

Companion Curriculum

SYSTEM FAILURE: Violence, Abuse, and Neglect in the California Youth Authority

In Plain Sight: Volume 4

A WITNESS and Amnesty International Partnership



Photos courtesy of the Ventura County Star



www.witness.org



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How to Use This Guide

Designed to provide a comprehensive overview of challenges facing the California Youth Authority and the juvenile justice system in general, this companion guide to *System Failure: Violence, Abuse, and Neglect in the California Youth Authority* can be used in its entirety or individual lessons can stand alone as learning extensions after watching the film. For more ideas regarding using film in educational settings, please use the tip sheet included in this curriculum guide. For additional sources such as international documents, fact sheets, and links to actions and reports, please visit the following websites:

Amnesty International – www.amnestyusa.org

Ella Baker Center for Human Rights' Books Not Bars project – www.ellabakercenter.org

WITNESS – www.witness.org

In addition to the companion guide for *System Failure*, this guide also includes an HR 201 which focuses on the relevant international human rights document for the topic addressed in this film - the Convention on the Rights of the Child.

Prior to showing the film, educators should prepare learners by discussing key topics addressed in the film, such as restorative versus punitive justice, the responsibility of those in authority, and the role of communities in rehabilitating youthful offenders. Because this film includes some violent and disturbing footage, be sure to give students time to share their reactions and questions after viewing the film. Use the movie discussion guide to facilitate critical thinking and thoughtful discussion.

This guide can be adapted for use in middle school and high school classes, college classes, and community groups. Ideas for adapting and supplementing this guide in a variety of settings are listed below.

Business Class – Discuss the prison-industrial complex and perform a cost-analysis of rehabilitation programs versus punitive programs. Refer to the following article for more information:

Jones, Van. "Con Game: The Prison Industry Has A Perverse Incentive to Keep the Inmate Population Growing." *Forbes* 24 April 2006.

English Class - Pair this film with a class reading of *Holes* by Louis Sachar, winner of the 1999 Newbury Medal, or *One Flew Over the Cuckoo's Nest* by Ken Kesey. Both of these books address ideas of power, justice, rehabilitation, and corrupt systems of authority. In addition, *I Cried, You Didn't Listen*, a non-fiction account of the CYA is available through Books Not Bars.

History Class – Supplement this guide with lessons about the history of the juvenile justice system or a study of the evolving models of crime and punishment.

Community Groups – Though some of the small group and project ideas may take more time than groups have during a meeting, groups can show the film and use the discussion guides, supplemental materials, informational resources, and action ideas to educate people about the issue.

If you have questions or would like additional support, please contact the Human Rights Education Program of Amnesty International USA (education@aiusa.org) or visit our website (www.amnestyusa.org/education).

NOTE – Please take time to fill out the feedback form found at the end of this guide or on our website. Thank you!

Lesson 201:

Abbreviated Convention on the Rights of the Child

Overview:

International governing bodies from the mid 20th century to present have acknowledged the need to protect the universal rights of the child. First, the **Geneva Declaration of the Rights of the Child** of 1924 declared that children require special protection due to their physical and mental vulnerability. Then in 1948, the United Nations signed the **Universal Declaration of Human Rights** (UDHR), specifying the need for laws that protect both mother and child. In 1959, the UN Commission of Human Rights drafted the **Declaration of the Rights of the Child** which was then adopted by the UN General Assembly. Although not a legally binding document, it expanded on the importance of codifying the rights of the child. Finally, in 1989, the UN Convention established the legally binding *Convention on the Rights of the Child* (CRC), to legitimize and ensure the universal rights and protection of all children. Many countries have ratified or acceded to the CRC after it was adopted, and by 2005 190 countries had ratified the CRC. Somalia and the United States are the only countries who have not ratified or acceded to the CRC (UNICEF, <http://www.unicef.org/crc>).

Lesson:

The following lesson will introduce students to the articles in the CRC. They will engage in discussions to explore the importance of these rights and how they are applicable to their daily lives.

Objective:

Students will:

1. Discuss the significance and implications of the CRC
2. Demonstrate an understanding of the rights outlined the CRC
3. Analyze why some countries have not ratified the CRC

Materials:

- Poster paper to record student answers and post in classroom
- Handout 1.1: Abbreviated version of the CRC
- Human Rights Journal

Procedure:

1. Introduce the topic of children's rights. Ask the class to provide examples of rights they think children should have. Record their ideas on the poster paper. Post this list in the classroom and use it as a benchmark or resource for future lessons. Ask students why they think it is important to have a separate document that protects children's rights.

2. Distribute Handout 1.1 to the class. Ask them to take a moment to read through each right and to note any questions or thoughts they may have as they read.
3. Explain that this is an important list of universal children's rights developed by the UN Convention in 1989 and is a legally binding document only to those countries who have agreed to ratify the CRC.
4. Students will compare their list of rights to the abbreviated CRC. Ask the students to identify rights that are missing from their list, and if there are there any rights from their list that are not included, but should be added, to the CRC? Are there any rights mentioned in the CRC that they feel should not be listed? Why not?
5. Ask students why they think some governments would sign the CRC and others would not. Whose obligation is it to uphold children's rights? What should happen if someone violates children's rights?

Close

Assign one question per small group or answer questions as a class.

1. List two examples of places or people that are violating children's rights.
2. When children's rights are not upheld in one part of the world, how does that affect the global community as a whole? Can you think of examples in your community where one or more of these rights have not been upheld?
3. Both Article 29 of the Convention on the Rights of the Child and Article 26 of the Universal Declaration of Human Rights (UDHR) stress the right to the full development of human personality, including physical, mental, spiritual, moral and social development. What does the term 'full development' mean to you?
4. Provide specific examples of how the 'full development' of your personality could be encouraged.
5. Provide specific examples of how the 'full development' of your personality could be denied.

