems, threat/intimidation, vandalism/graffiti, loitering and disorderly conduct directly related to crime or student safety, disputes that pose a threat to student safety, and larceny. Through this program $13.2 million was awarded to 120 police agencies throughout the country (COPS, N.D.)

Soon after, the U.S. Department of Justice's Office of Community Oriented Policing Services announced the COPS in Schools (CIS) grant program. This program focuses on funding law enforcement agencies to hire school resource officers (SROs) "to engage in community policing in and around primary and secondary schools" (COPS, N.D.) Many of the tenets of community policing, including crime prevention and improved relationships, are reiterated in the rationale for school police officers:

> School resource officers act as mentors and role models and perform various school functions, including teaching crime prevention and substance abuse classes, monitoring troubled students, and building respect between law enforcement and students. (Office of Community Oriented Policing Services 2005:30).

Nineteen rounds of funding have been announced since the program's start in April 1999. To date, this program has awarded over $753 million dollars to fund nearly 6,500 school-based police officers (Office of Community Oriented Policing 2005).

The most recent of federal efforts to promote law enforcement activity in schools is the Secure Our Schools (SOS) initiative. COPS offers the following discussion on the background of the program: "Classrooms no longer depend solely on teachers, but on teams of administrators, health care workers, security staff, and law enforcement professionals. Keeping America's children safe has become one of the nation's most successful collaborations, and it is a shining example of effective community policing" (Office of Community Oriented Policing Services 2009). In the first round of funding SOS has awarded $16 million to 128 agencies in "high-risk areas." Approved uses for SOS funding include purchasing metal detectors, locks, lighting and other deterrent measures, security assessments, security training of personnel and students, coordination with local law enforcement, or "any other measure that may provide a significant improvement in security" (Office of Community Oriented Policing Services 2009).

It is difficult to discern the effects of these federal programs on the integration of local law enforcement into the school context. One retrospective study suggests that, between 1995 and 2000, 80 percent of school administrators report some form of collaboration with local law enforcement—forty-six percent of them report that this was a recent practice (Snell, Bailey, Cardona, and Mebane 2002). Anecdotal evidence suggests that school-based law enforcement is growing increasingly common. In the 2005-2006 school year, New York public schools had 4,625 school safety agents and 200 armed police officers, making the NYC school's police department the tenth largest police force in the country, bigger than Washington DC, Boston and Las Vegas (Mukherjee 2007). In California, the Los Angeles School District-run police department employs 370 officers. In Florida, the Miami Dade School District-run police department has 215 officers. The Clark County School District in Nevada staffs 145 officers (Mukherjee 2007).

Though the integration of police and policing technology is often regarded as a natural or logical means by which to reduce crime or violence in schools, some question just how natural and effective these "techno-responses" really are (Devine 1996:76). Little research exists on the efficacy of police, guards and cameras in schools in controlling violence and crime (Greene 2005; Pagliocca and Nickerson 2001). Further, there are few considerations of how the day-to-day presence of law enforcement on school campuses influences young people's perceptions of law enforcement or the criminal justice system overall (for an exception, see Kupchik and Brady 2010). Critics of the unintended negative consequences of police presence and other security

measures in schools point to the added expense of policing and policing technologies to already-strained school budgets (Addington 2009), to heightened student alienation and resentment of law enforcement and school administration (Hyman and Perone 1998; Beger 2003), to the creation of a prison-like feeling on school campuses (Noguera 1995), and to the abusive and discriminatory conduct of school-based police officers (Mukherjee 2007).

CONCLUSION

"What today presents itself as self-evident, established, settled once and for all, beyond discussion, has not always been so and only gradually imposed itself as such" (Bourdieu 2000:174). At least three trends have contributed to the criminalization of student misbehavior and to the integration of school police officers into public school hierarchies. First, a growing climate of anxiety about the threat of crime, coupled with a political and cultural momentum that emphasizes individual responsibility and punitive sanctions for wrongdoing. Second, the punctuation of this generalized sense of anxiety with a series of moral panics, which act as catalysts for efforts aimed at tightened social control, especially of those populations dubbed as dangerous and/or crime-prone. Third, a policing reform efforts that, in an effort to salvage the tainted reputation of law enforcement, brings police in increasingly close contact with the communities they are charged with serving and protecting.

The convergence of these trends fostered the conditions in which police officers and policing technologies could enter schools with very little public resistance. Though schools across the country appear to be incorporating punitive punishment policies and policing technologies into their day-to-day operations, little is known about what consequences this may have for students in these schools. In the following chapters, we turn our attention to school punishment and policing in Texas. Using Texas as a case study, we can learn more about how the national trends highlighted above are translated into policy and practice at the state and school district levels.

CHAPTER 2

Before delving into juvenile punishment and school discipline in Texas, I offer a discussion of the advantages of a "case study" approach to the school-to-prison pipeline. In this discussion, I include justifications of why Texas and Lone Star City are appropriate venues to the broad understanding of school-to-prison pipeline processes.

I then offer a cursory look into the climate from which many of Texas' current punitive juvenile justice and education practices emerged in the 1990s. Included in this section is a discussion of the constant presence of police officers in one Texas school district in Brookshire. My assumption is that similar motivations may have served as inspiration for other Texas school districts, including Lone Star City, to pursue school-based law enforcement.

Finally, I offer a detailed discussion of how school discipline is practiced in Texas today. At the state level and within Lone Star City, I consider traditional school discipline practices (i.e., suspension, placement in an alternative school, and expulsion). I then focus attention on the more recent phenomenon of school ticketing by looking at trends in ticketing in Lone Star City. In these discussions, I pay particular attention to which students receive the majority of both traditional and modern forms of school discipline.

THE CASE STUDY APPROACH

The case study approach has unique advantages. "Researchers who utilize them can deal with the reality behind appearances, with contradictions and the dialectical nature of social life, as well as with a whole that is more than the sum of its parts" (Sjoberg, Williams, Vaughn, and Sjoberg 1991:39). Though case studies have the potential of becoming unwieldy because the boundaries of study are less defined, they compensate by expanding the potential for a "revelatory inquiry" into social processes that have yet to be examined (Geis 1991:217). The case study method is especially effective for criminological studies, in that they allow for more nuanced considerations of both what constitutes deviant or illegal behavior and of the complex (and, often, contradictory) ways in which social systems attempt to deal with such digressions (Geis 1991).

My intent has been to utilize a "disciplined insight" to develop a "coherence theory of truth" about current trends in school punishment. Building a coherence theory of truth entails constructing a theory that "coheres with, or makes sense out of, the ideology and social structure of a society" (Sjoberg and Nett 1997:291). I aim to do this by looking through the prism of school ticketing in Lone Star City, Texas (LSC) (Sjoberg et al. 1991). The beauty of the case study method is that locally-specific characteristics of school discipline in LSC, or even in the state of Texas, while possessing distinctive characteristics, also offers insights into how local school discipline processes are both informed by, and resonate with, larger regional or national trends. In other words, there is much that we can learn about punishment in schools (and, perhaps, punishment in general) through the case study method.

Developing a coherence theory of truth requires paying heed to the historical context from which social processes emerge (Sjoberg et al 1991). As I have attempted to demonstrate in Chapter One, current practices of ticketing in schools emerged from a protracted history. Though there is much more that can be written, my account in Chapter One does a sufficient job of establishing what I believe are key aspects of this history. School ticketing could not occur, at least to the degree that it currently is, without a constant presence of police in schools. At a minimum, getting police into schools meant having a public that would be fearful enough to support such an endeavor (or at least not challenge it), school administrators who were amenable to opening their schools to law enforcement, and a federal government that was willing to provide significant financial incentives to make it happen. The historical components of my dissertation offer cursory glances into how federal and Texas state governments have shaped school discipline practices at the local level.

An additional advantage of the case study approach is that various agents involved in social processes are open to examination—one need not limit consideration to one particular agent in the process (e.g., school police officers). In this case study, I examine multiple levels and multiple actors involved in school discipline, from school police officers who issue citations in schools, to prosecutors, judges and caseworkers in the municipal court where school punishment is being outsourced. However, with regard to the municipal court, I don't limit my consideration to individual actors—I also consider the municipal court as an organization that is relatively autonomous from the individuals who staff the court. "We cannot reduce organizational arrangements to a mere summing up of the activities of human agents. Yet we cannot properly

interpret organizations without taking account of these human agents" {Sjoberg et al 1991:55). As I attempt to demonstrate, the municipal courts are an excellent example of what Littrell (1979) calls "bureaucratic justice"; one cannot accurately consider how the municipal courts process student tickets without some understanding of the courts as an organization with a momentum of its own.

Another advantage of the case study method is the ease with which quantitative data can be integrated into the consideration. In fact, it would be difficult to demonstrate any sort of scale or extent of school ticketing without some statistical consideration. Looking at patterns that emerge from the quantitative data have helped me to confirm or refine findings that have emerged from content analysis of PCAs, interviews, and field work. For example, both quantitative data and observations in the courtroom confirm that White students are ticketed with less frequency than other students. Statistical information has also revealed patterns which I was not able to discern during observations or interview, e.g., the dramatic increase in ticketing after the events of September 11, 2001.

Lone Star City, Texas as a Case Study

Though some aspects of Lone Star City, Texas' approach to school discipline are undoubtedly distinctive, there is much we can learn about modern school discipline from this city's experience. Prior to delving into the advantages of a case study conducted in Lone Star City, I would like to elaborate on why Texas is an appropriate state on which to focus. In 1995, Texas implemented statewide legislation that authorized public school districts to create their own police departments. Since 1995, nearly 200 of the states' 1200 school districts—including all of its largest school districts—have formed their own police departments, with some of them employing as many as 200 police officers. Though Texas may be one of the few states that has passed formal legislation to allow for the formation of a school-run police force, school police are becoming increasingly common in states throughout the country (e.g., Florida, Illinois, New York, California, Nevada, to name a few). [15]

In addition to passing school district police department legislation, the Texas' legislature has also expanded the State's regulatory and penal codes to allow students to be charged with

[15] School district either create their own autonomous school security/policing agencies or local police departments have a special division devoted to policing in schools.

criminal offenses for misbehavior on school campuses. For example, Texas has expanded the state's Education Code to make a student's participation in a "fraternity, sorority, secret society, or gang" a criminal offense. Unfortunately, so little is written in the media or by academics about legal changes in school punishment that the extent to which other states have created similar statewide legislation is difficult to determine

Finally, Texas has had significant influence in the national school discipline arena. For example, in 1998, Texas Representative Martin Frost pushed through a bill as part of the federal Safe Schools Act to allow school violence prevention funds to be used towards hiring school police officers; prior to this bill, only 5% of federal grant could be used for metal detectors and security (Casella 2001:15). Probably Texas' most notable influence has been on the provisions of the No Child Left Behind Act (NCLB). NCLB is a comprehensive education reform bill passed by George W. Bush and his Secretary of Education, Margaret Spellings (also from Texas) in 2001. Many of the provisions of NCLB (e.g., standardized testing, teaching certification requirements, mandatory expulsion for bringing a gun to on campus) were based upon Texas' "miracle model" of educational accountability (Saenz et al. 2007).

Studying school ticketing in Lone Star City also has several advantages. First, the school district has maintained its own police department since the mid-1980s. My assumption is that having a twenty-five year old police department has allowed sufficient time for relationships to be forged between school administration, school-based police officers and public school students, and has also allowed for some degree of regularity in school policing practices. As such, we can look to Lone Star City to highlight some of the issues that emerge with having a full-time police presence in schools and to determine some of the ways in which law enforcement is incorporated into the public school's disciplinary structure.

Second, Lone Star City Independent School District police officers submit all school-related tickets to one local court: the Lone Star City Municipal Court. Centralization of ticket-processing facilitates consistent observation of school-based citation cases. Further, municipal courts, unlike juvenile courts, are open to the public.[16] In addition, the LSC Municipal Court maintains computerized records of all its cases. This is not the case in some of the 1,700

[16] This also made obtaining approval for my study through UT Austin's Institutional Review Board (IRB) quite easy. Though my study considers a protected population—young people involved in the criminal justice system—because municipal court processes are open to the public, my IRB application to observe juvenile dockets was expedited.

municipal and justice of the peace courts across Texas. The local municipal court has maintained computerized records of court caseloads since the mid-1990s. This allows for describing various school ticketing trends over time (e.g., number of citations given, offenses for which they were given, etc.).

'DISCIPLINE AND LOVE GO HAND IN HAND'[17]: JUVENILE JUSTICE REFORM IN TEXAS

Similar to national trends, youth crime had emerged in Texas as a politically popular issue in the mid-1990s. News stories informed the Texas public that, though "kid killers"[18] had always been around, they were multiplying and their crimes were becoming increasingly vicious (Anderson 1997:155). No longer did we have 14-year-olds stealing gum, now they are "sticking guns to our heads" (Robison 1995). Further, the crime problem was going to get worse, before it would get better (Robison 1996).

Public fears were stoked by a 1994 report published by the Texas Commission on Youth and Children that warned that a new crisis of violent juvenile crime loomed on the horizon and that Texas must revamp its entire juvenile justice system to stave off this trend (Texas Commission on Children and Youth 1994:1). Authors of the report predicted that, by the year 2000, Texas would have the "largest population under the control of the criminal justice system of any Western democracy" (1994:2). Though report authors recommended various improvements in health care, child care, and mental health and substance abuse services, the most salient piece of advice from the report: get tough on juvenile crime. "If we ever hope to reverse these trends, we must get serious about preventing crime and rehabilitating and punishing juvenile offenders" (Texas Commission on Children and Youth 1994:2).

The causes of this new wave of juveniles were relatively uncontested. The sources of Texas "kid killers" were akin to the sources of the nation's superpredators discussed in Chapter One:

> The forces contributing to increased violence, declining values and the rejection of individual and societal responsibility are inextricably linked… Unfortunately, in recent years many of the institutions that have traditionally protected young

[17] Texas Governor George W. Bush discussing juvenile justice laws passed in Texas in 1995
[18] That is, kids that kill, rather than individuals that kill kids.

> people and guided them towards socially responsible behavior have deteriorated. Our sense of community has weakened and the safety net has frayed. A generation ago parents could limit their efforts to their own children, instilling them with solid values and providing them with a good education. Today, our concern must be broader, because our children's future is affected by the future of all children (Texas Commission on Children and Youth 1994:2).

According to the TYC report, violence committed by young people is indicative of declining morals and weakened social institutions. Further, those parents who raised their children with the proper values could no longer afford to ignore those children who were raised poorly.

The idea that the fate of the good child was contingent on how Texas responded to the actions of the bad child was a theme reiterated by spokespersons for juvenile justice and education reform. "We must have a new approach that tells youthful offenders that violent crime leads to punishment, tough punishment. By making examples of the few, we can save many and make our communities safer' Bush said" (Elliott 1994). Who were the few that could be sacrificed to save the many? According to Representative Toby Goodman, R-Arlington, sponsor of the juvenile justice reform laws, "Most of these kids are coming from the inner city. Most have no family structure" (Robison 1996). A report published by Sam Houston State University researchers offered the following description of the "typical" serious juvenile offender:

> [T]he typical serious juvenile offender is male…He is likely to be African American or Hispanic and from a low-income background. He has interpersonal difficulties and behavioral problems in school or on the job and often comes from a single-parent family where there is a high degree of conflict, instability, violence and inadequate supervision…[His] violence is fueled by involvement with illegal drugs and gang-related activities" (Graczyk 1995).

Three thousand copies of this report were sent to Texas lawmakers in March of 1995, just in time for them to vote on pending juvenile justice reform legislation.

During the 1994 race for Texas Governor, George W. Bush criticized his opponent, the incumbent Governor Ann Richards, for her failure to mention juvenile crime in either of her State of the State addresses. Fortunately, juvenile justice reform, along with education reform, were two of the four cornerstones of Bush's campaign platform[19] (Burka 1995). In fact, juvenile crime and education reform were nearly indistinguishable in Bush's vision for the new era of social control of young people in Texas:

[19] The other two: welfare reform and tort reform.

> The state has a role, but it is not to micromanage local [school] districts…Today, we have too many education goals. When you have too many goals, you have no goals. Texans must have safe classrooms. We must adopt one policy for those who terrorize teachers and disrupt classrooms- zero tolerance. School districts must be encouraged, not mandated, to start 'Tough Love Academies.' These alternative schools would be staffed by a different type of teacher, perhaps retired Marine drill sergeants, who understand that discipline and love go hand in hand. If we are going to save a generation of young people, our children must know they will face bad consequences for bad behavior. Sadly, too many youths are not getting that message. Too many juveniles do not respect the law. Our new juvenile justice system must say to our children: We love you, but we are going to hold you accountable for your actions…Texas must lower to 14 the age at which the most violent juveniles can be tried as adults. We should expand the determinate sentencing statute. And our law enforcement and education officials must have the ability to share juvenile information and records across jurisdictional boundaries. Discipline, strong values, and strict rules go hand in hand with our love for our children. And make no mistake, these reforms are designed to save children. I believe they can be saved. In contrast, many adult criminals are beyond rehabilitation. It is our obligation to keep them behind bars and away from our schools and our communities. (Texas Governor George Bush's 1995 State of the State Address)

The various proposals for transforming education and juvenile justice highlighted in Bush's address became commonly referred to as "tough love." Beginning on January 1, 1996, Texas juveniles who broke the law were subject to a new range of "tough love" practices:

- Fourteen year olds can be tried as an adults
- Juveniles can receive fixed sentences of up to 40 years
- Juvenile court decision-makers now must make decisions according to progressive sanctions guidelines[20]
- The minimum time of stay for juveniles detained in the youth facility (Texas Youth Commission) is increased
- Young people who turned 18 while detained in the Texas Youth Commission would be transferred to adult facilities
- The capacity of the Texas Youth Commission was increased by nearly 2400[21]
- A statewide database was created to ease inter-agency access of juvenile records

[20] A seven-tiered sanction guidelines policy was implemented. Sanction determinations are based on the type of offense committed, past criminal or delinquent behavior, the effectiveness of previous interventions, and an assessment of special treatment needs.

[21] Adult facilities were re-purposed as juvenile facilities in order to create more space.

- Restrictions on photographing and fingerprinting juveniles were eased
- Discretion of probation officers to informally process juveniles accused of crimes was reduced.
- Certification of juveniles as an adult for criminal processing became permanent[22]
- Any child expelled from school is required to be referred to the juvenile court
- All Texas counties are authorized to enact juvenile curfew ordinances[23]

As a result of these changes, new commitments to the Texas Youth Commission (TYC) increased by 41% between 1993 and 1995. The impact was not equally felt across Texas youth populations. In 1995, African American and Hispanic young people composed 40 percent of the TYC population each, though African Americans comprised 13 percent and Hispanic young people comprised 35 percent of Texas' youth population. Additionally, the majority of the TYC population was poor and/or urban (from one of Texas' five largest counties) (Fabelo 1996).

School Police in Royal School District in Brookshire, Texas

Brookshire is a small city located about 30 miles east of Houston. On October 7, 1993, one of the 220 students at Royal High School reported to the assistant principal that someone in her Spanish class has stolen $41 dollars from her bag. Soon after, the assistant principal used the school's public announcement system to call the entire class of twenty students to the office. When they arrived the students were informed that their parent's had been called and had consented to a search of their children by school officials. Male students were searched in the assistant principal's office and female students were searched one-by-one in the nurse's office. All students were asked to remove all their clothes except for their underwear. Female students were asked to move their bra and panties so that the school nurse could confirm that they were not hiding the missing money. No money was found as a result of the searches. This was the second incident of student strip searches in the district. A similar search for missing money was conducted in the school district's middle school about a month earlier.

[22] Previously, a young person would have to be certified as an adult for each new criminal charge. Now, certification is permanent and, for any subsequent crime a young person commits, they will be processed in an adult court.

[23] Cities in Texas were already authorized to enact curfews. The authority was expanded to counties because of the suspicion that wily young people would "circumvent a city curfew by staying out late in unincorporated areas of a county" (House Committee, 1995).

Not all parents were informed of the assistant principal's intent to search their child and several parents complained. After meeting to discuss the search, The Royal ISD school board determined that the best way to handle the search was to send letters of reprimand to the two Royal High School staff that participated in the search and to send letters of apology to all female students who were searched. Letters were not sent to male students because "they did not have to remove their underwear" (Flynn 1993). The school district's Superintendent, James Kemp, was fired about 6 months later, though it is unclear if his termination was the result of the search (Tedford 1995; Flynn 1993; Flynn 1994).

About a year later, the new Superintendent Tasma partnered with local law enforcement to establish a permanent presence of school police officers at Royal High School. When asked by parents if conditions had gotten so bad in the school that they needed a police officer on campus, Superintendent Tasma responded, "The answer is a definite 'no.' But, we aren't going to wait around until conditions might reach that point some day…By taking action now, we are committed to heading off the kinds of destructive problems affecting so many schools today" (Flynn 1994). When interviewed by the local media about the appropriateness of having an officer permanently stationed at the school, the local Police Chief responded, "It just makes common sense—and enhances community enforcement—to have one agency dealing with juvenile problems…We have a much better feel for what's happening with the youth of our community, both good and bad" (Flynn 1994). The school liaison, Officer Prejean, added, "There's no more 'business as usual' for troublemakers" (Flynn 1994).

The integration of school police officers into the local school districts in Texas has received little critical attention. Though nearly 200 school districts in Texas have their own police departments and an unknown number of others contract with local law enforcement agencies, little is known about the rationales for bringing police officers on campus that have been employed by school administration. The media accounts of Royal ISD administration offer potential insight into this rationale.

In the case of Royal ISD, there is no indication of high levels of student participation in activities that concern school staff (i.e., drug use, gang activity, violence, etc.) In fact, the Superintendent states explicitly that his bringing of police officers on to campus is a preventative strategy to deal with issues that may (or may not) arise in the future. His comments suggest that he buys into the notion that bringing the police into schools is a reasonable and preemptive means

of dealing with future "destructive problems" modern schools face. The Police Chief further advances the notion that a permanent police presence is a rational strategy, because, somehow, the police are more in tune with the happenings of young people in the area than the school personnel. The final comment, made by Officer Prejean, suggests that a logic of deterrence also is also a motivating factor in establishing a school police force. None of these conclusions—that schools are going to get progressively worse, that police are better equipped to deal with young people than school staff, and that a police presence on school campus has a deterrent effect—have ever been subjected to empirical tests. However, I would venture to guess that similar justifications for a police presence have been advanced by school district administrators and police officials across Texas, and, perhaps, the nation.

LEGISLATING SCHOOL PUNISHMENT: TEXAS EDUCATION CODE CHAPTER 37

Like the federal government, the state of Texas has begun encroaching on the authority of local agents' school discipline decision-making. During legislative debates over schooling in Texas in 1995, the legislature consistently emphasized the need to return control to local school districts; however, when it came to school discipline, the emphasis on local control "flew out the window" (Walsh, Kemerer and Mantiotis 2005:272). In 1995, the Texas legislature introduced an extensive set of mandates surrounding student discipline, largely captured by Texas Education Code 37 (TEC 37). With the passage of Senate Bill I: Safe Schools Act (of which TEC 37 is part), the Texas state government now asserts greater control over school discipline than ever before.

Classroom Removal, Mandatory Punishments and Alternative Education Programs

The Safe Schools Act mandated several stages of disciplinary action to be implemented by local school district, increasing in severity as the seriousness of the offense increased (See Figure 2.1). The first stage is teacher removal from the classroom, the second stage is placement in a District Alternative Education Program (DAEP), and the last stage is expulsion (and, in some locations, placement in a Juvenile Justice Alternative Education Program (JJAEP)).

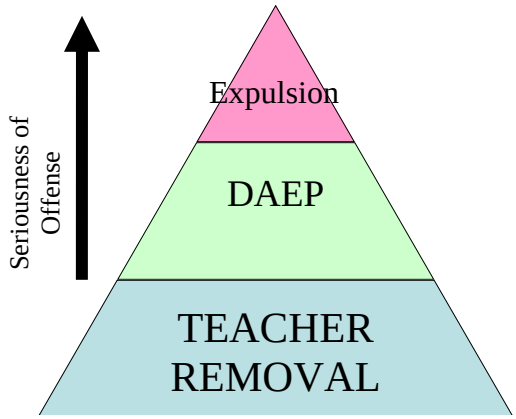

Figure 2.1 School Discipline in Texas

The Safe Schools Act both formalized and increased school teachers control over removing students from their classrooms. There are three types of teacher removals: (1) temporary removal for assistance, (2) discretionary, permanent removal, and (3) mandatory removals (Walsh et al. 2005). Students removed for assistance are sent to the principal's office, the principal is then able to decide how best to address the student's behavior. Students removed for assistance are allowed to return to the sending teacher's classroom. Teachers can also permanently remove students under a 'discretionary teacher removal' when that student repeatedly interferes with teacher's ability to communicate or with other students' ability to learn or when the student's current behavior interferes with teacher's ability to teach or other students' ability to learn. Students removed through such a procedure are unable to return to a sending teacher's classroom without that teacher's permission. Teachers are mandated to remove students when the student commits an offense in the classroom that requires a placement in an alternative education program or expulsion.

Texas Education Code 37 (TEC 37) requires each local district to adopt a student code of conduct that describes what is expected of students and the consequences of student misconduct. TEC 37 also specifies a range of offenses for which school districts must implement mandatory punishments[24] (Walsh et al 2005). State-mandated disciplinary responses include expulsion or placement in an alternative education program. In Texas, there are two types of alternative education programs: district alternative education programs (DAEPs) and Juvenile Justice Alternative Education Programs (JJAEPs). Contrary to Governor Bush's suggestion that school

[24] Offenses for which a student must be expelled: Aggravated kidnapping; use, exhibition or possession of an illegal weapon; murder, attempted murder, manslaughter or criminally negligent homicide; indecency with a child; arson; sexual assault; aggravated assault; felony alcohol or controlled substance violations; aggravated robbery and sexual abuse of a child.

Offenses for which a student must be sent to a DAEP: terroristic threat; abuse of a volatile chemical; public lewdness or indecent exposure; possessed, sold, used or was under the influence of alcohol or a controlled substance; retaliation against a school employee; off-campus felony offense; assault; false alarm/report; or, the student is a registered sex offender.

districts be encouraged to form "Tough Love Academies," The Safe Schools Act required school districts to create DAEPs. Students who committed certain offenses, such as terroristic threat, assault, or being accused of a felony offense off of campus, were required to be placed in these newly formed alternative programs (Walsh et al. 2005). The notion behind these schools "seems to be that if we cart keep the 'bad kids' away from the 'good kids' schools will be safer and better" (Walsh et al. 2005). Students can also be discretionarily sent to a DAEP if it is determined that their continued presence on the mainstream campus "threatens the safety of other students, or teachers, or will be detrimental to the educational process" (Walsh et al. 2005). Placement in a DAEP can last for more than a year.

Students who are accused of committing more serious crimes, such as murder, or sexual assault, are required to be expelled from school. In the 27 counties in the state with more that 125,000 residents, the local school district contracts with the Texas Juvenile Probation Board to provide educational services to mandatorily expelled students at the Juvenile Justice Alternative Education Programs (JJAEPs). In counties without JJAEPs, expelled students can be sent to the DAEP or be "expelled to the streets" (i.e., offered no educational services through the school district).

According to the United States Supreme Court case *Goss v. Lopez*, because states provide free education and student attendance is compulsory, education is a property right. When a state attempts to limit or deny any property right, including that of a public education, the state must implement some form of due process (Bittle 2004). In other words, if a school wishes to suspend or expel a student or place the student in an alternative education setting, at a minimum, the school must implement a process by which the student is informed of their offense and given an opportunity to offer an explanation (Walsh et al. 2005). Though the US Supreme Court was clear that due process was required for forms of school discipline that removed a child from school, it offered little guidance on the extent of this requirement or how due process should be adjusted based on type of school punishment (i.e., suspension, alternative education, expulsion). Some argue that *Goss v. Lopez* made school disciplinary processes more bureaucratic rather than fairer (Casella 2001:76).

Some details of due process requirements have been illuminated by subsequent decisions in the lower courts. In criminal processes, the accused are legally allowed to face their accusers and to cross-examine them. This is not the case in school discipline due process. Many schools in

the country allow for the identity of informants and/or witnesses to be concealed from students facing school disciplinary action (Bittle 2004). Some states, including Texas, have implemented online or phone tips services where students can anonymously[25] report suspected misbehavior of their schoolmates. During due process hearings for school discipline, there is no legal requirement that witnesses or tipsters be identified, or that the student (or his/her legal counsel) be able to cross-examine the student's accuser (Walsh et al. 2005). In *Newsome v. Batavia Local School District*, the Sixth Circuit Court ruled that the school principal was not required to reveal the identity of the two students who had accused Newsome of selling marijuana. Further the attorney was not allowed to cross-examine the principal or the school superintendent. The court offered the following as justification:

> In this turbulent, sometimes violent, school atmosphere, it is critically important that we protect the anonymity of students who "blow the whistle"… Without the cloak of anonymity, students who witness criminal activity on school property will be much less likely to notify school authorities, and those who do will be faced with ostracism at best and perhaps physical reprisals. Quoted in (Walsh 2005)

Clearly subscribing to the notion of schools as dangerous places, the court justifies witness anonymity as a means to protect accusers from potential backlash. In similar cases, the courts have also argued that administrators are qualified to determine the veracity of student accuser's statements and that the nature of school discipline requires the maintenance of administrative convenience—allowing students to cross-examine their accusers or requiring more rigorous due process standards would be too burdensome for school district employees (Walsh et al. 2005).

Procedural requirements for placement in a DAEP are described in TEC Section 37.009. Requirements include school staff holding a conference with parents and the student; however, this conference can take place without the student and/or their parents as long as reasonable efforts are made to include them (Walsh et al. 2005). When a student is sent to a DAEP, there are no legal resources for appeal beyond the school board or the school board's designee (Levin 2006). Several students have tried to challenge their placement in a DAEP, however. In 2001 in *Nevares v. San Marcos Consolidated Independent School District* (1997) and *Stafford Municipal*

[25] Some of these phone lines offer cash rewards if the tip leads to property being reclaimed or if it leads to a school-based or criminal punishment of the identified student. Students are issued an "ID number" that allows them to identify themselves to the school administration or police officer in order to claim their cash reward.

School District v. L.P., students argued that their placement in alternative programs was a violation of due process. The court disagreed based on the argument that the students were not denied access to public education, they were merely "transferred from one school program to another program with stricter discipline" (Walsh et al. 2005).

Though TEC Chapter 37 outlines the offenses for which students must be sent to a JJAEP, students can also be discretionarily sent to the JJAEP from the DAEP. Students who exhibit "serious or persistent" misconduct while in a DAEP can be sent to the JJAEP. Which students will be discretionarily admitted to the JJAEPs is something that must be negotiated between the school district and the juvenile justice board and described in their Memorandum of Understanding. Unlike mandatory JJAEP placements, the school districts must pay the JJAEPs for taking discretionarily-placed students.

Both expulsion and placement in an alternative education program requires removal from extra-curricular activities. According to *Ryan G. v. Navasota Independent School District*[26], extra-curricular activities, such as participation in school clubs, sports teams or the school band, are considered a "privilege" rather than a right and schools have great liberty to limit or restrict a student's ability to participate in such activities.

State Patterns in Traditional School Discipline

Texas public schools are changing demographically. White[27] enrollment is the only category that has experienced a decrease both in terms of counts of students enrolled—from 1.7 million in 1998-99 to 1.6 million in 2008-09—and percentage of the statewide student body—from 44.2% in 1998-99 to 34.0 in 2008-09. The number of African American students in the state has increased—from about 569,000 in 1998-99 to approximately 672,000 in 2008-09—but the African American percentage of the student body has remained relatively stable at 14% for the last ten school years. Over the last ten years, Hispanic enrollment has increased the most in comparison to other categories: 2.3 million Hispanic students were enrolled in 2008-09, up from

[26] In this case, a student was found to be a "minor in possession of alcohol" while away from campus on spring break. The student was suspended from the school's baseball team.

[27] The Texas Education Agency categorizes students into the following groups: African American, American Indian or Alaskan Native, Asian or Pacific Islander, Hispanic, and White. Both White Hispanics and Black Hispanics are included in TEA's Hispanic category. Though Hispanic as a ethnic category is not without its problems, I use the term largely because it is the one used by the Texas Education Agency, the Lone Star City school district and the Lone Star City Municipal Court (Mann 1993; Murguia 2003).

1.5 million Hispanic students in 1998-99. Hispanic students composed 38.6% of the statewide student population in 1998-99; by 2008-09, Hispanic students composed 47.9% of the student body. [28]

Over the last six school years (2003-2004 to 2008-2009), Texas schools have referred between two and three percent, or between 120,000 and 140,000 of their student body to District Alternative Education Programs (DAEP). Texas' expulsions rates are consistent with national rates of expulsion, with about 0.2 percent of the student body being expelled annually. Texas' rates of student suspensions has remained relatively steady over the last six school years—between 12 and 14 percent of the student body, however, Texas' rate of suspension has consistently been double the national rate of expulsion, which is between 6 and 7 percent annually.

Similarly to national trends, African American students are overrepresented[29] in traditional forms of school punishment in Texas. African American students make up over a third of the students that are suspended but less than one sixth of the student population. Their overrepresentation in placements in District Alternative Education Programs and expulsions is less dramatic but still worthy of note. Based on their percentage of the student population, White students are consistently underrepresented in suspensions, DAEP and expulsions. Special education students constitute a tenth of the student population in Texas but over a fifth the expelled population and a sixth of the student population referred to a DAEP.

[28] There has also been modest growth in Asian American and Pacific Islander counts between 1998-99 and 2008-09: enrollment increased by nearly 70,000 students over ten years. Native American students represent less than 0.5% of the student body for all years between 1998-99 and 2008-09.

[29] I use the term over-represented to denote a difference between a group's proportion in the population and their proportion of the population that is disciplined. I have not measured for statistical significance. Part of the difficulty in measuring over-representation statistically is that there are no existing measurements of various forms of school misbehavior. In other words, I am unable to determine if students of color are being targeted because of their race/ethnicity or they are overrepresented because they engage in more school misbehavior. In an effort to bypass some of these issues, I have focused my later discussions of ticketing on behaviors that most would agree are subjective and non-criminal. Though I cannot say with any certainty that Black or Hispanic students cut class, curse or violate the dress code any more or less than their White counterparts, I am confident in arguing that these types of behaviors do not warrant police involvement or the acquisition of a criminal record.

Table 2.1 Use of Traditional School Discipline in Texas by Race/Ethnicity (2008-2009)				
	Percentage of Student Body	Percentage of Suspensions	Percentage of DAEP	Percentage of Expulsions
African American	14%	35%	26%	25%
Hispanic	48%	48%	50%	53%
White	34%	16%	23%	21%
Special Education	9%	10%	16%	20%

Mandated Communication between Schools and Law Enforcement

With the introduction of TEC Chapter 37, the state of Texas also mandated communication between schools and law enforcement. Such mandated coordination was unheard of prior to the Safe Schools Act (Walsh et al. 2005:273). The justification for this coordination: It "enables the school official to take appropriate action to prevent violence, protect students and school personnel, and further educational purposes" (Abbott 2007). This parallels federal government arguments that law enforcement has direct benefits for advancing the learning process.

