

# Education for Liberation

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*James Forman, Jr.\**

## I. THE PROBLEM

The way children and youth are treated in juvenile detention facilities remains one of the nation's great scandals.<sup>1</sup> Some of the worst examples involve physical abuse and inhumane living conditions. In Florida, for example, a fourteen-year-old boy was recently admitted into a state-run boot camp. Just hours after his arrival, during a forced run, he fell down complaining of shortness of breath. In response, more than seven guards descended upon him and were captured on video choking, kneeling, and punching him as he lay helpless on the ground. The boy was eventually strapped to a gurney and taken to the hospital, where he was pronounced dead. His crime: stealing his grandmother's car.<sup>2</sup>

In Texas, in the past few years, state employees sexually molested at least thirteen youths in state custody. Prison and state officials were aware of the cases but kept the reports secret.<sup>3</sup> In Louisiana, guards entertained themselves by creating a game they called "Friday Night Fights," in which

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\* Professor of Law, Georgetown University Law Center. I would like to thank Arthur Evenchik and David Domenici, whose contributions to this article are significant. Jess Sucherman, Ewa Budz and the staff of the Edward Bennett Williams Law Library provided first-rate research assistance, and Tejinder Singh of the *Harvard Law and Policy Review* was a superb editor. The developments I describe in this Essay would not be possible without the leadership of Vincent Schiraldi and Marc Shindler of the District of Columbia Department of Youth Rehabilitation Services. In the interest of disclosure, I am directly involved in much of what I discuss in this Essay. As an attorney at Washington, D.C.'s Public Defender Service, I represented clients locked up in the Oak Hill juvenile facility. I am also one of the founders of the program that is now responsible for creating a new school at that facility.

<sup>1</sup> See, e.g., AMNESTY INT'L, BETRAYING THE YOUNG: HUMAN RIGHTS VIOLATIONS AGAINST CHILDREN IN THE U.S. JUSTICE SYSTEM I (1998), available at <http://web.amnesty.org/library/index/ENGAMR510571998> ("Once they enter the justice systems of the USA, thousands of children experience violations of their human rights protected by international law."); HUMAN RIGHTS WATCH, WORLD REPORT 2001: THE UNITED STATES 434 (2001), <http://www.hrw.org/wr2k1/print/full/us.pdf> (As of 2000, "[o]ver 100,000 children in the United States were confined in juvenile facilities. Many of them faced appalling conditions of abuse and neglect.").

<sup>2</sup> Carol Marbin Miller, *Guards Detail Youth's Final Minutes*, MIAMI HERALD, Mar. 10, 2006, at A1. In October 2007, eight individuals were acquitted of manslaughter charges stemming from this incident. The Associated Press, *Jury Acquits Guards and Nurse of Manslaughter in Youth's Death at Boot Camp*, HERALD TRIB., Oct. 12, 2007, available at <http://www.heraldtribune.com/article/20071012/BREAKING/71012001>. The details of this incident are more fully described in Douglas E. Abrams, *Reforming Juvenile Delinquency to Enhance Rehabilitation, Personal Accountability and Public Safety*, 84 OR. L. REV. 1001, 1012-13 (2005).

<sup>3</sup> Sylvia Moreno, *In Texas, Scandal Rocks Juvenile Justice System; Hundreds to be Released as State Looks at Abuse Allegations and Sentencing Policies*, WASH. POST, Apr. 4, 2007, at A3; R.G. Ratcliffe, *Crisis Was Years in Making*, HOUS. CHRON., Mar. 11, 2007, at A1.

groups of youths fought each other while guards watched.<sup>4</sup> Conditions in Maryland facilities were so bad that reformer Vincent Schiraldi concluded, “[i]f you were sort of a mad scientist who was sent to Maryland to deliberately make kids into criminals, you could hardly do any better than what’s going on in Maryland’s juvenile facilities . . . . You’d have to work hard to cripple kids worse than they’re being crippled now.”<sup>5</sup>

The horrific violence is shocking. The incidents also put us on notice that the problems in the juvenile justice system run deep, affecting some of the most important functions that these facilities are intended to perform. If a system allows such shocking abuses to occur, what can we expect of its schools? The answer is: not much. And while the deficiencies in these areas make fewer headlines, they affect every single child in the system.<sup>6</sup>

A good school should be the centerpiece of any juvenile detention facility. All of the children in such a facility are of school age, and school is where they spend (or should spend) most of their day. Moreover, whether they learn, accrue credits, and advance grades can have a huge impact on their life prospects. Despite their importance to students’ lives, schools in detention settings typically do none of the things good educational practice requires: Academic expectations are low; the curricula are neither relevant nor rigorous; there is little focus on literacy; social and emotional wellness get short shrift; special education services are wanting; career preparation is not emphasized; and schools adopt a deficit approach that views young people, their families, and their communities solely as problems to be fixed.<sup>7</sup>

## II. A SOLUTION: THE SEE FOREVER MODEL

Against this backdrop of hopelessness, Washington, D.C. is in the midst of a radical reinvention of its juvenile detention system. Because of the high visibility of the nation’s capital, this effort has the potential to change the

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<sup>4</sup> Mark Gladstone & James Rainey, *Abuse Reports Cloud Youth Authority*, L.A. TIMES, Dec. 24, 1999, at A1.

<sup>5</sup> Todd Richissin, *Lt. Gov. is Urged to Close Teen Jail*, BALT. SUN, Nov. 27, 2001, at 1A (quoting Vincent Schiraldi, Executive Dir. of the Ctr. on Juvenile & Criminal Justice). I have included only a few of the hundreds of examples of this abuse. For a thorough accounting, see Abrams, *supra* note 2, at 1002.