Convention on the Rights of the Child (CRC), Abbreviated

- Article 1** This declaration stems from the understanding that childhood is entitled to special care and assistance. A child, as defined by the CRC is every human being under the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.
- Article 2** The rights of every child shall be ensured without discrimination of any kind, irrespective of the child's or his or her parent's race, color, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status.
- Article 3** The family, responsible for the growth and well-being of the child, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.
- Article 6** Every child has the inherent right to life.
- Article 7** Every child shall have the right from birth to a name, the right to acquire a nationality, and the right to know and be cared for by his parents.
- Article 8** Every child has the right to preservation of his or her identity.
- Article 9** Every child who is separated from his parents has the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
- Article 10** Every child has the right to leave any country, including their own.
- Article 12** Every child has the right to express his/her own views freely in all matters affecting them.
- Article 13-15** Every child has the right to freedom of expression, thought, conscience, religion, association and peaceful assembly.
- Article 16** Every child has the right to privacy, and has the right to protection of the law in case of interference or attacks on said privacy.
- Article 17** Every child has the right to access information and material from a diversity of national and international sources, especially those aimed at the promotion of his/her social, spiritual and moral well-being and physical and mental health.
- Article 18** Children of working parents have the right to benefit from child-care services and facilities for which they are eligible.
- Article 19** Every child has the right to protection from all forms of abuse, physically or mentally, as well as against neglect and negligent treatment.
- Article 20** Every child temporarily or permanently deprived of his/her own family environment has the right to special protection and assistance provided by the state.
- Article 22** Every child who is seeking refugee status has the right to receive appropriate protection and humanitarian assistance.
- Article 23** Every mentally or physically disabled child has the right to enjoy a full and decent life, in conditions which ensure dignity and promote self-reliance.
- Article 24** Every child has the right to the highest attainable standard of health and to facilities for the treatment of illness and the rehabilitation of health.

- Article 26** Every child has the right to benefit from social security, including social insurance.
- Article 27** Every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
- Article 28-29** Every child has the right to education on the basis of equal opportunity, and such education will be directed to the development of the child to their fullest potential.
- Article 30** Every child has the right to enjoy his/her own culture, to profess and practice his/her own religion and to use his/her own language.
- Article 31** Every child has the right to engage in play, recreational activities, and to participate freely in cultural life and the arts.
- Article 32** Every child has the right to be protected from economic exploitation, and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to his or her health and development.
- Article 33** Every child has the right to be protected from the illicit use of narcotic drugs, and from being used in the illicit production and trafficking of such substances.
- Article 34** Every child has the right to be protected from all forms of sexual exploitation and sexual abuse.
- Article 35** Every child has the right to be protected from abduction, sale, traffic and all other forms of exploitation for any purpose.
- Article 37** Neither capital punishment nor life imprisonment will be imposed for offenses committed by persons below 18 years of age.
- Article 38** Every child has the right to protection during times of war, that children under the age of fifteen are not recruited into armies and do not take direct part in the hostilities.
- Article 39** Every child has the right to prompt access to legal and other assistance.
- Article 40** Every child alleged as or accused of having infringed the penal law has the right to be presumed innocent until proven guilty.

Lesson One:

Developing a System that Reflects Human Rights

Time Allotment: Two 50 minute classes

Questions:

How is the juvenile justice system different from the adult justice system? Should juveniles be treated differently from adults in all cases? Why or why not? Should the goal of the juvenile justice system be to punish or to rehabilitate?

Overview:

In this lesson, students will review a brief history of the juvenile justice system. They will view the film *System Failure* through a human rights lens, and will work in groups to design an alternative to the California Youth Authority (CYA) that respects human rights. At the end of class, students will share their proposals and will be invited to write a letter documenting their suggestions to the governor of California.

Objectives:

Students Will:

1. Demonstrate an understanding of the history and goals of the juvenile justice system and how it differs from the adult criminal justice system
2. Critically view the film *System Failure*
3. Identify human rights abuses documented in the film
4. Develop an alternative to the CYA that reflects respect for human rights
5. Participate in group work and present proposals to the class

Preparation:

- DVD Player
- Copy of *System Failure*
- Reference 1.1: Overview of the Juvenile Justice System in the United States
- Handout 1.2: A Prison System that Reflects Human Rights
- Handout 1.3: Key People & Organizations
- Handout 1.4: Movie Discussion Guide

Procedure:

1. Ask students what they already know about the juvenile justice system.
2. Briefly review the history and structure of the juvenile justice system. Use Resource 1.1 for talking points.
3. Inform students that they will be watching a film about abuses in the California Youth Authority (CYA). Explain what the CYA is, and why activists are concerned. Refer to the Resources section for information and facts about the CYA.
4. Introduce the film. Explain to students that the film was designed as an advocacy tool to inform the public about abuses in the CYA and motivate viewers to act.
5. Divide students into five small groups. Distribute Handout 1.2 and assign each group one of the five issues. Model a sample for the class.
6. Distribute Handout 1.3. Students may refer to this handout during class discussion and activities. Show the film, stopping every few minutes to allow students time to take notes.
7. When the film is over, ask students to write what they found most surprising about the video. How did the video make them feel? What other comments or questions do they have about the film? Ask volunteers to share their responses. **Note – If you have more time, pose questions from the movie discussion guide to start a class discussion about the film.*
8. Allow students ten minutes to work together in groups to develop their human rights alternative.
9. When all students have finished working, ask that each group elect a group representative to present the group's idea to the class. **Note – If you have more time, discuss the challenges of implementing these alternatives. How could the state legislature overcome these challenges?*

Close:

Ask students to think about how they would feel and react if they or one of their friends were sentenced to the CYA. Brainstorm ways that students could take action on this issue.

If members of the class are interested in taking further action, ask that they mail their suggestions for alternatives to current CYA policies or practices to Governor Schwarzenegger:

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814
Phone: 916-445-2841
Fax: 916-445-4633

Further Study:

1. Research the juvenile justice system in your state. Are juveniles allowed to be tried as adults? To what types of facilities are juveniles sent? How are youth treated in those facilities? Write an essay documenting your findings.
2. Research the Stanford Prison Experiment at the following website and use the discussion questions to generate class discussion. <http://www.prisonexp.org/>

Resource 1.1: Overview of the Juvenile Justice System in the United States

History:

Historically, children over the age of seven were imprisoned with adults, and children who were abandoned or neglected were institutionalized. In 1824, reformers whose goal was to rehabilitate rather than to punish children built the New York House of Refuge as an alternative for youthful offenders. The theory that it was in the best interest of the children to provide counseling and other social services rather than locking them up led to the formation of the first juvenile court in Chicago, Illinois, in 1899. It was not until the 1960s, however, that juvenile courts had jurisdiction over everyone under the age of 18.