Prior to 1993, intra-agency communication between schools and law enforcement was illegal beyond a need to communicate about an immediate threat under the Texas Family Code because it infringed on the privacy rights of young people. Those critical of such information-sharing restrictions suggest that they "hindered the ability of schools to take precautions to prevent future disruptions or violence" (Abbott 2007). Consistent with the law and order rhetoric of civil rights being an impediment to safety and security, the Texas Attorney General states, "information-sharing between school districts and law enforcement must prioritize public safety over personal privacy concerns" (Abbott 2007).[30]

Communication between schools and local enforcement is reciprocal. Law enforcement must inform school administrators of any offenses that occur off of campus, even those that occur at non-school sponsored activities, within 24 hours. If these activities are felonies, schools are

[30] Thus far, this type of communication has evaded regulation under the two major pieces of legislation that protect personal information: HIPAA (Health Insurance Portability and Accountability Act) and FERPA (Family Educational Rights and Privacy Act).

mandated to have a school-based disciplinary response—either placement in a DAEP or expulsion (Abbott 2007). A criminal conviction is not required; school administrators can punish their students based on arrest reports, deferred prosecution or the 'reasonable belief' that a student has committed an offense against the person (i.e., any offense that is included under Title 5 of the Texas Penal Code). School administrators also must report criminal activities to local law enforcement (Abbott 2007). This includes any behaviors that result in the placement of a student in an alternative education program or in his/her expulsion (Walsh et al 2005).

School Police Officers and the Creation of School-Based Offenses

Finally, the Safe Schools Act formally authorized school districts to establish their own police departments, known as Independent School District Police Departments (ISD PD). Since the passing of this legislation, approximately 170 of Texas' school districts, including all of the state's largest school districts, have established a school district-run police force, some staffing as many as 200 law enforcement officers[31].

Before 1991, young people under the age of 17 could not be held legally culpable for breaking the law[32]. Instead, minors accused of criminal offenses would be subject to civil processing through the juvenile courts. By the mid-1990s this was no longer the case and young people between the ages of 10 and 17 could be charged with a broad range of Class C misdemeanors—higher level offenses are still processed civilly in the juvenile courts. Initially, under TEC Chapter 37 students could be charged with a Class C Misdemeanor for violating any school rule. According to legislative and media reports, students were being charged criminally for offenses such as violating the dress code or chewing gum. The loophole in TEC Chapter 37 that granted schools the authority to create criminal offenses was eliminated in September of 2007 with the passage of Senate Bill 443 and House Bill 278. Unfortunately, those students who had already been found criminally guilty for violating a school rule were not cleared of any previous charges.

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[31] Houston ISD Police department has a staff of 175 police officers, as well as 34 command and supervisory staff.

[32] That is, unless the juvenile court transferred them to the adult courts for processing. In that case, they were processed criminally as any adult accused of committing the same offense would be. In 1995, Governor Bush expanded the list of offenses for which youth were eligible for adult processing or determinate sentencing to 13 offenses. In addition to murder, the expanded list included offenses such as indecency with a child, felonious injury to a child, elderly or disabled person, criminal solicitation and aggravated controlled substance felony (Tracy and Kempf-Leonard 1999).

Texas minors continue to be subject to regulations outlined in numerous codes, including codes other than the Penal Code. This includes regulations in the Health and Safety code (generally, these regulate tobacco use and alcohol consumption by minors), in the Municipal Code (most frequently, these codes implement day-time or night-time curfews), and in the Education Code (there are two Class C Misdemeanor charges described in the Education Code: disruption of school activities and involvement in a fraternity, sorority, secret society or gang.)

The Texas legislature continues to tinker with TEC Chapter 37. Most recently, the legislature passed legislation that requires school districts to take into consideration mitigating factors such as intent and/or self-defense when subjecting students to school disciplinary procedures or charging them with criminal offenses (Peterson 2009). However, there is no explicit requirement for special education status to be included as a mitigating factor when schools charge students with a Class C Misdemeanor. Though there are protections for special education students with regard to school-based punishments—IDEA[33] requires that school-based punishments only be implemented in cases where the student's misbehavior is not a result of their disability—there are no similar provision made for charging special education students criminally.

COPS in Texas

Texas received significant funds from the federal government's COPS program. Nearly $480 million in grants were given to Texas to implement community-oriented policing. These grants were distributed to 798 local and state law enforcement agencies and funded 6,017 additional police officers. Of the COPS funds, over $55 million was awarded for the support of law enforcement officers in schools. Over 500 school police officers were funded by COPS monies. In addition, nearly $64 million were awarded for the purchase of crime-fighting technologies (COPS N.D).

[33] The Individuals with Disabilities Education Act (IDEA) and Section 304 of the Rehabilitation Act of 1973 mandated that a student with a disability be expelled only if it is determined that bringing a firearm to school was not a manifestation of the student's disability and after procedural safeguards were followed. The 1997 reauthorization of IDEA stated that disabled students could not be suspended for more than 10 days unless they brought a gun school, in which case they may be suspended for up to 45 days.

LONE STAR CITY

Lone Star City (LSC) is a large, urban city in Texas. Of the three quarters of a million residents, almost nineteen percent are between the ages of five and nineteen (U.S. Census Bureau 2000). Over 80,000 of these residents are pre-kindergarten through high school students in the city's public school system (Texas Education Agency 2009). Over sixty percent of the city's residents are White, with a third of this White population identifying as Hispanic or Latino. Less than ten percent of residents identify as African American (U.S. Census Bureau 2000).

Like many Texas cities, LSC continues to be racially and ethnically segregated. Residential segregation largely falls on an east-west divide with the majority of the Hispanic and African American population residing on the east side of the city. Segregation is maintained by both natural (i.e., lakes and rivers) and human-made (i.e., freeways) barriers. According to dissimilarity indices calculated from 2000 Census data, well over half of the African American and Hispanic populations would need to move in order to achieve integration within the city (CensusScope 2000).

In the city's public schools, the majority of students are Hispanic. White students make up a quarter of the student population, while African American students compose just over ten percent (Texas Education Agency 2009). Lone Star City's schools continue to reflect the racial and ethnic segregation of the larger city, with the east side schools serving a majority of the city's African American and Hispanic students. The LSC school district did not fully commit to student desegregation efforts until the early 1970s when ordered by a federal district court to do so (Wilson and Segall 2001). School busing efforts aimed at producing integration were abandoned at the elementary school level in the mid-1980s and at the middle and high school levels in 2000.

Similar to the state of Texas, racial and ethnic characteristics of the student body within Lone Star City school district have also shifted over the last ten years. White enrollment has decreased by nearly 7,000, and the percentage of White students of the student body has decreased from 35.7% in 1998-1999 to 25.8% in 2008-2009. African American enrollment has also declined –4,000 less African American students enrolled in LSC in 2008-2009 as compared to 1998-1999. The overall percentage of African American students has decreased from 17.4% to 11.7%. Hispanic enrollment has increased over the same ten year period, both in terms of the number of students (increased by over 13,700) and in terms of percentage of enrolled students

(from 44.1% to 58.8.%). Asian/Pacific Islander and American Indian/Alaskan Native students increased by less than one percent between 1998-1999 and 2008-2009.

Lone Star City Patterns in Traditional School Discipline

Lone Star City's patterns of school discipline are relatively consistent with state patterns. African American students are over-represented in suspensions and expulsions—they make up just over a tenth of the student body but nearly a third of the suspended and DAEP populations. Special education students are over-represented in each of the discipline categories. Though they are nine percent of the student population, they represent a quarter of the suspended, DAEP, and expelled populations. White students are under-represented in each of the disciplinary populations.

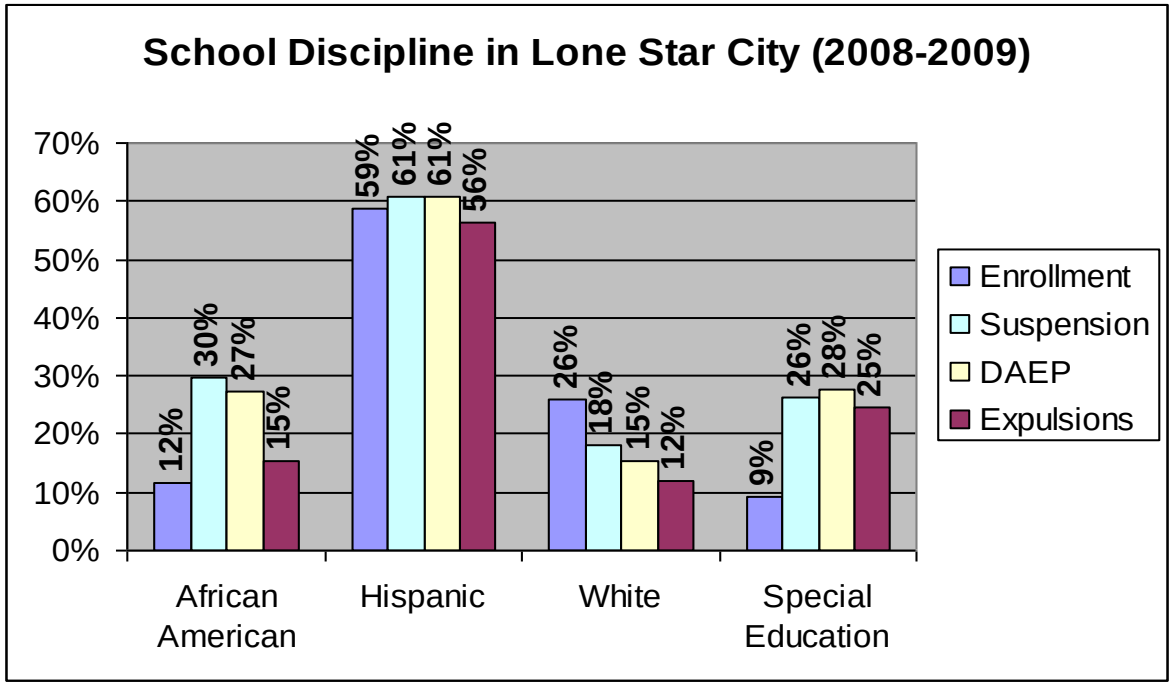


Figure 2.2 School Discipline in LSC

The Lone Star City Independent School District Police Department

Lone Star City School District established its police department in 1986. Currently, the department employs 68 sworn officers, 33.5 support staff and four canine units—two for drug detection and two for detection of explosives. The LSC ISD police department has received about

$275,000 in COPS funding between 1998 and 2000—enough to fund three officers.[34] Each of the middle schools and high schools in the district has a school police department office and each of these offices serve as a Juvenile Processing Office (JPO). As a JPO site, school police officers are authorized to process juveniles charged with criminal offenses, e.g., finger print, detain, etc. The police department has its own emergency call center, which is staffed by five operators and two administrators. The first canine unit was formed 2000; a second canine team was added in 2003. Two more were added between 2007 and 2010. The department also has a horse-mounted patrol unit, which was established in 1997. The school district also has a phone-tip line called "Campus Crime Stoppers." Students, school staff or members of the public can call this line to report suspicious activity occurring on or around school campuses. If the tip leads to school disciplinary action, the recovery of property or a weapon, or an arrest, the reporter is eligible for a cash reward of up to $500.

Table 2.2 Number of SROs Assigned to School by Percentage Minority

School	Number of Officers in 2003-2004	Average Percentage Minority**
High School #1	1	29.4
High School #2	1	30.3
High School #3	1	40.8
High School #4	1	42.7
High School #5	1	88.6
High School #6	2	61.6
High School #7	2	70.7
High School #8	2	71.6
High School #9	2	82.2
High School #10	2*	84.4
High School #11	2*	87.4
High School #12	2	95.5

*These school districts had two SROs assigned to the campus for at least three consecutive school years: 2001-2002, 2002-2003, and 2003-2004.

** Average of the percentage minority for four school years: 1999-2000, 2001-2002, 2002-2003, and 2003-2004; HS #8 and HS#12 are the exceptions. HS #8's average is for 2001-2002, 2002-2003, and 2003-2004 only. HS #12's average is for 2002-2003, and 2003-2004 only. Enrollment percentages were obtained from the National Center for Education Statistics.

[34] Lone Star City municipal police department has received over forty million dollars (for 357 officers) in COPS funding. The county in which LSC resides has received over $600,000 (for 5 officers) from the COPS in Schools program.

Each of the district's middle schools and high schools has at least one police officer permanently assigned to be the campus' School Resource Officer (SRO). Some of the high schools have two officers assigned as campus SROs. As the chart above indicates, with the exception of High School #5, schools with higher enrollments of "minority" students (i.e., African American, Hispanic, Asian/Pacific Islander and Native American) are more likely to be assigned more than one SRO[35]. This trend is consistent with Kupchik's (2009) argument that, though most public schools are experiencing an increased police presence and more punitive forms of punishment, this phenomenon is magnified in schools with higher minority populations.

SCHOOL TICKETING AND THE LONE STAR CITY MUNICIPAL COURT

The municipal court processes individuals charged with "Class C Misdemeanors." Class C Misdemeanors are the lowest of criminal offenses and, in Texas, are considered "fine-only offenses." This means that individuals cannot be imprisoned for being found guilty of committing a Class C Misdemeanor.[36] For juveniles, a majority of the Class C Misdemeanor offenses for which they can be accused are "status offenses." Status offenses are offenses that would not be considered criminal if the same activity was committed by an adult. For example, juveniles can be issued tickets for violating curfew, for smoking a cigarette or for failing to attend school.

When a law enforcement officer suspects that a juvenile has committed a Class C offense, he issues the juvenile a citation (or ticket).[37] Citations are the "functional equivalent" of an arrest. The citation states the criminal offense the juvenile is accused of and informs the juvenile that they will have to appear in court or pay a fine to resolve the case. A signature on the citation acts as bond (Abbott and Turner 2002). In most cases, juveniles can be cited by any municipal, county or state law enforcement officer—this includes school district police officers.

[35] Data on SRO assignments was obtained as a result of a public information request submitted to the LSC School District by Texas Appleseed, for whom I have been a data analyst for the last three-and-a-half years. We requested information on the number of persons employed by the school district's ISD PD beginning in 2001-2002. In three of the years of data we received, the SROs school campus assignment was included. This chart is based upon known SRO assignments for those three years. SRO campus assignments were not included for any school years after 2003-2004.

[36] Though, individuals who fail to pay their fines for Class C Misdemeanors can be jailed.

[37] I use the terms citation and ticket interchangeably.

The officer then submits the citation to the local municipal or justice of the peace court for processing. The juvenile then must work directly with the court to resolve their case.

Research Questions

There are two primary questions I seek to answer in this chapter and the next. First, for what offenses are students being ticketed? Second, which students are being issued tickets?

Quantitative Data

Bureaucracies are "prime data-gathering organizations" (Sjoberg and Nett 1997:188) and the Lone Star City Municipal Court is no exception. The LSC Municipal Court has maintained a computer database of their cases since the mid-1990s. Data was requested from the LSC MC in July 2008 on all citations involving juveniles. Approximately fourteen years of data on over 42,000 cases were received from the MC. Data include:

- the cause number (a tracking number generated by the courthouse),
- the citation number (a unique number attached to each citation issued by the police officer),
- the offense the juvenile has been charged with,
- the date of the offense,
- the age, gender, and race/ethnicity of the juvenile,
- the first date the juvenile appeared in court,
- the outcome or current status of the case as of July 2008, and
- any fines or fees assessed, and
- any fines or fees paid.

Data obtained from the LSC MC were used several ways. First, they were used to discern juvenile ticketing patterns, including patterns in ticketing rates over time, patterns within offense type, demographic patterns of students ticketed, etc. More detailed discussions of processing data are offered as appropriate below. Second, the data was used to determine outcomes for a subset of juvenile citations that were randomly selected for closer inspection (discussed in Chapter Three).

TRENDS IN SCHOOL TICKETING

According to LSC Municipal Court records, 42,283 citations were issued to juveniles in Lone Star City between 1994 and July 2008. The majority of these tickets (76.1%) were issued by non-school district police officers.[38] Though, as indicated by the following chart, the percentage of all tickets issued each year by school police officers (in comparison to other law enforcement agencies) has been increasing. In the 1994-1995 school year, school police officers issued by school police officers less than 2% of all juvenile citations. By the 2007-2008 school year, school police officers were issuing 40% of all juvenile citations. Over the fourteen year period, school police officers issued a total of 14,346 citations to juveniles in Lone Star City.

Table 2.3 Citations Issued Juveniles by Type of Officer

	1994-1995	1995-1996	2000-2001	2005-2006	2006-2007	2007-2008	Total
Count of Citations Issued by School Police Officers	6	20	289	2,708	2,221	1,874	14,346
Count of Citations Issued by Other Police Officer	397	802	1,981	3,429	3,056	2,743	27,937
Percentage of Citations Issued By School Police Officer	1.5%	2.4%	12.7%	44.1%	42.1%	40.6%	33.9%
Total Count of Juvenile Citations Issued	403	822	2,270	6,137	5,277	4,617	42,283

Ticketing of juveniles increased dramatically after the events of September 11, 2001. School tickets nearly doubled between the 2000-2001 and 2001-2002 school years—from 289 to 574 citations—and tripled between 2001-2002 and 2007-2008—from 574 to 1,874 citations.

[38] This includes municipal police, airport police, etc. Of the 27,937 citations issued by non-school law enforcement, 17,706 (63.4%) were issued for daytime or nighttime curfew violations, 4,593 (16.4%) were issued for theft, 1,583 (5.7%) were issued for tobacco, 1,378 (4.9%) were issued for alcohol, and 2,677 (9.6%) were issued for some other offense.

Though there has been research conducted on heightened law enforcement efforts with regard to immigration (Welch 2007), there is little research that suggests why domestic law enforcement efforts against juveniles would have increased after September 11, 2001. I suspect that increases may be due, in part, to "symbolic action" on the part of government and law enforcement to express that "something is being done" to reestablish order and to ease widespread public fear.

Table 2.4 Juvenile Citations Issued Before and After September 11, 2001 by Officer Type		
Issuing Officer	Before 9/11/2001	After 9/11/2001
School Police	674	13,672
Other Police	7,329	20,608
Total	8,003	34,280

Several demographic patterns emerge when looking at tickets issued by school police officers. First, about 38 percent of all tickets issued over the fourteen year period were issued to females. This pattern also holds for the percentage of tickets issued by gender for each school year beginning in the 2000-2001; each year, between 37 and 39 percent of all tickets issued to juveniles are issued to females. The percentage of citations issued to females is somewhat high comparison to other forms of school discipline and to juvenile justice sanctions. For example, in Lone Star City during the 2008-2009 school year, females composed 33 percent of all suspensions,[39] 26 percent of all referrals to alternative education programs (DAEPs), and zero percent of all expulsions (Texas Education Agency 2009). This percentage is also high in comparison to juvenile probation data. According to a 2006 report published by the Texas Juvenile Probation Commission (TJPC), females compose 27 percent of the population referred to the juvenile courts in Texas.[40]

The most common ages of juveniles who receive a ticket from a school police officer are 14 and 15-years-old. Those individuals who are ticketed by school police are generally younger than those who are referred to the juvenile courts. In the 2006-2007 school year, the percentage of juveniles between the ages 10 to 12 who were cited by a school police officer (12%) was nearly

[39] This refers to out-of-school suspension only; it does not include in-school-suspensions.
[40] The most recent year for which Texas Juvenile Probation Commission data is available.

double the percentage of young people from same age group that were referred to TJPC (7%). In the same year, 13- and 14-year-olds composed 37 percent of those cited by school police but only 30 percent of those referred to TJPC. For all other ages (15, 16 and 17), the percentage of juveniles who are ticketed are lower than the percentage of the same-aged young people who are referred to the juvenile courts[41].

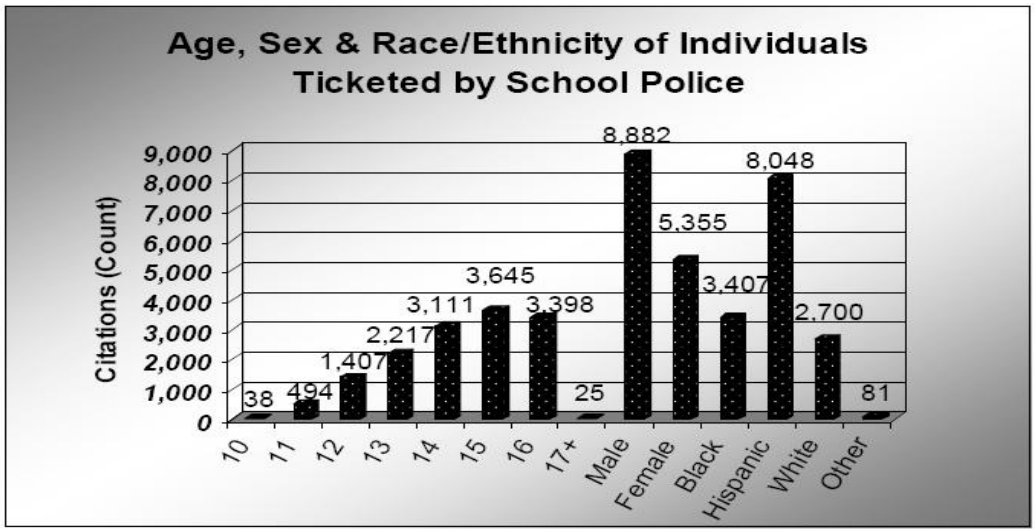


Figure 2.3 Ticketing Trends

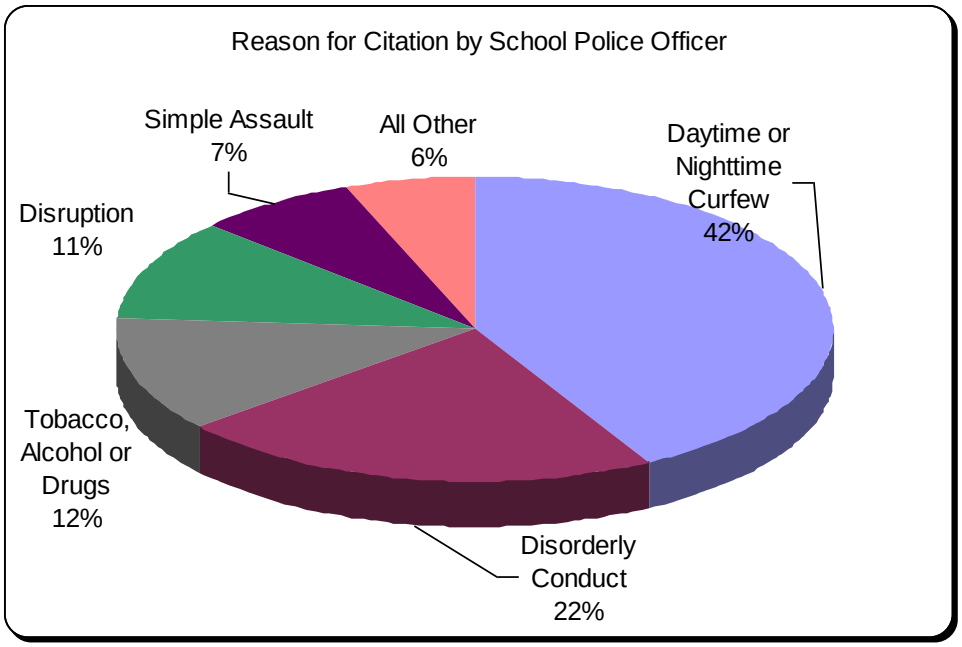
Overall, African American juveniles compose 24 percent of those who are ticketed by school police, Hispanic students compose 56 percent, and White students compose 19 percent. This racial and ethnic pattern is also relatively consistent across each school year, beginning in 2000-2001. The overrepresentation of African American students, and the underrepresentation of White students, in school ticketing is consistent with each groups' representation in other forms of school discipline. The same is true for referrals to the TJPC. African young people compose about 13 percent of the state's population ages 10 to 16, but 26 percent of the referrals to the juvenile courts. White young people (ages 10 to 16) compose 41 percent of the state's juvenile population, but 29 percent of the TJPC population.

The most common offense for which juveniles in Lone Star City are cited by school police is curfew violation. All forms of disorderly conduct (forms are discussed in the next

[41] The percentage of citations versus percentage referrals to TJPC for each age are 15: 26%/28%; 16: 25%/31%; and, 17: <1%/4%.

chapter) comprise 11 percent of offenses for which school police cite young people. These two offenses, combined with Tobacco/alcohol/drug, disruption, and simple assault offenses comprise 94 percent of all offenses for which students are given citations. The "All Other" includes offenses such as trespassing, gambling, theft, littering and loitering.

Figure 2.4 Reason for Citation



In the next chapter, we consider each of the major offenses—daytime curfew, disorderly conduct, tobacco/alcohol/drugs, disruption of classes and simple assault—in more detail. We will also consider two additional offenses: theft and "fraternity, sorority, secret society, and gang" offenses.

CHAPTER 3: SCHOOL LAW IN ACTION

Legal realism, sometimes described as "rule skepticism," is a socio-legal perspective that gained popularity in the 1960s. The thrust of legal realism is that formal rules are transformed through the process of implementation. The rules of law are imprecise—the complexity of social life makes applying rules easily and mechanically a near impossibility. The result is a gap between "law in action" (law as it is interpreted and implemented) and law on the books. Though this gap fluctuates over time, region, and field of law, social scientific principals can be used to analyze and understand these gaps (Friedman 2007:688-689).

The purpose of this chapter is two-fold. The first is to describe—in finer detail than in the previous chapter—patterns in ticketing trends. How does the imprecise nature of laws governing student behavior give way to various ticketing trends and selective enforcement of the rules? Students can receive a broad range of tickets. I seek to answer the question: which students are being given which kinds of tickets? An important consideration in addressing this question is the representation of minority students in ticketing trends. Given the overrepresentation of minorities in national, state and local juvenile justice and traditional forms of school discipline, there is reason to suspect that similar patterns may be occurring with school ticketing. In addition to race/ethnicity, gender is also an important social identity that bears on school and criminal justice experiences (Chesney-Lind 1998; Daly 1993; Daly and Tonry 1997). Additional patterns that will be considered include age and level of school (elementary, middle/junior high, or high school). I will use quantitative data obtained from the LSC MC to address trends by ticketing type. [42]

The second purpose of this chapter is to apply a socio-legal analysis of school citations. I seek to address the following questions: how are law enforcement officers applying various relevant legal codes (i.e., penal, education and health and safety) within the school context? What student behaviors are being identified as criminal?

[42] See discussion in previous chapter for more information about the quantitative data.

DATA AND METHODS

Probable Cause Affidavits

With the exception of curfew citations, each time a school district police officer issues a student a ticket in LSC, she must also create a document called a "Probable Cause Affidavit" (PCA). The PCA is a typewritten narrative drafted by the police officer that typically ranges from one paragraph to several pages in length. The PCA notes the school where the citation was issued, as well as describes the criminal act in which the juvenile allegedly engaged, how the officer came to be involved, and any accounts of witnesses or victims.

Three hundred citations and PCAs were requested from the LSC MC using a stratified random sample based on the type of offense. Just over 200 PCAs were received and analyzed. PCAs were obtained for each of the most common offenses for which students in LSC are cited—disorderly conduct, drugs (including tobacco and alcohol, as well as, possession of drug paraphernalia), and disruption of classes. Though citations for "fraternities, sororities, secret societies, and gangs" are less commonly issued, I have included them in my analysis for reasons I elaborate later in the chapter. The following chart lists the number of PCAs requested and the number received for each offense type:

Table 3.1 Probable Causes Affidavits Requested and Received by Offense Type

Offense Type	PCAs Requested	Number Received
Disorderly Conduct-Abusive Language	50	29
Disorderly Conduct-Fighting	50	38
Disruption of Classes	50	39
Disruption of Transportation	50	42
Fraternities, Sororities, Secret Societies, and Gangs	50	32
Tobacco, Alcohol and Drugs	50	34
TOTAL	300	214

PCAs are written by individuals with significant social power in the school context—the school police officer. The issues they reflect and the perspectives they advance are shaped by these power positions. As such, some perspectives and interpretations (most likely those of the students) are unlikely to be reflected in the officers' accounts of past events. Patterns and events

that may be crucial to understanding the day-to-day practices and pressures of school policing may be omitted (Sjoberg et al 1991).

Careful analysis of PCAs offers significant insight into the "living law" of schools. First, as accounts written for the purpose of pursuing criminal cases against students, analysis of PCAs can shed light onto the types of cases selected by officers as worthy of prosecution. In other words, of the unknown number of encounters between school police and students that *could* result in legal action, something about those encounters captured in the PCAs was considered *significant enough* by the officer to determine that the courts needed to be involved. These are the cases in which police officers transform "law on the books" to "law in action."

All names of individuals (students, teachers, administrators and police officers) and of schools included in following PCAs have been replaced with pseudonyms.

SCHOOL TICKETING IN LONE STAR CITY

In this section, I review each of the major citations received by juveniles in Lone Star City. Juveniles are subject to citations for violating Texas' Penal Code, Education Code and Health and Safety code. For each offense type, I review the legal code(s) which regulate the particular behavior. With the exception of curfew, each of the citation sections includes several representative samples of corresponding PCAs. For three citations types—curfew, drugs and "fraternities, sororities, secret societies, and gangs"—I also offer historical and contextual considerations that are pertinent to those types of citations and their related law. This is in part to make explicit the link between enactment and enforcement of particular laws in Lone Star City, Texas with the larger the themes of risky/dangerous youth, moral panics, and punitive punishment discussed in Chapters One and Two.

Juvenile Curfew

Lone Star City's use of a juvenile curfew is not unusual. More than 1,000 localities enforce juvenile curfew laws (Lawrence and Hemmens 2008). Eighty-five percent of large-sized cities (100,000+ residents) and 75 percent of medium-sized cities (between 10,000 and 100,000 residents) have curfew laws . Advocates of curfew laws argue that they are an effective strategy to curb juvenile crime because they limit young people's unsupervised access to public spaces

where they can commit delinquent acts and they promote increased parental supervision (US Conference of Mayors 1997).

Most research on curfews suggests that curfews are an ineffective juvenile crime control strategy (Reynolds, Seydlitz, and Jenkins 2000). This is primarily because most juvenile crime occurs between the hours of 2 p.m. and 6 p.m., rather than during the hours typically covered by the municipal curfews (Elikan 1999). Critics of juvenile curfews argue that they are "latest fad in juvenile justice" and more indicative of "public hysteria rather than a reasoned response to juvenile crime and delinquency" (Lawrence and Hemmens 2008:180). A more pressing concern than effectiveness for some is the limitation that curfews place on the liberty of young people—the activities of the 99.8 percent of young people who generally obey laws are significantly curtailed in an effort to control the small percent of minors who commit serious crimes (Lawrence 2008).

Juvenile curfew laws have been frequently challenged in the courts. In both state and federal-level courts, support for curfew laws has been mixed. Rulings tend to vary depending on how the court views the rights of children. In courts that apply a "rational basis standard of review," children are seen as possessing weaker claims to liberty rights than adults and states are considered to have a justifiably heightened interest in regulating children's behavior. This is the stance on curfew taken by courts in *Baker v. Borough of Steelton* in 1912 Pennsylvania and in *People v Walton* in 1945 Los Angeles. The federal courts have supported similar arguments in *Bykofsky v. Borough of Middletown* in 1975 (Lawrence 2008).

In courts that have applied a "strict scrutiny analysis," rights of minors are regarded as fundamental. As such, enactors of curfew laws have had to demonstrate that the fundamental state interest in regulating the behavior of young people is both necessary and "sufficiently narrowly tailored" (Lawrence 2008:173). This was the logic used in the first of challenge of juvenile curfew laws at the state level. In 1898 in *Ex Parte McCarver*, a Texas state court ruled that the juvenile curfew was not only unconstitutional, but also paternalistic, an invasion of personal liberty, and an attempt on the part of the state to usurp the parental function (Lawrence 2008:173). Similar views were reiterated nearly a hundred years later by the federal courts in the District of Columbia (*Waters v. Berry* in 1989 and *Hutchins v. District of Columbia* in 1996) and San Diego (*Nunez v. City of San Diego* in 1997)

Curfew Ticketing in Texas

Typical curfew laws limit the activities of young people during the nighttime—usually between 11pm and 6am. Nighttime curfews have been implemented in cities throughout Texas. What may be a unique feature of Texas' curfew laws is that many cities have implemented daytime curfews as well as nighttime curfews. Generally, daytime curfews require young people to be in school, or if in public, to be with a parent or guardian. I have focused my discussion on daytime curfews because this type of ticket has the most direct bearing on schooling and the activities of school police officers.

Prior to delving into the patterns in curfew citations in LSC, I discuss two specific accounts of the use of daytime curfew laws in Round Rock and Lone Star City. Though unusual cases, I have included these discussions in order to illustrate the ways in which daytime curfews have been used as a social control device of young people en masse.

Mass Issuing of Daytime Curfew Citations in Round Rock, Texas

In 2003, over two hundred students in Round Rock, Texas were issued citations by school and municipal police officers for violating the daytime curfew law (Reyes López 2009; Santos 2006). On March 30 and 31, 2003, students from several of the area high schools participated in nationwide marches against federal immigration legislation being proposed by House Bill 4437. This legislation, had it been implemented, would have dramatically changed the landscape of immigration regulation and enforcement in the United States. In addition to increasing armed border patrol, the original legislation included plans to construct a massive wall between Mexico and bordering U.S. states.

Of the 204 students issued citations, more than 100 have pleaded guilty or no contest in the local municipal court; the remaining 100, with legal assistance from the Texas Civil Rights Project, requested trials (Axtman 2006; Humphrey 2006). Students challenging the citations assert that their First Amendment right to freedom of speech trumps the city's daytime curfew, which requires all juveniles under the age of 17 to be in school on weekdays between the hours of 9 am and 2:30 pm (Banta 2006).

In response to the students' claims, one police officer involved with the mass ticketing argued that most students were "just skipping school." He then inverted the legal adage "innocent until proven guilty" by arguing that the students must show beyond a reasonable doubt that they

were "not just running roughshod through the city" (Axtman 2006). Those one hundred or so students who opted to take their cases to trial had their charges dismissed.

A Daytime Curfew "Sting" at Lone Star City High School

During the first three days of March 2008, the LSC school district police department, the municipal police department and LSC high school's administration joined forces to conduct a curfew "sting" of the area surrounding the high school campus. Though the goal was to cite 100 students violating the daytime curfew ordinance—the sting resulted in approximately 40 students being cited. Police officers involved in the sting gathered all the citations written during the three-day sting and gave them to the LSC Municipal Court for scheduling. Every student issued a citation during the sting was ordered to appear at a special court session being held in a multipurpose room of high school.