<sup>6</sup> See AM. BAR ASS’N, THE EDUCATIONAL PROCESS IN JUVENILE CORRECTIONAL SCHOOLS: REVIEW OF THE RESEARCH 3, 6–7 (1992), available at [http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content\\_storage\\_01/0000019b/80/12/c9/f7.pdf](http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/12/c9/f7.pdf).

<sup>7</sup> See, e.g., Harriet Morrison & Beverly Epps, *Warehousing or Rehabilitation? Public Schooling in the Juvenile Justice System*, 71 J. NEGRO EDUC. 218, 225 (2002) (examining educational programs offered in juvenile justice facilities and stating that “education programs in many juvenile correctional facilities are inadequate or nonexistent. On the list of priorities for these facilities, education may fall to the bottom of the list when competing against security functions for limited resources, in a society impassioned with policies based on zero-tolerance.”); BRUCE WOLFORD, JUVENILE JUSTICE EDUCATION: “WHO IS EDUCATING THE YOUTH?” i (2000), available at [http://www.edjj.org/Publications/educating\\_youth.pdf](http://www.edjj.org/Publications/educating_youth.pdf) (finding that in more than half the states, no state department of education funds were directed to educate youth in juvenile justice settings).

conversation about what is possible for juvenile offenders and serve as a catalyst for change around the country. What follows is a description of one part of that reform: a proposal to transform one of the nation's worst schools into a national model.

The school at the Oak Hill Youth Center is in some respects typical. A terrible place for young people, Oak Hill was sued by the D.C. Public Defender Service in the 1980s and has been operating under court oversight ever since.<sup>8</sup> Administrators have come and gone, the newspapers have printed occasional stories about what a catastrophe the place is,<sup>9</sup> and children have cycled through. Little changed, however, until 2005, when a nationally renowned reformer named Vincent Schiraldi was given the keys and told that he was in charge. The appointment was a departure from business as usual because Schiraldi was an outsider who long had demanded changes at Oak Hill and places like it.<sup>10</sup> Now it was his chance to implement ideas he had been advocating for a lifetime. Recognizing that unless he fixed the school nothing else he did would really matter, Schiraldi eventually wrested control from the school system and invited organizations from around the country to submit proposals to run the school.

For the See Forever Foundation, a nonprofit that David Domenici and I founded in 1997, submitting a proposal was an obvious choice. In 1997 See Forever had opened its doors as a holistic program for teens involved in the juvenile justice system. We tried to give students what they told us they wanted, which fit closely with what the experts said they needed: a chance to earn money, learn marketable skills, and gain responsibility, in a school with small classes and teachers who cared about them.

We started our first school with twenty teens. In our first year we sponsored a school naming contest, and Sherti Hendrix, of the Class of 1999, wrote the winning essay, advocating that we name the school after Dr. Maya Angelou. We have grown slowly each year since then, as students from all over the District actively sought admission. Some had been out of school, some had been lost in big schools, and others had been referred to the school by supporters. Some, albeit not the majority, continued to come from the court system.

Although we were a charter school, we had always believed in working with the public system. We saw ourselves as a participant in the public sector, not as a free market competitor.<sup>11</sup> In that spirit, we opened our sec-

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<sup>8</sup> See *Jerry M. v. District of Columbia*, 571 A.2d 178, 180–83 (D.C. 1990) (discussing and reviewing consent decree). Most schools in detention centers are run by education supervisors from the state corrections office. For more information see AM. BAR ASS'N, *supra* note 6, at 10.

<sup>9</sup> See, e.g., Karyn Spellman, *Law Students Rip Juvenile Detention Center*, WASH. TIMES, Apr. 12, 1996, at C4.

<sup>10</sup> See Bethany Broida, *One Man's Mission Impossible: Can a Liberal Policy Wonk and Youth Advocate Reform D.C.'s Troubled Juvenile Justice System?*, LEGAL TIMES, Apr. 4, 2005, at 1.

<sup>11</sup> In this regard, our school has always seen itself as part of the progressive wing of the school choice movement. For more information on the progressive school choice movement

ond campus in 2004 in partnership with the D.C. Public Schools, and recruited students who were having trouble in larger comprehensive high schools.

In the spring of 2007, Schiraldi's Department of Youth Rehabilitation Services chose See Forever to run the school at Oak Hill. That summer, we made Oak Hill the site of a Children's Defense Fund Freedom School program, adopting a model inspired by the Mississippi Freedom Schools of the civil rights movement.<sup>12</sup> To our knowledge, this was the first time that anybody had ever tried to run a Freedom School in a juvenile detention facility. In the fall of 2007, the more traditional school year began.

In this Essay, I will not attempt to provide a detailed blueprint of what the school will look like at Oak Hill under See Forever's leadership. Instead, I will highlight key features of the model. In doing so, I hope to outline a progressive vision of high-quality education in a juvenile justice setting. These core principles, around which I will organize this Essay, are the following: 1) High Expectations; 2) A Rich, Robust, Relevant Curriculum; 3) Caring, Trusting, Loving Relationships; and 4) Partnerships with Parents and Families.

Educators will likely greet my list of core elements with a knowing nod. In the past decades, reams of reports have documented what good schools look like.<sup>13</sup> While the details differ, most lists include some version of these core elements. Although many schools—especially schools serving low-income youth—do not do all of these things in practice, the aspiration is widely shared throughout the public sector.

However, creating a school with these elements would be a revolutionary alternative to current education offerings within the juvenile justice system, which typically have none of these qualities.<sup>14</sup> Schools for children

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see generally James Forman, Jr., *The Secret History of School Choice: How Progressives Got There First*, 93 GEO. L.J. 1287 (2005); THE EMANCIPATORY PROMISE OF CHARTER SCHOOLS: TOWARD A PROGRESSIVE POLITICS OF SCHOOL CHOICE (Eric Rofes & Lisa M. Stulberg eds., 2004).