Because children are seen as developmentally different from adults, and therefore more receptive to rehabilitation, the primary goal of the juvenile justice system has always been rehabilitation. In 1974, however, states refocused their attention from rehabilitation to prevention. Because of the steep increase in violent crime committed by juveniles from 1987-1994, the government enacted a “tough on crime” policy that allowed youth to be tried as adults for some crimes. The fear surrounding sensationalized crimes, such as the school shooting at Columbine High School, led many to believe that youth were not children able to be rehabilitated, but rather violent, albeit youthful, criminals. The criminalization of juveniles has led to increasing similarities between juvenile court and adult court, and has also resulted in mandatory minimum sentences and longer jail times in many states.

The question of which mandate to fund is plaguing the juvenile justice system, especially in high crime areas. Should states fund the construction of new juvenile prisons, spend money on developing rehabilitation programs, or funnel money to crime prevention programs targeting young adults?

How it Works:

Each state has its own juvenile justice system with its own laws and practices. Youths may be arrested for all the same criminal offenses as adults, and may also be arrested and detained for offenses such as curfew violations, refusal to obey parents, truancy, underage drinking, and running away from home. In most states, when a youthful offender is arrested, the arresting officer decides whether the youth should be detained, released, or transferred to a social services program. If a youth is detained, his or her case can then be heard informally if the youth agrees to admit guilt and meet the requirements of the court (such as community service). The case can also be heard formally, either in juvenile or criminal court. 50% of all cases are heard informally. If, after a formal hearing, the judge finds the youth to be delinquent, or guilty of the crime as charged, then the judge will hold a hearing to consider sentencing recommendations from experts involved with the case. After youths are released from the juvenile justice system, their criminal records are expunged, or deleted, so that their youthful records will not follow them into adulthood.

Sentencing Options:

Sentencing may include incarceration, assignment to a residential treatment facility, or a variety of other community service options, such as required volunteer work.

Handout 1.2: A Human Rights Model

Directions: After the release of the Attorney General’s commissioned review of the California Youth Authority (CYA) in January 2004, the California state legislature made a commitment to develop an alternative to the abusive CYA prison model. In order to make an informed decision, legislators are listening to expert testimony and proposals from various organizations.

You are a member of an international human rights organization, and must present an alternative to the CYA that reflects human rights. You will present your proposal at the end of class today. Your group will focus on one issue covered in the film (violence in the CYA, isolation and lockdown, staff abuse, education, or mental health care). As you watch the film, take notes on human rights violations you see that relate to your issue. Pay careful attention to personal testimony and statistics.

After you watch the film, compare notes with your group. Use information drawn from the film along with your knowledge of the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child (CRC) to present an alternative model that reflects human rights. For example, if your issue is education, you will note that many inmates are denied access to books, which violates their right to education. How will your alternative model respect the right to education?

My Group’s Assigned Issue:

What Human Rights Were Violated?

In What Ways Were These Rights Violated?

Alternatives That Respect Human Rights:

Bonus Points:

1. There are _____ CYA facilities housing almost _____ youth.
2. The CYA holds children as young as _____ and as old as _____.
3. _____% of CYA wards are youth of color.
4. The CYA has a _____% recidivism (or re-arrest) rate.
5. There were _____ documented suicides in the last four years before this film was produced.

Handout 1.3: Key People & Organizations

Darlene Taque – Darlene is a 22-year-old mother of two as well as a youth educator and HIV counselor. She served two years in the California Youth Authority (CYA) for robbery. While she was in the CYA, she reported that guards frequently harassed her and other female wards. When she was about to be released from the CYA, Darlene reported feeling frightened of living on her own and had was afraid of being sent to jail for life.

Allen Feaster – Allen's 17-year-old son, Durrell, was incarcerated in the CYA for 3 years, and was found hanged to death in his cell. As a member of Books Not Bars, Allen fights for a more just alternative to the CYA, and advocates that the CYA be shut down.

Durrell Feaster – Durrell was first placed in a group home for truancy and repeatedly ran away from the group home to be closer to his family. When he was placed in a group home in Palm Springs (about 7 hours away from his home), he rode in a stolen car with another youth who wanted to return to his family in northern California. For this offense, Durrell was charged with grand theft auto, and was placed in the CYA. He served 1.5 of his 3 years on lockdown. He was found hanged to death in his cell.

Laura Talkington – Laura, an outspoken advocate for a more just alternative to the CYA, formed Families for Books Not Bars after her son, David, was sentenced to 6 years in the CYA.

David Talkington – After accidentally starting a fire while playing with lighter fluid, David was sentenced to 6 years in the CYA for felony arson. He has served a majority of his time on 23 hour a day lock-up, and has suffered numerous injuries from staff and other wards. He has also been refused reading materials and phone privileges.

Books Not Bars – Books Not Bars is a campaign by the Ella Baker Center to shut down the CYA and to replace it with regional rehabilitation centers and other community based alternatives.

Ella Baker Center for Human Rights – Based in Oakland, California, the Ella Baker Center promotes positive alternatives to violence, and works for justice, job opportunity, and peace in urban environments. Books Not Bars is one of their four campaigns.

Handout 1.4: Movie Discussion Guide

1. Why do you think the film is entitled *System Failure*? Who has failed and what have they failed to do?
2. Because this film is designed to be an advocacy tool rather than a documentary, certain voices and perspectives are missing. What perspectives were missing from the film?
3. How did the imprisonment of David and Durrell affect their parents?
4. What are the potential consequences of imprisoning a 13-year-old with a 25-year-old?
5. What types of behavior do you think the CYA reinforces? Use examples from the film to support your answer.
6. Do you think the CYA promotes rehabilitation? Do you think the CYA promotes education? Why or why not? Use examples from the film to support your answer.
7. What do we need to know about “offenders” and “victims” in order to use a restorative justice model, such as the Missouri system? Explain what you think a restorative model might look like for one of the youth profiled in the film.
8. What are some of the human rights abuses suffered by youth in the CYA?
9. Why do youth feel they need to join gangs while in the CYA?
10. Most states limit solitary confinement to 72 hours. The CYA confines youth to solitary for months and years at a time. Do you believe this is a human rights violation?
11. What instances of staff abuse did former CYA director Jerry Harper report in the film?
12. In your opinion, what is the difference between an institution and a rehabilitation facility?
13. What are some of the difficulties that youth report upon being released from the CYA?
14. Why do you think the CYA has a 91% recidivism (re-arrest) rate?
15. Why might some youth want to go reenter the system?
16. What recommendations does the film make to remedy the system failure of the CYA?
17. List two ways the Missouri system is different from the CYA.