During the special court session, a local television reporter interviewed one of the officers involved in the sting:

> Officer: With curfew violations we see an increase in burglaries, so as officers we went out and initiated a sting, not a sting but a, you know, we went out and enforced the curfew violations a little more stricter than usual to try to catch some of these kids and try to diminish some of the burglaries that were occurring.
>
> Reporter: Have you seen a result?
>
> Officer: It's kind of early to tell if we saw a decline 'cause we are just now on the back end, but we hope to see a decline on some of these burglaries and some of the recidivism rates on the offenders.
>
> Reporter: What are you hoping kids get out of it?
>
> Officer: Well, education. A lot of the parents are not even aware that we do have curfew violations. Even though if a kid is home-schooled, they still need to be indoors between the hours of 9 and 2:30. If they are sick, they still need to be indoors during those same hours. So a lot of education is put out tonight.
>
> Reporter: How do you hope this affects the community? Even people without kids, just minding their own business…
>
> Officer: The less kids we have out and about unsupervised when they should be at school or at home, the better. There is a lot of burglaries that are linked to juvenile offenders during school hours so keeping them off the street will naturally just decrease those amount of burglaries that we have in the area.
>
> During the interview, an African American woman walks down the hallway where the interview is being conducted and states…

> [The multipurpose room where court was being conducted] was supposed to be used for a parent meeting tonight. All this school support should be going to parent programs instead of the courts. We don't need the law enforcement telling us how raise our kids.

The officer's comments offer some insight into LSC law enforcement perspectives on curfew ordinances. For this officer, curfew violations and crime (specifically, burglary) are intimately linked—in enforcing one, the other is assumed to be reduced. Further, curfew violators and more serious criminal "offenders" are regarded as if they are one in the same. Second, the sting is framed as an educational initiative—an effective means by which parents can become informed about the city's curfew ordinance. The mother's interjection into the television reporter's interview suggests that the curfew ordinance is not only perceived as an encroachment on parental authority, but also as a misuse of limited school and city resources. Though the issue was not addressed in the television interview or by the mother's passing comments, the high school where this sting occurred has, at 94 percent non-White, the highest percentage of minority students in the district. No similar endeavor has been attempted at any of the other high schools in the city.

Curfew Laws in Lone Star City, Texas

Like other Texas cities, Lone Star City has both nighttime and daytime curfews. The daytime curfew was introduced in March 1994 as part of Project R.E.S.P.E.C.T. (Resources to Encourage School Performance Efforts through Community Transformation). The curfew received support from the City Council, the municipal police department, the juvenile courts, and the LSC school district. Supporters of the municipal law argued it would improve school attendance and reduce juvenile crime committed during school hours.

According to the city's daytime curfew law, any juvenile between the ages of 10 and 17 who "remains, walks, runs, idles, wanders, strolls or aimlessly drives or rides about in or on a public place between 9 am and 2:30 pm Monday through Friday" is subject to being cited by a school district or municipal police officer for a Class C Misdemeanor.[43]

[43] During the 2009 Texas legislative session, State Representative Robert Miklos introduced HB 1886, a bill that would expand curfew enforcement authority to county sheriffs and constables. The bill failed to pass in the House.

Trends in Daytime Curfew Ticketing in Lone Star City, Texas

Between 1994 and July 2008, 16,489 daytime curfew citations were issued in Lone Star City. Thirty-six percent (5,953) of these citations were issued by school district police officers; however, as the chart below indicates, school police officers have become responsible for an increasing percentage of curfew citations issued per year.

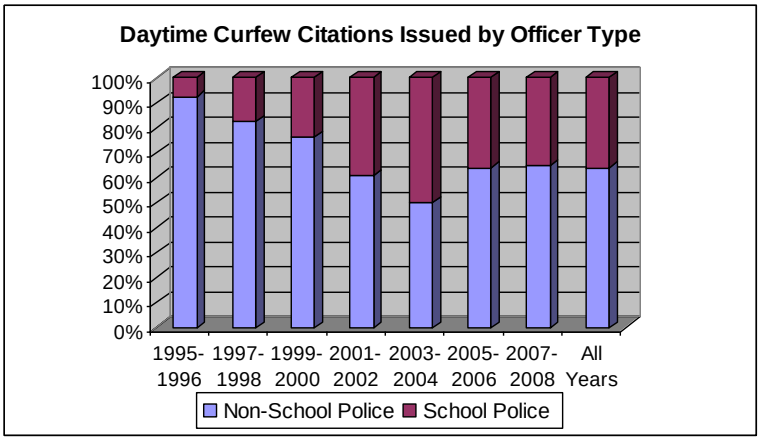


Figure 3.1 Daytime Curfew Citations

Eighty-four percent all daytime curfew citations were issued to juveniles between the ages of 14 and 16. Sixty-one percent of all citations were issued to males, and Hispanic students are the most frequently cited racial/ethnic group (61 percent).[44] Hispanic males are the most frequently cited gender within all ethnic groups—they received 37 percent of all daytime curfew citations given to LSC juveniles. Hispanic females follow—they received 24 percent all daytime curfew citations. Though White students have comprised between 26 and 36 percent of the student population in LSC between 1998-1999 and 2008-2009, about 18 percent of all curfew tickets have been issued to White students.

[44] LSC Municipal Court data is broken down as follows: Asian, African American, Hispanic, Native American, and White.

Disruption of Classes or Transportation

Between May 2002 and the end of the 2007-2008 school year, 1,580 citations were issued to LSC juveniles for disruption of class or disruption of transportation.[45] Ninety-seven percent of these tickets (1,527) of these tickets were issued for Disruption of Classes.

Disruption of classes is a Class C Misdemeanor that is defined by Texas Education Code (TEC) Section 37.124 as:

> Intentionally disrupting the conduct of classes or other school activities through noise; enticing a student away from, or preventing a student from attending, a class or required school event; or, entering a class without permission and through misconduct or use of loud or profane language, disrupting class activities.

Disruption of Transportation is also a Class C Misdemeanor outlined in the Texas Education Code. According to TEC Section 37.126, a person commits Disruption of Transportation if s/he:

> Intentionally disrupts, prevents, or interferes with the lawful transportation of children to or from school or an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

Thirty percent of all disruption citations were issued to 13-year-olds; 14-years-old was the second most common age of students ticketed (22%). As with curfew citations, males are cited more often than females—71 percent of citations were issued to males. Fifty-six percent of all disruption citations were issued to Hispanic students, 36 percent were issued to African American students, and White students received 7 percent of disruption tickets. Similar to curfew tickets, Hispanic males received the majority of disruption citations: they received 42 percent of all disruption tickets (and 75 percent of all citations within the entire Hispanic population that was cited). African American males received 23 percent all tickets (and 63 percent of all citations issued to African American students). White males received 7 percent of all citations (and 80 percent of all tickets issued to White students).

One hundred PCAs were requested for disruption citations—fifty for each type. Eighty-one PCAs were received and coded—thirty-nine for Disruption of Classes and 42 for Disruption

[45] Texas Education Code also includes a provision for "Disruptive Activities" (TEC 37.123). A person is guilty of disruptive activities if s/he alone, or in concert with others, intentionally engages is disruptive activity on the campus or property of any private or public school. As of July 2008, no citations have been issued for this offense in LSC.

of Transportation. The chart included below describes common characteristics within and across disruption ticket types. Disruption PCAs were coded for two characteristics: (1) the school level where the citation was issued (i.e., elementary, middle, high, or unknown/other), and, (2) the number and type(s) of behavior the student cited by the police officer in the PCA. The following student behaviors were coded: (1) Using profanity or derogatory names; (2) Refusing to do an assignment or follow instructions (excludes leaving the class without permission); (3) Throwing an object (e.g., paper airplanes); (4) Verbal argument; (5) Physical contact (excluding fights); (6) Threat; (7) Damaging property; (8) Yelling; (9) Fighting with another student; (10) Leaving class without permission; (11) Getting out of seat/standing (but staying in the room or on the bus); and, (12) Other (includes behaviors such as mooning, opening the emergency exit, and lighting a piece of paper on fire).

The majority (63 percent) of the coded disruption citations were issued to middle school students. Most of the students cited exhibited one type of disruptive behavior.

Table 3.2 Patterns in Disruption Citations

	Disruption of Classes	Disruption of Transportation	All Disruption
Number of PCAs Coded	39	42	81
School Level			
Elementary	1	2	3
Middle	24	26	51
High	13	8	21
Unknown/Other	1	5	6
Disruptive Behaviors			
One	10	15	25
Two	10	10	20
Three	12	5	17
Four	3	10	13
Five	0	2	2
Unknown	4	0	4
Mean	2.2	2.4	2.3
Mode	3	1	1

The most common form of misbehavior was “Refusing to do assignment or follow instructions”—thirty-three citations were written where this category of misbehavior was cited.

Refusing misbehavior was most commonly combined with "Yelling" (16), "Getting out of seat" (12), and "Profanity" (12). In four of the citations issued for refusal, this was the only form of misbehavior described in the PCA.

The next most common forms of behavior described by school police officers were "Using profanity or derogatory names" (26 incidences) and "Yelling" (25 incidences). All profanity PCAs described at least one additional behavior. In addition to "Refusing," the most common behavior described in cursing tickets was "Yelling" (12) and "Getting out of seat" (7). Refusal (16), Profanity (12), and Getting out of Seat (9) were the most common misbehaviors described in conjunction with yelling.

The fourth most common misbehavior described in the PCAs is "Fighting with another student"—twenty-one students engaged in this form of misbehavior. In twelve of these citations, fighting was the only misbehavior described by the police officer. As fights are likely to involve yelling, profanity, etc., the fact that these behaviors are not described in the PCA is likely due to the fact that these fights occurred in classrooms or on school buses; the police officers did not see the events leading up to the fight, arrived on the scene after the fight had occurred or did not interview witnesses to the fight.

Representative Examples of Disruption PCAs

Below are four representative samples of Disruption PCAS—one for Disruption of Transportation and three for Disruption of Classes. In italics I have included how the PCA was coded. In addition, each PCA was matched with quantitative data received from the LSC MC. Footnotes following the text of each PCA describe the final outcome of the citation. More detailed information on court outcomes of school citations cases is provided in Chapter Four.

> Disruption of Transportation #1: August, 2005
>
> Coding: Yelling and Profanity/Derogatory words
>
> School bus driver was picking up students during his morning middle school route. Student, Joe, boarded the bus and "started calling [the bus driver] 'Sambo' a racial and derogatory word…The bus driver said that he educated Joe on the word and the meaning and warned him to stop…Joe was heard yelling to the Bus Driver Mr. Thomas 'I don't give a shit' and 'To hell with you'. The bus driver said that Joe's voice and language was so loud that he pulled his bus over to the side of the road…The bus driver said that Joe endangered the safety of other

students and became a hazard with his loud voice and prevented the bus driver from operating his bus safely.[46]

Disruption of Classes #1: March, 2008

Coding: Physical Contact, Walking out of room, and Other (Spitting)

The day before he was issued a citation, middle school student, Brian, had been spitting on another student in his 6th grade class. The teacher instructed him to stop. Later in class, he started poking the other student in the hand with a pencil. The teacher "stopped teaching and addressed the issue with Brian and the other student. Brian then walked out of the class." The teacher notified campus security and referred Brian to school administration." [47]

Disruption of Classes #2: April, 2007

Coding: Refusal to do assignment, Profanity

Middle school teacher reported to campus SRO that Javier "disrupted the class by yelling out answers knowing that the answers were wrong, making the students around him laugh. The teacher stated that he told Javier to stop at least two times before the final incident. The teacher stated that next the primary teacher asked the class where a word could be found in the text. Javier stated, "It's in your culo" (culo meaning butt/ass in Spanish). The teacher said that everyone around Javier started laughing out loud disrupting the class and the learning environment." [48]

Disruption of Classes #3: October, 2006

Coding: Throwing object

Over the course of several days, high school student Castor "made paper airplanes with a staple at the end and threw them up in the air causing it to stick to the ceiling. The school administrator stated his teachers had to stop teaching class in order to deal with his disruptive behavior. The administrator stated she

[46] Joe appeared in court and opted for a deferred disposition (deferral). A deferral entails pleading "no contest" to the charge and agreeing to complete tasks as dictated by the court. Once the juvenile completes the task, his charge is dismissed. He was ordered to pay $56 in court costs, to complete ten hours of community service and to meet with a court caseworker. As of July 2008, Joe had not completed the terms of his deferral. He received an extension from the court.

[47] Brian did not appear in court. A juvenile warrant was issued for his arrest. As of July 2008, Brian was not yet old enough for an adult warrant to be issued.

[48] Javier appeared in court and opted for a deferral. He was ordered to pay $64 in court fees, to complete 12 hours of CS and attend a student behavior class. Javier completed his deferral and his case was dismissed.

> has warned Castor numerous times about receiving a citation if his disrupted [sic] behavior did not cease."[49]

Disorderly Conduct

Disorderly Conduct is a Class C Misdemeanor discussed in Section 42.01 of the Texas Penal Code. A broad range of behaviors is included under the umbrella of Disorderly Conduct:

> (1) Uses abusive, indecent, profane or vulgar language in a public place and by its very utterance tends to incite an immediate breach of peace; (2) Makes an offensive gesture or display in a public place and the gesture or display tends to incite an immediate breach of peace; (3) Creates, by chemical means, a noxious and unreasonable odor in a public place; (4) Abuses or threatens a person in an obviously offensive manner; (5) Makes unreasonable noise in a public place; (6) Fights with another in a public place; (7) Exposes his anus or genitals and is reckless about whether another may be present who will be offended or alarmed by his act; or, (8) For a lewd and unlawful purpose, looks into someone's dwelling, or a public restroom or shower stall.

Between May 2000 and the end of the 2007-2008 school year, 3,119 citations were issued by school police officers for Disorderly Conduct (DC). The majority (82 percent) of these citations were issued for "Fights with another in a public place." The next most common DC citations were issued for "Using abusive, indecent, profane or vulgar language in a public place"—532 citations, or 17 percent. The remaining 1 percent of DC citations were issued for excessive noise, offensive gesture, indecent exposure, noxious odor, and threatening another. In contrast to the two previous forms of citations, tickets are issued fairly evenly by gender (54 percent of citations were issued to males). Fourteen-year-olds were the most frequently cited age group (24 percent), followed by 15 and 13-year-olds (both at 21 percent).

As with Disruption citations, African American and Hispanic students are more likely to be cited. Sixty percent of DC tickets were issued to Hispanic students, and 32 percent to African American students. Unlike Disruption tickets, however, the gendered distribution of DC tickets within racial/ethnic groups is relatively equal (with the exception for Whites). Within the population of African American juveniles who were cited, males and females each received 50 percent of the tickets. Hispanic males and females were also closely matched—males received

[49] Castor did not appear in court. He is now over 17 years old and an adult warrant has been issued for his arrest.

55% of tickets. White males received 65 percent of citations within the White cited population, but only 5 percent of all citations issued for DC.

I also conducted analysis of ticketing patterns within the two most common types of DC citations: fighting and abusive language.

Disorderly Conduct: Fighting

Sixty-one percent of DC fighting citations were issued to Hispanic juveniles, 30 percent were issued to African American juveniles, and 8 percent were issued to Whites. DC fighting is an interesting case because it is the only type of citation in which one group of females within their racial/ethnic group received more tickets than males of the same group: more African American females (54%) were issued citations for DC fighting than African American males. Within the Hispanic population, 47 percent of DC fighting citations were issued to females and, among Whites, 36 percent were issued to White females.

Thirty-four DC Fighting PCAs were analyzed for the following characteristics: school level, the gender of the students involved in the fight, and who stopped the fight. In the majority of cases, the students involved in the fight were middle-schoolers (20). The individuals involved in the altercation were most often of the same gender (26). In two cases, the individuals fighting were male and female; in six cases, the gender of the other party was not discernable. In the cases where the individual(s) who broke up the fight were identified (18), the most frequent interventions were made by security or police officers (10); however, in three of those cases, school staff assisted security/police in stopping the fight.

Representative Examples of a Disorderly Conduct Fighting Citations

> Disorderly Conduct, Fighting #1: September, 2002
>
> High school SRO was informed over the radio by the physical education teacher that a fight was taking place behind the gym. When he arrived, the fight was broken up. The SRO "met with Anthony and asked him why he had fought with the other student. Anthony stated to the Officer that he had fought with him because he had made a comment about his family. The Officer then met with the other student and asked him why be had fought with Anthony. He stated to the Officer that he had fought with Anthony because Anthony swung at him." Both boys were suspended from school.[50]

[50] Anthony did not appear in court. A warrant was issued for his arrest. When he was 21, Anthony was arrested. His fines were $276 and he received jail credit for all or part of his fines.

Disorderly Conduct, Fighting #2: September, 2005

> At the end of lunch,the SRO "was in the front main foyer of the school monitoring the students passing and talking to an AISD PD Fire Technician. The officer observed two Hispanic females arguing and then started striking each other with closed fists. The officer immediately engaged both students to prevent both from effectively hitting each other further. The two students and the officer fell to the ground where the two girls continued hitting each other again, scratching, and pulling hair. The officer could not forcefully pull them from each other even with the assistance of the fire technician and other staff members. The girls would not relinquish their grasps of each other's hair. The Officer was able to maintain a hold of Rosa in an attempt to restrain her. The other student, Maria, was trying to be restrained and pulled away by other school staff and police. Once Maria was removed and handcuffed she was escorted to an administrative office to keep her segregated." In addition to receiving citations, the students were suspended by the school administration. "During the struggle, the officer received minor injuries. While on the ground, Rosa moved her body under the officer him causing the officer to lunge forward striking the cinder block wall with his skull. He also received a minor superficial scratch on his right 'ring' finger knuckle and right top forearm. Maria has two school disciplinary entries for Rudeness to an Adult."[51]

The high percentage of tickets issued to African American females for fighting may be result of "rediscovery" and "upcriming" (Chesney-Lind and Irwin 2008). Historically, girls' problems were dismissed as trivial (i.e., cat fights over boys or rumors) and ignored by school officials. As a result of our current concern about youth violence, female violence has been "rediscovered" (Chesney-Lind and Irwin 2008). In addition, schoolyard fights have been "upcrimed," or regarded as more serious offenses with more punitive consequences (Chesney-Lind 2008). Both processes have been influenced by racialized and gendered popular images of African American women as menacing, unfeminine, and violent (Chesney-Lind and Irwin 2008)

Disorderly Conduct: Language

Males are more frequently cited for DC Language both overall and within racial/ethnic groups. Hispanic students received the bulk of DC Language citations (55 percent), followed by African American students (38 percent) and then White students (6 percent). Within each

[51] Maria appeared in court and opted for deferral. She was ordered to pay $56 in court fees, complete 24 hours of community service and participate in a class at juvenile probation. Maria had not completed the terms of her deferral as of July 2008.

racial/ethnic group, Hispanic males received 68 percent of citations, African American males 63 percent of citations, and White males 78 percent of citations.

Twenty-nine DC Language PCAs were analyzed for the following characteristics: school level, the intended target, the words used, and where on campus the words were spoken. Again, middle-schoolers were the most frequently cited (21). Most often the language was directed at school personnel (23), including teachers, administrators and security/police; however, in only three of these cases was the abusive language directed at school security or police. In one case, a student who said "fuck" to his father in the morning before leaving to school was cited. His father had called the school to report his son's foul language and the school police officer issued him a citation.[52] "Fuck" and "Bitch" were the most commonly used words (22 and 11 incidences, respectively). In two cases, the words used were racial slurs. In 12 cases, the curse words were spoken in the hallways, in seven cases they were spoken in the classroom or gym, and in four cases they were spoken in the school's main office.

Representative Examples of Disorderly Conduct Language Citations

> Disorderly Conduct, Language #1: March, 2006
>
> A middle school teacher "stated as she was escorting Jose down the main hallway walking towards the Principals office. Jose was disrespectful and used profanity towards her…Jose said in a loud voice towards her 'Shit man! Quit following me!' The teacher stated she was offended by Jose's words and actions and wanted to file charges against him."[53]

> Disorderly Conduct, Language #2: April, 2007
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> The high school principal had approached Ernesto because he "was wearing too much red color in his clothing, a sign of possible gang affiliation…Ernesto became upset when he was approached and called the principal a 'Fucking Fool.' The principal said he was offended at Ernesto's use of profane language directed at him in the presence of other students in the commons area…Ernesto's language caused an immediate breach of the peace, disturbing the tranquility of the environment." [54]

> Disorderly Conduct, Language #3: November, 2005

[52] Fortunately, this case was dismissed in court.
[53] Jose did not appear in court. A juvenile warrant has been issued for his arrest.
[54] Ernesto did not appear in court. A juvenile warrant has been issued for his arrest.

> The officer was dealing with a "situation" between two students after school. The officer asked one of the students to come to her office. He called her "a bald headed fucking bitch. He continued on saying I don't give a fuck what you think. I just asked the student to come to my office"[55]

Tobacco, Alcohol and Drug Paraphernalia

Prior to detailing patterns in citations issued for tobacco, alcohol or drug paraphernalia in LSC, I discuss legal precedents in the searching of public school students. The boundaries placed on searching are especially relevant to these types of cases because it is often through a search of the student's person or belongings that evidence of such offenses are obtained. Searches are also relevant to finding weapons being hidden by students; however, the majority of weapons offenses are not processed by the municipal courts (with the exception of laser pointers) and, as such, are not accessible for review.

"Special Needs" in Schools

Historically, school administrators had broad liberties to search students for contraband because they were acting *in loco parentis* (in the place of the parent). Beginning in mid-20th century, however, *in loco parentis* protections began to wane. By the time the U.S. Supreme Court ruled on *New Jersey v. T.L.O.* in 1985, it was "beyond dispute" that public school officers are agents of the state rather than parental figures (Hyman 2006). In *New Jersey v. T.L.O.*, Justice White argues, "In carrying out searches and other disciplinary functions pursuant to policies, school officials act as representatives of the State, not merely as surrogates for the parents, and they cannot claim the parents' immunity from the strictures of the Fourth Amendment."

When the state creates a law or condones a governmental practice that infringes on an individual's fundamental rights (such as that of privacy), it must establish that the infringement serves a "compelling state interest" (Gathercoal 1998). When a police officer desires to search a particular juvenile, she must have "probable cause" to conduct the search. Probable cause is an "evidentiary showing of individualized criminal wrongdoing that amounts to more than reasonable suspicion, but less than proof beyond a reasonable doubt" (National Juvenile Defender Center 2010:7). Rather than the "probable cause" standard that applies in public non-school settings, school administrators need only to meet the requirements of 'reasonable suspicion' in

[55] The student appeared in court and opted for a deferral. He completed his deferral and his charge was dismissed. He paid $56 in court fees. No other deferral terms are known.

order to search a specific student's person or belongings.[56] In other words, by virtue of being located inside a schoolhouse, students are subject to searches that would be unconstitutional beyond the schoolhouse doors (The Levin Legal Group 2004:34). Reasonable suspicion is defined as an "evidentiary showing of individualized wrongdoing that amounts to…more than an inchoate hunch" (National Juvenile Defender Center 2010:7). Examples of evidence that have met the reasonable suspicion standard include: a reliable anonymous tip, a school official witnessing an act or overhearing a conversation, a reliable tip from another student, student's physical indications of being under the influence of alcohol or drugs, student's past record of the same behavior, and, common sense conclusions about individual behavior, when based on more than a hunch (National Juvenile Defender Center 2010:10).

There are several justifications for this lower standard. First, it is assumed that students have a lower expectation of privacy on school campuses. Second, the courts have argued that school administrators have an "interest in the safety and well-being of their students that 'is custodial and tutelary, permitting a degree of supervision and control that could not be exercised over free adults'" (from *Vernonia School District v. Acton* 1995). Finally, schools themselves are considered unique places with "special needs." The special needs of the school include the need to prevent loss or damage to property, the need to limit freedoms to advance "legitimate educational purposes," the need to prevent threats to health and/or safety, and/or the need to prevent serious disruptions to the educational process. "Educators not only have a legal authority to deny student constitutional rights, but a professional responsibility to prohibit student behaviors when their exercise of those rights seriously affects the welfare of the school" (Gathercoal 1998).

There is some evidence to suggest that the court's understanding of the "special needs" of schools has been influenced by popular misrepresentations of the modern school as a chaotic and dangerous place. When Justice White delivered his opinion in *New Jersey v. T.L.O.*,[57] he argued,

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[56] Students in alternative school settings are subject to search without individualized suspicion. In addition, generalized searches of lockers and, in some jurisdictions, cars, have been found to acceptable even when no individualized suspicion exists.

[57] *New Jersey v. T.L.O.*-Two high school students were caught smoking in the bathroom by a teacher. The teacher took the girls to the vice principal's office. While in the office, T. L. O. denied that she had been smoking. The vice principal demanded to see her purse to prove she was lying. When he opened the purse, he found cigarettes. He continued searching and various drug paraphernalia (i.e., rolling papers, a baggie with marijuana, a pipe, etc.) and evidence that led him to believe that T.L.O. was selling marijuana. The

"Maintaining order in the classroom has never been easy, but in recent years, school disorder has often taken particularly ugly forms: drug use and violent crime in the schools have become major social problems'" (Sanchez 1992:409). Though the shield of *in loco parentis* has waned, modern courts have imposed "a relatively light burden on school administrators" wishing to search students (The Levin Legal Group 2004:46).

Strip searches are perhaps the only type of student search that have been legally curtailed. California, Iowa, New Jersey, Oklahoma, South Carolina, Washington and Wisconsin prohibit strip searches in school (Savage 2009). The U.S. Supreme Court has also bounded the ability of school officials to strip search students, as evidenced in the 2009 case *Safford Unified School District v. Redding.* A 13-year-old honor student, Savana Redding, was searched by two female school staff—unbeknownst to her mother—based on a tip from another student that she had received several prescription-strength ibuprofen pills from Savana. After searching her backpack and clothes pockets and finding no pills, Savana was asked to strip to her underwear, to shake her bra, and to pull aside her panties. No pills were discovered during the strip search and Savana was made to sit in the school's office for several hours after the search concluded. After the search Savana withdrew from the school (Barnes 2009). The search of Savana was found to be "degrading, unreasonable, and unconstitutional" because there was no indication that students were in danger from the small amount of ibuprofen Savana was believed to have had and there was no reason to suspect that Savana had hidden the pills in her undergarments (Savage 2009).

However, not all of the Justices were uncomfortable with the search. Though Justice Souter was one of the eight Justices that called the search unconstitutional, he stated, "I would rather have the kid embarrassed by a strip search…than to have some other kids dead because the stuff is distributed at lunch time and things go awry" (Liptak 2009). Justice Thomas, the only dissenter to the court's ruling, expressed concerns that the ruling would grant "judges sweeping authority to second-guess the measures that [school officials] take to maintain discipline in their schools and ensure the health and safety of students in their charge" (Savage 2009). Further, he argued, the Supreme Court's decision would serve as an announcement to public school students that the safest place to hide contraband is in their underwear (Barnes 2009).

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vice principal turned the evidence over to the police and while at the police station, T.L.O. admitted to selling marijuana. The state successfully sought delinquency charges against T.L.O. T.L.O. sought to suppress evidence obtained from the search of her purse, arguing that it violated her Fourth Amendment rights.

"Silver Platters:" School Police and Searches of Students

One unresolved legal issue that is especially pressing in light of the growing presence of police on school campuses is to which standard school police officers are accountable—the probable cause standard or the reasonable suspicion standard? The U.S. Supreme Court has avoided dealing with this issue directly (Sanchez 1992). Many of the state court rulings have held that school police searches are held to the lower reasonable suspicion standard (National Juvenile Defender Center 2010). What this means practically is that school police officers are held to a lower standard than their non-school counterparts. In cases where school police officers are contracted from local law enforcement agencies to serve in the schools, this could mean that officers within the same department can be held to differing standards. In locations where the school runs its own police force, memorandums of understanding (MOU) are drafted between the school police department and local law enforcement. Among other things, these MOU's delineate the boundaries of each department's jurisdiction. In cases where the school police officer's authority is extended in these MOUs beyond school spaces and school-sponsored activities, it is unclear which standard would apply. Could school police conduct searches of students not on campus based on the lower standard of reasonable suspicion?

Allowing school police officers to conduct a search using a lower standard has the possibility of resurrecting "a specie of the 'silver platter' practice [that has been] repudiated by the U.S. Supreme Court" (Sanchez 1992). In the original silver platter cases, state law enforcement agencies would conduct searches that would be considered illegal under federal standards and then turn over the evidence they obtained to federal prosecutors for federal criminal proceedings. Because the evidence was not obtained by direct federal action, until 1960, federal courts were able to use the evidence for prosecution.

Searches of students are often framed as a necessity for keeping schools safe and orderly rather than as law enforcement efforts per se; however, the results from school searches are often used to hold young people criminally accountable—in fact, in some cases in Texas, this is required. While non-school police would need to meet probable cause standards for prosecution, evidence obtained by law enforcement entities that are held to the lower standard of reasonable suspicion, because they are in a school setting, can be used to prosecute those same juveniles. Though the searches are legally distinct, the outcome is the same. "This type of coordinated

collaboration between school and police authorities effectively negates the exclusionary rule's protection of students' privacy" (Sanchez 1992:402).

Relevant Regulatory and Penal Codes in Texas

Laws regulating minor consumption and/or possession of tobacco, alcohol and drug paraphernalia can be found in three Texas Codes: the Alcoholic Beverage Code, the Health and Safety Code, and the Penal Code. There are four Class C Misdemeanor offenses for which students in LSC are most frequently cited:[58] minor in possession of tobacco, minor in possession of alcohol, minor consumption of alcohol, and possession of drug paraphernalia. Each of these offenses is described below.

> **Minor in possession of tobacco, Texas Health and Safety Code Section 161.252:** An individual who is younger than 18 years of age commits an offense if the individual possesses, purchases, consumes, or accepts a cigarette or tobacco product.
>
> **Minor in possession of alcohol: Texas Alcohol Beverage Code Section 106.05**: A minor commits on offense if they possess an alcoholic beverage unless the minor is in the visible presence of his adult parent, guardian or spouse, or other adult to whom the minor has been committed by a court.
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> **Minor consumption of alcohol, Texas Alcoholic Beverage Code Section 106.04:** A minor commits an offense if they consume alcohol unless they are in the visible presence of, and have the consent of their adult parent, legal guardian, or spouse.
>
> **Possession of drug paraphernalia, Texas Health and Safety Code Section 481.125:** A person commits an offense if the person knowingly or intentionally uses or possesses with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this chapter or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

Patterns in Tobacco, Alcohol and Drug Citations in Lone Star City

Between February 2001 and the end of the 2007-2008 school year, 1,753 citations were issued for tobacco, alcohol or drug paraphernalia offenses by school police. The majority of citations (879) were for tobacco, followed by possession of drug paraphernalia (764) and alcohol-

[58] Less common citations include alcohol or tobacco possession or consumption in prohibited areas (e.g., on or near a school.)

related offenses (110). Sixteen-year-olds were the most cited age group (30 percent), next were 15- year-olds (29 percent) and 14-year-olds (20 percent). Males were more likely to be ticketed (71 percent), and Hispanic students (44 percent) and White students (42 percent) were the most cited ethnic/racial groups. Hispanic males received 33% of all tickets (and 74 percent of all citations given to Hispanic students). White males received 28 percent of citations (and 67 percent of citations given to White students).

For alcohol offenses, White students are the most likely to be cited—they received 46 percent of all alcohol citations. The only ticket category in which males and females within a racial/ethnic group were issued tickets evenly is within alcohol citations. Forty-nine percent of alcohol citations given to White students were given to White females.

For drug paraphernalia offenses, Hispanic students are the most likely to be cited (54% of all drug citations), followed by Whites (45%). White males (36 percent of all drug citations) and Hispanic Males (31 percent of all drug citations) are the most frequently ticketed. Hispanic females and White females accounted for 20 percent of all drug citations (11 percent and 9 percent, respectively). African American students (male and female) received 12 percent of all drug citations.

With regard to tobacco citations, the most commonly cited students were Hispanic males (31 percent), followed by White males (26 percent) and then White females (17 percent). African American students (male and female) received 13 percent of all tobacco citations.

Thirty-eight PCAs for tobacco, alcohol and drug paraphernalia cases were analyzed—thirty-six of the PCAs were for tobacco offenses and 2 were for alcohol. In two of the tobacco cases, an additional offense of drug paraphernalia was listed on the citation. The PCAs were analyzed for the following: school level, reason for approach by school administrator or police officer, location of the offense (on campus or off campus), how the evidence was obtained, and, if searched, who conducted the search.

In the majority of cases, citations were issued to high school students (27); the remaining 11 were issued at a middle school. Fourteen of the cases originated off campus and 22 originated on campus. In two cases, it was not clear from the PCA where the case originated. In four cases, the students' citation was the result of an anonymous tip (e.g., via the school crime stoppers line) or a call to the school from a family member. In fourteen of the cases, the juvenile was seen either smoking or with a cigarette. In six of the cases, the student was approached for another offense

and the substance was discovered (e.g., daytime curfew, rumored to have a knife). In five cases, students were approached because a smell indicated substance use. Three students were approached because of "suspicious activity", e.g., they were observed walking about of a "bad area" or "walking away from security." In six cases, it was unclear why the student was initially approached.

In five PCAs, the student was asked if they had anything and they gave it up willingly or the substance was already visible to administrator or officer; in 12, it is unknown how the substance was obtained. In 21 cases, the student and/or their belongings were searched. In fourteen of the search cases, the officer conducted the search. In six cases, an administrator conducted the search and, in one case, a non-police school security guard completed the search.

Representative Examples of Tobacco, Alcohol or Drug Paraphernalia Citations

Tobacco #1: February 2008

> "Affiant was called to the Assistant Principal's office on a report of a student who did not have her ID card on her when questioned by a a non-police school security guard and did admit to being office campus and it was shown that she was 16 YOA. The security guard explained that while in the Assistant Principal's Office office Samantha admitted to having cigarettes in her purse. Cigarettes were found in her purse and Affiant was contacted. Samantha was brought to the SRO office and issued a citation for Minor in Possession of Tobacco. The security guard provided a witness statement."[59]

Tobacco #2: April 2007

> "Affiant was patrolling the area around the high school and observed three subjects walking next to an auto shop. The students were walking away from the campus and stopped next to the main office of the auto shop. One of the students was later identified as Hailey, 9th grade student at nearby high school. Affiant then observed Hailey place an unlit cigarette in her mouth. As Affiant began approaching Hailey, she threw the cigarette on the ground and stepped on it. Affiant issued Hailey a citation for Possession of Tobacco –Minor. Hailey was then released and she went back to school."[60]

Tobacco #3: October, 2002

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[59] Hailey appeared in court and opted for the deferral. In addition to a tobacco class, the court required her to pay $68 in court fees. As of July 2008, her case was still active.

[60] Savannah appeared in court and her case was dismissed for "insufficient evidence."

