Abnormal, the “New Normal,” and Destabilizing Discourses of Rights

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A boy was taken from his elementary school in handcuffs after his classmates turned him in for drawing pictures of weapons. The 11-year-old fifth grader was not charged with a crime in the Wednesday incident. His name is not being released to protect him, school officials said. “There were some drawings that were confiscated by the teacher,” Oldsmar Elementary School Principal David Schmitt said. “The children were in no danger at all. It involved no real weapons.”

Still, Schmitt refused to discuss details of the boy’s case. “All I can tell you is it was a threat . . . against students,” he said. “Nobody in particular, but students in general. . . . We just need to get it through kids’ heads that there are certain things you don’t say and there are certain things you don’t draw,” he said. The boy was handcuffed by school police for his safety, according to Pinellas County School District spokesman Ron Stone. “That’s normal procedure in a situation like this,” Stone said. “The primary concern was to make sure we get appropriate services for the child.”

—Sun-Sentinel, May 11, 2001

There is a profound shift underway in the public institutions that are responsible for the training and socialization of children in Anglo-American nations, a shift that marks the final demise of a modern ideal of child-
hood and the emergence of something new. It is not the idealized possibility of a new regime of rights for children that has been championed by child rights advocates. It is not the incorporation of children’s views and knowledges into the design and planning of public infrastructures, nor the protection of children from the extremes of poverty or forms of exploitation. However, this new shift is nevertheless being ushered on the coattails of a push for expanded rights for children.

This shift is constituted by a changing logic of discipline and new techniques of normalization of children, but, more important, also by the reimagining of the child as subject and object of these technologies, and by a reimagining of the structures of the “normal” itself. New normal is a term that Columbine High School students used to describe their state of being after the 1999 massacre that occurred there. But I rework the term here in relation to an “old” normal: Michel Foucault’s term to characterize techniques of normalization in modern institutions.

Since Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke, and Brian Roberts published Policing the Crisis (1978), scholars have suggested that successive waves of moral panic over youth criminality seem curiously disconnected from any rise or fall in youth crime.¹ What interests me is not the endless “angels or devils” dyad that arises in this work, but the ways in which these cycles serve as signal and site for the transformation of techniques of discipline. To understand the depth of the current transformation, we need to go back over two hundred years to the early foundations of modern notions of culpability and techniques of normalization, which have organized public institutions up until this day.

**Abnormal and Modern Discourses of Correction and Punishment**

In Abnormal, Michel Foucault (2003) explores the discursive field that emerged from the late 1700s through the early 1900s to constitute modern techniques of normalization in the juridical system. A central issue in this text is the way in which juridical and psychiatric discourses came together to constitute a modern system of correction and punishment. Under penal law of the eighteenth century (which Foucault referred to as classical law), psychiatric testimony functioned only to assess the accused’s sanity at the time of the crime. Under modern law, psychiatric testimony began to serve a different purpose. It created a link between the criminal act and the life of the criminal before the crime, thus establishing a

new moral economy of punishment. Classical punishment was based on a display of the excess power of the monarch: through extreme forms of punishment — public beheadings, disembowelings — the monarch erased the crime and the criminal, cleansing the social body of his or her polluting effect. Modern punishment, by contrast, abandoned excess display in favor of a precise economy that matched the punitive or rehabilitative sentence with the criminal act and the life history of the accused.

Both the substance and method of Foucault’s argument are relevant in examining this contrast. Foucault selects a series of key events — acts of criminality that became problematic occurrences for the system of jurisprudence and that functioned as a limit condition for its existing logics. The motiveless crime, for instance, was to become a coveted object of psychiatry, because it could be explained only when the “indictment substitute[d] the subject’s resemblance to her act for the act’s unintelligibility.”