Lesson Two: Youth Court

Time Allotment: Three 50 minute classes

Overview:

In this lesson, students will consider the goals of the juvenile justice system and will reflect upon whether or not the CYA meets those goals. Students will also reflect on sentencing options for youth, and brainstorm alternative sentences that serve to rehabilitate and treat youth rather than punish them. The youth court mock trial is designed to engage students in critical thinking about the reasons people commit crimes and alternative sentencing models. It is also designed to empower students and demonstrate that youth can positively impact other youth.

Objectives:

Students will:

1. Share and listen to opinions about the goals of the juvenile justice system
2. Critically analyze case studies from *System Failure*
3. Evaluate the youth court model
4. Investigate and consider two case studies in preparation for a mock trial
5. Participate in a youth court mock trial

Preparation:

- Resource 2.1: A Matter of Opinion
- Resource 2.2: Youth Court
- Handout 2.3: A Just Sentence?
- Handout 2.4: Mock Trial

Procedure:

Part I

1. Place signs that say “Agree,” “Disagree,” and “Unsure” in three separate corners of the room. Instruct students to move to the corner of the room that matches their opinion on each statement that you read from Resource 2.1. Remind students that this is a time for openly sharing opinions, rather than a time for intense debate. Read the first statement on Resource 2.1. Allow students to take their places. Call on one or two students from each corner to share their reasoning. Ask them to use examples from the film to support their answers if possible. When everyone has finished sharing, read the fact that accompanies the statement. Allow students to move to another corner if the fact changed their opinion. Invite students who moved to share their reasoning. Repeat this process for the rest of the statements.

2. Explain to students that they will spend the next two class periods participating in a youth court. Give a brief overview of youth court. (See Reference 2.2 for more information) Ask the students if they would want a jury of their peers if they committed a crime. Why or why not? Are there cases they think should not be tried in a teen court? What types of cases? Why should they not be tried in teen court?
3. In order to prepare students for the mock trial, review case studies from the film. Divide students into small groups. Assign each group one of the case studies from Handout 2.3. Give students ten minutes to work through responses.
4. A group representative will share the group's responses to the case study. Invite the class to comment on the responses. As a large group, discuss responses to the general discussion questions at the end of the handout.

Part II

1. Review the instructions for the youth court (Handout 2.4). The judge, bailiff, and jury will remain the same for both cases, and should receive a copy of both case studies. Choose four lawyers for each case (two prosecution and two defense). Choose a defendant, four character witnesses, and a reporter for each case. Distribute the case studies. Allow students time to read through the case individually before beginning the interview and group work process.
2. Allow students time to review the case again before starting the mock trial process. Follow steps 6-10 on Handout 2.4. Moderate only as necessary, as it is the judge's duty to moderate the proceedings.
3. Repeat this process with the second case.

Close:

Ask students to share their reactions to the youth court process.

Further Study:

1. Community Connection – Invite someone from your local community to discuss how the juvenile justice system works in your community. Ideas for speakers include lawyers, former youth offenders, community groups that work with at-risk youth, or the director of a group home.
2. Research whether or not there is a youth court in your area. How many cases are tried in the youth court per year? What is the typical sentence? What are the recidivism rates for youth who are sentenced in youth court? How can you get involved?
3. As society is exposed to ever-increasing amounts of violence in the media, in video games, and in music, many people complain that young people are not only desensitized to violence, but that they also idealize violence. How does exposure to violent media impact your understanding of what it means to commit a crime? To be responsible for a crime? Your ideas of punishment and rehabilitation? Students may reflect on these questions in paired discussions, through a creative project such as a collage, rap, or video, or in essay form.

Reference 2.1

Statement:

The original goals of the juvenile justice system were rehabilitation and treatment of youthful offenders, but teenagers today are committing worse crimes, such as school shootings, and need to be punished rather than rehabilitated.

Fact:

The rate of juvenile arrests decreased almost 20% between 1994 and 2003, and arrest levels for most crimes are lower than 1980 levels. Most teens are convicted of misdemeanor theft rather than violent crimes such as school shootings or homicide.

Source: Office of Juvenile Justice “Juvenile Offenders and Victims 2006 Report” <http://ojjdp.ncjrs.org>

Statement:

Youth are developmentally different from adults and are not capable of reasoning through all the possible consequences of their actions. Therefore, youths are not as culpable (responsible) for the crimes they commit as adults are.

Fact:

Adolescents may have difficulty evaluating their behavior for a number of reasons: 1) They often see choices as either/or decisions; 2) They may be overly optimistic about their ability to avoid threatening situations; 3) They may be strongly influenced by their emotions and fail to use decision making processes; 4) They may not be able to accurately interpret the consequences of negative behavior; 5) They may focus more on the social reactions of their peers rather than on their own value systems.

Source: Building Partnerships for Youth:

http://calscf.calsnet.arizona.edu/fcs/content.cfm?content=decision_making

Statement:

Youth are more malleable than adults, and can therefore be rehabilitated and reintegrated as law-abiding citizens more easily.

Fact:

Missouri, a state which values rehabilitation of juvenile offenders, reports an average recidivism (re-arrest) rate of 7.1%, while the CYA, which focuses on punishment of juveniles, reports a 91% recidivism rate.

Source: Center of Juvenile and Criminal Justice: <http://www.cjcj.org/jjic/reforming.php>

Statement:

The safety of the community should come first. The only way to fully protect the community is to incarcerate violent offenders, even if the offenders are juveniles. Building new juvenile prisons and getting tough on crime are in the best interest of the entire community.