<sup>12</sup> Freedom Schools were summer schools started in Mississippi by civil rights workers from the Student Nonviolent Coordinating Committee and other organizations. According to Wesley Hogan:

Offering courses in African American history, French, and modern Africa, as well as basic reading and math, the schools taught children to value their own community's history and expanded their horizons to political and social realities outside of Mississippi. The teachers, who provided instruction through workshops rather than lectures, asked their students to question the white supremacist assumptions suffusing their official textbooks. The Freedom Schools not only impacted a generation of Mississippians but also reshaped the educational practices of thousands of teachers across the country.

WESLEY C. HOGAN, MANY MINDS, ONE HEART: SNCC'S DREAM FOR A NEW AMERICA 167 (2007); see also Forman, *supra* note 11, at 1295–1300.

<sup>13</sup> See, e.g., THE KEYS TO EFFECTIVE SCHOOLS: EDUCATIONAL REFORM AS CONTINUOUS IMPROVEMENT (Willis D. Hawley ed., 2007); Steve Wulf, *How to Teach Our Children Well*, TIME, Oct. 27, 1997, at 62.

<sup>14</sup> See Peter E. Leone, Michael Krezmien, Loretta Mason & Sheri M. Meisel, *Organizing and Delivering Empirically Based Literacy Instruction to Incarcerated Youth*, 13 EXCEPTION-

who are locked up or have been locked up are not part of the conversation about best education practice. Most educators in a given jurisdiction do not even know what takes place inside juvenile facilities.<sup>15</sup> Ending this disconnect is one of the central themes behind our work at the Oak Hill School. We believe that what works best in education must be incorporated into the practice of schools in juvenile detention facilities.

### 1. *High Expectations*

The notion of high expectations has become something of a cliché, especially since President Bush's claim that he would combat "the soft bigotry of low expectations" with the federal No Child Left Behind law.<sup>16</sup> It is a cliché because, at the most general level, who would disagree with the statement that schools should have high expectations for students? In addition to sounding obvious, the high expectations mantra runs the risk of devolving into empty rhetoric if the expectations are not accompanied by the support needed to meet them. High expectations alone are not enough. Teachers must be skilled, and need opportunities to collaborate and improve their craft. The curriculum must be challenging and engaging. Education must be individualized to meet the students' needs, and individual struggling students must be supported. And all of this costs money.

That said, my work over the past decade has convinced me that, especially with children from the court system, a revolutionary redefinition of expectations must be the starting point for any change. Everything about the juvenile justice system tells young people who have been arrested how little hope we have for them. Consider what happens at a youth's first court hearing after an arrest. As a public defender, I stood next to clients every day and listened to judges tell them the same thing: "I'm going to release you on the condition that you: 1) do not get arrested again, 2) pass your weekly drug tests, and 3) carry an attendance card to school for your teachers to sign." As a public defender, it was my job to get my client the fewest conditions of release possible, so I certainly would never ask for more than that. But I was always amazed by the expectations conveyed in those judicial orders. What parent defines success as going to school, not using drugs, and avoiding arrest? Parents dream of college, of getting good grades, of children making a contribution to their families and communities. But such talk is absent

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ALITY 89, 90 (2005) ("Many correctional education programs lack the awareness and resources necessary to organize and deliver appropriate general, remedial, and special education services.").

<sup>15</sup> See Peter E. Leone & Candace A. Cutting, *Appropriate Education, Juvenile Corrections, and No Child Left Behind*, 26 BEHAV. DISORDERS 260, 260 (2004). ("Historically, education programs in juvenile corrections have been underfunded and neglected by the larger education community.").

<sup>16</sup> President George W. Bush, Remarks on Implementation of the No Child Left Behind Act of 2001 (Sept. 4, 2002), in 38 WKLY. COMPILATION PRESIDENTIAL DOCUMENTS, Sept. 9, 2007, at 1482.

from the juvenile court system, because the system does not think that children who have been arrested have that potential.

The scene I just described is not going to change anytime soon, if ever. Nor, perhaps, should it. Juvenile judges need to set a low bar for success. After all, young people in juvenile court are typically there because they have been charged with a crime, so conditioning their release on their ability to obey the law is appropriate. But schools serving young people in the court system must have higher standards. After all, a school's job is to help students reach their dreams, and few people's dreams are limited to avoiding recidivism.

With this in mind, when we started See Forever and the Maya Angelou School, we made a practice of telling students and families the first time we met them that "this is your first step towards college, a job you enjoy, and the life you want." Sometimes those meetings took place in the courthouse or the public defender's office, with youths who had recently been released from jail. We received a lot of blank looks in response. But we knew that would be the case; what we were saying was so completely different from what children and families had been accustomed to hearing that we may as well have been speaking another language. The blank looks also reminded us of something important: It is not nearly enough to tell children you believe in them and their futures. One conversation will not engender the sort of trust you need, especially when talking to children and families who have been sold a bill of goods for so long. To take effect, this message must be repeated, tirelessly and consistently, by every member of the staff, from the principal to the receptionist to the student interns and school volunteers. More importantly, the talk must be backed by specific action. These actions include much of what I describe in this Essay: developing a rigorous curriculum, investing in trusting relationships, and engaging families and communities.

I do not for a minute want to suggest that this is easy. Young people in juvenile justice facilities typically come with a host of challenges. They often come from low-income families, are typically years behind in school, and frequently face socio-emotional wellness challenges. Many have disabilities that have never been properly addressed.<sup>17</sup> And they all have committed at least one crime.

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<sup>17</sup> See Leone & Cutting, *supra* note 15, at 261:

Most youths enter correctional facilities with a range of intense educational, mental health, medical, and social needs. Large numbers of juveniles in corrections are marginally literate or illiterate and have experienced school failure and retention. These youths are disproportionately male, poor, and members of minority groups, and they have significant learning and/or behavioral problems that entitle them to special education and related services.