The normalizing techniques developed to address these crimes are a central theme in much of Foucault’s work. Of greater interest here, however, is the critical role of an unuesque or grotesque discourse in the constitution of these techniques. For Foucault a grotesque discourse has three properties: it can kill, it is taken for truth, and it provokes laughter. The grotesque becomes critical because it acts as a transfer point between juridical logics and psychiatric and therapeutic technologies. It produces in us an incredulous laughter because it signals that something has gone awry, that there is an application of an arbitrary sovereignty, that the discourse mobilized to produce truth claims does not conform even to its own rules. In this case, the grotesque emerges when the psychiatrist’s testimony produces a “reconstruction of the crime itself in its scaled down version, before it has been committed,” offering commonplace, puerile scenes committed early in childhood that function as proof of later criminality. Thus, the psychiatrist would assert in testimony: “‘He played with wooden weapons.’ ‘He cut the heads off cabbages.’ ‘He was a trial to his parents.’ ‘He played truant from school.’ And then: ‘I conclude from this that he was responsible [i.e., guilty].’”

The modern criminal’s act, his or her abnormality, is made intelligible through petty transgressions that lead up to and resemble the crime. They not only double the crime, but these “forms of conduct, ways of being, [are] presented as cause,

motive, organizing point of the offense.” These acts constitute “a continuum, ranging from the first correctional hold over an individual to the ultimate sanction of death . . . effectively constituted by a vast practice, by an immense institutionalization of the repressive and the punitive that is discursively sustained by criminal psychiatry . . . society responds to pathological criminality in two ways that offer a homogeneous response with two poles: one expiatory and the other therapeutic.”

But a new kind of grotesque is surfacing in the courts and the schools, which moves away from therapeutic forms of intervention to new forms of punishment, sometimes for the most ludicrous of offenses. Thus a young child can be led away from his classroom in handcuffs, not for committing any crime, but for drawing pictures that might, possibly, foreshadow a crime against “nobody in particular, but students in general.”

Organized in the name of the child’s best interests and as a particular variant of children’s rights, a whole new series of subjects/objects and corresponding disciplinary technologies are emerging that radically transform modern systems of education and discipline. At this moment, the discourse of criminality — the link between conduct and crime — is undergoing a significant inversion. In the new normal, the imagined time frame between puerile act and serious offense is constrained to the point of collapse: the smallest transgression is acted upon as if the criminal act is immanent. The child is swiftly condemned as if he or she was already aware of this connection, as if the transgression were a taunt or warning, rather than harmless experimentation or a small step on a long path that may or may not lead to criminality.

The new normal reorganizes norms and forms of child socialization that have existed for over a century. For the past century, the juvenile delinquent was the coveted object of modern institutions for children’s education and socialization: their raison d’être and organizing principle. The concept of juvenile delinquent applied potentially to all young people, from those who made the smallest transgression to those who committed the worst criminal acts. All children were considered potential juvenile delinquents and even capable of juvenile crime. The bridging stage between the unproblematic child and the young criminal was the

6. Foucault, Abnormal, 15.
7. Foucault, Abnormal, 34.
status offender: the child who smoked, drank, skipped school, visited pool halls, or engaged in a number of activities that might be perfectly legal if he or she were an adult. But the path between normalcy and criminality ran both ways—all juvenile criminals were considered possible candidates for rehabilitation. Over the past forty years, this object—the juvenile delinquent—has assumed a problematic status and consequently has been cast out first by the juvenile corrections system and more recently by the public school system.

Parents once handed their children over to public education with the full belief that the participation of any child in that system would prevent inappropriately precocious or delinquent behaviors and instill appropriate skills and training.\(^\text{10}\) Now schooling is configured around two different objects. The first is the response-ready child: accustomed to intense rivalry, already fully socialized to compete within the educational system, already possessing the “right” disposition—that which is necessary to function in a highly competitive environment. The second is the amoral child: beyond discipline, in need of containment, capable of “meltdown,” often requiring intervention as extreme as suspension or psychotherapeutic drugs. Both are treated as fully actualized and knowledgeable subjects—as beings, not becomings. This is the dark side of the emergent discourse on the child as a social actor.