Fact:

It is cheaper and more effective to educate youth than to incarcerate youth. The average cost of incarcerating a juvenile for one year is between \$35,000 and \$63,000 per person. HeadStart's intervention program costs \$4,300 per child per year, and Harvard tuition is \$30,000 per year. As education rates increase, arrest rates tend to decrease.

Source: ACLU Fact Sheet on Juvenile Justice: <http://www.aclu.org>

Reference 2.2: Youth Court

What is youth court?

Youth courts, which can be operated by a school, probation department, law enforcement agency or court system, are courts designed to allow youthful offenders to be sentenced by their peers. As of October 2006, there were 1,127 youth courts operating in 49 states.

What cases are eligible for youth court?

Youth courts normally try first-time, misdemeanor, or non-violent cases only, such as petty theft, breaking curfew, or running away from home. Typically, the defendant must plead guilty and agree to accept whatever sentence the youth court recommends. In exchange, when the youth completes the recommended sentence, his or her record is generally expunged (cleared). Repeat offenders and those charged with violent crime are sentenced by a juvenile court judge or, in certain cases, tried in adult court.

How does youth court work?

There are many different models for youth courts, including an adult judge model, a youth judge model, a peer tribunal, and the peer jury model. The adult judge model allows youth to perform all of the roles in the court except the role of judge, which is filled by an adult volunteer who moderates the proceedings and answers questions about legal terminology. In the youth judge model, the youth also fill the position of judge. A peer tribunal is composed of three youth judges rather than a complete youth jury. The three judges determine the sentence. Peer jury models allow jurors to question the defendant directly, rather than using a lawyer as an intermediary. The majority of programs use the adult judge model.

What is the most common sentence?

Youth courts have much more fluid sentencing options, which can include writing an essay, providing an oral or written apology to the victim, attending an educational workshop, or attending tutoring or counseling. The most common sentences are community service and oral or written apologies.

How effective is youth court?

According to the Urban Institute's Evaluation of Teen Courts Project, recidivism rates in the six months following sentencing ranged from 6% to 9%. The average reported annual budget for a youth court program is approximately \$32,767.

Handout 2.3: A Just Sentence?

Directions:

Read your group's assigned case below. Answer the questions following the case explanation. Then, answer the general discussion questions as a group.

Darlene:

Darlene served two years in the California Youth Authority for robbery. She stated that she helped a group of older girls commit the robbery in order to look cool.

1. Do you think her punishment fits the crime? Why or why not? If not, what do you think would be a more appropriate sentence?
2. Should the fact that she was acting out of a sense of peer pressure impact her sentence? Why or why not?
3. Do you think Darlene's sentence served the purpose of rehabilitating her? Why or why not? Use examples from the film to support your answers.
4. What human rights issues did Darlene face while she was in prison?

Durrell:

After he was placed in a group home for persistent truancy, Durrell attempted to run away from the group home in a stolen car. He was then charged with grand theft auto, a felony offense, and sentenced to 3.5 years in a juvenile prison. He spent 1.5 of his 3 years there on lockdown. Durrell committed suicide while serving his sentence.

1. Do you think his punishment fit the crime? Why or why not? If not, what do you think would have been a more appropriate sentence?
2. Should the fact that he was not driving the stolen car have impacted the length of his sentence? Should the fact that he and the other boy were stealing the car to be closer to their families have impacted his sentence?
3. What human rights issues did Durrell face while he was in prison?

David:

In the film, fifteen-year-old David was sentenced to six years in the CYA for felony arson after he and his friend inadvertently burned down an apartment complex while playing with lighter fluid. If he serves all six years, he will not be released from prison until he is 21. He has served lengthy terms of solitary confinement on several occasions.

1. Do you think his punishment fits the crime? Why or why not? If not, what do you think would be a more appropriate sentence?
2. Should the fact that he helped evacuate the neighbors after the fire started impact the length of his sentence?
3. Do you think David's sentence will serve the purpose of rehabilitating him? Why or why not? Use examples from the film to support your answers.
4. What human rights issues does David face in prison?

General Discussion Questions:

1. Should the intent of the person who committed the crime affect sentencing?
2. Should a person's age be a factor in sentencing? For example, should a ten-year-old convicted of murder be eligible for life without parole?
3. What other factors should be considered in the sentencing process? Think of examples to support your assertions.
4. During sentencing, the rights of the offender must be balanced against the rights of the victim or community. How could the above sentences better reflect respect for human rights?

Handout 2.4: Mock Trial

Directions:

Note: *Because this is a classroom demonstration and not a full mock trial, there will be elements that differ from a real youth court proceeding. Youth court participants typically receive more than nine weeks of extensive training and preparation for their roles. Also, they have access to court documents, such as reports from the arresting office and are given time to conduct interviews with witnesses. You will also try a felony case for discussion purposes, though felony cases are not tried in youth courts.*

1. Review your assigned case study individually.
2. Prosecution and defense lawyers will meet in their respective pairs to discuss their first impressions of the case. While the lawyers are meeting, the defendant and character witnesses for each case will meet to discuss how they want to develop their roles. The jury will also meet to discuss their initial impressions of each case. You will have **ten minutes** to work in your groups.
3. Lawyers will then have the opportunity to interview the defendants and witnesses. The reporter may also interview all participants about their initial impressions of the case during this time. You will have **ten minutes** for interviews.
4. After the interviews, lawyers will meet back to discuss how they want to present the case. Witnesses will prepare their testimony. Jurists will brainstorm possible sentencing options. Teachers may assign this step for homework.
5. On the day of the trial, you will have **five minutes** to meet in your group to review the case.
6. Assemble desks and chairs to resemble a courtroom. The bailiff will call everyone to order, instruct everyone to rise, and announce the entrance of the judge. When the judge is seated, the bailiff will instruct everyone to be seated.
7. The judge will call on the prosecution lawyer to present the facts of the case and her or his recommendation for sentencing. Next, the judge will call on the defense lawyer to do the same. Each lawyer will have **three minutes**. The judge will then call the first character witness to the stand, and ask her or him to state her or his name and occupation for the court, as well as her or his relationship with the defendant. The prosecution lawyer will have the opportunity to question the witness and the defense lawyer will follow. Each lawyer will have **three minutes** to question each witness.
8. When all witnesses have completed their testimony, the judge will instruct the jury to consider the facts of the case and to come to a conclusion about a just sentencing option. The jury will have **ten minutes** to consider the case.
9. The foreman or forewoman of the jury will read the jury's decision to the court.
10. The reporter will then interview participants about their reactions to the jury's decision.