> Two school police officers "were patrolling the off site area around the campus when they observed a child one of the officers recognized from previous contact. The officer knew from previous experience that the child was under age eighteen and, at the time he observed the child, the child was away from campus. The officer stopped the child and identified him as Ryan. Both officers detained Ryan for violation of Daytime Curfew. A search incidental to Ryan's arrest revealed Ryan to be in possession of a pack of Camel cigarettes."[61]

> Tobacco and Drug Paraphernalia #1: January, 2006
>
> Officer observed three students "exit the wooded area on the North side of the school. The Officer has been assigned to the high school for 7 years and has made numerous arrests for drug possession and this area is known for students to use illegal drugs and smoke cigarettes. The Officer stopped the three in the parking lot of the school and could smell the strong odor of fresh tobacco on their persons and hands. The Officer knows that all 3 students were under the age to possess or use tobacco products. The Officer was talking to the students when he observed a clear plastic baggie with a useable amount of a green leafy substance that the Officer knows to be marijuana, within plain view, hanging out of one of the student's right side pocket. The Officer took possession of the marijuana and escorted all 3 students to the SRO office. Theresa had a pack of Camel cigarettes in her pocket. Sandra had one cigarette in her pants pocket. They were cited for tobacco violation and released to the school."[62]

Fraternities, Sororities, Secret Societies, and Gangs

Texas has not been immune to national panics about youth gangs. According to Dallas Senator and chairperson of the Senate Transportation and Homeland Security Committee, "The gang threat in Texas is the greatest homeland security issue facing us right now…It's a huge problem. Gangs today are more organized, more violent than ever before. They pose a real threat" (Plohetski 2009). Over the last ten years, Texas has advanced several efforts to monitor and curb young Texan's involvement in gangs. The three most relevant to school discipline are the establishment of gang databases, cooperative efforts by school district police and local law

[61] Ryan pled "no contest" to the tobacco charge. The results of the daytime curfew citations are unclear from the court records. Though he pled "no contest," Ryan was still required to complete the tobacco course. He did not complete this course as of July 2008.

[62] In this case, all three students were written citations and the same PCA was attached. The student whom I requested the documents for (Sandra) appeared in court and opted for a deferral. In addition to taking a tobacco course, she was required to pay $68 in court fees. She received one extension to complete her deferral. As of July 2008, she had paid the fees but had not completed the tobacco class and, therefore, did not complete the terms of her deferral. No warrant had been issued for her arrest as of July 2008.

enforcement agencies, and the introduction of legislation aimed at making gang-related activity on school campuses a criminal endeavor. I explore each of these strategies below.

Juveniles and Gang Intelligence Databases

During a gubernatorial campaigning trip to Houston, George W. Bush complimented Spring Branch ISD Police Chief Brawner for developing a district-wide gang intelligence database on 634 of its students (Zuniga 1998). The database had been recently used by local law enforcement to track down a former student suspected of having robbed a local convenience store and killed its clerk. According to a survey completed in 2001, at least 31 of Texas school district's maintained similar databases (Abbott 2001). Of those 31 school districts, 29 reported sharing information with local police departments, 25 reported sharing the information with juvenile probation, and 18 reported sharing the information with other school district police departments.

In the year following Bush's trip, during the 76th legislature, Texas passed Senate Bill 8. This bill not only allowed for the expansion of city and county criminal databases to include information on youth involved in gangs (including data collected by school district police departments), but it also paved the way for these databases to become available statewide. According to bill analysis conducted by the House Research Organization (1999:4), laws governing criminal databases prior to 1999 "hamstringed law enforcement authorities by allowing information to be shared only on a regional level. Street gangs, estimated to have 84,000 member [sic] statewide, are becoming increasingly mobile and organized, and they have increasing contact with prison gangs." After the passage of SB 8, the Texas Gang Intelligence Index was established. Any person, including minors, confirmed by law enforcement to be a member of a criminal street gang, or a more broadly defined "criminal combination,"[63] could now have their information included in the statewide database.

Advocates of such databases argue that the collected information is invaluable as a crime-solving tool. Kim Ong, Houston's Anti-Gang Coordinator in the mid-1990s, states, "[Gangs] are very well organized and often heavily armed, and many times police have to rely on

[63] Criminal combinations are defined by the Texas Penal Code as: three or more persons who collaborate in carrying on criminal activities, although the participants my not know each other's identities, membership in the combination may change from time-to-time, and participants may stand in a wholesaler-retailer or other arm's length relationship in illicit distribution operations.

this kind of information—gang intelligence—to solve and prosecute the most heinous crimes" (Mason 1999).

Critics of these databases argue that inclusion in a gang database has significant consequences including the potential for reputational injury, the infringement of the right to privacy, and an increased likelihood of limited physical liberty (Leyton 2003:133). Further, databases often include disproportionate numbers of racial and ethnic minorities. For example, a database in Denver, Colorado included information on 6,500 suspected gang members—fifty-seven percent of the individuals listed in the database were African American, though the city's population was about 5 percent African American (Zatz 2003).

In addition, individuals may not be aware that they have been included in such databases. With regard to juveniles, for example, the Texas Code of Criminal Procedures (61.04) leaves it up to local jurisdictions as to whether or not parents of juveniles included in the database will be informed of their child's inclusion. There is no state requirement that the juvenile or their parents be informed. If a parent wishes to contest their child's inclusion in the database, they must first submit a written statement to the agency maintaining the data informing them that they believe the information on her child is inaccurate. Agency leadership will then review the data and determine if it is appropriate to remove the child's information. If they do not remove the information, the parent can request for a judicial review of their child's data in the district court. The information maintained by the agency is then reviewed by the district court judge "in camera." This means that only the court is able to see the evidence compiled by the law enforcement agency. Parents, or their children, may never know what evidence of gang involvement has been compiled by law enforcement. Any child that is confined to the juvenile detention center is automatically ineligible for review of their gang files. In addition, though the Code of Criminal Procedures outlines that a child's information must be removed from the database after three years of inactivity, the files are not required to be destroyed and can be used by the local law enforcement at a later date.

Lone Star City's Joint Gang Intervention Unit

In the spring of 2006, the LSC municipal police department and the LSC school district police department formalized their partnership in a joint juvenile gang intervention unit. The unit contains two municipal police officers from the city's gang suppression unit and two school district police officers. In addition to offering Gang Resistance Education and Training

(G.R.E.A.T.) classes at several of the area's middle schools, the unit is planning the development of a regional gang database, and a crisis response team that can be deployed to areas where gang violence is anticipated or is occurring. The school police department and the municipal police department each maintain databases on suspected juvenile gang members and have access to each other's information.

During a training provided to LSC municipal court staff[64], one of the school police department's gang unit officers offered some insight into the perspectives and experiences of a gang officer in the LSC schools. He describes school police officers as "Sheriffs of our little city" and explained, "A lot of people are thinking that not much is happening in our schools—a whole lot is happening. A whole lot of felonies, a whole lot of graffiti, a whole lot of gang activities." Later in his presentation he casually mentions that schools also have "their annual riots." He goes on to describe the various forms that gangs take, e.g., ethnic gangs, prison gangs, etc. When he arrives at the White Power/Aryan Gangs bullet on his PowerPoint, he mentions that they exist but that he wasn't going to be talking about them today. While discussing a turf-oriented gang, he adds "the problems with these kinds of gangs have gotten worse after the New Orleans kids came over." For the next twenty minutes, he scrolls through pictures taken of students from schools in LSC school district. The twenty or so pictures he shows all appear to be of a Hispanic girls and boys. He stops on each picture to point out one or more of the characteristics that officers believe demonstrate the juvenile's gang involvement: colored and/or strategically positioned clothing (e.g., hanging a blue belt on the left side of the body); tattoos, haircuts, and jewelry; and graffiti on backpacks, notebooks and other personal property. According to the officer the city's human-made and natural barriers and the segregation they foster are advantageous because they "chop the city into sections" and ensure that the gang problems don't spread from one area of the city to the next

During the presentation, the municipal police officer mentions that graffiti serves as the gangsters' newspaper out in the community and that, if this graffiti is not dealt with in a "day or two, gangsters are going to tear up that neighborhood." According to the school district officer, the school's equivalent of a graffiti newspaper can be found at bus stops near campus, in school

[64] These reflections were obtained during a gang training provided by Lone Star City's Joint Gang Task Force to LSC MC caseworkers. This training was conducted on Thursday afternoon and lasted about an hour-and-a-half. I was invited to attend the training by the MC caseworkers, which was delivered by officers from both the municipal and school district police departments

restrooms or in art and English classes. “I like going to art classes. There’s tons of graffiti stuff in art classes. Art classes are funny—they think the kids are just expressing themselves. We try to put a stop to that.” Another popular venue for students to express gang affiliation is on the social networking website MySpace. The school police officer mentioned that he often checks the MySpace accounts of students when he suspects they may be involved in gang activities. Another resource he mentions are the informants he is able to cull from his daily interactions with students. He points out that this resource will be beneficial for years to come.

He concludes his training by, first, expressing frustration about the amount of paperwork that must be completed when issuing a citation to a student and, then, by discussing the gang database the unit is hoping to develop. With regard to paperwork, he states, “If it were reduced, you’d see a lot more citations from us.” With regard to the database, he envisions it looking something like California’s CalGang database, which he describes as “Wow! That’s some CIA stuff!” If they are able to get the funding for the database the unit envisions, when it is fully operational, it will allow social workers, school principals, and members of the public to report young people they believe are gang-involved. “You think your neighbor is involved in a gang, take a picture on your camera phone and fill out the form. Once you fill out that and it gets approved by us, it goes into the database.”

Relevant Codes

Texas Education Code Section 31.121, titled “Fraternities, Sororities, Secret Societies, and Gangs,” states:

> A person commits an offense if the person is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or, is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang, or a meeting at which membership in one of these groups is encouraged.

According to the Section 71.01 of the Texas Penal Code a criminal street gang is defined as “three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.” In order for an individual to be confirmed by law enforcement as a member of a gang, two of the following criteria must be met: (1) a self-admission by the individual of criminal street gang

membership; (2) an identification of the individual as a criminal street gang member by a reliable informant or other individual; (3) a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability; (4) evidence that the individual frequents a documented area of a criminal street gang, associates with known criminal street gang members, and uses criminal street gang dress, hand signs, tattoos, or symbols; or, (5) evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity. Any student who is identified as a member of gang by school police is required to be placed in a District Alternative Education Program and issued a citation for a Class C Misdemeanor.

Patterns in Fraternities, Sororities, Secret Societies, and Gangs Citations

Seventy-six tickets were issued for fraternities, sororities, secret societies and gangs (FSSG) in LSC. The first eight were issued during the 2005-2006 school year, with 30 and 38 being issued the following school years. All the tickets written for this offense except one have been written by school police officers. Students between the ages of ten and sixteen have received tickets. The most common age for FSSG citation is 13 (25 percent). Sixteen percent of FSSG citations have been issued to young people between the ages of ten and 12-years-old. All but five tickets were issued to Hispanic students. Within the cited Hispanic population, 92 percent of citations were issued to Hispanic males—five citations were issued to Hispanic females and five to African American males.

Thirty-one FSSG PCAs were analyzed. The PCAs were coded for the type of association (fraternity, sorority, secret society or gang), the school level, the number and type of indicators of association, whether or not the student admitted to membership in the association, and, in the case of gangs, whether they were included in the school district's gang database. None of the PCAs described activities related to fraternities, sororities or secret societies—all citations were issued for activities perceived to be gang-related. Sixty-five percent were issued to high school students, 22 percent to middle schoolers, and the remaining twelve percent to students attending the District Alternative Education Program.

The following indicators of gang association were coded: possession of a bandana, colored clothing (includes shirt, shorts, belt, socks, shoes, shoelaces, hat and/or undershirt), a hand gesture, and other. Most students (55 percent) were cited for one of these indicators. Forty-

two percent of students were cited for two indicators and one student was cited for three. The most common indicators were making a gang-related gesture (14) or wearing colored clothing (14). Ten students were cited for possessing a colored bandana and eight students were cited for some other indicator. These include: a bracelet, shaved eyebrow, colored hair ribbon, wearing a hat facing to the right, rosary beads, a tattoo, or a verbal expression (2 incidences). In eight of the PCAs (26 percent), the officer states explicitly that the juvenile cited admitted to gang membership. In seventeen (55 percent) of the PCAs, the officer mentions that the juvenile's name was either already in the school district's gang database or it had been added.

Representative Examples of Gang Tickets

> Fraternities, Sororities, Secret Societies, and Gangs #1: October, 2005
>
> The officer was "monitoring the cafeteria area of the middle school for suspicious criminal activities, The officer is well versed in the area of criminal street gangs and on this date observed different groups of gatherings of students. Affiant observed a group of three students who associate themselves with the gang Crip. The group has a predominant color of blue as a part of their clothing or accessories. Affiant observed one student he knows by name and face as Jesus. Jesus was standing in line of the cafeteria serving line. Affiant was able to observe Jesus and his friends through the glass window that was not obstructed. Affiant observed Jesus using a hand gesture that is special in a way that he must go through several distinct movements as a ritual or routine manner. The movements of his hands were formed in a symbol [sic] a form that was upside down and ended with a gesture of [sic] his left breast forming a letter 'c'. Affiant observed that Jesus was showing disrespect towards another student that had red tennis shoes on. Affiant did not observe that the student was disrespecting Jesus nor get involved [sic] in a verbal disturbance with him. Affiant only observed the student standing in line waiting for his food. Affiant has attended numerous gang seminars, specialized training sessions, practical experiences, and special investigators conference such as the Texas Gang Investigators Conference. From that training, he is knowledgeable that in the fact that this characteristics hand sign is common to the 'crip' criminal street gang." [65]

> Fraternities, Sororities, Secret Societies, and Gangs #2: October, 2007
>
> Officer was told by the 7th grade Assistant Principal that Paul "was wearing red and White tennis shoes. Both were aware that Paul was a documented gang

[65] Jesus did not appear in court; however, no warrant was issued for his arrest. Court records reflect "insufficient for warrant" as the reason.

> member of the gang "Bloods". Affiant was also aware that Paul was told and warned in the presence of his mother and by the school administration that no red clothing of any sort was allowed for Paul to wear while on AISD school grounds due to Paul's gang involvement. Affiant spoke with Paul about his red and White tennis shoes and Affiant told Paul based on his red and White colors, affiant was aware that Paul was attempting to show his affiliation and representation of his gang Bloods...Affiant also did a check of Paul's person and also found a red bandana on his person as well. Based on information reported of red and White tennis shoes and a red bandanna, Paul was in possession of gang paraphernalia and showing representation of his gang "bloods".[66]

Fraternities, Sororities, Secret Societies, and Gangs #3: July, 2005

> The officer was on foot patrolling the middle school. "During the course of the past weeks there has been an increase in gang presence in the school. Namely the Bloods and Crips. The officer has noticed this increase and has been vigilant in looking for signs of activity. A fight did occur last week between two of these rival gang members. The officer is well versed in the area of criminal street gangs and on this date observed two students, Juan and Geraldo, dressed in Royal blue shirts and denim jean pants. The officer observed Juan and Geraldo approach each other and in acknowledgement shook bands. This handshake is especially distinctive in that they go through several distinct movements as in a ritual or routine manner. The handshake ends up with a finish of their disengaging their hands and bringing the same hand to left breast and forming a letter "C."…Both students were detained until the halls were cleared and then escorted to the police office. Geraldo was released to school administration and received a three day suspension. Juan and Geraldo were not documented through the county juvenile detention facility as having prior gang involvement.[67]

The majority of students cited for this FSSG are not participating in criminal conduct or exhibiting behaviors that suggest violence or criminal activities are imminent; instead, these citations are issued for school dress code violations. In both the TxSSC training and the LSC gang unit training, officers repeated the adage: "If it looks like a duck and walks like a duck, it's a duck." There was no distinction made between wannabes and "real" gang members, nor between rap/hip hop or "urban" youth culture and gang culture. "There is no such thing as a wannabe. Ladies, can you be almost pregnant? No. You either are or you aren't." School police officers use their "perceptual shorthand" to identity the student's clothing choices as indicative of their status

[66] Paul's case was transferred to the juvenile court.
[67] Geraldo appeared in court and opted for a deferral. Other than paying $56 in court fees, the terms of his deferral are unknown. Juan successfully completed his deferral and his case was dismissed.

as "symbolic assailants" (Skolnick 1966). These young people's complex decision-making around clothing is collapsed and their clothing choices are interpreted as having one symbolic meaning: an act of aggression that, if not controlled, has the potential to incite violence (Kelley 1994: 49; Skolnick 1966).

Summarizing Lone Star City Ticketing Trends

Table 3.3 summarizes patterns across the six ticket types discussed above: curfew, disruption, DC language, DC fighting, TAD, and FSSG. Middle-schoolers appear to receive a significant amount of citations. This is consistent with recent research that suggests that the transition between elementary and middle school is difficult for many students. During this transition period increases in offenses such as disruption and failing to follow rules are common (Theriot and Dupper 2010). In every category, Hispanic males are ticketed more frequently than any other group. Though Hispanic males comprise about 30 percent of the student body,[68] they are given the vast majority of gang citations and a substantial number of disruption citations. African American males appear to have higher rates of overrepresentation overall—though African American males compose about 6 percent of the student body, they receive nearly a quarter of all disruption and abusive language tickets. A similar pattern emerges when considering African American female citation patterns. Though their overrepresentation is not as dramatic as it is for African American males, they are overrepresented in three ticket types. They compose about 6 percent of the student body, but receive about double that percentage in three types of citations: disruption, abusive language, and fighting. With the exception of fighting citations, Hispanic females are underrepresented in school citations—they comprise about 28 percent of the student body but less than 20 percent of all other citations. With the exception of the tobacco/alcohol/drug paraphernalia citations and curfew citations, White males and White females are underrepresented; they comprise 14 and 13 percent of the student body but less than 6 percent of disruption and disorderly conduct tickets.

In terms of general trends, it appears minority students are receiving the majority of citations for types of offenses that are arguably, more subjective (Skiba 2001). In contrast to curfew, tobacco/alcohol/drug paraphernalia citations and fighting citation, determining if a

[68] This figure refers to the 2007-2008 school year. Given that the Hispanic student population in Lone Star City has been increasing since the 1990s, this percentage is likely lower in previous years.

Table 3.3 Summary of Lone Star City Juvenile Ticketing Trends (1994 to July 2008)									
	Citations Issued	Percentage of Citations Issued by School Police	Most Common Age	Gender		Race/Ethnicity		Gender & Race/Ethnicity	
Curfew	16,489	36%	14-16 (84%)	Males	58%	African American	17%	AA Amer. Male	11%
								AA Female	6%
						Hispanic	59%	Hispanic Male	34%
				Females	42%			Hispanic Female	25%
						White	23%	White Male	12%
								White Female	11%
Disruption	1,607	98%	12-14 (74%)	Males	71%	African American	35%	AA Male	23%
								AA Female	13%
						Hispanic	56%	Hispanic Male	42%
				Females	29%			Hispanic Female	14%
						White	7%	White Male	6%
								White Female	1%
DC Language	620	86%	13-16 (52%)	Males	67%	African American	38%	AA Male	24%
								AA Female	14%
						Hispanic	56%	Hispanic Male	38%
				Females	33%			Hispanic Female	18%
						White	6%	White Male	5%
								White Female	1%
DC Fighting	2,730	93%	13-15 (65%)	Males	51%	African American	31%	AA Male	14%
								AA Female	17%
						Hispanic	61%	Hispanic Male	32%
				Females	48%			Hispanic Female	29%
						White	7%	White Male	5%
								White Female	3%
TAD	5,364	33%	14-16 (79%)	Males	71%	African American	12%	AA Male	9%
								AA Female	3%
						Hispanic	44%	Hispanic Male	33%
				Females	29%			Hispanic Female	12%
						White	42%	White Male	28%
								White Female	14%
FSSG	76	99%	13-14;16 (69%)	Males	92%	African American	7%	AA Male	7%
								AA Female	0%
						Hispanic	93%	Hispanic Male	86%
				Females	7%			Hispanic Female	7%
						White	0%	White Male	0%
								White Female	0%

behavior constitutes disruption, disorderly conduct, or gang-related activity requires more interpretive labor on the part of school police officers. This issue is reflected by PCA analysis. The majority of the citations issued to students for these offenses could be summarized as students who are not following the rules. Either they are not dressing appropriately (gangs), they are not speaking to adults or to each other properly (abusive language/disruption), or they are not doing as they are forms of school discipline discussed by other researchers. In her study ofelementary schools, Ferguson (2001) offers an in-depth discussion of the regulation of the dress, behavior and speech of African American male students who are perceived by school officials as oppositional, recalcitrant and, in some cases, destined for prison (Ferguson 2001). According to Morris (2005), school officials hold similar views of Hispanic males—they are perceived as dangerous and significant adult attention is invested into regulating their dress and mannerisms. African American female students are also overly reprimanded by adults in school. Their behaviors are perceived as loud and aggressive and they are frequently instructed to adopt more feminine behaviors (Morris 2005; Chesney-Lind and Irwin 2008).

CONCLUSION

"When a constitutional convention, a legislature, or a court promulgates a rule of law, it necessarily does so without full knowledge of the circumstances in which the rule might be invoked in the future" (Posner 2007:778). In this chapter, this unpredictability is evident. In examining probable cause affidavits, we can see the selective enforcement of the various legal codes to police student behavior. Juveniles have the unique position of being subject to citations from the Texas Penal Code, the Education Code, and the Health and Safety Code. In the examples provided of the daytime curfew "stings" used in Round Rock, Texas and Lone Star City, we can see that ticketing provides a means by which to control young people's movements and actions outside of school. This was particularly evident in the case in which students in Round Rock organized to protest immigration laws. Students ticketed for curfew violations were mostly male, and were predominantly Hispanic. While White students comprise anywhere from a quarter to a third of students in Lone Star City, they are underrepresented among those ticketed.

In addition to curfew violations, the PCAs illustrate the ways in which teachers and police use Texas' legal codes to give citations for actions that many would view as minor infractions. The most prevalent form of misbehavior among "disruption" citations was refusing to

do an assignment or follow the teacher's instructions. Other examples of disruption in this chapter of disorderly conduct involved fighting and abusive or indecent language. While most tickets for language issues involved students speaking to school personnel, we can see that the example of the young man who said "fuck" to his father before leaving for school illustrates that police are willing to use ticketing to punish and restrict students' speech even outside of school grounds.

Despite the recent US Supreme Court *Safford Unified School District v. Redding* decision upholding students' Fourth Amendment rights with regard to strip searches, some questions still remain with regard to searching students. The court's view of Ibuprofen as not that dangerous may cloud future cases involving items deemed more of a threat. As the analyses of tickets involving tobacco, alcohol and drugs illustrate, alcohol offenses are the only ticketing offenses split evenly by gender. Most tickets involve citations of male students. White students were most likely to be cited for alcohol citations; Hispanic students were represented in more than half of all drug paraphernalia citations. Again, we can see that ticketing targets student behavior both on and off campus.

Texas' efforts reflect a major concern about juveniles and gangs. Texas has established databases devoted to monitoring and tracking gang members, developed alliances between school cops and street cops to fight gang activity, and passed legislation aimed at making gang-related activity on school campuses a serious crime. It is clear from the citations that involvement with fraternities, sororities, and secret societies rarely, if ever, falls within the purview of these efforts. In addition, these efforts raise serious questions about the civil and privacy rights of juveniles. They often reflect a hyper-vigilance of young men of color. As the citations analyzed here indicate, "normal" behaviors, clothing, and speech are coded as gang related, and school police most often target students of color.

Overall, one of the primary lessons of this chapter is that student behaviors that may have earned a reprimand from a teacher or a trip to detention in previous generations, now involve a criminal label and a visit to the municipal court. Similar to other forms of social control, it would appear that minority students are disproportionately represented among certain types of citations, particularly those that involve more police officers' subjective decision-making. Ticketing in schools follows a long history of increasingly punitive measures aimed at controlling crime and young people as described in earlier chapters. In the next chapter, I focus on police in schools to provide an understanding of how these tickets come to the fore.

CHAPTER 4: POLICING IN SCHOOLS

> The dominant police ideology, their institutional bias, is that they are a neutral, objective, democratic, 'law enforcement' agency that dispenses 'services' without prejudice…The failure to see the differential allocation of services and violence is an instance of institutional misrecognition. Police ideology blinds both the police and the public to the consequences of police practices (Manning 1994:91).

Much has been written about the factors that shape policing practices. Skolnick (1966), for example, conducted a study of a vice police unit to discern some of the factors that shape the "working personality" of police officers. His research demonstrated that policing practices are shaped by a host of factors beyond the individual officer's personal values and moral settings. This includes the position of the police within the social structure, the pressures and exigencies of the police role, and situational factors (Skolnick 1966). The primary factors that have been identified as shaping police practices have been summarized as: individual, situational (i.e., aspects specific to the interaction between the officer(s) and the suspect), organizational (e.g., informal and formal policies of the division and/or agency in which the officer works) and environmental (e.g., the neighborhood in which the officer works).

In this chapter, I explore questions surrounding police officers' interactions with students and their construction of student behaviors. How do police officers describe their interactions with the students they are ticketing? Daly and Tonry's (1997) assertion that arrest data are as much of a measure of criminal behavior as they are a measure of official behavior guide these analyses. These citations are just as much a reflection of behaviors deemed criminal, as they are a reflection of those who cite these behaviors.

Though police officers are often popularly perceived as "crime fighters," the reality of their day-to-day activities is more mundane. Estimates about how much time officers actually spend in formal law enforcement ranges from 1/10 to 1/5 of their work time (Famega 2009). The majority of their time is spent completing personal tasks, doing paperwork, or solving minor problems that are tangential to law enforcement (Rumbaut and Bittner 1979). Some argue that police decisions to enforce laws (i.e., to arrest or to charge individuals with a crime) are efforts to handle a situation that requires control rather than to enforce provisions of the law (Bittner 1967).

The school setting influences school police officers' practices. Unlike most of their non-school counterparts, school police officers must contend with frequent contact with young people, a prioritized commitment to their schoolyard territory, and the policies, decisions, and practices of school and school district administration (Casella 2001:97). School police officers must negotiate law enforcement with school policy and educational theory—the officer must be able to "manipulate police training to be conducive to school expectations" (Casella 2001:112).

How much time school police officers spend in activities directly related to crime on schools has yet to be measured. However, perhaps more so than other law enforcement officers, law enforcement is recognized as only one part of the school police officers official duties. In addition to their role as a criminal investigator, most discussions of the role of a school police officer describe him as a cross between mentor, role model, and social worker. The school police officer is responsible for communicating and interacting with students, being a role model, creating positive relationships between young people and law enforcement, counseling students, and preventing children from using drugs and from becoming involved in gangs (Mays and Winnfree 2000:81). Though a school police officer may indeed play these roles, a school police officer is still, essentially, a police officer. Unlike other adult mentors, role models, and social workers on school campuses, school officers can (and do) bring the criminal justice system to bear on students who are unresponsive to their preventative or mentorship initiatives (Casella 2001:81). Students in Lone Star City, and in other cities across the state of Texas, would not likely be going to court for misbehaving in schools without the presence of school law enforcement on their school campus.

QUESTIONS, DATA, AND METHODS

Probable Cause Affidavits and Observations of a School-Based Police Conference

In the previous chapter, I offered a detailed analysis of probable cause affidavits (PCAs) written by school police officers. In this chapter, I also rely on those citations, but focus on the individuals writing these citations by using ethnographic data I collected during a school police officer conference in Texas. The four-day training conference offered by the Texas School Safety

Center[69] and was held in Corpus Christi in June, 2009. Though non-police school officials and other non-school police are encouraged to attend, the conference's intended audience is Texas' school-based law enforcement officers. According to conference organizers, over 500 officers from around the state of Texas and a handful of officers from other states attended this conference.

All names of individuals (students, teachers, administrators and police officers) and of schools included in following chapter have been replaced with pseudonyms.

POLICING IN SCHOOLS

Police officers exercise a great deal of discretion in their interactions with the public. Discretion includes not only decisions about which rules apply in a given situation but also how to address, if at all, a breach of these rules. My use of the word rules as opposed to laws is intentional. Though laws certainly shape police action, much of the literature on policing—and especially literature on contemporary community policing—emphasizes the role of police officer as "problem-solver." Rather than focusing narrowly on police as law enforcers, community policing emphasizes the role of officers as proactive agents in maintaining social order. Describing an officer's discretion in terms of rules rather than laws better captures this broader social role.

According to research conducted on non-school policing, there are a broad range of factors that influence police officer discretion. These include organizational issues, such as the size of their department and the degree of bureaucracy within that department, as well as situational variables and officer characteristics. Specific situational variables that have been considered by scholars include the characteristics of the suspect (i.e., their race, ethnicity, gender, socioeconomic status) and the demeanor or attitude of the suspect; those whom the officer considers uncooperative or disrespectful are more likely to be handled both formally (cited or arrested) and informally (subject to coercive or forceful action).

[69] The Texas School Safety Center (TxSSC) was formed shortly after the Columbine shootings. The TxSSC offers various training and support services to school based police officers. Though the Center has mixed support from both within the school law enforcement and Texas Education Agency communities, during the most recent legislative session, the Center was added as a line item to the state's annual budget.

Officer characteristics that have been examined by researchers include race, ethnicity, gender, education level and law enforcement experience of the officer. Experience includes measurable attributes, such as length and type of service, as well as a less concrete summation of prior interactions. Qualitative research on policing suggests that officers develop a "recipe of rules" that guides their behavior during interactions with the public. These recipes include a form of "perceptual shorthand" that allows police officers to make relatively quick assessments about an individual's moral character and their proneness for criminality (Skolnick 1966).

Additional factors that influence police behavior are a police subculture of "bravado" (i.e., the valuing of aggressive, active police work), a concern with safety, and an internalized mandate of control (Packer 1968; Van Maanen 2010). The mandate of control is an "internalized standard of conduct held by officer that they must control and regulate every situation in which they find themselves" (Van Maanen 2010:95). This plays out in interactions with the public in two ways: first, officers feel as though they can initiate, direct, and terminate encounters with the public as they see fit. Second, police harbor the perception that "public order is a product of their ability to exercise control" (Van Maanen 2010). Officers believe that the failure to maintain control of a situation (or, at least, the perception of control) invites disrespect, disorder, and crime.

Neighborhood characteristics have also been identified as an influencing factor in policing activities. In the case of non-school policing, researchers have largely focused on neighborhood racial and ethnic demographics and on community crime rates. A handful of studies have expanded the notion of neighborhood to consider how the "school community" influences school-based policing (Kupchik and Brady 2010; Devine 1996). Some of the same forces exert pressure on police officers stationed in schools (e.g., a larger police subculture); however, these forces are slightly modified or experienced differently within the school context.

The focus of the second portion of this chapter is two-fold: to identify some of the forces that appear to be exerting pressure on school police officers in LSC (and, to a limited degree, Texas in general) and to examine how these forces shape police officer-student interactions. I should note that I recognize the limitations of attempting such an endeavor through the use of historical documents (PCAs) and limited observations of police trainings. I am only able to examine those aspects of policing that officers themselves have revealed, either through their written word or their formal efforts at professional development; however, this also serves as the

strength of my consideration. My assumption is that issues that systematically appear in PCAs and in trainings are issues of some import to school policing. The themes I have organized my discussion around include: school cop versus street cop, the role of the police officer in school discipline, school interrogations and confessions, and the use of force.

School Cop vs. Street Cop

As discussed previously, the spread of school policing in Texas' schools is tied to the more general spread of community-based policing nationwide. The role of the community-oriented police officers (COP) differs, in theory if not in practice, from that of a "traditional" police officer. For a COP, emphasis shifts from reactive responses to crime control to proactive partnerships with community members to address the social problems believed to underlie crime; police officers are problem solvers rather than mere enforcers of the law. There is evidence that school police officers in Texas do imagine problem solver as part of their policing identity. During the opening session of the 2009 Texas School Safety Center school-based police officer training, a Center representative states, "Everywhere you walk, they bring a problem to you—you gotta solve that problem." In the school context, COPs are described as mentors, social service providers, and key participants in school-based delinquency prevention efforts.

This idea of school police officer as mentor and social worker may afford the officer a legitimacy in the educational community that a more traditional police identity would not, however, these characterizations appear to act as a double edged sword in the larger policing community. During the TxSSC conference, presenters consistently highlighted a dichotomy between the "street cop" and the "school cop." In the larger policing community, "Only tasks involving criminal apprehension are attributed symbolic significance (Van Maanen 2010:94). Though police officers may also subscribe to the popular view of schools as dangerous places, the degree to which school police officers engage in "real police work" (i.e., criminal apprehension) is assumed to be less than that of street cops. Conference participants were preoccupied with the notion that the larger policing community does not regard school policing with high esteem. The somewhat stigmatized identity of the school cop is evident in their being referenced as "kiddie cops." Two strategies officers at the conference used to neutralize their disparaged identity were to draw parallels between the school and the street, and to emphasize children as both in danger and as dangerous (Sykes and Matza 1957).

School police officers often describe there schools in the same way a street cop might describe his neighborhood. For example, one officer described his school as containing 300,000 square feet and 20 blocks of hallways. Another described the school as a "different ballgame played on the same field." Though I think he may have intended to say, "the same ballgame played on a different field," the point of his statement appeared to be that, though they are working on school campuses, school police officers must deal with similar dynamics as those officers out on the street. One officer told audience members to treat problems that arise between teachers and students as "family disturbances." In this case, the officer symbolically brought a typical (and relatively legitimated) "street" or community problem into the school space. Each of these strategies worked to challenge the idea of the school officer as more than just a "kiddie cop" by creating schools as spaces (either in concrete terms or symbolically) that mimic or parallel community spaces.

The second strategy officers used was to advance notions of children in schools as both dangerous and/or in danger. One officer described the fictional, yet troublesome student "Johnny": "I haven't given my officers tasers yet. Johnny is going to piss someone off one day and get tased…these kids do the same things adults do." The notions of endangered and dangerous kids were especially pronounced in the drug awareness and the gang awareness workshops. School sites were emphasized as hot spots where a few crime-prone students (i.e., the drug dealers and hardcore users, or the "gangbangers") made school a dangerous place for all the other "good" kids. Student drug users were cast as unpredictable and dangerous. Though trainers for the drug awareness session discussed many drugs, they emphasized the dangerousness of crack and meth. Subscribing to erroneous beliefs about crack being more addictive than powder cocaine, the trainers warned of the desperation of crack users to obtain a fix: "that's when your burglaries start happening. They start stealing mom and dad's T.V. and jewelry." Meth users' dangerousness emerges from their unpredictable proclivities for violence: "They will be calm, talking to you real nice, to wanting to kill you, [snaps fingers] just like that."

The gang trainer also advanced the notion of the "dangerous" student; however, he attempted to neutralize school cops' stigmatized identity by suggesting that school cops are prevented from being more punitive and "cop-like" with this type of dangerous student by administrators who coddle students. "Sometimes we deal with those administrators that want to baby the kids and don't want the kid to get into any trouble. What is probably going to happen is

he's going to try to start a big fight in your campus. They're trying to baby these kids, protect them, help them to graduate." This perception that "cops know best" is consistent with perceptions held in the larger policing community: "[A]s policemen, they and they alone are the most capable of sensing right from wrong; determining who is and who is not respectable; and, most critically, deciding what is to be done about it (if anything)" (Van Maanen 2010:91). His proposed strategy for dealing with reluctant administrators was to foster a sort of "I told you so" scenario by giving these types of kids "a little rope." "Sometime you need to give that kid a little bit of rope and that kid will hang himself. Give him some rope—he'll start a fight at lunchtime. Now you're going to have something more concrete."

School police officers seem to have a symbolic investment in perpetuating notions of school and/or students as dangerous or in danger in order to maintain esteem within the larger law enforcement community. This investment lies in tension with the notion of school police officers as mentors and/or social workers. Different school based police agencies (and police officers) are likely to negotiate this tension in diverse ways.