Unfortunately, as of 2002, only 53% of correctional facilities provided in-house mental health evaluations for all youth, and 13% failed to evaluate any youth. See HOWARD N. SNYDER & MELISSA SICKMUND, U.S. DEPT. OF JUSTICE, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, JUVENILE OFFENDERS AND VICTIMS: 2006 NATIONAL REPORT 226 (2006).

These obstacles may seem insurmountable to many readers of this Essay. But despite the daunting challenges, at *See Forever* we face this work with optimism, not despair. Why? Principally it is because we have learned that while each of these young people has problems, the problems do not wholly define them. Every young person we have ever worked with—including those who are incarcerated—has tremendous assets. Even as they sit locked up, miles from their homes, they have hopes, dreams, and potential. They crave relationships with supportive, caring adults who believe in them and demand the best. They each have someone in their lives who wants them back home, and who prays that when they return, they will go back to school, get jobs, contribute to their families, and even go to college. We believe that schools must take the view that it is their job to help make this happen by identifying and building upon the assets each young person possesses.

## 2. *A Rich, Robust, Relevant Curriculum*

One of the most pernicious themes in recent education policy discussions is the notion that while middle-class students do well with a range of resources and activities, low-income children need a stripped-down curriculum. These arguments are increasingly becoming explicit. An example is a recent editorial in *USA Today*, which criticized the idea that No Child Left Behind had contributed to the decline of arts and music in schools. The *USA Today* editors argued that narrowing of the curriculum was limited to urban districts. Middle class and wealthy parents need not worry, they said, because “if your child attends a successful school in a well-to-do neighborhood, chances are the curriculum hasn’t narrowed.” As for poor students, “if your child attends a school in a high-poverty neighborhood, chances are the school needs to zero in on the basics.”<sup>18</sup>

This argument goes against everything we believe at *See Forever* and Maya Angelou. Our starting position is just the opposite: We presume that what the wealthy get would be good for all students.<sup>19</sup> To be clear, this is simply a presumption. If we gather evidence to the contrary, we will adjust our view. But so far we have learned, for example, that low-income parents typically want things like art lessons and trips abroad for their children. So we do everything in our power to provide those sorts of opportunities. We cannot close the opportunity gap, but we can certainly do our best to narrow it.

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<sup>18</sup> Editorial, *An Illusion Gains Credibility*, USA TODAY, Aug. 6, 2007, at 12A.

<sup>19</sup> See, e.g., CLAUS VON ZASTROW & HELEN JANC, COUNCIL FOR BASIC EDUC., *ACADEMIC ATROPHY: THE CONDITION OF LIBERAL ARTS IN AMERICA’S PUBLIC SCHOOLS 9* (2004), available at <http://downloads.ncss.org/legislative/AcademicAtrophy.pdf> (“The possibility that minorities are more likely to experience a narrowing of the curriculum raises important questions of educational equity. Truly high expectations cannot begin and end with mathematics, science, and reading.”).

What does this mean for curriculum planning in a school in a detention facility? It means that the curriculum should be aligned with the state standards, so that when youths leave they will have an easier transition into their next school. Within this framework, school leaders and teachers must select themes that are immediately relevant and compelling to students, and ensure that lessons focus on essential skills, content, and questions. Classes must include a combination of direct instruction and project-based, cooperative learning.

In addition, the curriculum in a school serving incarcerated African-American teens must prominently feature works by contemporary African-American authors and explore themes and issues that our students find compelling.<sup>20</sup> We have seen the power of this approach: the Maya Angelou school was named by a student who had read *I Know Why the Caged Bird Sings* in English class, and was moved to write an essay about how Maya Angelou's life connected to hers. Our experience since then has confirmed the critical role that African-American literature can play in motivating our students to become active and engaged readers.<sup>21</sup>

Here is how Trey C., one of our graduates, described the influence of the curriculum on him:

Over the last three years, this school has given me many new insights. Out of all the academic classes, I would say English and History have influenced me the most. Reading books such as *Makes Me Wanna Holler* by Nathan McCall and *Autobiography of a Family Photo* by Jacqueline Woodson inspired me to tell the story of my life with literature. I also have a thirst to freeze time with a camera. This thirst began solely because of one paperback book—the most influential book I have ever laid eyes on—*A Choice of Weapons*, by Gordon Parks. His life story inspired me to become a photographer. These books collectively, as well as others, have inspired me to become a photojournalist.<sup>22</sup>

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<sup>20</sup> See generally Eleanor Brown, *Black like me? "Gangsta" Culture, Clarence Thomas, and Afrocentric Academies*, 75 N.Y.U. L. REV. 308 (2000) (discussing the importance of afrocentric curriculum in secondary school education to identity development in African-American youth); Martha D. Collier, *Through the Looking Glass: Harnessing the Power of African American Children's Literature*, 69 J. NEGRO EDUC. 235 (2000) (describing how the inclusion of African American children's literature in the curriculum can improve the educational experience of African Americans). In the District of Columbia, detained minority youth outnumber detained white youth by a ratio of almost 9 to 1. SNYDER & SICKMUND, *supra* note 17, at 214.

<sup>21</sup> Instructional modules built around the themes of self, family, and community in the African-American experience have proven successful. These modules incorporate plays by Lorraine Hansberry (*A Raisin in the Sun*) or August Wilson (*The Piano Lesson*), stories by Walter Dean Myers (*145th Street*) or Maxine Clair (*Rattlebone*), memoirs by Gordon Parks (*A Choice of Weapons*) or James McBride (*The Color of Water*), and novels by Ernest J. Gaines (*A Lesson Before Dying*) or Jacqueline Woodson (*Autobiography of a Family Photo*).

<sup>22</sup> Herman "Trey" C., Graduation Reflection (June 2001) (transcript on file with author).