Roles

Judge:

As the judge, you are in charge of moderating the court proceedings. You will instruct lawyers when it is their turn to present arguments or question witnesses. Review each of the case studies carefully, and listen attentively to the arguments and testimony, as you will have the opportunity to recommend an alternative sentence. If you think the jury's sentence is not appropriate, you will give your official recommendation of an alternative sentence for the record, though the jury's sentence will be the one that is carried out.

Bailiff:

You will call the court to session, and will instruct everyone to rise by saying, “All rise.” You will announce the judge by saying, “Honorable Judge _____ presiding.” After the judge is seated, you will instruct everyone to be seated. Your other responsibility is to escort the defendant into and out of the courtroom. You will also keep track of time – do not let witnesses or lawyers go over the allotted time.

Jury:

Review both cases carefully and listen attentively to the arguments and testimony. You are not in charge of deciding whether or not the defendant is guilty – he or she has already pled guilty. It is your responsibility to develop an appropriate sentencing recommendation based upon all the information you read and hear. Be inventive with sentencing options to ensure you meet the needs of the youth in the case and that you honor the joint goals of rehabilitation and treatment. Consider options you think would work well in your community.

Lawyer:

Carefully read your assigned case study. Conduct interviews with the defendant and the character witnesses. Based upon your interviews and your interpretation of the case, decide how you will present your case to the jury and what sentence you will recommend. For example, if you believe the defendant needs jail time rather than supervised probation or community service, explain to the jury what facts of the case led you to that conclusion.

Defendant:

Read the case study carefully. Put yourself in the defendant’s shoes. Why did he or she commit the crime? What is the person’s background? How would the person respond when questioned? What type of sentence do you think this person deserves? How would this person act in court? Consider how you want to portray yourself to the jury and what sentence you would recommend for yourself.

Arresting Officer:

Read the case study carefully. You are the officer who arrested the defendant. Create a personality for the arresting officer. How would he or she respond when questioned? Consider how you want to portray yourself to the jury, what sentence you will recommend, and what you want the jury to know about the defendant.

School Official:

Read the case study carefully. Imagine that you are the defendant’s teacher or administrator. Create a personality for the school official. How would he or she respond when questioned? Consider how you want to portray yourself to the jury, what sentence you will recommend, and what you want the jury to know about the defendant.

Social Worker:

Read the case study carefully. You have been assigned to work with the defendant’s family and to offer treatment and rehabilitation options for the defendant. Create a personality for the social worker. How would he or she respond when questioned? Consider how you want to portray yourself to the jury, what sentence you will recommend, and what you want the jury to know about the defendant or the defendant’s family.

Family Member or Friend:

Read the case study carefully. You can choose which family member you want to be or if you want to be the defendant’s friend. Create a personality for the person you choose. How would he or she respond when questioned? Consider how you want to portray yourself to the jury, what sentence you will recommend, and what you want the jury to know about the defendant or the defendant’s family.

Reporter:

Read the case studies carefully. You work for the local news station and are in charge of covering this case. You will interview the defendant, jurors, witnesses, and others involved in the case before and after the trial. Ask what their first impressions of the case are, what sentence they plan to recommend and why, and what their reactions are after the trial. Before the trial you will give a 2-3 minute report to the class about the upcoming trial. After the trial you will give another 2-3 minute report about the result of the trial and people’s reactions.

Questions to Consider:

1. To what crime has the defendant pled guilty? What might the punishment for this crime be if she or he were tried in adult criminal court?
2. How old is the defendant? Will her or his age affect your sentencing recommendation?
3. What was the defendant's stated intent when committing the crime? Will this affect your sentencing recommendation?
4. What is the defendant's family history? Will this affect your sentencing recommendation?
5. How has the defendant performed in school? Will this affect your sentencing recommendation?
6. Has the defendant suffered any human rights violations? If so, what were they? Will this affect your sentencing recommendation?
7. Does the defendant have a criminal record? Will this affect your sentencing recommendation?
8. What is your theory of the case? For example, is the defendant basically a good person who made one mistake and can clearly be rehabilitated? Or is the defendant a repeat offender that you think needs a longer sentence?
9. What are some sentencing options you think would be appropriate in this case?
10. How can you involve the community in the rehabilitation or treatment of the defendant? How can you involve the family? What is in the community's best interest? What is in the defendant's best interest? If different, how can these differences best be resolved?

Case Study One:

Marcos, a 13-year-old student with average grades, is from a stable working class home. Though he enjoys reading and learning outside of school, he has never excelled in the school environment. Because his father is in the military, Marcos and his family move every one to two years. Marcos enjoys seeing new places, but has difficulty making friends at school and never feels that he fits in.

In October, Marcos moved to a new town and started his second new school of the year. Soon after starting school, Marcos began getting in fights with some of the boys in his class. When questioned about his change in behavior, Marcos claimed he was tired of getting picked on because he was different from the other kids. In January, the school suspended Marcos when he hit a classmate.

Two months later, Marcos brought his father's Beretta pistol to school to show some of the other students. Though he did not threaten anyone with the gun, word about the gun spread to the administration, and they notified the police. Marcos was expelled from school and charged with felony possession of a gun on school property. Based on the information available to you, what do you think Marcos's sentence should be?

Case Study Two:

Rachel is the 15-year-old daughter of alcoholic parents who divorced six months ago. She primarily lives with her mother and rarely sees her father who moved out of state. Despite having two jobs, Rachel's mother struggles to pay the bills, and Rachel is frequently left in charge of her two younger siblings, ages 5 and 3. Aside from babysitting, Rachel also has a job waiting tables on weekends to bring in extra money for the family.

At age 10, Rachel started drinking after her parents argued. Although she makes straight A's in school, she struggles to keep up with both school and family demands. Lately, she has been running away from home. Last month, Rachel was arrested for stealing food and clothes from a local retailer, totaling \$100.