"Inspire Before You Expire"[70]: The Role of the Police Officer in School Discipline

Despite the emphasis on schools and students as simultaneously vulnerable and dangerous, school police officers, like their street counterparts spend most of their time involved in rather mundane tasks: patrolling hallways, completing administrative tasks, and investigating minor incidences (Kupchik and Brady 2010). As evidenced by the PCAs, in Lone Star City, at least some of these "minor incidences" involve enforcing school rules. How does the school police officer fit with the traditional structure of school rule enforcement, i.e., teachers and administrators as primary rule enforcers?

According to the literature, there appear to be at least two responses by school officials to police involvement in managing minor forms of student misbehavior. One response could be described as averse or apprehensive: some school administrators are reluctant to involve police in student discipline issues out of fear that doing so would create hostility and damage the trust that exists between schools and school officials (Mays 2000). Another response could be described as relieved and eager: school administrators and teachers welcome police involvement because it

[70] This was a catchphrase used by the opening speaker of the Texas School Safety Center school police officer conference in Corpus Christi in the summer of 2009.

frees them from "an unpleasant responsibility": "For teachers and administrators who wished to make their own hectic jobs easier, who were sometimes fearful of violence and generally in need of reassurances that the school was under control, the presence of the detective was a welcome relief" (Casella 2001:112). Critics of this second type of response argue that relinquishing student discipline to school police has the "effect of de-centering and fragmenting students' identities by establishing a sharp boundary between their bodies and the intellectual, spiritual, and cognitive "side" of their subjectivities" (Devine 1996:82).

Analysis of the LSC PCAs suggest that school staff responses to school police officer intervention in school discipline may exist somewhere in between these two perspectives. Rather than vying for authority with school police officers or abandoning school discipline entirely, it appears that some teachers and administrators initiate school police officer involvement in student discipline. During the TxSSC conference one school police officer alludes to this, "A lot of times the teacher calls us when it's stuff they can handle—a kid doesn't raise his hand and blurts out. Most of the time, they call the police when they are at their wits end." In 97 of the 214 PCAs analyzed, a school police officer became involved because a school staff member requested their assistance (typically, a teacher or administrator, but also includes front office staff, transportation staff and teaching assistants). This was most common for disruption citations—fifty-four of the 81 citations issued were initiated by school staff rather than the school police—and DC Abusive Language citations—eighteen of the 29 citations issued as a result of school staff's request for police officer involvement. The following examples illustrate police officer responses initiated by school administrators and teachers.

Initiated by School Administrators

Disruption of Classes: April, 2007

> The Assistant Principal informed that she had received numerous referrals for Carlos. "Carlos disrupts the education process daily as class is in session. The administrator stated she has suspended Carlos numerous times and Carlos is in the main office everyday for cursing, talking back to his teachers in class, leaving

class without permission, being late to every single class, and roaming the hallways without permission." [71]

Disruption of Classes: April, 2007

At the request of the Assistant Principal (AP), three middle school students were issued citations. The AP advised that the teacher advised that the students were talking very loud, laughing, and making noises on the table. Allthis [sic] while the rest of the class was trying to work. She advised that the students were disruptive during the whole time class was in session. The teacher could not conduct class and had to have the studens [sic] removed. The AP advised that this is not the first time that these students have disrupted classes and had to be taken out of the class. She advised that this has happened on several occasions." [72]

Initiated by Teacher

DC Language: September, 2003

"Tyrone was being instructed to pull up his pants and comply with the school's dress code by a teacher. At such time Tyrone took offense to the teacher's request and replied, 'Shut the Fuck Up!' to the teacher who took offense to the Tyrone's profanity comment and informed the school police officer."[73]

Disruption of Classes: February, 2005

"Officer was notified by radio that his assistance was needed in room 202. Officer arrived and spoke with the teacher (victim) who stated that he was verbally assaulted by the (suspect) Salvador. The officer asked the teacher to explain what had occurred. The teacher stated that he had overheard Salvador say 'DICK & PUSSY', in the classroom. The teacher asked Salvador several times to stop talking and disrupting my class. The teacher had to stop teaching his class and had to write a referral on Salvador for disrupting his class by continually talking. As the teacher was writing the deferral, Salvador became very agitated and yelled directly at me and said, 'FUCK YOU BITCH! BITCH ASS NIGGER.' Salvador immediately left the classroom, where the teacher in the next class room to me (mentioned) he was speaking with Salvador outside of room 202, while his teacher finished the referral. The officer arrived and saw

[71] Carlos appeared in court and opted for a deferral. He was ordered to pay $64 in court fees, to enroll the local "Community in Schools" program and to complete a "survival skills for youth" course. His mother was also ordered to participate in parenting classes. His case is still active as of July 2008.

[72] One of the boys appeared in court and opted for a deferral. He was ordered to pay $64 in court fees, to complete 8 hours of community service and to take a class at the county's juvenile probation department. The 2nd boy's case was transferred to the juvenile court. The 3rd boy did not appear in court and a juvenile warrant has been issued for his arrest. As of July 2008, he was not yet old enough for an adult warrant to be issued.

[73] Tyrone did not appear in court. He is now an adult and a warrant has been issued for his arrest.

> both teachers speaking to Salvador and another student. The other teacher said you will not speak to a teacher or any staff member as you spoke in the manner you did to your teacher. The officer spoke with the teacher who stated that the statements Salvador had made towards him were unwanted and offended me, and also disrupted my class where I totally had to stop teaching and handle the situation by writing referrals and also have some assistance from another teacher." Salvador was suspended for three days. [74]

The examples above illustrate cases in which school police officers were sought out by school staff to discipline a student. That nearly half of the citations for which PCAs were analyzed involve a staff request for police officer intervention suggests that at least some administrators and teachers are utilizing school police officers as an additional disciplinary strategy. This suggests a third response of school officials' responses to police involvement: rather than abandoning discipline entirely to the police or shying away from involving them at all, school officials appear to seek their involvement. More research is needed at the school site level to determine what kinds of factors influence a school administrators or teachers decision to involve the police.

Punishing Adults in Schools

An issue that bears mentioning is that school police officers are also charged with disciplining adults, including school staff, who act inappropriately or illegally on school campuses. As I focused on citations issued by school police officers to juveniles, this issue will not be addressed by a consideration of PCAs; however, the issue was raised during the TxSSC training. The officer I mentioned earlier who suggested approaching teacher-student disputes as family disturbances stated, "Listen to both sides. In all cases, it's not the kid. The teacher gets all in the student's face. Am I telling the truth? [yeses and nods from the audience]." He continues on to mention four school staff whom he had arrested, though he only gives details on the offenses of three: two were having sex with students and another was drunk while at school. Considerations of school discipline rarely reflect on the activities of adults in either, though there is evidence that teachers and administrators verbally and sexually harass students and the poor treatment by school staff has a detrimental effect on student behavior and morale (Mukherjee 2007).

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[74] It appears the officer lifted the text from the teacher's statement, without changing the pronouns. Salvador served time in jail and paid $232 in fines.

Managing "Dangerous", Resistant, Irritating, and Needy Students

School police officers are often called to deal with difficult students; however, not all difficult students are the same. In this section I utilize "ideal-types" to characterize four of the types of difficult students with which police officers seem to most often seem to deal: the dangerous student, the resistant student, the irritating student and the needy student. As an analytical construct, "the ideal-type is a logical utopia" (Hearn 1975:534). This means that, though the ideal-type may not exist in perfect congruence with its empirical form, it does exist as an "empirically possible state of affairs" (Hearn 1975:535). If constructed properly (i.e., according to scientific practices and following empirical rules), ideal-types become useful tools for understanding our socio-cultural world. I use them here to characterize some of the types of students police officer are called to manage.

The Dangerous Student

All students have the potential to be a threat or to pose a danger but only some students are treated as essentially threatening or dangerous. The most prominent example in the PCAs: students suspected of gang involvement.[75] During the TxSSC conference the gang awareness trainer discusses a student who he suspected of being a gang member: "I ran his MySpace page, which I hope y'all been doing. Usually your kids have a page for you and another one for their friends. They put the vanilla page out there." Using evidence he obtained from his MySpace page—pictures of the student and his friends wearing bandanas and forming hand signs—the student was suspended until the end of the school year. "Whatever happens to him, who cares? He's too old to come back into my building. When you find the dumb little gangbangers, show them what's really going on with gang life...Get 'em all out of school, if you have to." Another trainer whose presentation was focused on school policing states, "If gangbangers show up to a school sporting event, go over there, give them their money back and escort them off the property. Don't allow it to escalate." Those students identified as gang members may very well be the most feared type of student on campus. Their very presence, even absent of criminal or aggressive behavior, is associated with violence and disorder.

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[75] It's likely that students involved in drugs, either as sellers or users, may also be categorized as essentially dangerous, though I don't have the evidence to make such a claim here because such offenses are not processed through citations handled by the municipal courts.

Patterns in gang citations suggest that Latino and/or Hispanic students, and especially males, bear the brunt of the gangster label. Though it is not clear where the gang awareness trainer obtained his data, during the training he asserted that fifty percent of every new gang formed is Latino. Regardless of the empirical accuracy of his figures, the symbolic association between Hispanic males and gang involvement is worthy of note. This association also appears quite strongly in the minds of school officials (Morris 2005).

> Latino boys provoked fear in many teachers, especially when the boys were suspected of gang involvement…Many teachers expressed "othering" of Latinos, constructing the group as exotic and untrustworthy and connecting them to negative gang activity (Morris 2005:36).

Similar to the pattern that seems to be emerging in LSC, Hispanic male students are most often pegged as gang members based on their attire. In fact, in Morris' study, also conducted in Texas, it was the "combination of race and gender and dress [that signaled] the difference between a potentially dangerous student and a harmless one" (Morris 2005:37). Though White students in his study would adopt similar mannerisms, speech and styles of dress of their Hispanic male counterparts, they were not subject to the same degree of scrutiny and did not inspire similar levels of fear and backlash (Morris 2005). The following excerpts from LSC PCAs illustrate the ways in which attire is interpreted as indicative of dangerousness. Like the majority of citations issued for gang-related activities in LSC, both of the citations below were issued to Hispanic males.

The Dangerous Student

Fraternities, Sororities, Secret Societies, and Gangs: September, 2007

> Two school police officers "were called to the theatre lobby for a student displaying gang colors and being noncompliant. The student was identified as Richard. The officers escorted Richard to the SRO office. Richard is a documented blood gang member. One of the officers searched Richard based on information that gang members and known associates of the gangs have weapons, [sic] officers safety and the safety of the school, a frisk was conducted where a small pocket knife was located. A more further [sic] search was conducted where a lighter, and a red bandana were located. Richard was also wearing a red undershirt, red socks, and one red shoelace in his right shoe.[76]

Fraternities, Sororities, Secret Societies, and Gangs: October, 2007

[76] Richard's case was transferred to the juvenile court.

> "The officer observed Ronald walking down the 100 wing hallway wearing all red clothing. The school police officers have dealt with Ronald (documented gang member/Pyru Bloods) on several occasions where he was wearing red clothing, waving a red bandana in his hand, or wearing a red bandana hanging out of his right pocket. Both officers have explained to Ronald prior to today, that he is not permitted to wear red clothing to school. The officer escorted Ronald to the school police office...The officer did not conduct an immediate frisk on Ronald until the other school police officer arrived approximately a minute later, because Ronald is considered violent and on parole. The other officer conducted a frisk for safety, where a silver pocket knife was located in Ronald's right front pocket (3 ½ " blade). 3 pocket knives, one set of knuckles were taken off gang members at the high school in the past three weeks. A further search was conducted were a red washcloth (rag) was located in Ronald's right back pants pocket. No other weapons were located."[77]

In both cases, Richard and Ronald were searched based on the officers' suspicions that they were gang members and that, as gang members, they are prone to violence and/or likely to be carrying a weapon. In Ronald's case, the issuing officer mentions that other suspected gang members had been discovered possessing weapons on the campus in the three weeks prior to their search of Ronald. The implication is that successful discoveries of weapons in the past warrant the searching of individuals suspected of being gang members in the future. Further, it serves to solidify the association between suspected gang members and weapons possession. What is not mentioned are the number of cases in which a suspected gang member was searched and no weapon was found nor how many weapons are found on students not suspected of being gang members. Regardless, these examples serve as a good illustration of the ways in which ethnicity, gender and attire interact to frame certain students as threatening, even to the police themselves.

The Resistant Student and the Irritating Student

Resistant and irritating students are similar in that both commit some sort of affront to school officials; they challenge the "authority, control, and definition of the immediate situation" of the teacher, administrator, or school police officer (Van Maanen 2010:98). I distinguish between the two based on the how overt they are in their affront. Resistant students are those students who actively challenge or question adult authority; whereas irritating students are those who passively ignore or disregard adult authority (Tedeshchi and Felson 1994). In the school context, irritating students might pretend not to hear instructions or to not take them seriously as well as make jokes about, or mock school officials (McFarland 2001).

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[77] Ronald's case was transferred to the juvenile court.

The Resistant Student

Disruption of Classes: March, 2003

SRO was called to the In-School-Suspension classroom regarding a disruptive student, Reynaldo. ISS instructor "stated that he had tried to work with Reynaldo but that he refuses numerous re-directs and corrections in behavior while in the class. He constantly defied the instructor and came up to his desk and yelled out, 'Fuck this project. Fuck that assignment. I'm not doing this fucking shit.' While the instructor was explaining to the SRO Reynaldo's behaviour, Reynaldo "continued to utter profane statements witnessed by the SRO. He said, 'Man you're a fucking idiot. You don't know what you're fucking talking about, fuck you.' The SRO heard enough profanity in the class and ordered him to gather his belongings and exit the classroom. The SRO had to place handcuffs on Reynaldo's wrists to get him to walk to the SRO office. Along the way, Reynaldo stated, 'My daddy's gonna whip your ass when I tell him about this.' Once safely inside the SRO office, the handcuffs were removed. After issued a citation, Reynaldo "stated that the SRO was 'wasting his time' because he was not going to pay the fine. He also refused to sign the citation." [78]

Disorderly Conduct, Language: January, 2008

The SRO and one of the security guards of the alternative high school were conducting searches of approximately 40 middle school students inside the gym with one of the schools security guards. One 8th grade student, Andre, had avoided being searched by the security guard and went to the SRO to be searched. The SRO "began searching Andre's leg area and he yelled 'Your grabbing my fucking nuts.' The SRO advised Andre to calm down and stop using profanity. Andre became more belligerent and stated, 'This is bullshit, I don't care if you are a police officer.' The security guard told the SRO that he was offended by Andre's language. The SRO detained Andre and asked the security guard, did he want to file a disorderly conduct language against Andre. The security guard told the SRO that he would sign a statement of the facts against Andre."[79]

The Irritating Student

Disruption of Transportation: January, 2006

High school students were boarding school buses at the end of the day. Four students were standing in the parking lot, obstructing the exit path of one of the

[78] Reynaldo appeared in court and opted for a deferral. He was ordered to participate in a youth diversion program through the county's juvenile probation department. His parents were ordered to participate in parenting classes. Reynaldo received an extension but has not yet completed the terms of his deferral.
[79] Andre's case was transferred to the juvenile court.

> buses. The School Resource Officer asked the group to move. "From approximately 30 feet behind the four students, the SRO raised his voice and told the four students to step to the side and allow the bus to pass. Immediately, three of the four students walked to the far right side of the drive allowing the bus to safely pass. The fourth student, Jerrod, instead of going to the far right with the other students, turned around and took a step towards the bus causing the driver to slam on the brakes. The bus visibly lurched forward and stopped immediately. As Jerrod turned around and took a step forward he made eye contact with the SRO and had a big smile on his face as though he was playing around…The SRO directed Jerrod to come to him." Jerrod ran away and hid from the SRO, who pursued him for several minutes. The next day the SRO located Jerrod and issued him a citation.[80]

Behaviors like those exhibited by the students above have sometimes been called acts of "everyday resistance" or "infrapolitics" (Kelley 1994). They are the "seemingly innocuous, individualistic acts of survival and resistance" (Kelley 1994:9). These responses are often borne of frustration. However, displays of frustration or anger by those who are marginalized can be used against them "If you do not have the right to be hostile, anger can be read as violence, disruption, disrespect, or evidence of inherent deviancy, or cognitive and behavioral impairment" (Meiners 2007:30). Though their acts of resistance may not ultimately be effective in subverting power relations in school over the long term—and, in fact, they may make conditions worse for the student—these acts of everyday resistance of school authority can be viewed as moments, however brief, of "relative autonomy" where students can step outside their subordinated role and/or the monotony of the school day (Kelley 1994; McFarland 2001).

The Needy Student

The behaviors of the needy student may parallel the behaviors of the resistant or irritating student. They differ in that the needy student's behaviors appear to emanate from social or personal needs that the school is unable or unwilling to accommodate. However, troubled students are often recast as troublemakers by school officials and troublemakers are easily seen as "undeserving of the school's services" (Bowditch 1993:506).

The needy student is perhaps best represented by the special education student. No data is collected by the LSC MC on a juvenile's special education status, so there is no way to gauge

[80] Jerrod did not appear in court and a juvenile warrant was issued for his arrest. As of July 2008, Jerrod was still too young for an adult warrant to be issued.

how frequently special education students receive citations in school. What makes citations of special education students an interesting case is that, while special education students are protected from being excluded from school if their misbehavior is deemed to be a manifestation of their disability, these protections do not extend to punishment from school police officers, i.e., to citation or arrest [81] (Browne N.D.; Schwartz and Rieser 2001). In other words, school police officers need not take into consideration if a student's misbehavior is influenced by their special education status when issuing a citation or arresting them for misbehavior in school. As such, it is conceivable that there are cases where a special education student could not legally be punished by the school, but could be written a citation. In each of the following PCA excerpts, the officer notes that the student being cited is a special education student. This notation is unusual.

The "Needy" Student

Disruption of Classes: May, 2006

> Levander, a special education student, was not allowed to attend his other classes because he had "poor performance and behavior" in his special education classroom. "Levander then became upset at [his teacher] and took his anger out on a [sic] old dictionary book which had no value and ripped it. Levander then started yelling aloud profanity language towards [his teacher] and using explicit language that was not allowed in his classroom." Levander was disciplined by the school administrator and then referred to the SRO. "Levander refused to sign the citation and indicated that other citations exist for the same offense." [82]

Disruption of Classes: May, 2006

> The police officer was dispatched to the elementary school in regards to an out of control student. He arrived to meet with the special education teacher who advised that earlier that morning he was teaching a class in portable 412. Student D'Shawn did not want to work. He put his head down, then got out of his seat, approached a student sitting at a computer and slapped him on the back of his head. He refused to sit down. The teacher had to place myself between D'Shawn and another student, to protect the other student. The teaching assistant asked D'Shawn to sit down. He picked up an object from the teachers desk and raised it as if he was going to hit the teaching assistant and said he was going to hit her in the head. The learning process was interrupted and could not continue. The teaching assistant took the other two students to the adjoining classroom. The

[81] The Individuals with Disabilities Education Act (IDEA) requires that a child with a disability receive appropriate educational services. The school is required to provide services to assist in behavior improvement, especially children with emotional disabilities. A child who acts out cannot be excluded from school if the behavior was a manifestation of their disability (Schwartz & Rieser 2001).

[82] Levander's case was referred to the juvenile court.

> teacher phoned D'Shawn's mother. She told him to do whatever he needed to do, suspend him, or send him home, whatever. The teacher escorted D'Shawn to the principal's office and told the principal what happened. D'Shawn and the teacher returned to the room. The parent support specialist came into the room. D'Shawn said to the teacher, 'I'm going to stab you in the eye with this pencil.' He held a pencil in his hand. D'Shawn approached the parent support specialist and swung his arms at him, not trying to hit him but trying to make him flinch. The parent support specialist instructed D'Shawn to keep away from him. D'Shawn started swinging his arms at the teacher and then started pacing around the room. D'Shawn came towards the teacher several times as if he was going to hit me. I wrote a referral. He became more incited. The teaching assistant returned to the room and the parent support specialist left. D'Shawn approached me and shoved him. The teacher picked up a chair and held it front of him so D'Shawn could not get close enough to hurt him. D'Shawn picked up some marbles and threw them at the teacher, striking him in the leg, but causing no injury. D'Shawn left the room. The teacher phoned the police. The principal asked that D'Shawn be charged with Disruption."[83]

Levander and D'Shawn's actions are similar to those of student I have characterized as resistant and/or irritating, e.g., cursing and/or threatening teachers; however, these PCAs read in a qualitatively different way than other PCAs, perhaps, in part, because the officer notes that the students are special education students. The impression given in both citations is of a student who is less deliberate and aware of his misbehavior.

School Interrogations and Confessions

In the 1966 case *Miranda v. Arizona*, the U.S. Supreme Court ruled that, in order to guarantee the Fifth Amendment right against self-incrimination, police officers must inform an arrested person that he has a "right to remain silent, that any statement he does make may he used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed" (Walker 1980:182). *In re Gault*, the court ruled that this right extends to juveniles as well, arguing, "It would indeed be surprising if the privilege against self incrimination were available to hardened criminals but not to children" and that such a right is "unequivocal and without exception" (Bartlett 1986).

Contrary to *In re Gault,* however, interrogations that take place in schools appear to be the exception. In *Stern v. Newhaven Community Schools,* a Michigan court ruled that requiring

[83] Text, including errors, was copied directly from the PCA written by the officer. I suspect that the officer cut and paste sections of the teacher's report and neglected to change the pronouns accordingly. D'Shawn's cases was transferred to the juvenile court for processing.

Miranda rights to be read in schools would call for the "unwarranted Constitutionalization" of school practices. In *Doe v. State,* a student argued that a confession to possession of marijuana was inadmissible in delinquency proceedings because he did not receive a *Miranda* warning at any point during the 45 minutes in which he was questioned in a vacant classroom by a school administrator. The Idaho court disagreed:

> The elaborate criminal trial model has no place in the school house. The purpose of the most school house interrogations is to find facts related to violations of school rules or relating to social maladjustments of the child with a view toward correcting it. Giving *Miranda*-type warnings would only frustrate this purpose. It would put the school official and student in an adversary position. This would be in direct opposition to the school official's role of counselor.

In *Commonwealth v. Dingfelt,* the Pennsylvania court took a similar position. In this case, an 18-year-old student was charged with possession of a controlled substance after being searched by his school principal based on a tip that he was selling capsules to other students. The principal conducted the search without giving a *Miranda* warning, found the capsules and then called the police. The student was found guilty of possession and appealed the ruling. His appeal was rejected by the court:

> School officials have a great responsibility to see that the vital process of education can take place in an environment conducive to learning...Certainly the peddling or possession of drugs by a student within the confines of the school is not conducive to a secondary school environment. Therefore, it is the duty of school officials to enforce its discipline...[T]hey should not be limited to the degree that would result in making it necessary to warn students of their constitutional rights everytime a problem of discipline arose and especially when the problem of discipline occasions the knowledge of the commission of a crime. It would be utterly ridiculous for a teacher who confronted a student for throwing a rubber band across the classroom to be under a duty to give Miranda warnings before telling the student to empty his pockets.

In schools, it appears that there are few barriers to using the results of searches or statements obtained by administrators for delinquency or criminal prosecution. The Idaho court minimizes potential concerns for the violation of due process rights of students by framing the student-administrator relationship as a counseling relationship; meanwhile, the Pennsylvania court makes light of the need for such provisions, equating a search conducted to find a rubber band with one conducted to find illegal items. Both courts seem to ignore that the school disciplinary processes are not limited school-based consequences and result in criminal proceedings for students—

criminal proceedings that, in cases outside of the school, would be required to adhere to *Miranda* provisions.

As with searches, the courts have not been clear on how much law enforcement needs to be involved in order for *Miranda* warnings to be required in school (Walsh 2005). Each of the cases below involves confessions obtained with the involvement of school police officers in one form or another in Lone Star City school district.

> Minor in Possession of Tobacco: February, 2004
>
> The officer informed the middle school Assistant Principal that they had received a "Campus Crime Stoppers" tip about Chauntel. The officer appears to have reproduced the Assistant Principal's statement verbatim in his PCA. "When Chauntel arrived in my office, I told her that we had received a tip about her and asked her if she had something she should not have. She replied, 'Yea, but it's not mine.' I asked her to show me what she had and she produced a pack of cigarettes from her book bag. I asked her if she had anything else. Chauntel said all she has was the cigarettes and emptied her book bag and pockets to show me she was telling the truth. I called the officer into my office and showed him the cigarettes. We explained to Chauntel that it was illegal for a minor to possess cigarettes and let her know she would be ticketed for the offense."[84]
>
> Minor in Possession of Tobacco: November, 2006
>
> "The officer stood by while administration conducted a search on three male students. As they conducted the search on the first student, an administrator reported spelling smoke coming off of one of the student's clothing. After asking which one had been smoking, Cedrick said, he had. The officer asked him if he had any cigarettes on him. Cedrick replied, he had a piece of a cigarette on him. The officer conducted a search of Cedrick's clothing and found a ¼ piece of a Black Mall cigarette and a green lighter in his left front pant pocket."[85]
>
> Minor in Possession of Tobacco: May, 2007
>
> "Affiant spoke to a teacher who stated she had received information student identified as Patrice was in possession of a tobacco cigar. Affiant went to Patrice's classroom and escorted her to his office where the Assistant Principal was present. Affiant asked Patrice if she had anything in her possession she was not supposed to have. Patrice voluntary admitted her friend had given her a 'Black & Mild' cigar and it was inside her jacket pocket. Patrice reached into her

[84] Chauntel plead guilty and paid $200 in fines and court fees.
[85] Cedrick appeared in court and opted for a deferral. He was ordered to pay $75 in court fees and to complete a tobacco awareness program. He completed his deferral and the case was dismissed.

> front jacket pocket and retrieved a wrapped 'Black & Mild' cigar. The Assistant Principal conducted a pat down of Patrice's outer clothing. No other contraband was located."[86]

The school police officer's involvement in the obtaining the confession varied: in Chauntel's case, the confession was obtained by a school administrator after receiving word from the school police officer that the student may have contraband; in Cedrick's case, the confession was obtained by both the school administrator and the officer working in conjunction; and, in Patrice's case, the confession was obtained by the school police officer with the administrator playing a minimal role. In each of these cases, the law is unclear as to whether or not the confession was appropriately obtained. The first issue of contention is whether or not Chauntel, Cedrick, or Patrice felt as though they were "in custody" or if they felt free to end the interrogation and leave the room. In the school context, where school attendance is compulsory for most students, this is unlikely to be the case. Further, in cities such as Lone Star City, where a student can be issued a daytime curfew violation for not being school, it is also unlikely that students would feel as though they could leave freely.

Assuming that Chauntel, Cedrick and Patrice were in fact in custody, it remains unclear if the *Miranda* warning would still apply because of the school administrator's participation in the questioning. Guidelines published by The National Juvenile Defender Center suggest that the officer interrogation of Patrice would require *Miranda* because the officer conducted the majority of the questioning. Cedrick and Chauntel's cases would be less clear. In Chauntel's case, was the administrator acting at the behest of the school police officer? If yes, then *Miranda* would likely apply. In Cedrick's case, was the officer playing a larger role in the interrogation? If yes, the Miranda would also apply.

An additional consideration should be taken into consideration when reflecting on the confessions of the students above. Let's assume that the police officer had read the students their rights. Did the students offer their confessions voluntarily, knowingly, and intelligently? There is some evidence to suggest that this is unlikely. In a series of studies conducted in the 1980s, Grisso asks children if they understood their *Miranda*. Only about 21 percent of those questioned understood the components of *Miranda* and could be said to know enough to waive their rights knowingly and intelligently. Some would argue that these statistics are indicative of the lack of

[86] Patrice did not appear in court and a juvenile warrant has been issued for her arrest.

maturity and the susceptibility to outside pressures of juveniles (see U.S. Supreme Court case *Roper v Simmons)*. Perhaps a more pressing issue is that many students may not realize that confessions made to school law enforcement have different implications from confessions made to school administrators. Especially in cases where a student may feel they have already been "caught" by the school administrator, students may not realize that the criminal justice processes that ensue from police officer involvement are distinctive from the school-based processes initiated by the principal.

Use of Force

The final issue we will consider is the use of force by school police officers. According to one TxSSC conference trainer, one crucial way in which school policing is different than street policing is that school police officers are more restricted in their ability to use force:

> In the street, if you mistreat someone, you could flip them a dime and tell them to file a complaint. You can't do that in school setting. The school police officer has to be a lot more tactful. His job hangs in the balance.

Verbal and physical abuse of citizens is not considered pervasive in street policing, however, nor is it considered unusual (Skolnick 1986). The limited research on school policing suggests that, like street police, school police are susceptible to practicing abusive policing, including name calling, public humiliation and excessive force (Sullivan 2007).

The capacity to use force is a defining characteristic of police work (Bittner 1990). Not only is the authority of the state to commit violence extended to police officers, but being prepared to respond with force is also considered part of the policing subculture (Skolnick 1966). The use of force by the police is often justified "on grounds of practical necessity and expert judgment" (Rumbaut 1979:264). Police officers

Two of the key predictors researchers have found of police use of force against citizenry are suspect resistance and suspect demeanor (Garner, Maxwell, and Heraux 2002; Worden 1996; Mastrofski, Reisig, and McCluskey 2002). Black, and to a lesser extent, Hispanic populations are often characterized in the literature as the most resistant to, and suspicious of, police. Some suggest that this is likely the result of an established history of abusive and/or neglectful policing in communities of color (Brunson 2007; Carter 1985; Huo and Tyler 2000; Morales 1972; Samora, Bernal, and Peña 1979).

The following excerpt describes an incident of school police use of force against a high school student. The extent of force discussed in this PCA is unusual and did not appear in any of the other PCAs analyzed. This is one of the longest PCAs included in the sample. It has been reproduced in near entirety for several reasons: (1) to detail the context surrounding the officer's use of force, (2) to give as complete a picture as possible of how the officer interpreted his interaction with the student, and (3) because it weaves together many of the previous themes considered in this chapter.

> Tobacco and DC Language: September, 2005
>
> The high school SRO was driving near the high school when he "observed a black female in an orange-pink top and jeans with a corn roll hairstyle walking near the school. The Ofc observed that the student was holding between her right index and middle finger first knuckles, a burning tobacco product. The Ofc through his experience on the high school campus, knew the female to be one of the displaced Louisiana students at the high school and was familiar with the students' appearance. The Ofc proceeded to campus with the intent to contact the student on campus. At about 09:35, Ofc Wright was contacted in the SRO Office by Hall Security and informed that a group of students were not in their assigned area of instruction, were causing a disruption in the campus halls, and had evaded him when he attempted to make contact. The Ofc proceeded on foot to the north end of the campus to assist in identifying the students and bringing them to the attention of Administration. The SRO was en route back to the Main Office area when be observed the black female student he had observed on the street with the burning tobacco product. The Ofc informed the student that be had observed her with the tobacco product and asked her age. The student informed the Ofc that she was 15 years of age and stated in a loud and rebellious voice that the Ofc couldn't do anything about her smoking because she was not on campus. Throughout the escort from the Gym breezeway to the Main Office, the Ofc heard a barrage of profanity from the female in regards to how the Ofc couldn't give her a citation, how she was not going to pay any citation, and somehow she could pay as many citations as the Ofc could possibly give her. The Ofc heard the student yell the work [sic] 'fuck' multiple times in various short exclamations as she laughed as though the incident was funny to her. The Ofc observed several teachers in the Main Corridor north who appeared offended at the students' language.
>
> Ofc Wright received a witness statement from Teacher HQ as to the offensive language. Once in the SRO Office, Ofc Wright requested the Assistant Principal to assist in a Probable cause/incident to arrest search of the person and property of the student who the Ofc had now identified as Nedra. Nedra continued her defiant profanity and un-cooperation yelling the work [sic] "fuck" multiple times in various short exclamations. When the Ofc informed Nedra that he would read her the statute for Possession of Tobacco by a Minor, Nedra quickly told the Officer 'fuck no' and walked out of the SRO Office as Ofc Wright was informing

> her that she was not free to go. The Ofc contacted Nedra in the Main Office and physically turned her back towards the SRO Office and began escorting her back to the SRO Office as Nedra told the Ofc to 'don't fucking touch me.' When the Ofc informed Ms Robinson that she was to be searched by the assistant principal, Nedra stood, placed her backpack on her back, turned and backed against the wall stating that 'you ain't going to fucking touch me.' The Ofc corrected Nedra and asked her if she was going to cooperate. The Ofc heard Nedra repeat her profane refusal, necessitating the Ofc to rise and attempt to force compliance as Nedra actively attempted to push the Ofc away. The Ofc grabbed Nedra in an [sic] wrist lock/arm bar and thrust her front first into the finger print table in the SRO Office as the Ofc continued to ask for her compliance. Nedra continued to struggle with the Ofc and managed to knock the Ofc's radio microphone off his shoulder. At this point the Ofc observed another officer grab Nedra and place her against the wall informing her that she was very close to being arrested for Resisting Arrest/Search and/or Assault on a Police Officer and if she wanted these charges. At this time Ofc Wright observed Nedra, though still using profanity at and to the Ofc's and Administration in the room, began to physically comply. The Ofc's released Nedra so that she could be seated. The assistant principal completed the search of the person and property of Nedra in the presents [sic] of both officers with one Doral brand cigarette located in the backpack of Nedra." [87]

Though the officer offers very little reflection on his role in the events leading up to his use of force, based on the description provided, Nedra could be described as a resistant student—a student who challenges the "authority, control, and definition of the immediate situation" of the school police officer (Van Maanen 2010:98). She actively challenges the officer's authority to dictate, and ultimately, punish her for activities she participated in off-campus. She rejects what appear to be his verbal attempts to assert his authority with laughter and profanity. Perhaps her ultimate rejection of his authority is when she attempts to leave his office. Based on his description, Nedra was likely within her rights to end the interrogation and to leave the room: the officer had not read Nedra her *Miranda* rights, though it was clear she was being held in custody and the administrator was involved at the request of the police officer.

That Nedra is a black female who moved to LSC as a result of the flooding in New Orleans also warrants attention. Though students discussed in other PCAs have cursed at police officers and actively challenged their authority, rarely are they characterized in the manner in which Nedra was characterized: "loud and rebellious." Reflecting back on qualitative studies of

[87] Nedra was also charged with a disorderly conduct language case. This DC case was dismissed. Nedra opted for a deferral on the tobacco charge. She did not complete the deferral and was given an extension.

school discipline discussed earlier, this characterization of African American female students by school officials is common (Morris 2005; Ferguson 1999). Nedra's loud and rebellious behavior did not resonate with the comportment of a proper lady (Fordham 1993; Cousins 1999).

The officer also highlights Nedra's identity as a "displaced Louisiana student." This serves two purposes: first, to challenge any potential legal criticisms that the officer may have confused Nedra with another student; second, to mark Nedra as distinctly separate from the rest of the student body of the high school. Rather than recognize Nedra as a student among other students, the officer notes that he recognized her "appearance" as distinct type of student. Perhaps the officer holds similar views to his gang unit counterpart and associates increased problems in school "after the New Orleans kids came over."

Though more research needs to be conducted on how use of force plays out in the school context, researchers argue that aggressive policing draws may have "the unintended consequences of accentuating divisions within the society" (Skolnick 1984:125). I suspect that beyond being a resistant student (as I have characterized them), Nedra's experiences represent these unintended consequences in tangible form.