Trey's interest in a career in photojournalism demonstrates the falsity of the idea that low-income students should get less than the full range of curricular offerings available in schools serving the wealthy. In addition to reading Gordon Parks's autobiography, Trey had the chance to take a photography elective while at Maya Angelou. The two worked together in Trey's educational life, in a pattern we have seen time and again. For young people who have experienced academic failure, helping them find other things they love to do can help ignite or sustain an interest in the basics like reading and math. Accordingly, a school in a juvenile detention facility must be committed to building artistic and recreational activities into its core academic classes during the regular school day. In addition, it must offer an extended day program with enrichment courses. Some courses that we have found successful over the years include dance, music, art, speech and debate, step team, peace and nonviolence workshops, digital music production, street law, and yoga.

### 3. *Caring, Trusting, Loving Relationships*

"Caring," "trusting," and "loving" are not words that typically appear in laws or regulations governing schools. I understand this, as these concepts are difficult, if not impossible, to legislate. In part this is because these concepts are hard to quantify. But sometimes the things that matter most are those to which we cannot assign a numerical value.<sup>23</sup>

Teens who have experienced failures in school and in life are the ones who most desperately need schools to be caring, trusting, loving places. My own experiences as a child have given me a perspective on the challenges failure presents. For most of my life I attended urban public schools that, under today's No Child Left Behind labels, would have been called "failing." But I was lucky in the sense that school work came fairly easy to me; I liked going to school because I did well there and teachers held me in high regard. The Boys Club near my school represented a different world. It regularly produced some of the top young boxers in the country, including numerous Golden Gloves competition winners. I had not learned to box when I was younger, and by the time I started going to the Boys Club the rest of the boys had far more experience. It became clear that, unlike school, boxing was not my forté. The place was rough, unsupervised, and scary. As much fighting took place outside the ring as in it, and I was never the victor. Even though my mom had signed my brother and me up for the year, I dropped out after just a couple of weeks. Fortunately, there are no lasting consequences to being a Boys Club drop-out.

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<sup>23</sup> Cf. Frank Ackerman & Lisa Heinzerling, *Pricing the Priceless: Cost-Benefit Analysis of Environmental Protection*, 150 U. PA. L. REV. 1553, 1584 (2002) ("Cost-benefit analysis cannot overcome its fatal flaw: it is completely reliant on the impossible attempt to price the priceless values of life, health, nature, and the future.").

For many of the students we have worked with at Maya Angelou, and for most of the young people in juvenile justice facilities, school presents the same challenges and disappointments that the Boys Club did for me. It is, in their eyes, a place of vulnerability, where their deficiencies are on display. How does a group of determined educators break down the walls that students put up to hide their academic weaknesses? There are many pieces to the answer, but a critical one is trust. Students who have experienced years of failure in school have to believe that this time, the adults will be different. This time, the adults in the room won't give up on them, won't just teach the kids who are getting it, and won't write them off as incorrigible.<sup>24</sup>

This is not easy by any stretch. By the time they are teens, adolescents who have had academic troubles and a deficit of trusting relationships have perfected a variety of strategies to hide their weaknesses and avoid being abandoned again. They can be either diffident, or defiant and rude. Often, it is a test. I cannot tell you how many students, after years with us, have admitted some version of the following: "I know I was horrible for a long time. I wanted to see if you would stick with me or give up. When you kept after me I finally figured out that you cared about me, and I decided to care too."

As hard as it is to develop such relationships, I do not see any alternative. In our evaluations of our alumni we have seen the importance of relationships to their eventual success. For example, in an evaluation of our school by the Social Policy Action Network, more than 80% of seniors said that they would call a staff member (and even named a specific person) if they had a crisis or needed help outside of school. Interviews with alums reflect the same themes: trusting relationships got them through. As alumnus Mike G. put it:

I think maybe that was the best part about See Forever, the trust. They got to be real close with my mother and my family, and they made it easier for me to trust them and believe in what they were saying. It helped me start to think of myself as somebody who really could go to college, get a job, and be happy in life, all the stuff they were always talking about at See Forever. I just turned 21 last year and I know I'm just starting to live, but I feel like I'm off to a pretty good start.<sup>25</sup>

Samantha C. offered a similar observation:

The thing about See Forever is that the support was there. For someone like myself who never really had any support of any

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<sup>24</sup> See, e.g., Caren Floyd, *Achieving Despite the Odds: A Study of Resilience Among a Group of African American High School Seniors*, 65 J. NEGRO EDUC. 181, 181 (1996) (stating that "[interaction] with and the involvement of committed, concerned educators and other adults in their lives" is one of the three key components youths need to develop resiliency).

<sup>25</sup> Interview by Colin Bane with Michael G., alumnus of Maya Angelou Public Charter School (Feb. 6, 2007) (transcript on file with author).

kind. . . let's just say a little inch goes a long way. No one in my household ever graduated from anything, so all this talk about getting through high school and maybe going to college would have just been some crazy talk if it weren't for the support. Once I learned to trust in it, knowing I had that support was what got me through.<sup>26</sup>

#### 4. *Partnerships with Parents and Families*

Fostering parent involvement in children's education is something that virtually everyone agrees is important.<sup>27</sup> It is also an area in which it is very hard for schools to do well. Deborah Meier, a visionary educator and one of the founders of the small schools and choice movements, has written about some of the difficulties. Writing about one of her schools, Boston's Mission Hill School, Meier says that it "is founded on a vision of community that includes parents. But includes them in what, how, when? Should parents have a say in how I do my job? In what ways?"<sup>28</sup>

These questions and others must be engaged by conscientious educators who seek to bridge the school-family-community divide. But my experience has taught me that few schools even ask Meier's questions, because too few share Mission Hill's belief that school is a community that includes parents. In most low-income communities schools and families have made an implicit bargain. Schools say to parents, "we are the education experts and we don't want you nosing around in what we do with your child. Please just show up to the PTA meetings and the occasional parent conference, and make sure your child does his homework." Schools exclude parents from the workings of the school day, and at the same time disclaim any responsibility for what happens after 3 p.m. until the next morning. Parents, for their part, say, "life with my child is hard enough from 3 p.m. to 8 a.m., when I have to handle things. During the school day you are in charge; run a good school, teach my child well, but don't bother me with a bunch of meetings, requests, and complaints about my child. You're the teacher, so teach; that's your job."<sup>29</sup>

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<sup>26</sup> Interview by Colin Bane with Samantha C., alumna of Maya Angelou Public Charter School (Feb. 6, 2007) (transcript on file with author).