She has admitted stealing the merchandise, and claims to want a new start. Rachel admits it's hard for her to stay on the right track and she feels a great deal of peer pressure from her friends to participate in illegal activities. Based on the information available to you, what do you think Rachel's sentence should be?

Lesson Three: Envisioning A Better Way

Time Allotment: One 50 minute class

Overview:

Youth and the communities in which they live exist in a balanced equation. The culture and environment of the community impact the youth, and the actions of the youth in turn impact the community. When youth are imprisoned in facilities distant from their home communities, they begin to lose ties with that community and are denied the opportunity to learn to interact in a positive way within the community. When they are released back to the community, they often feel overwhelmed and lack the community ties and resources that would allow them to be successful citizens, thus resulting in high rates of recidivism. When communities participate in the treatment and rehabilitation of youth, then both the community and youth can benefit. The following lesson encourages students to compare different rehabilitation models with the California Youth Authority (CYA) and to envision a more community and human rights oriented model.

Objectives:

Students will:

1. Critically analyze a quote
2. Construct a persuasive argument
3. Brainstorm crime prevention strategies
4. Compare and contrast the Missouri juvenile justice system with the CYA
5. Gain an international perspective on rehabilitation by considering rehabilitation programs for child soldiers

Preparation:

- Handout 3.1: The Missouri System
- Handout 3.2: An International Perspective

Procedure:

1. Post the following quote and question on the overhead or on the board. Read the quote to students and ask them to respond to the question.

“Juvenile courts do not exist to punish children for their transgressions against society. The juvenile court stands in the position of a protecting parent rather than a prosecutor. It is an effort to substitute protection and guidance for punishment . . . The aim of the court is to provide individualized justice for children . . . [and] authoritative treatment for these who are no longer responding to the normal restraints the child should receive at the hands of his parents. The delinquent is the child of, rather than the enemy of society, and their interests coincide.”

Justice Charles C. Bernstein, US Supreme Court, In re Gault, 1967

In what way do the interests of the child and the interests of the community coincide?

2. Many youth interviewed in *System Failure* suffered abusive backgrounds, and lack of access to social services such as quality education and mental health care before going to prison. The film points out that those who entered the CYA with mental health problems emerged from the system worse rather than better. In addition to providing quality social services while in prison, many advocate for spending more money on social services and prevention programs for at-risk youth before they enter the prison system. Divide students into small groups and provide each group with the following scenario:

The state is in the middle of a budget crisis, and is cutting back money for several valuable social programs, such as funding for community programs and after-school facilities. You are the director of a program for at-risk youth and realize that in order to retain funding for your program, you must persuade the state that providing funding for prevention programs now will pay off in the future. Why is it in society's best interest to provide quality social services for all citizens from a young age? Construct a 2-3 minute persuasive argument.

3. Invite groups to share their arguments.
4. *System Failure* deals with abuses suffered by youth who are already part of the prison system. In what ways do you think communities could work together to prevent crime? Brainstorm root causes of juvenile crime and then brainstorm prevention strategies.
5. Distribute Handout 3.1: The Missouri System. Students will read the handout individually and answer the discussion question.
6. Review the answers to the discussion question as a class. Draw a comparison chart with the CYA on one side and the Missouri system on the other. Ask students to list characteristics of the CYA and characteristics of the Missouri system. Compare and contrast the two systems.
7. The Missouri system recognizes that the community must be a part of the rehabilitation and healing process, just as the community was affected by the commission of the crime. In contrast, many interviewed in the film reported that they had a difficult time readjusting to the outside world because they received no reintegration training or help from the CYA. Read the following scenario to students.

Imagine that you have spent the last two to three years of your life in prison (the average length of stay in the CYA), and are about to be released. What events would you have missed over the past year? Of what would you be most fearful? About what would you be most excited? What do you think you would need when you are released? Invite student volunteers to share responses.

Close:

Invite students to share what they have learned from this lesson.

Further Study:

1. Critically analyze rehabilitation programs for child soldiers in order to help students gain an international perspective on rehabilitation programs. Distribute Handout 3.2. Student will read the handout individually. Answer the discussion questions as a class. For more information about child soldiers, refer to the lesson guide for *A Duty to Protect*, included in the In Plain Sight package.
2. Ask interested students to send their written response to the following questions to Books Not Bars for possible use in their advocacy efforts.

Questions:

- How does Missouri's Juvenile Justice System reflect respect for human rights?
- Which human rights listed in the Convention on the Rights of the Child or other human rights documents does the Missouri system honor?
- What human rights violations did you note in *System Failure*?
- What alternative treatments or procedures could the California Youth Authority implement that would reflect respect for human rights?

Books Not Bars (An Ella Baker Center Campaign)

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Handout 3.1: The Missouri System

Different Goals

Missouri's juvenile facilities are overseen by the Department of Social Services rather than by the adult corrections system, as they are in California. After nearly a century of using a punishment model similar to the California Youth Authority, Missouri realized that a change in approach was desperately needed, as many judges did not want to send youth to the abusive and violent facilities. They have since adopted a rehabilitation model that is so successful that over 15 states have sent representatives to Missouri to learn how to implement it in their home states. Missouri's vision statement is "safe, healthy, and productive citizens," and their mission statement is "to enable youth to fulfill their needs in a responsible manner with respect for the needs of their families and their communities."

Different Approach

The maximum number of beds allowed in the small rehabilitation centers is 33, and children are given real beds with comforters and pillows in a common dormitory style room rather than hard slabs in a locked cell. Youth may attend one of over 30 community based residential rehabilitation facilities or a non-residential treatment program. These smaller regionally-based facilities integrate communities and families into the rehabilitation process, rather than isolating families with expensive phone calls, distant prison facilities, and lack of communication. Youth are rarely placed more than one to two hours from their homes, and therapists will drive family members to family counseling sessions if they cannot arrange transportation themselves.

In addition to five 90-minute counseling sessions per week led by highly trained professionals, youth participate in the community by performing community service while they are under the supervision of the treatment home. Chores and rules are balanced with mandatory school work and constructive use of free time. Because the Missouri system understands that youth are significantly influenced by peer pressure, they form youth into peer groups of no more than twelve people that gradually assume responsibility for the behavior of group members. Missouri also provides extensive aftercare services to help youth successfully reintegrate into their communities and families. Missouri is also dedicated to providing front-end counseling and services for at-risk youth so that they never have to become involved with the juvenile justice system.