CONCLUSION

In this chapter, I provide an analysis of school police officers' interactions with students, and insights into the nature of their work in schools. Many of the same concerns expressed about policing in the community are identifiable within the school context: the use of police for the social control of the vulnerable and disenfranchised members of our society and the fuzzy professional and ethical boundaries surrounding police searches, confessions, and the use of force.

I also highlighted school police officers' adoption of the larger subculture of policing which extols a punitive, "watchman style" (Skolnick 1984). In contrast to the mentor/social worker image emphasized by community-oriented model of policing, school police officers in LSC appear to be acting as gatekeepers to the school-to-prison pipeline. They actively participate in the criminalization of student activities that most would probably agree are not criminal issues. The misuse of school police officers' authority by school officials to punish students who are resistant, irritating or needy is especially disconcerting. Not only does it reduce the credibility of school administration (and school police officers) as fair and responsible disciplinarians but it

also communicates to students the problematic messages that "virtually any measure is acceptable to a society that is incapable of controlling itself" (Hutton 1992). The disregard for the rights of young people and the manipulation of legal code to punish those students who fail to conform to particular norms of dress, speech, or mannerisms can be considered an act of symbolic violence. With regard to policing, it is "the absence of violence, not its presence, that defines the craft of policing" (Manning).

After writing a student a citation in school, the police officer submits the citation to the local "court of limited jurisdiction," i.e., the local municipal court or the justice of peace court, for processing. Once the citation is received by the court, the school has little to do with any further resolution of the complaint against the student. When asked about the court's contact with schools, Judge Anderson notes, "Schools file tickets and it's not their problem anymore." When a similar question was posed to one of the juvenile caseworkers, she replied, "Occasionally, a principal or teacher will call to verify that a kid can do their community service hours at school, but that's about it" (Sandy). It is to the courts that we now turn.

CHAPTER 5: JUVENILE JUSTICE IN "THE SHADOWS"

Academic considerations of lower level courts, such as the municipal court, are rare (Meyer and Jesilow 1997; Brickey and Miller 1975). This is surprising because it is in the lower level courts that people will likely have their first contact with the criminal court system. One researcher characterizes misdemeanants as "the forgotten man of the criminal legal system, even though offenders like himself comprise the great bulk of the police and court workload" (Mileski 1971:488). Research on the processing of adult misdemeanants is scant, but literature on juveniles processed in the lower courts is virtually non-existent (the one exception I have been able to locate: Reyes 2006). Perhaps the absence of attention to the municipal courts role in the administration of juvenile justice is the reason that the state's Attorney General, Greg Abbott, refers to the municipal courts as the "shadow juvenile justice system" in Texas (Abbott 2001).

The focus of this chapter is to shine light into the shadows of juvenile processing in Texas' municipal courts. I approach this task in two ways. First, I situate the municipal court within the larger criminal legal system of Texas (both adult and juvenile). Municipal courts are high-volume courts that process nearly eight times the number of cases processed by Texas' other adult criminal courts. Though municipal courts are "tooled for capacity, they are not tooled for juveniles" (Scott). For this reason, it also makes sense to briefly consider processing in juvenile courts and juvenile processing in municipal courts.

Second, I weave together my consideration of juvenile justice in the Lone Star City Municipal Court (LSC MC) with findings gleaned from the small body of existing literature on the lower courts. Existing literature suggests that lower courts are marked by a presumption of guilt and a primary concern of obtaining guilty pleas (Mileski 1971). Most court processes take place without the involvement of a defense attorney and in the absence of trials (Mileski 1971). Institutional pressures are exerted on court personnel to process cases efficiently and court officials often work to ensure that defendants do not challenge the charges they face (Atkinson 1970; Brickey and Miller 1975; Feeley and Simon 1979). In such courts, "The control of crime is as much bureaucratic as it is a moral enterprise" (Mileski 1971: 533). My research confirms that many of these depictions accurately describe processing in the LSC MC. While existing studies

have focused on the processing of adult misdemeanants, my research focuses on the processing of juveniles. Processing juveniles rather than adults shapes court processes in significant ways.

"IT'S A CLASS C WORLD"

"It's a Class C world…that's a saying we have around the prosecutors' office" (Forrest: Prosecutor). As the prosecutor's statement suggests, of those who have had some contact with the criminal justice system in Texas, it's likely that their experience was with the municipal court. "The poor, the rich, the connected, the unconnected, the sane, the insane—they all come into the municipal court" (Scott). The municipal courts are the highest volume courts of any court in Texas. In 2008, the Texas municipal courts processed over eight million cases. In comparison, Texas' district and county criminal courts combined handled 1.04 million cases. This amounts to 429 cases filed in the municipal courts per every 1,000 people in the state of Texas (The Texas Municipal Court Education Center 2009). As the chart below indicates, the general trend in Texas municipal courts is increasingly high volume caseloads.

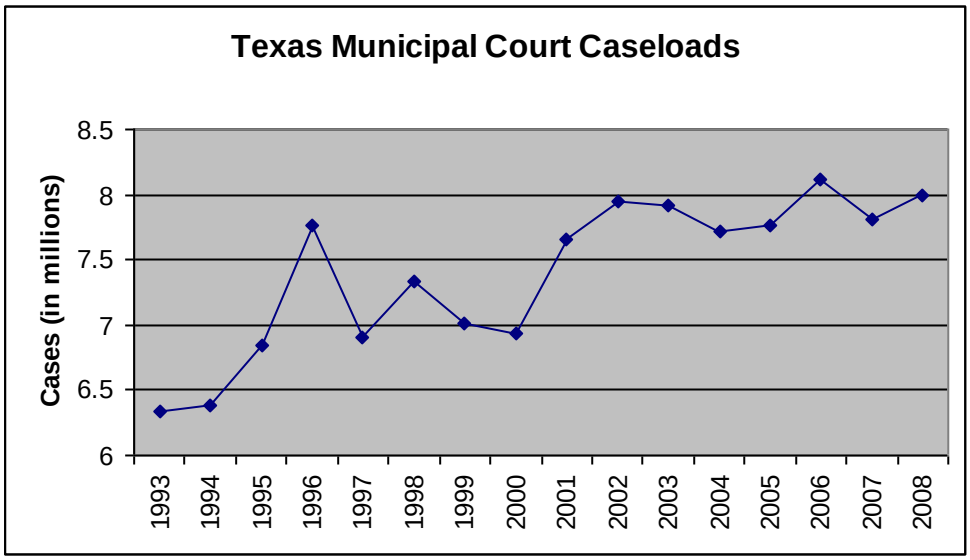

Figure 5.1 Municipal Court Caseloads

Financial sanctions are the most frequently used sanction in the U.S. legal system, yet they are the least studied by criminologists. "Overwhelmingly, criminologists much prefer to talk about prisons as if fines did not exist (O'Malley 2009:2). Unlike incarceration, financial sanctions benefit governments because they can be used to fund the courts, they can re-circulated to other

components of the criminal justice system (e.g., the police, victims services, etc.), or they can provide financial support for other government services. "In a significant degree, therefore, modern fines and damages operate as techniques for socializing or spreading the costs of governing risks and harms" (O'Malley 2009:22). Though fines have long existed as a means to produce income for the state, in contemporary times, the amount of money generated for the state by fines is astronomical (O'Malley 2009).

The municipal courts are, in fact, the only component of Texas' criminal justice system that generates revenues for the state. In 2008, the courts generated nearly 731 million dollars for Texas, about ten percent of which is retained by the local municipality. Revenues generated in 2008 by Texas' MCs were 329 percent higher than those generated in 1989 (175 percent higher when adjusted for inflation) (The Texas Municipal Court Education Center 2009). Similar to caseloads, the amount of revenue being generated by the courts has been rising. This increase is due to larger caseloads, as well as to the higher court fees and fines being assessed against those accused of crimes in the MCs.

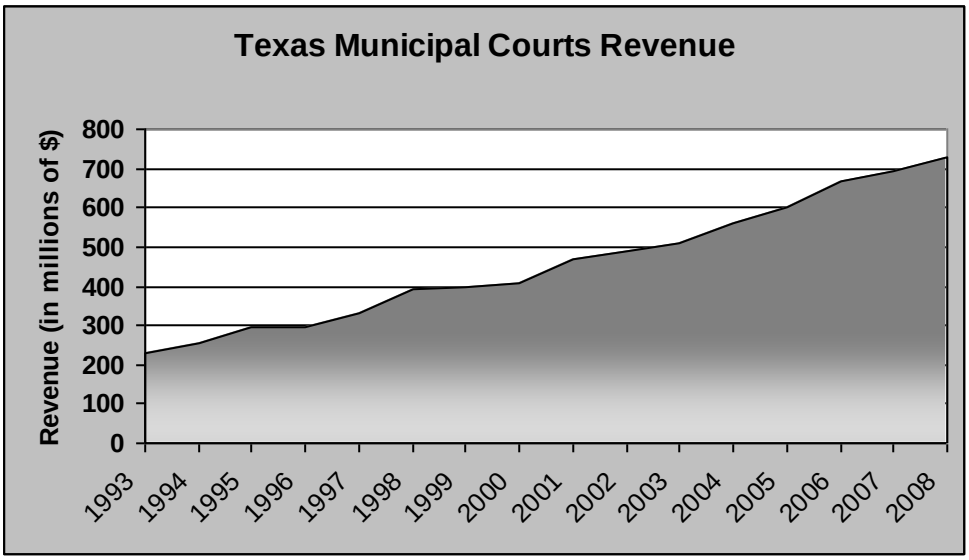

Figure 5.2 Municipal Court Revenues

For the most part, the Texas Legislature determines the amount of court fees that each defendant in Texas' municipal courts will be required to pay. Currently, the base fee for courts costs associated with municipal ordinance violations and state misdemeanor violations start at $52 per offense: forty dollars are slotted for the state's general fund, $4 for the State Juror

Reimbursement Fee, $6 for the State Judicial Support Fee, and $2 goes to the Indigent Defense Fee. Local courts can add a $5 fee for the services of a peace officer to write citation ($1 of which is sent to the state), $5 for the Juvenile Case Managers Fee, $3 for Municipal Court Building Security Fee, and $4 for Municipal Court Technology Fund. Texas school districts have pushed in the legislature for access to revenues generated from school ticketing but, as of yet, have been unsuccessful. In total, defendants found guilty or who plead "no contest," can be required to pay up to $69 in court fees, in addition to whatever fines the court assess. Fines in the municipal court are capped at $500 per offense.

There are over 900 municipal courts located throughout Texas. Generally, judges in these courts are appointed by the local city council rather than elected by residents of the local municipality. Municipal court judges tend to be White males (76 percent White, 66 percent male). In many jurisdictions, a MC judgeship does not require a law degree, or in some cases, even a college degree: sixty-two percent of municipal court judges have a college degree, 56 percent have a law degree, and 52 percent are licensed to practice law.

Juvenile Justice: The Juvenile Court vs. the Municipal Court

Unless transferred to the adult system for processing, a juvenile accused of a crime in Texas will go to one of two places: the juvenile court or the municipal court.[88] The juvenile courts are civil rather than criminal courts. This means that when a young person is processed by the juvenile court, they are not convicted of committing a crime. Instead of determining criminal culpability of a child, the juvenile court makes determinations of "delinquency" or "conduct indicating a need for juvenile court supervision (CINS)." Most commonly, a juvenile determined to be delinquent has participated in a felony or a Class A or B misdemeanor, or has violated a court order of a municipal or justice of the peace court. CINS offenses include committing multiple Class C misdemeanors, being truant, running away, being expelled from school or abusing inhalants (Anderson 1997).

[88] In some jurisdictions, especially rural locations, the juvenile will be processed in the justice of the peace court. Like the municipal courts, these are criminal courts of limited jurisdiction—they deal with low-level, fine-only offenses (i.e., Class C Misdemeanors).

Young people processed in the juvenile courts are entitled to representation if they cannot afford to hire their own legal counsel.[89] Young people in the juvenile courts are afforded more privacy than adults accused of similar criminal acts, e.g., court processes and records are not open to the public and records are sealed or expunged upon reaching adulthood. Additionally, juvenile court sanctions are intended to be rehabilitative rather than punitive, at least as the juvenile court was originally conceived (Feld 1993; Kupchik 2006). Though the juvenile courts are civil courts, young people who are found delinquent, or in need of state supervision, face consequences similar to adults found guilty of committing a crime, e.g., probation, detention in a secure facility, etc. This is partly the result of efforts in the 1990s to make juvenile justice more punitive.

Until the mid-1990s, all juvenile cases (with the exception of traffic offenses) went to juvenile court. During the Texas panic about juvenile crime, space was carved out of the Family Code to allow for children between the ages of 10 and 17 to be found criminally culpable of low level offenses, i.e., Class C misdemeanors.[90] The siphoning of these cases to the municipal court was both an effort to prevent swells in juvenile court caseloads and to deter young people from committing more serious offenses by allowing the state to intervene at younger ages and for less serious offenses. In 2008, Texas Municipal Courts processed over 160,000 juvenile Class C Misdemeanor cases. This is nearly three times the number of cases processed in the juvenile courts (about 53,000)[91].

RESEARCH QUESTION, DATA AND METHODS

This chapter focuses on answering the question: How are juvenile cases processed in the Lone Star City Municipal Court? As the specific interest of my research is on the school-to-prison pipeline, the primary focus will be on the processing of citations related to school incidences; however, as the process is markedly similar for both non-school and school-based cases, I will

[89] Though, depending on the jurisdiction, many juveniles appearing in juvenile courts do so without a legal counsel (Feld 1993).

[90] In some cases, there is a fine line between which cases will go to the juvenile court and which will go to the municipal court. Theft cases are a good example. If two 14-year-olds each steal a shirt, one that costs $49 and one that costs $51, from the local department store, the second child will be processed in the juvenile court while the first will be processed by the municipal courts—a Class C theft is considered theft of items valued at less than $50.

[91] This data was obtained from the State of Texas Office of Court Administration. http://www.courts.state.tx.us/psrb/psrbhome.asp

occasionally reference examples of non-school cases in order to illustrate a point about a municipal court process.

"The complexity of the criminal courts is resistant to quantitative analysis" (Scheingold 1984:157). As such, the bulk of my data on LSC MC processes is qualitative. Data for this chapter were obtained between March 2008 and June 2009. There are two primary sources of data from which discussions are drawn: observations of the municipal court and interviews with municipal court personnel. Observations of municipal court juvenile dockets were conducted between March 2008 and March 2009, with the most intensive observation period from March 2008 to December 2008. Lone Star City Municipal Court holds juvenile dockets three evenings a week. On Monday and Tuesday evenings, four hour-long dockets are held per night; Wednesday's dockets are lighter, with two hour-long dockets held in the evening. Between 18 and 20 juveniles are scheduled to be seen during each hour-long docket. If every juvenile scheduled were to appear in court, two prosecutors would have about six minutes with each young person.

At the beginning of each docket, the judge informs the juveniles of their rights en masse.[92] S/he then calls each of the names of the juveniles from the docket. During the calling of the docket, juveniles indicate they are present either by saying "Here" or by raising their hand. After the judge speaks, the prosecutors will begin to call juveniles to be seen individually. Once finished with the prosecutor, juveniles may be asked to meet with a caseworker. The final step of court processing entails meeting with the judge.[93]

Typically, there are two prosecutors, two caseworkers and one judge processing juvenile cases simultaneously. Simultaneous processing poses challenges for following a particular case through the entire court process. For example, I may elect to observe an initial interaction between one prosecutor and a juvenile. After meeting with the prosecutor, the juvenile returns to the pews to wait to for the judge to call him and the prosecutor will call another juvenile to her desk. While observing the second juvenile's interaction with the prosecutor, the judge may call the first juvenile to her bench. I can choose to continue observing the second juvenile's

[92] The reading of rights, if they are read at all, en masse is common in the lower level courts (Meyer and Jesilow 1997). When instructed on their rights in groups, people are less likely to ask questions if they do not understand (Mileski 1971)

[93] Judges can ask a juvenile to meet with a caseworker or the prosecutor again. After this meeting, they are most often asked to wait for a second meeting with the judge.

interaction with the prosecutor or switch to observing the judge's interaction with the first juvenile. Generally, I would make the decision about which interaction to observe based on one or more of the following: how well I could see and hear the interaction (my preference was for interactions I could best observe), the type of offense the juvenile was accused of (my preference was for school-based offenses), or how long I had been observing the interaction I would have to discontinue (my preference was to continue on with the current observation rather than switch to a new observation).

Switching between interactions required that I come up with a strategy to keep track of which juvenile was being seen by which member of the court staff. Early in my fieldwork docket schedules were posted on outside of the courtroom door. The docket schedule lists the juvenile's name, the time they are scheduled to appear, their case number, the type of offense for which they are accused (i.e., city ordinance or criminal misdemeanor), the name of the officer that issued the ticket and the specific offense with which they are charged (e.g., curfew-daytime.) I would arrive to the court early to transcribe the docket schedule. When the judge would call the names of the juveniles on the docket, I would indicate in my notes which juveniles were present. Knowing who was present in the court allowed me to discern which juvenile's case I was observing when I would enter an interaction midstream. However, the practice of posting dockets on the door was discontinued within a few weeks after I started my fieldwork. Fortunately, a sympathetic clerk in the youth services division began to provide me with a printed copy of the docket schedule before each night's sessions.

After about a year of observations of the municipal court juvenile dockets, I began interviewing court personnel and others with municipal court knowledge or experience. Conducting interviews near the end of my observations allowed me to ask more focused questions about the structure of the court and how tickets are processed, the perspectives and reflections of courtroom players, and patterns in actors' interactions with each other and with the juveniles being processed. Though I developed an interview guide, the guide was flexible and allowed me to focus on the subjective experiences of the interviewee as I saw fit (Sjoberg and Nett 1997). Interviews were conducted between February and June 2009. Eleven municipal court employees were interviewed: five judges, three prosecutors, two caseworkers, and one court interpreter. Additional interviews were conducted with a staff member of the Texas Municipal Court Education Center, two defense lawyers, and a representative of the Texas Education

Agency. I also observed and transcribed a media interview with one LSC municipal police officer.[94] The chart below includes the names all individuals referenced in the dissertation. Those marked with an "*" participated in an interview.

Table 5.1 Name and Occupations of Individuals Referenced in Dissertation			
Name	**Position**	**Name**	**Position**
Anderson*	Judge	Margaret	Prosecutor
Thompson*	Judge	Rebecca*	Juvenile Caseworker
Hernandez*	Judge	Sandy*	Juvenile Caseworker
Hudson*	Judge	Maria*	Court Interpreter
Gomez*	Judge	Kurt*	Defense lawyer
Katie	Prosecutor	Sarah*	Defense lawyer
Henry*	Prosecutor	Reyes	LSC Police Officer
Chad*	Prosecutor	Gene*	Texas Ed. Agency
Forrest*	Prosecutor	Scott*	Texas Municipal Court Education Ctr.
Sergio	Prosecutor		

LONE STAR CITY MUNICIPAL COURT

The Lone Star City Municipal Court (LSC MC) is a relatively non-descript, brick building located in the city center, about a block west of the main freeway and three blocks east of the services hub for city's homeless population. The courthouse shares the majority of its building space and parking lot with the municipal police department. There are two free public parking lots located a block away from the courthouse, as well as metered parking along the streets in front of and behind the courthouse. During the evening, when juvenile dockets are held, it is generally easy to find parking near the courthouse.

The courthouse building has three stories; the majority of juvenile-related activity occurs on the first floor in Courtroom One. Visitors to the courthouse are required to pass through a metal detector and have their personal items scanned by an x-ray machine. During the day, these

[94] The municipal police officer was interviewed by a reporter form local television station during a special court session held at one of the city's high schools. I contacted the reporter and asked him to view the video footage and transcribe the interview. The reporter consented. The interview was conducted in March 2008.

machines are run by armed law enforcement officers; during the evening, they are operated by unarmed guards hired from a local security services agency.

After passing through security, one enters a large lobby area. Though the lobby is less crowded during the evening hours, it is still difficult to navigate for someone who is unfamiliar with how the space is organized. To the right of the information counter—which is generally locked during the evening dockets—is a three foot tall, white machine that dispenses small, numbered slips of paper. There are a dozen service windows around the lobby, each one differentiated from the next by a large red number located above it. Every few minutes, a number is called and instructions are given over the Court's PA system: "Number 125 proceed to window 7." The message is repeated several times in both English and Spanish. When a person's number is called, the visitor is allowed to approach the appropriate service window. Large lighted signs keep track of which numbers are currently being served. Some of the windows conduct limited municipal court business—the challenge for each visitor is to determine which of the buttons on the white number-dispensing machine they are to push and which window they are to report to when called. Announcements on the PA system and movement in the lobby are constant and integrating into municipal court activities is much like merging onto a busy highway.

Throughout the lobby area, there are hard plastic chairs and wide, backless benches where visitors can sit while waiting to be processed. During peak times, there aren't enough places to sit for all the visitors and it is common to see people standing while waiting. In contrast to the crowds that gather to wait for the juvenile dockets, which are predominantly Hispanic and African American, the crowds in the first floor lobby typically offer a better representation of the city's social, racial and ethnic diversity.

Courtroom One

After a juvenile and his family enter the MC lobby, it is not immediately obvious where they are to report for the juvenile docket. The security guards usually anticipate their confusion and are able to point them to Courtroom One. Courtroom One is the second to largest courtroom in the building. It is a windowless room with high ceilings and dark, wood paneling. The walls are bare, except for a large calendar hanging near the court clerk's desk and a couple of small signs printed on colored paper that inform visitors to silence their cellphones and that food and drinks are prohibited in the courtroom.

To the left are four rows of wooden pews separated by a narrow aisle in the center. These pews serve as the seating area for juveniles and their families while waiting to be called by a prosecutor or by the judge. The pews are constructed from hard wood and lack padding—they are uncomfortable to sit in for extended periods of time. During busy dockets, there is not enough space in the pews for all of the juveniles and their families. Those who are unable to find a seat in the waiting area can elect to stand in the pew area, leave one member of the family in the court while the rest of the family waits just outside the courtroom doors, or, if allowed, sit near the caseworkers in what would, during a trial, normally be the jury area.

To the right of entrance is the main "stage" of the court: the prosecutors' desks, the judge's bench and the jury area. This entire area is sectioned off from the courtroom's public area by a two-and-half-foot tall wooden fence. The small fence makes it impossible for individuals to access courtroom personnel without drawing significant attention. For example, if a visitor wished to speak with the court clerk to ask a question such as, "Am I in right place?" they would need to walk in front of the judge's bench, between the prosecutor's desks and over to the right of the back wall to where the court clerk sits.

Two prosecutors' desks are located several feet behind the small wall, in front of and to either side of judge's bench. The prosecutors sit behind their desks, with their backs to the judge and facing those waiting in the pews. Each prosecutor's desk is equipped with a computer and small machine that allows prosecutors to capture signatures of juveniles and their parents electronically (similar to those used by merchants to capture signatures for credit card purchases). The prosecutors sit in cushioned, swiveling office chairs that allow them to shift between the judge, the printer, and the public without having to get out of their seat.

The judge's area sits on a platform, making it the highest area of the courtroom. The judge's bench is also equipped with a computer. To his left is the court clerk's desk. A counter area is positioned between the judge's bench and the area just in front of it. When meeting with a judge, juveniles and their families stand in front of the counter. Depending on the judge, juveniles may be reprimanded for leaning on the counter.

To the right of the judge's bench and next to one of the prosecutor's desks is the jury area. This is the area where the caseworkers sit. Court translators would also occasionally sit in this area when waiting for a prosecutor or judge who needed their services. After the second week of observations, I was invited to sit in this area by the caseworkers to conduct my

observations.[95] This allowed me to better hear conversations occurring between the prosecutor and juveniles, as well as between judges and juveniles. When the caseworkers were called to meet with a juvenile and her family, they would use a small office adjacent to the courtroom. Meetings with caseworkers were the only part of court proceedings when a juvenile and his family would have privacy from others.

The LSC Municipal Court Workgroup

Every court has "a courtroom workgroup" (Nardulli 1978). In the LSC MC, this workgroup consists of the juvenile judges, the prosecutors, the juvenile caseworkers and the court interpreters. It does not include public defenders or defense attorneys as these individuals are rarely present during juvenile dockets.[96] Beyond inhabiting the same work space, the courtroom workgroup is driven by common institutional goals and incentives (Nardulli 1978). For the most part, the achievement of personal goals and enactment of biases are subordinated by goals and activities that maintain group and system processes. This does not mean that biases are non-existent and irrelevant but, rather that group norms and ways of conducting court business has a momentum of its own that is distinctive from the desires of individual actors.

Judges

Most of the Lone Star City's Municipal Court judges are full-time employees who are appointed for a judgeship by the city council. However, all of the judges that oversee juvenile appearance dockets are part-time, "substitute" judges hired by the Clerk of the Court. The bulk of juvenile dockets were overseen by one of four part-time judges: Judge Hudson, Judge Thompson, Judge Anderson, or Judge Hernandez.

Judge Hudson is an African American male, probably in his late 50s or early 60s. He is the most informal of all the part time judges; it was common for him not to wear his formal judge's robe during juvenile dockets. He has his law degree and, in the past, he was a lawyer for the indigent as well as a private practice lawyer for individuals who wanted to sue schools/school districts. Currently, he is the legal counsel for a school district in a neighboring city.

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[95] Indeed, I owe much of my access to court processes to the caseworkers. As courts are generally "closed communities" (Blumberg 1967), it is quite likely that I would not have been able to gain the insights I have about LSC MC processes without the support of the caseworkers.

[96] During my year of observations, I witnessed one juvenile who was represented by legal counsel.

Judge Thompson is an African American female, also in her late 50s or early 60s. Prior to working in law, she was a social worker. Outside of presiding over LSC MC juvenile dockets, she runs a private practice and works weekends in the magistrate's court at the county jail. She has a reputation for being tough. During an interview with one of the prosecutors, she was referred to as an "ace in the hole. [Prosecutors] can threaten uncooperative kids and kids with attitudes with this judge. She can put the fear in them." She often engages in long conversations with juveniles in her court. Perhaps her most unusual practice is looking at the shoes of the juveniles that appear before her and using that to determine the degree to which a child is cared for (or spoiled by) his or her parents.

Judge Anderson is a White female and is the youngest of all judges, probably in her mid- to late 30s. She was a former prosecutor both in the municipal court and in the juvenile court. She now has her own private practice. She is the most matter-of-fact of all the judges and rarely engages in conversation with the juveniles or their families. Typically, she will ask the same three questions of each juvenile: Do you understand the terms of your agreement with the court? Do you agree to do them? Do you have any questions? Because she does not engage in conversation with the juveniles, her dockets consistently conclude on time.

Judge Hernandez is a Hispanic male, also in his late 50s or early 60s. His reputation for being dramatic is enhanced by rumors that he is an aspiring actor and has been in a commercial. More so than Judge Thompson, Judge Hernandez will engage in extended conversations with juveniles and their families. These conversations often include lectures. His dockets typically run over time, sometimes by several hours. Judge Hernandez is the only judge that expressed apprehension about my presence in the courtroom. Early in my observations, Judge Hernandez called me up from the public pews and asked me who I was. I informed him that I was a graduate student doing my dissertation research on school ticketing. He then told me about a problem he had with the city council a few years ago; someone from city hall had observed his court with a stopwatch and was timing how long he took to process cases. He threw the observer out of the courtroom. The meaning of Judge Hernandez' story was clear: it was a warning that he could also throw me out of the courtroom, should I step out of line and should he so desire.

Judge Gomez is also a Hispanic male in his 60s. He is a full-time judge in the Municipal Court. Just prior to the start of my fieldwork, Judge Gomez was the informal "juvenile judge" of the court. Though there are competing stories as to why, Judge Gomez was pushed out of

presiding over juvenile dockets. He has a contentious relationship with the caseworkers and the MC administration, but the prosecutors seem to respect him. One prosecutor described him as the "flip side of the coin to Thompson. He's more of a gentle and compassionate judge. Juveniles are true and dear to his heart, he tries to do what he feels is best, to get them the help that they need" (Forrest). He is highly involved in the State's Latino judge's network and in advocating for changes to state laws relating to the municipal court. Perhaps, in part to his antagonisms with the caseworkers, during the previous Texas Legislature, Judge Gomez advocated for a new law requiring professional development for municipal court juvenile caseworkers.

In contrast to popular images of judges as the rulers of the courtroom and the arbiters over complex legal issues, the role of the judge in the municipal court is much more mundane (Jacob 1973). In describing the role of the substitute judge, one judge remarked, "Substitute judges mostly handle documents. It's not fun or glamorous." Rather than navigators of complex legal and ethical terrain, the role of the judge in the municipal court is more like that of a factory worker on an assembly line. One prior researcher describes their role quite dismally: "Their role is exactly the opposite of the intellectual challenge…It is a mind-deadening, stupefying post…Although depicted as ruler of his courtroom, he is more often captive of seemingly unmanageable outside forces" (Jacob 1973:68). Though the judge's did little to avert typical municipal court processes, the presiding judge's personality did set the pace for processing and influence the overall tone of the court.

Prosecutors

Though judge's personalities may influence their court interactions, prosecutors are the practical powerbrokers of the courtroom (Jacob 1973; Simon 2007; Meyer and Jesilow 1997). They are responsible for maintaining much of the judicial economy in the courtroom—deciding appropriate charges, negotiating pleas, determining fines, and/or dismissing cases. As the following illustrations suggests, judge's rarely challenge or alter the prosecutor's decisions.

> At the Judge Hudson's request, the court clerk approaches the prosecutor for the deferral[97] paperwork for Jerard, a African American male who is in court for a daytime curfew charge.

[97] "Deferrals" is an abbreviation for deferred disposition. If a juvenile opts for a deferral—and most do—then the juvenile must plead no contest to the charge and complete a series of requirements (i.e., paying

> Prosecutor Sergio: He ain't getting no deferral.
>
> Court clerk approaches Judge Hudson to relay the message. The judge wants to know why there will be no deferral.
>
> Sergio overhears the question and replies: He got a deferral back in '07 for curfew and tobacco.
>
> Judge Hudson nods and returns his attention to Jerard—he accepts Jerard's guilty plea.

Though Sergio seems to enjoy his authority as a prosecutor, not all of the LSC MC prosecutors relish their power: "We give the kids a preliminary talking to and the judges just have to sign [the forms]. A lot of the responsibility is thrown on us. We shouldn't worry about it…They should flesh out what we are fleshing out" (Henry).

MC prosecutors are hired by the head prosecutor, who rarely participates in the juvenile dockets. MC prosecutors handle both adult and juvenile cases. They rotate responsibility for the evening juvenile appearance dockets, which are not considered desirable dockets to work. They have more decision-making power than the judges, but their work during the juvenile dockets is also repetitive and boring. Though the circumstances of each juvenile's case may be different, the prosecutor's interactions with the young people were systematic. Margaret, one of the prosecutors who quit soon after I began my observations, was particularly "good" at the routine. She rarely asked questions about what happened or read the issuing police officer's report. It wasn't unusual for her never to make eye contact with the juvenile or their family members while she met with them. In spite of her impersonal interactions with the juveniles, she was respected by court personnel for her efficiency in completing dockets.

There is a high amount of turnover in prosecutors. During my year of observations, there were six prosecutors that regularly worked the juvenile dockets. Over the course of the year, two of these prosecutors quit and another two were fired. At three years of employment, Henry was the longest serving prosecutor. All other prosecutors had worked in the court for about a year or less. When asked about the cause of high prosecutor turnover, Henry stated, "It's because the pace is too much, the workload is big and it's not too mentally challenging."

When hired, prosecutors are "thrust into the court right away. There's not a lot of areas where you'll have that experience right of the bat. It's a good place to cut your teeth as a lawyer"

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court fees, completing community service hours, etc.). Once the terms of the deferral are completed, the charge is dismissed.

(Forrest). Prosecutors in the municipal court participate in "rapid-fire trials" which, in contrast to other criminal prosecutor's offices, are relatively low stakes. "If you lose a speeding ticket case, no one is going to cry. There is a sense that you'll get 'em the next time" (Forrest).

Notably absent from the LSC MC are defense attorneys.[98] When asked their reflections on the absence of defense attorneys, the prosecutors expressed mixed sentiments. Those who had more of a rehabilitative orientation towards the role of the municipal court in juvenile cases expressed the tension they experience between prosecuting cases (or "seeking justice") and assisting a child who appears to be in need. Forrest illustrates this tension when he states:

> [It's] Always a question of, 'Who's our client?' We have to be careful of what are roles are. We are not their attorney; we are not there to give legal advice; we are not their parents. There is a fine line we need to ride. We need to be informative- they need to know their options and to understand their options. We have to give the information they need to make informed decisions. It's kind of hard. We have to let them make their own mistakes. Sometimes it's hard when you have a fourteen year-old kid who's not considering the consequences of his actions, but it's their choice not to hire an attorney. Even though a lot goes into [that choice], like economics."

In contrast to Forrest, Henry's orientation, however, is towards facilitating a smooth and efficient court process. This orientation is evident in his discussion of the absence of defense attorneys.

> Getting to the truth is easier without a lawyer. It's easier. They'll sit and talk with you. You can figure out what happened and what's best for the kid. They rarely say they didn't do it. Paperwork processing might be easier because I won't have to give the same speech. They'll know on their end right away if they want to fight or take a deferral (Henry).

Sandy, the caseworker, is skeptical that having a defense attorney would make much of a difference in outcomes, "They are all going to end up with deferrals, anyway." Given that defense attorney's appear to make little difference in terms of outcomes other court research, Sandy may be right (Sudnow 1965; Feld 1993)

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[98] In U.S. Supreme Court case *Argersinger v. Hamlin,* the court held that those who could not afford to hire their own counsel would be appointed a publically provided defender; however, this only applied to cases that could result in a jail term. As a fine-only offense court, the ruling does not apply to municipal courts. Though, individuals do end up serving time in jail as a result of involvement with the municipal court. This is discussed later in the chapter.

"Representing the Human Side"[99]: Caseworkers

About four years ago, LSC MC incorporated caseworkers into the juvenile dockets. These caseworkers serve multiple formal and informal functions. First, they are responsible for identifying resources in the community to which young people in the MC can be referred. Judge Hudson described them as "experts at identifying community services/resources that might be available to you or your child to navigate his or her way through to adulthood." This includes identifying counseling and behavioral services, community service opportunities, and educational support for young people. One prosecutor mentioned, "It's wonderful to have case managers, especially with really young kids or kids that are little slow. They can figure out the best course of action and they know the types of classes that are available" (Forrest). In this sense, they serve to facilitate the rehabilitation of the juveniles. However, their actual involvement with the child or their family is limited. When asked what types of things they do with the juveniles with which they are involved, Sandy states, "We do check-ins over the phone, or ask them to come to court for a meeting. We don't do home visits."

Generally, prosecutors and judges are responsible for identifying which children are in need of rehabilitative or support services, as juvenile access to the caseworkers is based on a referral from either of these two court personnel. The caseworkers feel mixed levels of support from the other court personnel. Rebecca mentions that the caseworkers are sometimes treated like the "step child" of the court and that the prosecutors resistant to them because they see the caseworkers as "big softies." She feels they receive the most support for the judges, with the exception of one. Though caseworkers generally wait for referrals, they can and, sometimes do, request to see particular young people or advocate for children though never formally asked by court personnel to be involved in their cases. According to LSC MC guidelines, after two citations, all juveniles are required to be referred to caseworkers. This was sometimes the case; more frequently, though, a referral to a caseworker depended on additional factors beyond the juvenile's prior record. Often, juveniles would be referred to the caseworkers because they had an attitude with a prosecutor or because a parent seemed exasperated with, or overwhelmed by, her child.