Although we might expect that discourses around children’s rights would help mitigate schools’ disciplinary practices, the opposite is often the case. This dark side of children’s rights makes children fully responsible for their actions while ignoring and even forestalling questions about the transformation of public institutions once designed for their training. Rights discourse has become a destabilizing mechanism, disrupting old institutional logics and opening the space for a different grotesque associated with the new normal: the mobilization of a language of criminality and punishment by those charged with the training, care, and protection of children.

There is nothing inevitable about this new normal.\(^\text{11}\) Nor is the United States a


\(^{11}\) In fact, some of the key developments addressed in this essay that have become routine practice in the United States (such as zero-tolerance policies in schools) have been selectively applied and discarded in other nations. The contemporary history of different national and regional regimes of socialization and education, and the impact of national differences in class composition and other factors in norms and forms of child rearing, still needs to be written (for a start, see Gillis, Youth and History, and Platt, The Child Savers).
leading edge that other countries are doomed, inevitably, to follow. But this shift is significantly entrenched within the United States, and there has been enough uptake in other Anglo-American countries to suggest that it has become a new basis around which disciplinary norms are being organized.

**The Child Criminal**

*The evidence is now strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable. . . . Indeed age 21 or 22 would be closer to the “biological age” of maturity.*

—Dr. Ruben C. Gur, cited in *Patterson v. Texas* (2001)

*So do they become—because they made a major, major, huge mistake in their life; so now all of a sudden—although they don’t have the mentality or the capacity to understand as an adult can, they become adults? I mean, overnight? Now you no longer are a child. Now you are an adult? Because you did what you did, regardless of why you did it, you did what you did, and you’re fourteen, or you’re thirteen, or you’re twelve, or you’re eleven. Now, overnight, now you’re grown up. Now you are an adult. I mean, how can that be?*

—Naomi Ramirez, mother of fourteen-year-old Thomas A. Preciado, who was accused of murder

*ABC’s Nightline,* “Kids in Court” series, part 1, February 28, 2000

*(emphasis added)*

*You should not be able to hide behind your age anymore.*

—Harry Gill, son-in-law of homicide victim killed by Thomas A. Preciado

*ABC’s Nightline,* “Kids in Court” series, part 1, February 28, 2000

The new normal originated in a shifting attitude toward juvenile criminality. Well before it appeared within public education, the normalizing technologies of childhood were being dismantled and reorganized in juvenile halls, courts, and prisons. The practice of sentencing juveniles to death has been the most extreme expression of this shift.12 But there has also been an increased tendency to try

12. In the United States, before the Supreme Court ruled against juvenile executions in March 2005, almost half of the states in the nation allowed the execution of juveniles, and slightly under half—twenty-one states—set the minimum age for execution at sixteen years of age. The United States stood alone among Western, industrial, democratic nations in this endorsement of juvenile
children as adults, the lowering of the age at which children can be tried as adults, and changes in who decides when a young person should be tried as an adult.

This trend runs contrary to scientific theories about brain development in late adolescence, which call into question a young person’s moral culpability. Recent advances in multiple resonance imaging suggest the frontal cortex does not reach maturity until a person is in their early twenties; thus adolescents have greater difficulties in controlling impulses and rational planning. This evidence has been presented, often without success, to argue against the death penalty for juveniles.13

Although deeply divided, the Supreme Court of the United States has, until very recently, upheld the juvenile death penalty. The landmark case of Stanford v. Kentucky (1989) affirmed the death penalty for juveniles as young as sixteen. Socioscientific evidence of their relative brain immaturity was deemed insufficient and too general to influence the statutes that transfer juveniles to adult court, which themselves act as an “individualized determination of [juveniles’] maturity and moral responsibility . . . before they are even held to stand trial as adults.” Moreover, the seriousness of the offence often suggested it was in the best interest of the petitioner and the community that they be tried as adults.14 Although this position was recently overturned in Roper v. Simons (2005), the organizing logic for the juvenile death penalty lingers on in other aspects of the juvenile system—one that puts victims’ interests and community safety above juvenile rehabilitation.15

The stabbing death of a fifty-year-old store clerk in Yuba, California, by fourteen-year-old Thomas A. Preciado galvanized support for the controversial Proposition 21. This legislation permits prosecutors to move the trials of juveniles to adult courts—a decision formerly made by judges.16 Other Anglo-American nations

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have lowered the age of criminal responsibility for juveniles to as low as fourteen or even ten years—suggesting a broader and historically deeper shift to treat and prosecute troubled youths as adults.