Different Results

Missouri's juvenile recidivism rate has remained at about 7.1% since 2001. In addition to being effective, the program is also cost-efficient: Missouri's annual budget for its juvenile corrections department is \$58 million, along with \$4.3 million for front-end social services, or about \$44,000 per year per juvenile. California spends an average of \$80,000 per juvenile.

Discussion Question:

How does Missouri's system reflect a respect for human rights? Which human rights listed in the Convention on the Rights of the Child does the system honor?

Handout 3.2: An International Perspective – Rehabilitating Child Soldiers

“The first time I went into battle I was afraid. But after two or three days they forced us to start using cocaine, and then I lost my fear. When I was taking drugs, I never felt bad on the front. Human blood was the first thing I would have every morning. It was my coffee in the morning... every morning.”

Ibrahim, 16 Youth Ambassadors for Peace, Voices and Stories,
Free the Children, 2001, <http://www.freethechildren.org/peace/voices.html>

Overview:

- Over 300,000 child soldiers, or soldiers under the age of 18, are being used in over 36 countries worldwide.
- Sometimes children are forcibly recruited, while other times they join voluntarily out of a desire to avenge the deaths of their family members.
- Orphans and refugees sometimes join the militia or army in order to gain protection.
- Children are used as soldiers because they are easily manipulated, are too young to fully understand their actions, and commit murder more easily and brutally than adults if trained to do so from a young age.
- Child soldiers are often given drugs to help them cope with their emotions, making it easier for them to kill.
- Girl soldiers are often used as sex slaves, but they also serve active combat roles.
- Child soldiers are often forced to commit atrocities against their own families and villages.

Rehabilitation Programs:

“We offer the children a stabilizing influence. We give back to them the hope of building a future that is worthy of its name, which they lost in the war, whatever their degree of involvement in it. The activities include a lot of sports and we try to teach those who are past primary school age how to read and write. . . . The psychological work is all about love and affection. We have to understand the difficulties of the child who has broken the links with his family. We have to make him aware of his problems in order to try and find solutions to them. We spend a lot of time with the kids.”

Father Henry de Penfentenyo, Director of a youth centre in Cote d'Ivoire
<http://www.irinnews.org/report.aspx?reportid=51266>

“They [child soldiers] have lived with a false sense of ‘power’ derived from the possession of weapons and sometimes even a certain amount of authority, but in their psychological development they are still children and can not integrate these different aspects of their experience. They need continuous moral, financial, communal and spiritual support in order to move forward from their experiences and into a new life.

Ajedi-Ka: Rehabilitation program for child soldiers in the Democratic Republic of Congo <http://www.ajedika.org/reintegration.html>

Many organizations, including the United Nations, realize that child soldiers, despite any atrocities they may have committed during the war, are still children who are victims of war. Therefore, they have founded rehabilitation programs to help demobilize children and reintegrate them into society. Rehabilitation programs include counseling and training for both the child soldiers and the community, as one of the challenges of demobilization is that community members often fear that child soldiers will harm them in the future or that child soldiers are beyond the efforts of rehabilitation.

Successful rehabilitation also depends upon the presence of schools or alternative careers for the children. In addition, children receive medical care for injuries suffered during war, and former girl soldiers receive assistance and training to help them care for children born as a result of rape. In order to be effective, rehabilitation programs must be highly individualized to take into consideration the age at which a child was recruited, the length of time the child served, and the atrocities the child witnessed or committed. Many rehabilitation programs seek to prevent the recruitment of child soldiers in addition to demobilizing current child soldiers.

Ajedi-Ka, a rehabilitation program in the Democratic Republic of Congo, has included the community in the reintegration process by forming Village Committees for Child Protection which include a pastoral figure, a teacher, a wiseman or wisewoman, a representative of the local administration, and a local business-person. Their responsibility is to report any children's rights violations, and to aid the child's reintegration into the community by providing psychological and spiritual support to the children.

Discussion Questions:

1. Do you believe child soldiers are responsible for their actions? Why or why not?
2. Do you believe child soldiers should be punished or rehabilitated? Explain your answer.
3. In what ways are child soldiers similar to youthful offenders in the United States?
In what ways are they different?
4. Do you believe youthful offenders in the United States can be rehabilitated? Did learning about rehabilitation programs for child soldiers change your opinion?
5. What do you think rehabilitation programs in the United States could learn from rehabilitation programs for child soldiers?

Resources

Ajedi-Ka: Working to Rehabilitate Child Soldiers in the DRC

<http://www.ajedika.org/reintegration.html>

California Youth Authority: Reform and Rehabilitation

<http://www.cya.ca.gov/Communications/ssFactsNews.html>

Center on Juvenile and Community Justice: Reforming the Juvenile Justice System

<http://www.cjcj.org/jjic/reforming.php>

Constitutional Rights Foundation: Service Learning and Youth Courts

http://www.srf-usa.org/network/net9_3.htm

Ella Baker Center/Books Not Bars – The Basics

<http://www.ellabakercenter.org/page.php?pageid=18&contentid=6>

Federal Youth Court Program

<http://www.youthcourt.net>

Know Your Rights – A Guide for Youth

<http://www.gaultat40.info/knowyourrights.php>

Missouri Department of Social Services: Juvenile Justice Division

http://www.dss.mo.gov/pr_jj.htm

National Center for Juvenile Justice

<http://www.ncjj.org>

NPR – California Youth Authority Report

<http://www.npr.org/templates/story/story.php?storyId=1624283>

NPR: Missouri Youth Prisons

<http://www.npr.org/templates/story/story.php?storyId=1127713>

PBS Frontline: Juvenile Justice

<http://www.pbs.org/wgbh/pages/frontline/shows/juvenile>

Street Law: Practical Participatory Education about Law, Democracy, and Human Rights

<http://www.streetlaw.org>

United Nations World Programme of Action for Youth on Juvenile Delinquency

<http://www.un.org/esa/socdev/unyin/wpayjuvenile.htm>

Youth Law Center

<http://www.ylc.org>