The second function of the caseworkers is organizational and relates to issues of time and money. With regard to time, caseworkers serve as extra bodies to process juveniles. Judge

[99] Rebecca's response when asked about the role of the caseworkers in the juvenile dockets.

Anderson states, "We are lucky to have caseworkers. We don't have a lot of time. They can see if there is anything else there." With regard to money, having caseworkers on staff allows the municipal court to generate additional revenues. In jurisdictions without caseworkers, municipal courts are required to transfer any juvenile who has received more than two Class C Misdemeanor citations to the juvenile court. Those that employ juvenile caseworkers are allowed to retain jurisdiction of juveniles cases as the court sees fit, even if that child had been charged with more than two offenses. To assist municipal courts in keeping juveniles in their caseloads, the legislature allows for a $5 increase in *all* court fees assessed by the municipal court. In other words, five dollars from all court fees collected by the MC, be they from a juvenile or an adult, can be retained by the local municipal court to provide court services for youth. The retention of these revenues by the court is significant, especially in light of recent LSC and state of Texas budget crises. During the city's recent hiring freeze, for example, the youth services division of the LSC MC was the only division of the court sheltered from the budget crunch. While other divisions were forced to figure out how to reduce spending, youth services had the enough surplus revenue to hire two additional employees—one new caseworker and a support staffer.[100]

The third function of the caseworkers is informal. During our interview, Sandy, mentions her suspicion that judges will sometimes utilize caseworkers to alter the terms of a prosecutor's agreement without having to involve, or to call the attention of, the prosecutor. "The judges sometimes come to the caseworkers to modify the deferrals. They come to us to keep the peace, reduce tension. No one has said that but that's how I read it." With the exception of Judge Thompson, judges who changed the terms of a prosecutor's agreement with a juvenile would rarely do it openly. When asked if she ever changes the prosecutor's agreements with juvenile defendants, Judge Anderson stated, "With one kid, the prosecutors gave him conditions that were not age appropriate. The kid was twelve but he looked about eight. He has stolen something." Rather than take the issue up with the prosecutor directly, Judge Anderson "spoke with the caseworker. The caseworker recommended counseling and mental health testing to help him with his issues. The caseworkers set it up."

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[100] Based on a recent conversation I had with the court caseworkers, the additional staff has recently come in handy because many of the prosecutors have quit and the prosecutor's office is currently half-staffed. Now, caseworkers are determining the conditions of most, if not all, deferrals granted by the LSC MC prosecutors.

Lost in translation: Court Interpreters

Though municipal courts are not legally required to provide translators, the LSC MC most often does provide them for the juvenile dockets. After the judge provides opening instructions to the juveniles and their families at the start of each docket—with the exception of Judge Anderson, these instructions are not translated into Spanish— she typically asks how many individuals require an interpreter. Individual's needing these services will raise their hand. The judge (or, sometimes, the interpreter) will ask the name of the child; the interpreter, prosecutors and judge will each mark the names of those needing translation on their copies of the docket. During a typical docket, between ¼ and ½ (or, about 5 to 8) of the juveniles present require an interpreter either for themselves or for their parent/guardian. Cases involving an interpreter tend to take longer and prosecutors will often negotiate amongst themselves who will hear these cases. On one occasion, the two presiding prosecutors played a game of "rock, paper, scissors" to decide —the loser of the game would have to hear the cases that required an interpreter.

Court interpreters are independently licensed and contracted by the city to provide interpretation services for the court. Two interpreters provided their services regularly during the juvenile dockets: Maria and Isabella. I was only able to interview Maria as Isabella had quit working at the court by the time I was conducting interviews. Maria is originally from Mexico, but has been living in the U.S. for most of her life. Prior to working for the court, she used to provide translating services for her mother, though "not professionally." As an interpreter with the LSC MC since 1998, she was the longest working member of the court with whom I spoke.

According to Maria, as officers of the court, interpreters take an oath to be "non-biased and not be on the side of anyone. I don't want anyone to think that I am rooting for them. I'm just the interpreter." (Maria). Sometimes this proves to be a difficult endeavor. Maria feels that some of the families she is translating for do not seem to understand the court proceedings but will not say anything. "They just sit there, nodding, like they get it, but, they don't. Culturally, they are too shy, too timid. Some won't ask directly. Some people get it, but some people just kind of go 'huh?'"

While interpreting, translators are expected to communicate statements made by court personnel verbatim. "It's a big issue. Especially with law, words have very specific meanings. The law chooses its words for very specific purposes. Their role is just to translate, not to interject" (Forrest). However, according to Maria, there are legal concepts and practices in the

U.S. that have no equivalent in Mexico. The two that she highlighted that are most relevant to juveniles are curfew and deferral. "Curfew—there's no such thing in Mexico. If you aren't in school, the police isn't out there vigilant, trying to give you a ticket. I can literally interpret these words but they don't have the concepts."

Maria admits that she does not "always" take the role of interpreter. Sometimes she secretly hopes the prosecutors will mention something they haven't. "My body language and facial gestures may be noticeable to others." Other times she more actively intervenes:

> Nelson, a Hispanic male, is in court for a Disorderly Conduct Fighting citation. When he meets with the prosecutor, the prosecutor asks him what he wants to do about his charge.
>
> Nelson: A deferral
>
> Prosecutor Sergio: Who said I was going to offer you a deferral? You were in here 2 years ago for the same thing.
>
> Nelson: You asked me what I wanted.
>
> Sergio: That doesn't mean I am going to give it you. You already had your one chance. You can go to trial or pay the fine.
>
> Nelson's Mom asks in Spanish (interpreted by Maria): How does the trial work?
>
> Sergio explains the trial process then states: The problem I am having is that you were fighting in the gym and then, on the way to the principal's office, you start fighting again. You can go to trial or you can pay a $292 fine. Either way it's going to be bad.
>
> Mom (interpreted by Maria): Does he only get one chance?
>
> Sergio: Yes
>
> Nelson is visibly irritated. Sergio senses this and responds: You got a problem with me right now? (Long pause). Here's the deal, you guys have been through this before. Y'all can go to the trial, fight the charge. It doesn't matter to me. It's up to your son. Do you want to plead no contest?
>
> Nelson decides to plead no contest. Maria and I make eye contact. Maria's lips are drawn tight and her eyes are wide—she is visibly upset with Sergio.
>
> After Sergio dismisses Nelson and his mother, one of the caseworkers and Maria meet with the judge on the side to try to persuade him to give Nelson a deferral.
>
> Maria to judge: He is dressed up for court. [She points to the pews]. Look at the way these kids dress—like they are in their living room eating popcorn and watching T.V.
>
> Caseworker Sandy: He's dressed so nice.

> Caseworker Rebecca to me: He's supposed to refer repeat offenders to the caseworkers to deal with. He can't just [slams fist on palm of other hand] 'You're guilty, pay the fine!' His offense was two years ago and he completed the deferral. Whatever happened to 'innocent until proven guilty?' It's not like we are dealing with a murderer here!
>
> Maria and the caseworker have convinced the judge to offer Nelson a deferral. Sergio is aware of this and attempts to make his case for not offering a deferral to the caseworker.
>
> Sergio: As a lawyer, I am supposed to be confident. [Slams hand on table.] That's what I do!

BUREAUCRATIC JUSTICE: "PROCESSING CASES AS EFFICIENTLY AS JUSTICE ALLOWS"[101]

The municipal courts are caught between "contradictory functional requirements": justice and efficiency (Sjoberg 1960). The requirement of justice, often encapsulated in the principals of due process, places checks on government intervention into the private lives of individuals. However, criminal courts, and especially high-volume courts such as the municipal courts, also require efficient processes in order to effectively manage their huge caseloads. "[A] principal for organizing work that emphasizes impersonal efficiency and a legal order that emphasizes checks against efficiency cannot be fully compatible. Any system that seeks to organize work around both principals will suffer some strains" (Littrell 1979). Packer (1964) describes this predicament as a tension between two models of criminal justice: a crime control model and a due process model. The due process model emphasizes adversarial proceedings and protection of the rights of defendants, while the crime control model focuses on efficient and speedy dispositions of cases through routine operations. Bureaucratic justice is what results from the negotiations between due process and efficiency.

Though all municipal courts may struggle with the tension between justice and efficiency, different jurisdictions will negotiate this tension in varied ways. As the following discussion of tinkering with the juvenile dockets illustrates, in LSC MC, concerns with efficiency most often take precedence over due process concerns, at least at the organizational level.[102] Most

[101] This phrase was taken from an interview with a prosecutor (Forrest) when asked about the priorities of the LSC MC.

[102] When asked individually, court personnel would often express concerns about due process (e.g., the absence of defense attorneys, juveniles/families lack of knowledge about their rights).

court personnel agree that only 50 to 60 percent of the juveniles scheduled to appear in court during the juvenile dockets actually show.[103] Sometimes non-appearances are dispersed throughout the evening, but often they are concentrated in particular hours. Lulls and delays in courtroom processing depend on a variety of factors, including how many people show up for a particular docket, how many of those who arrive need translators (processing of those cases tend to take longer), which prosecutors are hearing cases, and which judge is presiding. Occasionally, processing goes smoothly and quickly, but, more often than not, juveniles and their families are forced to wait for long periods of time in order to have their cases processed. In extreme cases, juveniles and their families may wait for hours to be seen by a prosecutor or a judge. "If it takes a long time, people could ask for their court date to be reset, but most people don't ask" (George). Though it's impossible to predict who is going to appear or how efficiently a docket will run on a particular evening, court personnel are constantly tinkering with the dockets to find the most efficient way to process the largest amount of juveniles.

The head prosecutor has the final say over how many juveniles are scheduled for each hour of the docket, though it is the caseworkers' office that actually creates the docket schedules. Based on conversations between the head prosecutor and the caseworkers about the dockets, the head prosecutor is primarily concerned with processing large numbers of people as quickly as possible to prevent backlog in the court system (measured by the amount of time between when the ticket was received by the MC and when the defendant is scheduled to appear in court).[104] The caseworkers are also interested in efficiency but from the perspectives of the juvenile and their families rather than the court. Caseworkers are primarily concerned with reducing how long young people and their parents are required to wait when in court, as well as minimizing the number of times they are required to appear in court—as some juveniles receive multiple tickets, the caseworkers press for prosecutors to process all of the juvenile's cases simultaneously rather than forcing the child and her family to return to court multiple times to process each citation individually.

During my observations, juvenile dockets were restructured twice: from 20 juveniles scheduled per docket to 18 juveniles scheduled per docket, and, finally, to 20 cases (rather than

[103] Arrest warrants are issued for those who do not appear in court.
[104] According to court records, the LSC MC was able to schedule 96 percent of their cases within 60 days of when the citation was received by the court.

juveniles) scheduled per docket. Scheduling cases rather than juveniles had an imbalanced effect on the efficiency of courtroom processing of juveniles. If the docket was heavy with juveniles with multiple cases and not all of them made their appearance, the hour ran fairly smoothly and most juveniles would be seen during the hour in which they were scheduled. However, if there were a large number of no shows or if the no shows were concentrated among the juveniles with multiple tickets, there would be gaps of time when the prosecutors and judges had nothing to do. Though infrequent, when there were gaps, they could last for up to 15 to 20 minutes. If juveniles and their families from later dockets had arrived early, they would not be called to meet with a prosecutor as they had not yet received the judge's instructions and the docket had not yet officially been called. From the juveniles and families perspective it would appear that judges and prosecutors were being idle and that they were being made to wait without purpose. If a majority of the juveniles appeared, however, no positive effect on docket efficiency was discernable and dockets would still run over time.

Changes to dockets had interesting effects on the processing of juveniles cases. As long as the juvenile appearing in court with multiple citations had not been in court before and did not have too many citations to be processed (two, or three, at the most), the prosecutors would generally respond favorably. Often the prosecutor would dismiss one of the charges in exchange for the juvenile agreeing to more stringent terms on the second, e.g., complete more community service hours on the remaining charge. In cases where the juvenile had too many citations for the prosecutors tastes (typically, more than three though this varied by prosecutor), the prosecutor would be less flexible. He may decide that he is unwilling to offer a deferral on one of the charges and force the juvenile to decide between going to trial, or pleading guilty (or no contest) and paying the fines on the remaining charges. In general, the prosecutors do not look kindly on "repeat offenders" who return to court, especially if they are being charged with similar crimes and/or if they have already received a deferral; restructuring the dockets had little effect on how these juveniles were processed. Instead, processing of their cases seemed to depend on the whether they met with a more lenient or punitive prosecutor.

By the time I concluded my observations, the head prosecutor and the case workers were attempting to negotiate a third change to the dockets. The following excerpt from my field notes offers perhaps the most telling illustration of the impossibility of finding an efficient docket:

> I arrive to court to see the head prosecutor sitting at one of the prosecutors desks. When I ask the case worker about it, she tells me that, in addition to Sergio being fired a week or two ago, they have fired Katie. The prosecutor's office doesn't have enough people to run the juvenile dockets and the head prosecutor is filling in...Throughout the evening, the head prosecutor asks the caseworkers for advice on handling particular cases. At one point, she asks me a question about where to refer a juvenile for theft classes. As I am about to tell her that I am not a caseworker, Rebecca interjects and answers her question. The prosecutor processes cases by the book (i.e., very little chit chat, minimal discussion about the circumstances surrounding the citation, etc.) but seems flustered. She mentions out loud, to no one in particular, 'I still think we are talking too much. It's like they don't hear anything you say and you keep having to tell them the same thing over again.'

Tinkering with dockets is largely ineffective in relieving courtroom congestion. In part, because adjusting the docket does not address the range of other factors that influence court processing time, including the number of juveniles/families that require translation services, the complexity of the juvenile's cases, and differences in personalities and processing styles amongst prosecutors and judges. Sometimes processing would be stalled while waiting for an interpreter. Other times, judges and prosecutors would take more time to process the juvenile's case than the 6 or so minutes allotted.

Visibly absent from LSC MC's experiments with docket-tinkering was the consideration of the due process rights of the juveniles. Both caseworkers and the head prosecutor emphasized the need for efficiency, either from the perspective of the court organization or from the juvenile/family. This preoccupation with efficiency is consistent with the tenets of what Feeley and Simon (1992) and Garland (1996) call "penal managerialism." Though Feeley, Simon and Garland's discussion focus on prison management, parallels can be drawn between contemporary motivations shaping prison policy and those shaping municipal court practices. Their performance is not "valuated by reference to intractable, individual-focused, deterrent-reformist purposes, but rather depend upon more feasible and measurable, yet also cynical and often vacuous, systemic targets like the proper allocation of resources, streamlined case processing, and the reduction of overcrowding" (Feeley and Simon 1994:178). Though the docket schedule affects due process (if judges and prosecutors had more time, they may be able to better uphold due process rights, at least in theory), this consideration was never factored into the equation.

Within this system, judges and prosecutors were evaluated based on their ability to adhere to the proscribed routine. Good judges and prosecutors were those that could process cases

in a timely manner. Though almost all the judges and prosecutors could not help but to advise, council, or lecture the young people to some degree, those individuals who took too much time to do this were considered irksome and, in some cases, actually punished. The impression is that the MC isn't looking for

> "charismatic, visionary individuals capable of devising, and giving leverage to, reformative projects, but an army of impotent, homogenous executive automata that will humbly sustain faceless systems and mundane routines… The natural complexity and capriciousness of the variable human is largely regarded as an impediment to the delivery of pragmatic penal policy agendas" (Cheliotis 2006:399).

The impediment of human capriciousness is evident in the firing of the prosecutor Katie. Katie was likely the most unpredictable and dramatic of all prosecutors. Her conversations with juveniles and their families could be heard throughout the courtroom—when being playful, Katie's interactions would serve as comedic relief and would often inspire relieved laughter among those waiting in the pews; when irritated or angry, the court would be filled with a palpable tension and a nervous silence. Katie's interactions with juveniles can best be described as contradictory. On the one hand, the caseworkers referred to her as "our little civil rights activist" because she was the most likely of all the prosecutors to dismiss cases. "She finds where the police messed up and dismisses cases" (Sandy). On the other hand, she was also the most likely to informally punish juveniles she thought were giving her "attitude." Often her punishments consisted of loud, verbal harangues which could be heard throughout the courtroom. If that did not produce the results she desired, Katie would make the juvenile and their families return to pews and wait until the end of the hour's docket or, in some cases, to the end of all the dockets of the evening before seeing them again. Such a punishment was not insignificant—these juveniles and their families would have to wait up to four hours for another chance to speak to a prosecutor.

Someone in the court disapproved of Katie's behaviors and reported her to the head prosecutor. A couple of weeks prior to Katie's termination, the following email was sent to the caseworkers and prosecutors by the head prosecutor:

> A couple of concerns were raised about the handling of juvenile dockets and the time it has been taking to get thru the dockets. Prosecutors need to refrain from giving advice or counselling, and restrict themselves to explaining options available to juveniles and their families...Punitive measures for juveniles

> exhibiting a 'bad attitude,' such as making the juvenile wait till the end of the docket or increasing the recommended punishment should be avoided."

Soon after, Katie mentions to the caseworker that she has a meeting with the head prosecutor and that she thinks she is going to get fired because she "questions authority." She joked about recording the conversation to use against her boss. The next evening, Katie arrived in court with an IPOD tucked in her bra and one ear piece of the headset in her ear. She processed the entire evening of dockets while listening to a Dana Owens CD on her IPOD. By the next week, Katie had been fired.

Truncated Prosecution and Standardizing Pleas

One prominent characteristic of bureaucratic justice is the truncating of the prosecutorial process. In an ideal adversarial setting, the process of prosecution includes a series of steps that help to ensure that the government does not overstep its boundaries, e.g., prosecutorial review, a preliminary hearing, indictment by grand jury, etc. In a truncated prosecutorial setting, many, if not all, of the checks that prevent over-ambitious prosecution are missing. Final dispositions result from orderly administrative processes rather than from rigorous fact-finding on the part of court actors and reasoned consideration on the part of the defendant (Littrell 1979).

I will return briefly to the general pattern of municipal court processing before I flesh out what truncated prosecution actually looks like in the LSC MC. After the judge issues her instructions and calls the names of those on the docket, the juveniles are called one by one to meet with the prosecutor. The prosecutor informs the juvenile of the three options he has to resolve her case: (1) she can take his case to trial; (2) she can plead guilty or "no contest" and pay a fine; or, (3) she can plead "no contest" and receive a deferred disposition (a deferral). If the child selects option 1, she is free to leave after meeting with prosecutor; she will receive a notice in the mail about her trial date. If she selects option 2 or 3, she must meet with the judge to formally enter her plea and discuss the term. After her meeting with the judge, she and her family are free to leave.

Nearly every juvenile that appears in court selects option 3, the deferred disposition. Deferred disposition denotes that, upon on a plea of no contest, the court delays further

proceedings without entering a judgment. [105] In opting for a deferral, the juvenile makes an agreement with the court that she will pay court fees, complete a set amount of community service hours, participate in a class or counseling, and commit no further offenses. With regard to the class, most students are required to take a privately-offered, fee-based course called "Dangers without Intentions."[106] This is a two-and-a-half hour class held on the weekends. She typically has three months to finish the terms of her deferral. If she is unable to finish the terms in three months, she can return to the court to meet with a judge and pay additional fees to have her deferral period extended. If she completes deferral successfully, the charge will be dismissed. Most offenses are eligible for deferral.[107]

That the overwhelming majority of young people opt for a deferral is not by chance; instead, it is the result of a remarkably consistent plea-producing process orchestrated by LSC MC courtroom workgroup. This plea-producing process is built upon the presumption that every juvenile that comes before the court is, in fact, guilty. Roberto's interactions with Forrest demonstrate this point:

> December 8, 2008
>
> Forrest is meeting with a Hispanic male who received a ticket for fighting at school. Mom is pregnant and wearing a nutrition and food services work shirt from the LSC school district. A translator is interpreting for the mother.
>
> Prosecutor: It looks like you got in a fight at school. Tell me what happened.
>
> Roberto: [leans forward in chair] I was there but I wasn't even fighting. I was just watching the fight. [Points to another boy in the courtroom]. They got him, too, I think.
>
> Prosecutor: There's no way for me to verify that the officer gave you the wrong ticket.
>
> Roberto: The police officer wasn't even there. He didn't even see it.
>
> Prosecutor: He signed the affidavit. If you want to say you didn't do it, you need to take it to trial. If you want to contest it, I can set it for trial. What I am telling

[105] Sometimes deferred disposition is confused with deferred adjudication. In deferred adjudication, there is a ruling of guilt, but the court suspends the punishment.

[106] I was curious how much the agency which provides the "Dangers without Intentions" course makes from cases referred by the LSC MC. I completed the following estimate to approximate their annual revenues from the court: $20/juvenile* 10 juveniles/evening of dockets * 3 evenings/week * 48 weeks/year= $28,800/year

[107] The exception is a second alcohol offense.

> you is that I'm not just going to take your word for it. Be careful, if you go to trial—if you get convicted, it will go on your record.
>
> Roberto: They have videos at school. I told the police officer to look at it. [Leans back in chair] It's ok, so I'll accept the charge.
>
> Prosecutor tells Roberto and his mom about the deferral option. Roberto agrees to the deferral and the prosecutor explains the terms, including completing community service, taking a student behavior class and paying court fees.

The assumption of guilt is so pervasive that, often times, the issue does not come up in conversations between the juvenile and court personnel unless the juvenile brings it up himself, as Roberto did above (Sudnow 1965). Roberto's case is somewhat atypical in that he attempts to assert his innocence. The prosecutor's strategy of starting the conversation with a statement that expresses his assumption of the juvenile's guilt ("It looks like you got in a fight") is usually effective in silencing any claims of innocence (Brickey and Miller 1975). As was done with Roberto, when young people do offer an innocence account, the prosecutor dismisses or ignores it, giving the impression that the juvenile's account is inadequate and will not likely be considered compelling if the juvenile pushes the issue with a trial (Brickey and Miller 1975)

Nearly all of the LSC MC officials participate in making the juvenile's non-deferral options (a trial or pleading guilty) appear to be undesirable. Above, Forrest misrepresents the trial as a process where the burden is on the defendant to prove his innocence rather than on the state to prove his guilt. This is a common way of framing the trial in the LSC MC. Sometimes this work is done before the juvenile even arrives in court. The juvenile caseworkers' office often calls families a week before they are due in court to remind them. During one of our conversations, one of the caseworker mentions a recent discussion he had with a father of one of the juveniles who was due in court the following week: "I was talking to a father on the phone about going to trial. I told him, 'We don't lose the trials. It's no good to go to trial unless you know the system and how it works.' We barely lose, unless the officer doesn't show up."

Judge Thompson preemptively discourages trials by casting them in terrifying terms during her opening statements, before the juvenile even has the chance to speak with a prosecutor, "You are going up against licensed attorneys. You are going to have to submit evidence, call your own witnesses, and cross-examine the state's witness—including the police officer who issued you the citation. Your parents' can not help you unless they are licensed attorneys." To be fair, she does often end her description of trials with the statement, "I tell you this not to dissuade you from going to trial, but so that you can make an informed decision."

Though, I am skeptical that this minimizes the anxiety produced by her initial description of the trial.

Generally, these more passive means to discourage trials are effective. In the rare event that a juvenile expresses an interest in other options than the deferral, the prosecutors often attempt to co-opt the parents in their deferral-seeking mission.

> Courts, like many other modern large-scale organizations, possess a monstrous appetite for the cooptation of entire professional groups as well as individuals. Almost all who come within the ambit of organizational authority find their definitions, perceptions, and values have been refurbished, largely in terms favorable to the particular organization and its goals (Blumberg 1967:39).

Though Blumberg is referring to the co-optation of defense council by the lower courts, similar logic can be extended to parents. As young people are unrepresented, theoretically the only other person in the courtroom that would possess an interest in advocating the innocence of the juvenile would be the child's parents. Most often the work done prior to the juvenile's meeting with the prosecutor is effective at getting a child's parents on board with opting for a deferral.

> March 29, 2008:
>
> Christopher is a Hispanic male who is in court with his mother for a daytime curfew ticket. The prosecutor tells him about his three options. Christopher says he'd like to hear about the second option (pleading guilty or no contest and paying a fine).
>
> His mom interjects, "It's going to be on your record, a conviction on your record."
>
> Christopher then says he'd like to plead not guilty.
>
> Mom says, "But you are guilty."
>
> Christopher than opts for the second option again.
>
> Chad interjects to see if he wants to hear about the deferral. Chad tells him about the deferral requirements, including that he'll have to do community service hours.
>
> Chad: "I can't tell you how many hours you'll have to do until you decide if you want to do the deferral, but you'll have three months to complete them."
>
> Prosecutor asks him why he wasn't on school property. Christopher says he went to get some food for lunch.
>
> Chad: "You're in ninth grade, did you know you couldn't go off campus to get lunch? Or did you just think you wouldn't get caught? Any options you choose, it's a pretty expensive lunch."

Christopher opts for the deferral.

If the parents do not step up on their own, the prosecutors are quite adept at enlisting their participation:

> March 24, 2008
>
> African American male in court with his father for a daytime curfew ticket. After hearing his options, he selects to plead no contest and pay the fine.
>
> Prosecutor: "You want to pay the fine and have it go on your record?" [She looks to his father.] "And, you're not going to talk him out of it? I can't talk him out of it."

If none of the strategies above are effective at producing a deferral agreement, the court officers will become more insistent.

> John in court for a nighttime curfew violation and for having an open alcohol container in the car. He takes a deferral on the curfew and insists on a bench trial for the alcohol container charge. The prosecutor pushes him on the bench trial, and John is insistent that the car was not his and he didn't know the alcohol was in the car.
>
> Prosecutor: "Do you have any evidence? How do I know you're not lying?"
>
> John: "I don't have any evidence that I am not lying."
>
> Though the prosecutor tries several more times, he is unable to persuade John to take a deferral for the alcohol. John is called to the bench by Judge Hernandez. The judge reviews his case and asks him about the bench trial. John explains again that the car was not his and that he did not know that the alcohol was in the car.
>
> Judge to prosecutor: Why isn't he taking a deferral?
>
> The prosecutor informs the judge that John was insistent on going to trial.
>
> Judge to John: I am not trying to dissuade you but I want you to talk to the prosecutor again.
>
> The judge returns the case documents to prosecutor and tells him to reconsider the bench trial. John meets with the prosecutor for a second time but does not change his mind.
>
> Prosecutor returns the trial paperwork to judge: Sorry, judge.

John is one of two juveniles who had the stamina to resist significant pressure against opting for a trial. He is a good illustration of "a stubborn defendant" (Sudnow 1965). The stubborn defendant isn't stubborn because he will not confess, but rather, because he refuses to be "reasonable" (Sudnow 1965). To be reasonable in the LSC MC, "the point is not so much that innocent people

come to think of themselves as factually guilty but that they come to believe that it is fruitless to fight against the label of guilt applied to them" (Blumberg 1967).

Inversion of Legal Authority: Dismissing a Case

> "I hope you are getting all this. The schools are tap dancing real close to the line of abusing what these laws are intended for. Giving Class C Misdemeanors for dag-gum anything!" (Judge Thompson to me)

Though unwarranted or inappropriate citations are issued with some degree of regularity by school police officers, cases are rarely dismissed outright by the LSC MC prosecutors. Most interviewees suggest that a mere one to two percent of cases are dismissed annually. There are several reasons for this. First, MC prosecutors are not actively trained that dismissing a case is part of their discretionary authority. "Prosecutors aren't really discouraged from dismissing cases but we aren't trained on it either. I don't think we ever talked about it. It never comes up in our training" (Chad). Second, the courtroom workgroup is committed to the assumption of guilt of the defendants. As mentioned previously, the innocence only becomes an issue when a juvenile brings up the issue herself. Related to the assumption of guilt of juveniles is the assumption that officers are issuing tickets appropriately. One prosecutor states, "We give the officers the benefit of the doubt" (Forrest).

Practically speaking, this means the officer's assessment of guilt and characterization of the offense (e.g., as a case of disorderly conduct rather than disruption of classes) will never be scrutinized by the court. This creates what Littrell (1979) calls a "bureaucratic inversion of legal authority"—there are very few, if any, checks on the tremendous amount of power of police officers to charge juveniles with criminal offenses. Judge Thompson discusses the problematic use of "Trespassing" citations by school police officers:

> We're seeing a lot more trespassing cases. The kid is not in class when he is supposed to be but he is still on campus. The police have got a problem—the kid is not disrupting class, not involved in an altercation, no destruction of property. 'Here's something we can do, we can call is trespassing.' I haven't seen it go to trial. No one has challenged it. In the most recent one, a kid was in the field house making out with his girlfriend instead of the gym. The young man just did the deferral. No one looked behind it. The police are getting a little loosey goosey with the requirements.

In another case, an African American male, who was accompanied by 3 representatives from CASA[108] and his foster father, was in court to for "Disorderly Conduct- abusive language" citation. He had whispered curse words under his breath about his teacher. Disorderly conduct charges for abusive language require there to be some sort of breach of peace. Whispering words under one's breath could hardly be interpreted as a breach of peace. Rather than dismiss the ticket outright, the prosecutor reset the case for a later date when she would be working and told the young man that she would dismiss his case if the he wrote and delivered an apology letter to the teacher and to the officer who issued his citation. The juvenile returned the following week with a copy of his apology letter signed by his teacher and the police officer and his case was dismissed.

The Power of Court

The court is adept at reinforcing the powerlessness of juveniles and their families by fostering conditions that sustain confusion and anxiety. This is largely achieved through the monopolization of time, though it is also maintained by attempts at controlling behavior and space. First, we consider time. "Far from being a coincidental byproduct of power…the control of time [is] one of its essential properties" (Schwartz 1974:869). The most prominent example of the monopolization of time by the courts is in the scheduling of the court dockets. Between 18 and 20 juveniles are scheduled to be seen by both a prosecutor and a judge every hour. With two prosecutors—assuming that half of those scheduled on the docket appear—each prosecutors has twelve minutes to process each case. However, there is a bottleneck in the built in the system: there is only one judge. To stay on time, the judge would need to process each juvenile in less than six minutes. This is rarely the case. Even if they take into consideration that a number of juveniles will fail to appear, planners of the court calendar schedule more juveniles than could reasonably be seen within the hour.

All juveniles and their families are expected to arrive in court at the beginning of the docket hour, though the majority of juveniles who are scheduled to appear will not be seen at the start of the docket. This strategy proves to be an "optimum solution" for the court because it

[108] CASA (Court Appointed Special Advocates): "CASA volunteers are appointed by judges to watch over and advocate for abused and neglected children, to make sure they don't get lost in the overburdened legal and social service system or languish in an inappropriate group or foster home. They stay with each case until it is closed and the child is placed in a safe, permanent home. For many abused children, their CASA volunteer will be the one constant adult presence—the one adult who cares only for them." (www.casaforchildren.org)

minimizes the amount of time the judges and prosecutors are idle, but it is not without costs to the juvenile and their families (Schwatrz 1994). "When a kid gets in trouble, it affects a lot of people around him. His parents have to take time off from work, it costs them money, it costs them emotionally" (Judge Hernandez). Schwartz describes time as "a generalized resource whose distribution affects life chances with regard to the attainment of other, more specific kinds of rewards" (Schwartz 1974:868). To put it more plainly, the amount of time spent in court by juveniles and their families could be used for other more fruitful activities, such as working at a job, working on homework, eating dinner, caring for other children, etc.[109] By maintaining a steady stream of defendants, the court is able to impose a loss (of time, productivity, etc.) on those waiting to be processed without having to suffer one itself (Schwartz 1994).

The social implications of waiting go beyond measures of lost time or lost productivity (Schwartz 1994). "Waiting may constitute the earliest modality in which discipline is experienced" in the municipal court (Schwartz 1994). Waiting has social meaning for both those who are doing the waiting and those whose attention is being sought; however, in the MC waiting is only a negative experience for those who are doing the waiting (Schwartz 1974). In the municipal court, dockets are called haphazardly and without any discernable pattern, at least from the perspective of those waiting to be called.[110] Not knowing when one may be called to speak with the prosecutor or the judge and lacking access to court personnel to inquire about the process creates an environment of confusion and insecurity. To keep people waiting, especially for an indeterminate amount of time, is to assert that their time (and, by extension, social worth) is less valuable than those for whom they wait (Schwartz 1994). Keeping them ignorant about the how decisions are being made with regard to who will receive attention next further reinforces how little power they have over the process to which they are being subjected.

In the context of the municipal court, waiting without any knowledge of when one can expect to be seen not only becomes part of the punishment but it also facilitates the bending of the juveniles to the will of the courtroom workgroup (Schwartz 1994). It becomes part of the

[109] Though I did not speak to parents appearing in with their children in court, occasionally a parent would mention to the prosecutor or the judge that she had to take off work or find childcare for their other children in order to be in court. Further, it was not uncommon for a parent to bring her other children to court.

[110] Sometimes one prosecutor will start from the bottom of the docket list and the other will start from the top. Other times, one prosecutor will see all the cases with Spanish-speaking juveniles and/or parents and the other prosecutor will see all the other cases. Still other times, a prosecutor will have preferences for certain types of cases.

punishment in the sense that it "draws attention to time itself" and forces the "socially disengaged self to become its own burden" (Schwartz 1994: 168-169). This is exacerbated by the fact that conversations among those waiting in the pews are heavily regulated. Anyone who finds himself forgetting for a moment that he is in court and becoming carried away in conversation will be quickly reminded by the court personnel. "If we are not talking to you, you don't need to be talking. You need to talk in a soft voice. If you need to talk, go outside" (Judge Hernandez).

The experience of waiting also influences juvenile's decisions once they are called to meet with the prosecutor. "The wait itself tempers and is in some respects affected by the kind of social relationship that immediately follows; these two parts, though temporally separate, are in fact aspects of the same whole" (Schwartz 1994:176). The juvenile has had full view of those who were processed before him. While waiting, he has heard numerous times the routinized responses of prosecutors to juveniles and the decisions that other juveniles make about how to proceed with their cases. Using Carlen's (1976) analogy of the courtroom as a dramaturgical arena, the prosecutors have already rehearsed a multiple times how the negotiations are to proceed. In witnessing the first few cases being performed, subsequent defendants are able to see the role they are to play when it is their turn on stage (Brickey and Miller 1975).

Because most juveniles and their families have had to wait for extended periods in order for their turn to be processed, there is a sense of relief once called. This sense emerges not only because they are provided a temporary break from their own boredom, but because they are inching closer to the end of their entire courtroom encounter. As the one who has the power to end the suffering of waiting, this sense of relief may be projected on to the prosecutor or the judge (Schwartz 1994). In some sense, it is a mutation of the Stockholm Syndrome, where the captive comes to associate the captor with positive sentiment because they have the power to end their suffering. This power is a double-edged sword, however, because the prosecutor and judge also have the power to prolong their wait. Either side of sword is likely to inspire the same response from the defendant—opting for a deferral. A positive sentiment for the prosecutor that has ended their suffering may translate into the desire to please them by taking on the proper defendant role; a fear of the prosecutor's power to prolong their wait may inspire them to act in the prescribed ways so as not to irk the prosecutor and drag the encounter on any longer.