<sup>27</sup> See, e.g., Carey Cooper & Robert Crosnoe, *The Engagement in Schooling of Economically Disadvantaged Parents and Children*, 38 *YOUTH & SOCIETY* 372, 372 (2007) ("In economically disadvantaged families, parental involvement was associated with greater level of child academic orientation."); William H. Jeynes, *The Relationship between Parental Involvement and Urban Secondary School Student Academic Achievement—A Meta-Analysis*, 42 *URBAN EDUC.* 82, 99 (2007) ("[P]arental involvement has a positive impact on children's academic achievement.").

<sup>28</sup> DEBORAH MEIER, *IN SCHOOLS WE TRUST: CREATING COMMUNITIES OF LEARNING IN AN ERA OF TESTING AND STANDARDIZATION* 41 (2002).

<sup>29</sup> See DARLA STRUCK, *INVOLVING PARENTS IN EDUCATION: A HANDBOOK FOR ELEMENTARY SCHOOLS 1:1–1:3* (1995); Jeri LaBahn, *Education and Parental Involvement in Secondary Schools: Problems, Solutions, and Effects* (1995), <http://chiron.valdosta.edu/whuitt/files/parinvol.html>.

This bargain disservices children. Especially for students who have failed in school, schools must take responsibility for hours beyond the traditional school day (and in doing so must be supported by the government). At the same time, parents must take, and must be invited to take, additional responsibility for what happens when children are in school. Coming up with a new compact between parents and schools is hard for any school, but the challenge is even greater for a school serving youth in the juvenile justice system. Parents of children in the juvenile system are some of the most disenfranchised members of our community. Many carry negative memories of their own school experiences. Others have untreated mental health, substance abuse, and other problems, which can interfere with their ability to be effective partners with schools and other institutions. Many parents of children in the system have been repeatedly told by social workers and judges—implicitly or explicitly—that they are failures. Some feel responsible for their child’s criminal activity; others feel angry at their child. Shame and anger can lead to parental disengagement just when the child most needs involvement.

Despite these obstacles, a good school serving children in the juvenile justice system must take the same “we will not fail” attitude toward parents as it must with the children themselves. The simple fact is that families have moral, ethical, and legal claims upon the young person that schools must respect. Moreover, schools do not know in advance which parents will, if invited properly, make effective partners. Schools must therefore start with the assumption that all parents have the desire and potential to work with the school in helping their child succeed.

The Maryland Coalition of Families for Children’s Mental Health surveyed parents with children in the juvenile justice system, and asked them what they wanted from the state.<sup>30</sup> The answers were clear:

- Approach families in a respectful and non-judgmental manner;
- Seek information from the family about the child’s history, strengths, and needs, as well as the family’s special circumstances;
- Support parental authority in the presence of the child;
- Consult with the family about programs and services for their child;
- Provide full information to the family on the process and service options;
- Strengthen the parent-child relationship when the child is living in an out-of-home placement through visitation, participation in school activities, transportation, and appropriate environments conducive for visiting.

The Oak Hill School strives to live up to these goals. In practice, this means doing things that schools in juvenile facilities do not typically even consider. It means holding parent-teacher conferences. It means creating a parent-

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<sup>30</sup> JANE A. WALKER & KAREN FRIEDMAN, *THE MARYLAND COALITION OF FAMILIES FOR CHILDREN’S MENTAL HEALTH, LISTENING AND LEARNING FROM FAMILIES IN JUVENILE JUSTICE* 4 (2001), available at <http://mdcoalition.org/jjustice.pdf>.

teacher association and ensuring that it has real responsibilities and influence with school leadership.<sup>31</sup> It means providing parents with the e-mail addresses and cell phone numbers of teachers and staff.

In addition, a school in a juvenile justice facility must go further and develop creative ways to invite families to celebrate student success. At the Oak Hill School, we have Family Night celebrations in which family, friends, and supporters join our students in honoring their progress. Family Nights include awards for academic achievement, for regular attendance, and for positive behavior. Students read poems, raps, and stories and perform songs and dances. To understand the transformational power of Family Night, consider this e-mail from a former Maya Angelou teacher. In it, he describes his first experience at Family Night:

A few months after I started teaching at MAPCS in the Spring of 1999, I remember bringing Jen and several close friends along to my first Family Night so they could catch a glimpse of the students whose lives had become so inextricably tangled up in my own. The school was even smaller then, and all of the students, tutors, faculty, parents, and friends gathered in the lobby on benches designed for elementary school kids, their knees up near their chests as they leaned forward in anticipation of the celebration. Whatever images or preconceived notions my friends may have had in their heads of “at-risk,” “inner-city,” or “court-involved” students were quickly dispelled.

First, the names of every student who had completed the term were read, and there was raucous applause for each and every student in the room . . . simply for making it through. Staff were recognized, and the students screamed for each faculty member as if they were celebrities. They went nuts in support of their tutors, then their families, then just nuts in general for having made it through a year together. But when awards were given out for things like Dean’s List and Perfect Attendance, each winner got a true rock star reception. My creative writing students from the first class I ever taught each read their poems, and the response was overwhelming. By the time Ms. Russell was done reading her tribute to Phil, I don’t think there was a dry eye in the place.