Some prosecutors are not averse to using time to discipline those who refuse to take the proper role. Sergio was meeting with a Hispanic male who was in court for a tobacco charge. Sergio interpreted the young man's short answers to his questions as disrespectful:

> "I don't want to see any smart talk, so go have a seat and you'll have to wait. Sit and think about it. [To no one in particular] He'll learn. [He waves the boy and his mother away from his desk with the back of his hand]" (Sergio).

Disciplining young people for "improper court room decorum" is not unusual. Sometimes the warnings are given en masse: "When you speak to the prosecutor and other court personnel, you will say, 'Yes ma'am' and 'No, Sir' not 'yea' or 'uh-huh'" (Judge Anderson when giving her opening instructions). Most often the warnings are given to individuals who break courtroom norms:

> "Ok, who's courtroom is this—yours or mine? Sit up, look at me, and act like you care" (Katie).

> "Show some court room decorum. That 'yea, uh-huh' stuff has got to go. I can change these terms [in your deferral] right now. When you step into my courtroom, you respect me. You respect whoever is behind this bench. I will show you how much power I have with my pen. I could give you 75 hours of community service" (Judge Thompson).

Disrupting courtroom processes or showing disrespect to courtroom personnel is as likely, if not more likely, to result in informal court sanctioning (e.g., a lecture, a disparaging remark, or harsh demeanor) as any offense the juvenile is accused of committing (Mileski 1971; Feeley 1979).

The final way in which courtroom personnel attempt to enforce their power in the courtroom is the through the control of space. The court personnel set boundaries around what space juveniles have access to and how they are to use those spaces which they are allowed to access. Sergio and Katie would often control the use of chairs. Some juvenile's would appear in court with multiple members of their family. If there weren't enough chairs for everyone, Katie and Sergio would either make the child get their own chair from the jury section or make them stand while being processed.

April 14, 2008:

> "Katie is visibly annoyed with the caseworker for bringing a chair to her desk for her defendant. She gives the caseworker a dirty look and then makes a face to the judge."

Some evenings, before the start of the first docket, Sergio and Katie would purposely remove all but one chair from the visiting side of the prosecutor's so that juveniles would have no place to sit. Though Katie and Sergio were the most consistently punitive members of courtroom work group, others would also participate in the control of space. During one docket, a Hispanic male was being processed. He completed his negotiations with the court and, on way out of the courtroom, met up with another Hispanic teenage male who had been waiting for him in the pews. Upon noticing, Sandy states, "If I would've known that that big guy was sleeping over there, I would have called the marshal to wake his ass up."

The following case represents the most dramatic incidence of courtroom disruption. It should be noted that this is an extremely unusual case both because it depicts an overt act of resistance to court processes but also because it involves a parent who is demonstrating the resistance and whom court personnel attempt to discipline.

> May 13, 2008:
>
> The prosecutor is meeting with two Black males who were cited for fighting each other at school. After questioning them, Katie determines that one of the juveniles was the instigator of the fight. She dismisses the case against the boy she determined was the victim and turns her attention to the remaining juvenile, Owen.
>
> Owen's mom feels the other boy lied about his role in the fight and is upset that the other boy's case has been dismissed. She does not want a deferral, a trial, or to plead guilty. The prosecutor is insistent that she must choose one of the options. The mother repeatedly refuses.
>
> Katie: [raises hands in air] I am not doing it.
>
> Katie gets up from her chair and walks towards the judge's bench. It looks as though she wants to talk to the judge but he is busy. Once he finishes up, Katie asks if she can approach the bench. She tells the judge that "mom is not happy" but I cannot hear the rest.
>
> Mom interrupts from behind the prosecutor's desk: It's too much to do. It's his first offense. Do what you want to do so we can go. I gotta get up outta here. You can't do anything to me today that ain't already been done.
>
> The tension in the room is intense and all other activities have stopped. All eyes are on the interaction between Katie, Judge Hernandez and Owen's mom. I have never seen anything like this in court before and I am nervous for Owen's mom.

Judge Hernandez: I can make your life difficult.

Mom [now standing]: Ok then. So, don't be threatening me about my rights. We don't want nothing. You can't make us do something we don't want to do. We don't want no hearing. We don't want no hearing. What do we want a hearing for? He lied. [Referring to the other boy]. Just let it go. We are just trying to get up outta here. We've already been sitting here for three hours. I've gotta go get my kids.

Katie leaves the room.

Judge Hernandez threatens to issue a warrant for her arrest if she leaves.

Mom: Go 'head. I got things I gotta do. I've got other kids.

Katie returns to the court with the marshal. The marshal moves the conversation with mom over to the jury area, near the caseworker's office.

Mom to the marshal: He's talking about he won't let me leave until he's ready to leave. [Referring to the judge]. I can't do that. I've got two other kids—a six-year-old and a ten-year-old. I gotta go. Can I use the phone?

Rebecca enters the caseworker's officer with the mom and the sheriff to check that the phone is working and to let mom know how to dial out. She shuts the door.

Katie says to me sarcastically: Oh, that happens all the time.

Rebecca and marshal meet with mom in the caseworker's office. Owen ends up opting for a deferral.

"Doing Justice"

Bargaining is common in the legal system (Macaulay 2007; Feeley 1979). A bargain suggests that parties on both sides of exchange benefit to some degree from the trade. In the LSC MC, deferrals are pitched as the ultimate bargain: a way for juvenile's to keep the crime with which they have been charged "off their record." If prosecutors and judges are so convinced that their juvenile defendants are guilty, what is their motivation for offering such an opportunity?

The time pressure inherent in municipal court processing does not suffice in explaining why courtroom officials push most juveniles to opt for a deferral—a guilty plea would be just as efficient, if not more so, as the court's involvement with the young person would cease as soon as he paid his fines. The fact is that most LSC MC prosecutors and judges care, at least a little, about keeping the juvenile's record clean. "I am not a robot. Some kids are sympathetic. I do like children. I'm not a cold automaton" (Chad). Meyer and Jesilow (1997:49) describe the desire of officials in the lower courts to protect those convicted from an "overloaded and overzealous system" as "doing justice." "Even as a prosecutor, we are mindful of their juvenile record"

(Forrest). Littrell (1979) calls it the "operational morality of fairness"—prosecutors and judges are not punitive to the extent that they push for the most severe punishments; instead, they attempt to temper punishment so that defendants get their "due," neither more or less than what court officials believe they have coming to them.

Illuminating the Deferral

In order to receive a deferral, a juvenile must plead "no contest" to the offense for which they have been cited and agree to several terms. Typically, these terms include paying fines, completing community service hours, and completing some form of rehabilitative programming. Once the juvenile has completed all the terms and remained "crime-free" for at least three months, the charges against her will be dismissed. Despite its allure, deferrals are not the bargain they are touted to be by court personnel.

Deferrals may pose a financial burden to parents. Because money is undifferentiated, fines and court fees are the only sanctions that can be legally borne by another person; indeed, it would prove difficult for the courts to assure that it is the defendant is the person paying the fine (O'Malley 2009). Many of the juveniles appearing in LSC MC are not employed and have no independent source of income. Most often the parent is the person responsible for paying her child's court fees and/or fines. Though, some judges are sensitive to this possibility and will require juveniles to complete additional community service hours in lieu of paying court fees or fines. Generally, juveniles are required to complete four and ten hours of community service in lieu of court fees. These hours are in addition to any hours the prosecutor has required of the juvenile as part of their deferral terms

Legally, LSC MC prosecutors can order up to sixteen hours of community service per week for juveniles appearing in their court, unless the judge determines that working more hours will not create a financial hardship. There are several challenges posed by community services that juveniles must overcome. The first challenge is finding a community service site. When juveniles opt for a deferral, they are given a sheet that lists thirteen agencies around LSC that offer community service opportunities. Only two of the thirteen take children who are younger than 13 and five require the juvenile to be 16 or older. Two of the agencies require pre-screening (i.e., a TB test or a criminal background check), seven do not accept juvenile volunteers who have been charged with theft offenses, three exclude juveniles who have been charged with sex offenses, and two do not offer volunteer programs for juveniles who have been charged with

tobacco and/or drug offenses.[111] The second challenge will be finding opportunities that are available outside of school hours. Ten of the sites listed on the sheet offer some hours on weekday evenings or weekends. Finally, once a community service site is located, young people must secure transportation to the site.

The challenges of completing community service are not experienced evenly by all juveniles. Those with more family resources (i.e., access to their own car and/or parents who have a car and are able to provide transportation to community service sites) are going to have an easier time of completing their requirements. Further, those with financial means to pay their court fees will be able to do so without being required to complete additional hours.[112] Younger juveniles, regardless of family resources, will have a harder time of finding places where they are allowed to complete their hours.

An additional concern about community service is that some juveniles may not know what exactly they are agreeing to when they opt for a deferral. Judge Hudson is the only one of the judges that consistently confirms with the juveniles that opt for a deferral that they understand the term of their agreement with the court. The following conversation is not atypical:

> Febuary 4, 2009: 12-year-old Hispanic male in court for a daytime curfew violation
>
> Judge Hudson: Do you know what community service is?
>
> Luis: No.
>
> Judge Hudson: Why did you agree to it when you didn't know what it was?
>
> Luis shrugs.

The municipal court has authority to order rehabilitative sanctions for both juveniles and their parent. These programs can have fees associated with them of up to $100 and can include counseling, testing for alcohol or drug use, treatment for alcohol or drug abuse, psychological assessment, or participation in an educational program.

Juveniles' parents are rarely required to rehabilitative programming as part of their child's punishment. I never witnessed the prosecutors or judges ordering parental participation in

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[111] Though I do not have empirical evidence to support such a claim, given the frequency with which defendants in the MC are required to complete community service, it is likely that young people are not only competing with each other but also with other adults for community service opportunities.

[112] Some judges order additional community service hours for all juveniles that opt for a deferral, regardless of their financial means. According to Chad, "We don't want the parents paying for the kid's mistakes."

programming during juvenile docket observations and only two of the 214 PCAs analyzed included sanctions for the parents. This is somewhat surprising because several court personnel harbor views that problems with the juvenile were the result of poor or inadequate parenting. There are two reasons that parents are not sanctioned. First, because court personnel are resistant to punishing parents for their child's actions even if, secretly, they feel the parents are to blame. Second, sanctioning parents would likely result in parental resistance that could cost the court valuable time. As argued above, court personnel can enlist the support of parents to convince a resistant child to take the deferral; if they were to sanction the parent as well as the child, this may reduce their ability to co-opt parents in pursuing the court's preferred plea.

Judge Thompson is known for taking great liberties in ordering rehabilitative sanctions:

> "With disruption cases, sometimes I'll order an apology letter. The kid has to state out loud what he did, why he did it… It makes you take ownership of what you did when you put it on paper. It's natural human instinct not to relive experience. It works as a deterrent to have to say out loud to the rest of the class what you did. These letters are really case-specific. I don't do it with all the cases. I'm really good about getting kids to write reports, like what it feels like to have something stolen from you. One of the best reports was on seven points of advice for how to avoid a fight when someone clearly wants to fight you. That middle school kid did a really good job. In fighting cases, sometimes I'll tell the kids who are at the same school to do something together."

Though Judge Hudson orders them frequently, writing letters or reports has not been a widely adopted practice among other LSC MC personnel. It is not clear if these requirements are considered legally binding and if a juvenile's deferral could be revoked if they completed all terms of the deferral except for the letter or report.

Revoking a Deferral

There are number of reasons that a juvenile's referral can be revoked including failure to complete community service hours or to submit verification of having completed hours, failure to pay fines, failing to notify the court of a change of address within seven days of moving, or being cited for committing another Class C Misdemeanor during the deferral period. Once a juvenile's deferral period has come to end and the court has not received necessary documentation that the juvenile has completed all the deferral terms, they are sent a letter to appear at a revocation hearing and to explain to a judge their failure to complete the terms of their deferral. If they do not appear for the revocation hearing, or the judge presiding over the revocation court is displeased with his/her explanation for their failure to comply with court orders, they are ordered

to pay the full fine amount associated with their offense (which can be up to $500).[113] If the juvenile does not pay the fine amount, a warrant is issued for his arrest. [114]

"Dismissal" After the Deferral

Though the deferral is pitched to students and their families as a way for the juvenile to keep the charge off of his record, this is not accurate. The charge remains on the young person's electronic record with the LSC MC court. Forrest justifies using charges that are "off the juvenile's record" as follows: "If we couldn't use old deferrals, we wouldn't be able to make any determination on their new violation. We can't ignore the past, it could be detrimental. What works for one child might not work for another. We need to know how to proceed in the future" (Forrest).

If a juvenile appears in court again, any dismissed cases, including those that were dismissed because the juvenile successfully completed her deferral, are treated in the same way as a charge in which the juvenile had been found guilty. This is especially true if the juvenile gets a ticket for the same offense:

> March 24, 2008:
>
> Maxine, a Hispanic female is in court for her second daytime curfew violation. She successfully completed her first deferral about a year ago.
>
> Prosecutor: "You completed your deferral for last year's daytime curfew. This one is going to be a little bit worse and you won't have the opportunity again.

Court personnel do not regard juvenile's who appear in court multiple times fondly (Mileski 1971). Their reappearance is interpreted as an indication of their lack of respect for the law and their resistance to being rehabilitated (Mileski 1971; Daly and Tonry 1997). Brandon is a

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[113] Recall that the deferral is the "bargain" offered to the young person in exchange for a plea of "no contest." It is when the juvenile fails to complete their deferral that the original plea of "no contest" becomes important. If the juvenile does not complete the terms of the deferral, the "no contest" plea is treated in the same way as a guilty plea and the child is now responsible to pay the fine amount associated with their initial charge.

[114] If arrested, a juvenile can only be held in a non-secure custody, defined as an unlocked multipurpose area or area that is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. While in the custodial area, the child cannot be handcuffed to a chair, rail, or any object and s/he must be under continuous visual observation by a law enforcement officer or a member of the facility staff. The child cannot be held in the facility for longer than is necessary to take the child before a judge or to release the child to the parents. If the child is being held on charges other than municipal court matters, he or she may be held long enough to be identified, investigated, processed, and for transportation to be arranged to a juvenile detention facility. Under no circumstances is the child to be held for more than six hours.

Hispanic male who is in court for the third time. He has successfully completed two deferrals in the past and is now court for getting a daytime curfew citations because he arrived late at school.

> "We've given you deferrals before but you don't really care about them, do you? You don't really care about getting into trouble. Seeing you here for the third time, that tells me that you don't care. Is there a reason that I should" (Henry).
>
> "That's a bad sign—coming back to court more than once. It doesn't bode well for the future. We will probably be seeing that person again as an adult" (Judge Hernandez).

Class C misdemeanors, dismissed or otherwise, can also be accessed in other ways. According to Judge Hudson, "If I apply for a job and have a theft charge at 15 where I took a deferral and completed all the terms, in theory it is off my record. But that's really a misnomer. It's never off your record."[115] During our interview, Judge Thompson, who works at the county jail on weekends, mentioned that magistrate judges can, and do, access municipal records when making rulings about whether to detain an adult who has been arrested.

Municipal court data is also reported to Texas' Department of Public Safety. Young people who fail to resolve cases with the local municipal court can have their driver's license suspended or denied. Judge Anderson states, "If someone did a criminal record search at DPS, it might come up."

All charges related to alcohol must be reported to the Texas Commission on Alcohol and Drug Abuse, which is part of the Department of State Health Services' Mental Health and Substance Abuse Division (MHSA). These violations can be shared with law enforcement agencies and other courts and is considered admissible in any act in which it is considered relevant.

Finally, according to Sarah, who often defends juveniles in the juvenile courts, citations can have a negative impact on juvenile court processes. If a juvenile on probation receives a citation, his probation period can be extended. In a harsh county, if the citation(s) are considered serious enough, he can be detained in the juvenile correctional facility. Perhaps the most consequential citation a juvenile can receive if they are on probation is a citation for fraternities,

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[115] This information has a unusual ways of getting out into the world. While working as a data analyst for Texas Appleseed's research initiative on the school-to-prison pipeline, I was responsible for organizing and analyzing the data we received from courts and school district police departments around the state. One of the courts sent us a list of juvenile's who had been processed in their court over the last several years. The list included the juvenile's names. One of the names on the list was of a student I had taught in a course the previous summer.

sororities, secret societies, or gangs. These kinds of tickets can result in the juvenile being branded in the county gang database. Further, a report on their gang suspected affiliation is included in their case information and can result in harsher punishments for future infractions.

Expunction

Juveniles convicted *or* accused (i.e., the charge was dismissed) of crimes in the municipal court can apply for expunction of their record but the regulations surrounding expunction are complex and full of caveats. Expunctions are complicated enough that "Some lawyers—all they do is expunctions" (Scott). Each offense with which juveniles are charged belongs to a family of violations. The family of an offense is largely determined by the area of law which prohibits the activity: Alcoholic Beverage Code, Education Code, Health and Safety Code, and Penal Code. With the exception of convictions for tobacco-related offenses (violations of the Texas Health and Safety Code). Only one conviction identified per family of violations is eligible for expunction.

The expunction process varies by the offense family. Most require the person, once they have become an adult,[116] to submit a written request (made under oath) for an expunction to the court in which they were initially charged. The court can require a hearing before granting expunction. Once the court rules that a charge may be expunged, the "applicant is released from all disabilities resulting from the conviction, and the conviction may not be show or made known for any purpose" (Texas Education Code, Article 45.055). Each expunction request costs $30, excluding the costs of lawyer fees.

"CASH REGISTER JUSTICE"[117]: REVEALING THE SCHOOL-TO-PRISON PIPELINE

> [S]ince the 1980s, virtually nothing theoretically new has been written about the fine, and nothing at all written out how it relates to the processes of the so-called 'punitive turn'…[We] ignore fines in criminology, even though far more people pay fines than go to prison and many of those in prison are there because they did not pay fines!" (O'Malley 2009:2).

[116] 21 for Alcoholic Beverage Code offenses, 18 for Education Code and Health & Safety offenses, 17 for criminal code offenses.
[117] Phrase taken from a comment made by Scott during our interview.

The municipal courts deal with fine-only offenses; incarceration is not one of the legally-sanctioned punishments should someone be convicted of such an offense (Texas Penal Code 12.23). In addition, the U.S. Supreme Court, in *Tate v. Short*, ruled that individuals should be be incarcerated for being unable to pay a fine. However, individuals who do not pay their fines in the municipal court are frequently jailed through *capias pro fines*. *Capias pro fines* allow for the arrest of an individual who has been found guilty of a criminal offense and who has "failed to satisfy the terms of a judgment relating to the payment of a pecuniary fine" (Texas Municipal Court Education Center 2007).

Capias pro fines may not to be issued for individuals who were convicted of a crime as a juvenile, unless the juvenile has turned 17 and the court has made an assessment of the attributes unique to the individual's case. These attributes include (1) the sophistication and maturity of the individual at the time she was charged, (2) the criminal record and history of the individual, and likelihood of resolving the case through other means than a *capias pro fine* (Texas Code of Criminal Procedures 45.045). Given the high volume of cases that funnel through the court each year, the court's lack of formal recording-keeping during juvenile appearance dockets, and the high turnover in staff, it is doubtful that the LSC is able to accurately assess the sophistication and maturity of the juvenile when she was initially charged (assuming she even appeared in court). Still, warrants are frequently issued for adults charged for crimes as juveniles.[118]

Once a juvenile turns 17, she is sent a letter informing her that she has a "continuing obligation to appear in court" for the citation she was issued as a juvenile. Assuming the juvenile-now-adult receives the letter, she must contact the court to make arrangements to deal with her old case. If she does not respond to the letter, this is considered a new violation and a warrant is issued for her arrest on the new charge. There are a number of ways that a warrant can be enforced. If she is pulled over for a traffic offense and the officer runs a warrant check on her, she can be arrested. If she is arrested as an adult for another charge and taken to the county jail, the magistrate can hold her on the warrant. Perhaps the most unusual way in which Texas' MC warrants are enforced is through the "Annual Warrant Round-Up." During one week in March every year, Texas municipal courts and local law enforcement partner for a massive warrant enforcement effort. In 2009, over 207,000 warrants were cleared and $20.9 million dollars was

[118] Juveniles who do not make their initial appearance in court or who have had their deferrals revoked can have warrants issued for their arrest.

collected.[119] Once arrested, the court can hold the juvenile accountable for both the new crime *and* the old one she committed as a juvenile. If she cannot pay her fines, she can be jailed for as many days as would cover her fines and court costs; eight hours of jail time equates to $100 in court fees and fines.

The chart below represents the percentages by race/ethnicity and gender of juveniles who have an outstanding warrant for their arrest or who have served time in jail for citations they received from school-based police officers. In total, 2119 juveniles have a current warrant or have served time. Hispanic females, African American males, and African American females are more likely to have their school-based citations result in a warrant or jail time than Hispanic males, White males, and White females.

Table 5.2 Selected Outcomes for School-Based Citations (SBC) by Race/Ethnicity and Gender

	African American		Hispanic		White	
Percentage of SBCs Issued by Race/Ethnicity	24%		56%		19%	
Percentage of Population Served Time or Currently Has Warrant	30%		59%		11%	
	Male	Female	Male	Female	Male	Female
Percentage of SBCs Issued by Race/Ethnicity and Gender	15%	9%	35%	21%	12%	7%
Percentage of Population Served Time or Currently Has Warrant	18%	12%	33%	26%	5%	6%

CONCLUSION

Though processing of juveniles is a new phenomenon, the general form of justice practiced in the lower courts has long been a problem in the United States. In a 1967 report published by the President's Commission on Law Enforcement and Administration of Justice, commission members argued:

[119] In LSC MC, over 10,000 warrants were cleared and over $1 million collected.

> "Everyday in the courthouses of the metropolitan areas the inadequacies of the lower criminal courts may be observed. There is little in the process which is likely to instill respect for the system of criminal justice in defendants, witnesses, or observers…The experience of this century suggests that the lower courts will remain a neglected segment of our criminal justice system unless sweeping reforms are instituted" (1974:310 and 319).

The report's authors reiterated a call to abolish the lower courts made by a similar report published thirty years earlier by the National Commission on Law Observance and Enforcement 30 years earlier. In addition, the 1967 Commission advocated for the elimination of a range of low level offenses, for all criminal defendants to be assigned council, for lower level cases to be screened, for all those acting in judicial capacity to be trained in law and for courts to be required to keep records of their proceedings. Many of these same concerns remain in the contemporary municipal court. The difference now is that young people are also being subjected to the same problematic procedures.

CONCLUSION

> "If my power was that of a dictator and if I had the urge to construct a situation for the promotion of crime, then I would have shaped our societies in a form very close to what we find in a great number of modern states. We have constructed societies where it is particularly easy, and also in the interest of many, to define unwanted behavior as acts of crime…We have also shaped these societies in ways that encourage unwanted forms of behavior, and at the same time reduce possibilities for informal control" (Christie 2004: 51).

In Chapters One and Two, my aim is to answer the question, "How did we get here?" I provide a foundation for understanding the historical roots of the criminalization of student misbehavior and the integration of police officers into schools. These processes are largely divorced from a concrete need for criminal justice interventions based on crimes rates, as evidence shows that historically school crime rates were low and, in the past fifteen years, have been decreasing (Dinkes, Cataldi, Kena, Baum, and Snyder 2006). Instead, excessively punitive school punishment is one part of a "low-level domestic war against young people" (Casella 2001:94). In this war, schools have emerged as the front lines and young people are framed as both the population to be combated and the one that needs protection (Simon 2007).

The current federal and state attention being paid to school discipline is an extension of "governing through crime" (Simon 2007). In such a framework, crime serves as the prism through which government responsibilities are interpreted and justified (Simon 2007). "Governing through crime" emerges from a neo-liberal emphasis on individual responsibility combined with the government's simultaneous retreat as a provider of social services and a hastening of its role as the primary enforcer of social control. The public is willing to acquiesce to the government's punitive shift because of a pervasive sense of insecurity about the future (Beck 1992). Periodic moral panics exacerbate popular fears and serve as the "rhetorical umbrella" to promote punitive agendas (Giroux 2003:50). Though the effects of the punitive agenda radiate throughout the social strata, the impact of this shift is felt largely by those considered marginal to the social order, including the poor, and racial and ethnic minorities (Goode and Ben-Yehuda 2004). The seeming lack of public outrage may be, in part, because the brunt of punitive policies is borne by these marginal populations.

In the remaining chapters, I focused on describing school-based policing, ticketing and processing. In my discussions on policing, I argue that penal, education, and health and safety codes are interpreted by school police officers in ways conducive to criminalizing relatively innocuous everyday forms of student misbehavior (i.e., cursing, violation of dress codes, etc.). Students' behaviors are policed both in the classroom, on campus, and beyond the boundaries of the school. Further, we also see that some parents and school personnel purposefully seek out the police to punish the seemingly minor infractions of students, both in and outside of the classroom. Lastly, rhetoric of school policing often emphasizes the role of the officer as mentor or social worker; however, such rhetoric obfuscates the role of the school police officer as a gatekeeper to the criminal justice system and ignores the negative consequences of their involvement in the everyday lives of public school students.

My analysis of probable cause affidavits reveals that racial and ethnic patterns in ticketing parallel patterns of the broader criminal justice system. African American and Hispanic students are overrepresented in citations, especially in those citations given for subjective offenses (e.g., disorderly conduct). This suggests that behaviors of African American and Hispanic students are being interpreted in different ways than their White counterparts. This, for example, is clear in the gang-related probable cause affidavits. The social meaning of students' styles of dress, hairstyle, jewelry, body movements, and language are open to interpretation. Styles adopted by students of color, and especially Hispanic males, are symbolically constructed as problematic and subject to punitive punishments. Through disproportionate ticketing, schools undergird stereotypes of young people of color as criminal.

The municipal court does little to curb schools' criminalization of student misbehavior or to minimize the negative consequences of school ticketing for young people. Instead, court personnel wield the tremendous amount of organizational power of the courts to squelch possible resistance from juvenile defendants or their families. The appropriateness of the officer's decision-making or the fit of the defendants actions with criminal code are rarely taken into consideration. Instead, the guilt of the young people appearing court is assumed as they are funneled through an impersonal and standardized plea-producing process.

LIMITATIONS AND FUTURE RESEARCH

In the following paragraphs, I outline some of the limitations of my study on Lone Star City. I use these limitations to suggest several possibilities for future research.

Noticeably absent from my research are the voices and reflections of the young people themselves. Though I am able to effectively describe the processes to which young people are subjected to in court, and to a lesser extent, in schools, I am unable to speak to how young people understand and negotiate their experiences of criminalization. There are a broad range of issues that could be considered from the students' perspective, including students' reactions to being ticketed (e.g., do they regard the ticket as fair?), the impact of their citation on subsequent schooling experiences, the responses of their parents to the citation, their explanations of the events leading up to the citation, and any challenges they may face in court negotiations or in completing deferrals.

Also missing are the family's perspectives. How do parents interpret school citations? How do citations impact the parents' relationships with their child and/or with their child's school? How do parents understand their role in court processes? Further studies could also elaborate on the impact of the juvenile being cited on the larger family unit. How do family resources (material, social, or knowledge) influence court processes and/or the completion of court requirements? What are the consequences of different court outcomes (e.g., deferrals, guilty pleas) for children and parents? There are likely differences in the impacts of such punishments for families with differential economic and social resources, and future research could certainly follow outcomes for students and their families who have undergone this process. Determining how, and if, families actually pursue the resource-intensive expungement process is certainly warranted.

In addition, beyond what is described in the probable cause affidavits, I am unable to describe what school policing actually looks like on the school campus. How do school personnel symbolically construct students' misbehavior, and what are the gender, class, and racial/ethnic implications in doing so? Though some teachers and administrators appear to be supportive of police officer intervention, what about those who resist or who are critical of police involvement? What makes a citation an (un)attractive means to deal with student misbehavior? What, if any, school-based punishments are implemented prior to issuing a citation? Do school officials have

any sense of what happens to students after they are cited? Do they know how citations are processed or what consequences citations have for the student's future?

While I have attended some school police trainings and professional conferences, these observations do not capture the full extent of officers' thinking on their role in school disciplinary processes. I have only seen how school police officers decide to present themselves professionally to each other, and how they construct narratives of students' misbehavior in their written statements. I have little sense of what school policing looks like day-to-day. While the probable cause affidavits provide a glimpse of how they viewed students, future research on school police officers' decision-making, and perceptions of the ticketing process and work in schools is certainly warranted.

Finally, there are additional questions about the Lone Star City Municipal Court that I was unable to address and that are worth exploration. As many as half of all students who are given tickets do not attend required court hearings—what prevents these juveniles from appearing in court? What consequences does their failure to appear have for the young people and/or for their families?

Like all bureaucracies, courts have a culture that is shaped by local politics, the demographics of the surrounding community, the size of its dockets, the staff selection processes, etc. Lone Star City Municipal Court may be reflective of the competing demands faced by all lower level courts, but its negotiation of these demands may be unique. For example, in other courts, personnel may be less concerned with keeping the juvenile's record "clean" and push young people to plead guilty by offering them the option to pay reduced fines. Other courts may be more amenable to juvenile's opting for a trial, or they may be more willing to act on their authority to punish the parent for their child's transgression. Do my findings about the Lone Star City Municipal Court resonate with the processing of juveniles in other jurisdictions?

IMPLICATIONS: SCHOOL-TO-PRISON PIPELINE

Though the school-to-prison pipeline has received increased attention by activist groups and the media, little empirical evidence exists about how such a pipeline operates (Browne N.D.; Crowley 2007; Texas Appleseed 2007). Informally, school discipline practices may facilitate future involvement in the criminal justice system because young people who are drop out or, are pushed out of school, have limited opportunities for participation in conventional occupations.

The case of Lone Star City, however, provides evidence that a formal pipeline is being forged between schools and the criminal justice system.

The emergence of this pipeline casts serious doubt on the degree to which schools serve as "the great equalizer" and suggests that, instead, they serve to bolster existing forms of stratification (Saenz et al 2007:369). Schools aid in not only marking some young people as socially "superfluous" or "disposable," but also in normalizing their experiences of surveillance and subjugation (Wacquant 2002; Meiners 2007; Hirschfield 2010). It is likely that students in public schools across that nation are subject to increased criminalization and involvement of law enforcement in school operations. However, evidence from Lone Star City suggests that these effects are more pronounced for students of color and for schools with higher minority populations (Hirschfield 2010).

Experiences with the criminal justice system as a juvenile may have serious consequences for later outcomes. In fact, experiences with juvenile justice may help to explain constructions of the adult criminal or prior record—such a prior record has proven to be instrumental in legal and penal decision-making. It has also been advanced as one of the primary explanatory variables for racial disparities in processing and incarceration in the adult system (Sampson and Lauritsen 1997).

Perhaps the most unfortunate implication of my research is that there are very few checks on the significant authority of school police officers to channel students into the school-to-prison pipeline. The municipal courts are ill-equipped for processing juveniles or for providing much of what most consider "justice." Not only are juveniles and their families given very little instruction about their rights, they are discouraged by court personnel from realizing them. In such contexts, cases are processed quickly and with little regard for the legal adage "innocent until proven guilty." Jail is a real possibility for those juveniles who are unable or unwilling to keep up with municipal court processes or to meet court expectations.

THE FUTURE OF SCHOOL DISCIPLINE

The future of punishment in schools is uncertain. At some moments, it looks quite dismal. First, there seems to be little hope for curbing the influx of police officers into public schools. The national attachment to increased policing and punishment as a way of addressing social problems appears unlikely to wane (Loader 1997). In addition, beyond strip searching

students, the courts have done little to set boundaries on the authority of school police officers to search, interrogate or initiate criminal sanctions against young people in schools. Worse yet, at least some school teachers and administrators seem to be utilizing police officers to reassert their authority rather than to deal with real threats to life or property.

Second, schools are now negotiating the ramifications of the newest moral panic: terrorism. "Not only do we deal with the Columbine and Paducah and Jonesboro type issues, but now you have the terrorism situation stacked on top of it" (U.S. Secretary of Education Rod Paige quoted Markley 2001). A new form of In usual form, the federal government is refashioning terrorism as a school issue. Schools can now pursue federal funding from the Department of Homeland Security, for terrorism prevention and training. In addition, schools are expected prepare contingency plans should their campus be the target of a terrorist attack. To demonstrate the new logic of terrorism that exists in schools, I offer an anecdotal story. Early in my research, I was interested in getting a count of how many school districts in Texas had formed their own police departments and how many officers staffed each department. I contacted Texas School Safety Center, one of the primary providers of school law enforcement officers in the state. After being transferred several times, I ended up speaking with the director of the center. Upon telling him about my research, he informed me that he did not have the information, but even if he did "he wouldn't tell me because schools are soft targets for terrorists and information on school police departments could be used as intel for the other side."

Despite these disturbing trends, there is hope. First, students are pushing back. For example, students in a New York high school staged a walk-out when school administration began installing metal detectors (Weiss 2010). And, in a Louisiana school district, students shaved their heads and body hair rather than subject themselves to a hair test for drugs (Gunja, Cox, Rosenbaum, and Appel 2003).

Second, there does appear to be a growing critical voice against the criminalization of student misbehavior, both among activists and journalists. The American Civil Liberties Union, Appleseed, and the Advancement Project, among others, have each published highlighting problematic school discipline and school policing practices. Reputable newspapers, such as *The New York Times,* and other popular media such as *The Reader's Digest* and *Essence*, have each published articles on critiquing the punitive turn in school punishment.

Finally, some judges are resentful of their courtrooms being turned into an extension of the vice principal's office. Such frustrations have been expressed by juvenile judges in Texas, Ohio, Virginia, Kentucky, and Florida. Some dissent has even been expressed in the nation's highest court. Though a minority opinion, the soon-to-be-retiring Justice Stevens wrote the following opinion about the landmark school search case *New Jersey v. T.L.O.:*

> Schools are places where we inculcate the values essential to the meaningful exercise of rights and responsibilities by a self-governing citizenry. If the Nation's students can be convicted through the use of arbitrary methods destructive of personal liberty, they cannot help but feel that they have been dealt with unfairly. The application of the exclusionary rule in criminal proceedings arising from illegal school searches makes an important statement to young people that 'our society attaches serious consequences to a violation of constitutional rights,' and that this is a principle of 'liberty and justice for all.' The schoolroom is the first opportunity most citizens have to experience the power of government. Through it passes every citizen and public official, from schoolteachers to policemen and prison guards. The values they learn there, they take with them in life. One of our most cherished ideals is the one contained in the Fourth Amendment: that the government may not intrude on the personal privacy of its citizens without a warrant or compelling circumstance. The Court's decision today is a curious moral for the Nation's youth. Although the search of T. L. O.'s purse does not trouble today's majority, I submit that we are not dealing with 'matters relatively trivial to the welfare of the Nation. There are village tyrants as well as village Hampdens, but none who acts under color of law is beyond reach of the Constitution.'

It is important to acknowledge the limitations of the school's ability to produce social change in a society where inequality persists; however, this does not preclude imagining the possibility of the school as a democratic public sphere where students learn the "skills, knowledge, and values necessary for them to be critical citizens, capable of making power accountable and knowledge an intense object of dialogue and engagement" (Giroux 2003:143).

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