I sat there, beaming with pride, tears streaming down my face, clapping like a madman. The love and support and positive vibe in the room was unlike anything in my own experience as a

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<sup>31</sup> Foothill High School, on the grounds of the Youth Diagnostic and Development Center, a juvenile facility in New Mexico, started the nation’s first Parent Teacher Association in a juvenile facility this past spring. See Nancy Harbert, *The PTA Does Hard Time*, TIME, Feb. 19, 2007, <http://www.time.com/time/nation/article/0,8599,1591531,00.html>.

student, and it cemented my resolve to work with these young people.

Thanks,

Colin<sup>32</sup>

### III. CAUTIONS

At this point some readers may consider my story too upbeat. After all, if it were so easy to have high-quality schools serving youth in the juvenile justice system, wouldn't we have more of them already? In part, my answer to this question is no, because our failure to provide these young people what they need is more a matter of political will than collective wisdom.<sup>33</sup> We know what to do; we have chosen not to do it. But that is only part of the answer. There are real obstacles to success beyond what I have discussed so far.

Perhaps the most important is money. Schools in juvenile justice facilities are often woefully under-funded.<sup>34</sup> As in schooling generally, adequate funding is a necessary, though not sufficient, condition for success. It is not sufficient—money in and of itself will not guarantee quality, and money can easily be squandered. But it is necessary, because without money one cannot have any of the elements of a high-quality school I described in this Essay.

Lack of money threatens every reform effort, including ours in Washington, D.C. Although the school at the Oak Hill Youth Center is adequately funded, our program for youth leaving the facility is not. We currently receive funding to support students for ninety days after they leave the facility. While better than nothing (some states provide virtually no programs for young people returning from incarceration), this is not long enough to maximize the likelihood of success.<sup>35</sup>

Students who leave a juvenile justice facility are at great risk. Nationwide, only about half return to high school, and after six months, only about

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<sup>32</sup> E-mail from Colin Bane, Teacher, Maya Angelou Public Charter School, to James Forman, Jr., Professor of Law, Georgetown University Law Center (Oct. 2001) (on file with author).

<sup>33</sup> See, e.g., EDWARD HUMES, *NO MATTER HOW LOUD I SHOUT: A YEAR IN THE LIFE OF JUVENILE COURT*, 178–79 (1996) (detailing failure of a proactive anti-crime program due to lack of funding and “the simple reality that programs that punish are far more popular than those that prevent”).

<sup>34</sup> Abrams, *supra* note 2, provides a detailed state by state review of problems in various juvenile justice systems, and frequently identifies inadequate funding as a cause. *Id.* at 1015, 1020, 1027, 1030–31, 1074.

<sup>35</sup> Programs ensuring continuity are essential to successful rehabilitation. See Jennifer M. O'Connor & Lucinda K. Treat, *Getting Smart about Getting Tough: Juvenile Justice and the Possibility of Progressive Reform*, 33 AM. CRIM. L. REV. 1299, 1326 (1996). (“Promising programs also include continuity. The programs work to develop connections with parents and maintain such connections after the juvenile has left the program.”).

21% are still in school.<sup>36</sup> The reasons for failure are not surprising. The students normally return to the same neighborhoods where they got in trouble. They see many of the same peers. To the extent they have adopted a new persona while in the facility, it is extraordinarily difficult to maintain this in the face of pressures to return to the person they were before. Discussing how young boys take inappropriate risks, the legendary educator and anti-poverty activist Geoff Canada writes: “[t]here are five words that have gotten more boys into trouble than anything else I know: ‘What’s the matter—you scared?’”<sup>37</sup> Canada is right. And for young people who return to their neighborhoods determined to be different than they were when they were arrested, there are an additional perilous five words: “What’s the matter—you changed?”

The second great caution I offer concerns teacher quality. Of all the things schools can do to improve student learning, providing a high-quality teacher is the single most important.<sup>38</sup> But schools in juvenile justice facilities find it overwhelmingly difficult to recruit and retain high-quality teachers. A recent study of Florida teachers makes the point, powerfully and depressingly.<sup>39</sup> The study compared teachers in schools in juvenile justice facilities with the general population of public school teachers. Teachers in juvenile justice facilities were less likely to be certified and less likely to have degrees in the field in which they taught.<sup>40</sup> The biggest disparity was in teacher turnover rates. Overall, 16% of public school teachers leave their jobs each year; among teachers in juvenile justice facilities, however, the yearly turnover rate is nearly 50%.<sup>41</sup> This astounding turnover rate single-handedly dooms efforts to provide quality education to young people in these facilities. Teachers cannot become skilled if they leave immediately after arriving, and young people who have seen adults come and go throughout their lives are not well-served when this happens yet again with their teachers.<sup>42</sup>

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<sup>36</sup> Joe Gagnon, *Youth in Juvenile Corrections: Promoting Future Employment and Self-Sufficiency 27* (2006) (unpublished manuscript, on file with the author). Many incarcerated students are of the age at which continued schooling is not mandatory, but the younger children are transitioned back into their old schools when they leave the juvenile detention center. Unfortunately, school records and special education forms are rarely transferred in a timely manner, making the transition difficult. See AM. BAR ASS'N, *supra* note 6, at 15.

<sup>37</sup> GEOFFREY CANADA, *REACHING UP FOR MANHOOD: TRANSFORMING THE LIVES OF BOYS IN AMERICA* 17 (1998).

<sup>38</sup> Education Trust, *The Real Value of Teachers*, THINKING K-16, Spring 2004, at 4–5, available at <http://www2.edtrust.org/edtrust/Product+Catalog/Reports+and+Publications.htm>.

<sup>39</sup> See generally FLA. STATE UNIV., JUVENILE JUSTICE EDUC. ENHANCEMENT PROGRAM, 2005 ANNUAL REPORT TO THE FLORIDA DEPARTMENT OF EDUCATION (2006), available at <http://www.criminologycenter.fsu.edu/jjeep/research-annual-2005.php>.

<sup>40</sup> *Id.* at 90.

<sup>41</sup> *Id.* at 88.

<sup>42</sup> See, e.g., Linda Darling-Hammond, *Keeping Good Teachers*, EDUC. LEADERSHIP, May 2003, at 6, 8 (explaining that high teacher turnover leads to financial drains on school systems,

These obstacles—securing adequate funding and finding and keeping good teachers—are real, and nothing in this Essay should be read to minimize them. At the same time, the first step needs to come from somewhere. We face a chicken and egg problem here. Getting better teachers and more funding turns on developing successful programs, whose success turns on attracting the money and good teachers. After all, good teachers do not want to work at places that do not educate and legislators are reluctant to pour more money into broken systems that will squander it. Our hope is that establishing a successful program will sustain claims for more resources and better teachers.

#### IV. CONCLUSION

Our effort in Washington, D.C. is in many respects a drop in the bucket, but it is one to which progressives should pay attention. This nation has the world's highest incarceration rate by a large margin.<sup>43</sup> Although black-white disparities exist in most areas of our society, nowhere are they close to what we see when we look at the prison system.<sup>44</sup> And while international comparisons of juvenile detention rates are less reliable, we are, by some estimates, the world's leader there as well.<sup>45</sup>

This makes for a lethal combination. We take more of our teens than does any other nation in the world and put them in facilities that do not protect them from physical and sexual abuse, do not educate them, and do not address their often-significant mental health needs.<sup>46</sup> In addition to the obvious damage to the teens themselves, society as a whole suffers tremendously. Indeed, even if one did not care at all about the young people in detention, a hard-headed assessment of the damage to society compels a different course of action. Juvenile offenders get out eventually, and well they should: The overwhelming majority has been arrested for or convicted of crimes that no one thinks should merit life sentences.<sup>47</sup> The question is therefore straightforward: what impact do we want to have on the life pros-

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depletions in cohesiveness of the school environment and, most importantly, decreases in overall teacher effectiveness, which increases after the first few years of teaching).

<sup>43</sup> CHRISTOPHER HARTNEY, NAT'L COUNCIL ON CRIME & DELINQUENCY, U.S. RATES OF INCARCERATION: A GLOBAL PERSPECTIVE 1 (2006), [http://www.nccd-crc.org/nccd/pubs/2006\\_nov\\_factsheet\\_incarceration.pdf](http://www.nccd-crc.org/nccd/pubs/2006_nov_factsheet_incarceration.pdf) (finding that the United States has less than 5% of the world's population but over 23% of the world's incarcerated people, and that the incarceration rate in the United States is four times the world average).

<sup>44</sup> BRUCE WESTERN, PUNISHMENT AND INEQUALITY IN AMERICA 16 (2006).

<sup>45</sup> John Muncie, *Youth Justice and the Governance of Young People: Global, International, National, and Local Contexts*, in *YOUTH, GLOBALIZATION, & THE LAW* 17, 37 (Sudhir A. Venkatesh & Ronald Kassimir eds., 2007).

<sup>46</sup> See sources cited *supra* note 17.

<sup>47</sup> Of the nearly 2.5 million arrests of juveniles in 1999, only about 103,900 were for serious violent crimes, 237,300 were for simple assaults, and 541,500 were for property crimes such as burglary. See U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, *JUVENILE OFFENDERS AND VICTIMS: NATIONAL REPORT SERIES BULLETIN 9* (2001).



pects of the youths currently in our care and control? Do we want to increase or decrease the likelihood that they will commit new crimes after release? Do we want to increase or decrease the likelihood that they will graduate from high school, get a job, attend college, and pay taxes?

Many people, I suspect, have some compassion for juvenile offenders. An even larger number agree with the commonsense notion that we are all better served by a system that supports rather than harms teens who will one day return to our communities.<sup>48</sup> In light of this, how can the juvenile justice system remain so bad? This question is worthy of the attention of everyone, but especially liberals and progressives, for the answer has implications for a wide variety of issues on the liberal/progressive agenda.

Part of the problem lies in a prevailing sense of futility. When confronted with evidence of a failed juvenile justice system, many resist calls to invest in reform because of a sense that it will be fruitless. Believing that juvenile offenders will never be rehabilitated regardless of any effort towards reform naturally leads to the desire to spend as little as possible on such efforts.<sup>49</sup> While the gross abuses of children in the state's care are indisputably horrific, many feel that the best the system can do is to simply root out the "bad apple" guards and administrators and that, beyond that, it is just not worth it to do more.

That is where innovative reform efforts have a role to play. America did not become the world's largest jailer overnight, and reducing our incarceration rates will require time and a variety of approaches. Litigation, policy work, community organizing, and advocacy must all play a role. But establishing successful programs is a fundamental piece of the puzzle, for they provide advocates, litigators, and legislators with examples of alternatives that work. Our hope is that by demonstrating that we can succeed with them, we will shatter the myth that these youths are a lost cause. In doing so, we will help set a precedent that will encourage more ambitious change. Moreover, we hope to inspire additional projects—more drops in the bucket—that will over time imbue our juvenile justice system with the rehabilitative spirit it needs in order to become more than a training ground for prison.

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<sup>48</sup> See BARRY KRISBERG & SUSAN MARCHIONNA, NAT'L COUNCIL ON CRIME & DELINQUENCY, ATTITUDES OF U.S. VOTERS TOWARD YOUTH CRIME AND THE JUSTICE SYSTEM 3 (2007), [http://www.nccd-crc.org/nccd/pubs/zogby\\_feb07.pdf](http://www.nccd-crc.org/nccd/pubs/zogby_feb07.pdf) (finding that 89% of voters think that rehabilitative services and treatment help reduce crime).

<sup>49</sup> See HUMES, *supra* note 33, at 165–68.