The United States has led the world in the number of juveniles executed since 1990. Between 1990 and 2005 just under a dozen juveniles were sentenced to death, and an additional seventy-five or so faced the death penalty.\textsuperscript{17} Their life circumstances frequently suggest physical or sexual abuse by parents or relatives, beatings at an early age causing brain damage and impaired judgment, prolonged substance abuse, and abandonment by schools and other systems of intervention.\textsuperscript{18}

But the moral economy of punishment was no longer sustained by psychiatric testimony and no longer measured against the life circumstances of the accused. These stories no longer served, as they once might have,\textsuperscript{19} to argue on behalf of the juvenile criminal by suggesting the possibility of correction through earlier intervention or prolonged treatment. They functioned as evidence of the juvenile criminals’ incorrigibility, their inability or even unwillingness to respond to rehabilitative intervention. Even in cases where rehabilitation was evident or possible, there was no clemency. The moral economy of punishment was no longer based on a precise calculation of confinement, discipline, and training with an eye to rehabilitation; it was based on retribution.

And it was no longer the expert psychiatric testimony that assumed the role of grotesque discourse and functioned as a transfer point between the juridical process of sentencing and the rehabilitative impulse of incarceration. Instead, the victim’s impact statement—a statement included in the trial about the impact of the murder on the deceased (their presumed anguish at the time) and on the family (their subsequent grief)—emerged as the organizing principle. It functioned

\textsuperscript{17} Arguably, the number of young people executed in the United States is small when compared proportionately to the five other countries that engage in this practice. What is telling, however, is the stance of the Supreme Court, which, by a five-to-four margin, has defended the death penalty for young people in spite of repeated challenges. This position was only recently overturned in \textit{Roper v. Simons} (2005) by a similar margin (five to four) when Associate Justice Kennedy reversed his earlier position.


\textsuperscript{19} There were prior executions of juveniles; for instance in South Carolina on June 16, 1944, fourteen-year-old George Junius Stinney was executed for attempted rape and attempted murder of two younger girls, eleven and eight years old. He was executed in spite of questions as to whether he was the actual perpetrator. Through the 1990s, however, the rate of executions began to rise. See Streib, \textit{The Juvenile Death Penalty}. 
as a grotesque idea of victim’s rights. It reorganized the economy of punishment and reconstituted the juvenile criminal as a new object. The punishment was no longer measured against the long and troubled history of the life of the accused, or the possibility of rehabilitation, but rather against the emotional impact of the crime. And as it meted out sentences with a view to achieving closure for the victim or their close relations, this goal became the new measure of sentencing.

Consider Napoleon Beazley, a juvenile African American convicted and sentenced to death for the murder of John Luttig, a white, upper-middle-class businessman. Beazley was acting in conjunction with two other boys who were brothers, who were also convicted of the murder but for whom the death penalty was waived in return for evidence against Beazley. Beazley was seventeen at the time of the murder and had no arrest record and no history of assault behavior. Several community members, including the Houston County District Attorney, testified on his behalf at the punishment stage of the trial, asserting his potential for rehabilitation and that he “was not the sort of offender for whom one [would] seek the death penalty.”

The judge presiding over the case also recommended commutation of the death sentence.

It was the prosecution’s closing statements against Beazley that took on the role of the grotesque:

[Mr. Beazley is] not an adolescent when he gets to Tyler [County]. When he gets to Tyler, he is an armed predator. . . . He’s an armed predator hunting down prey . . . stalking his prey, just stalking his prey . . . falling in behind them like some animal . . . the predator is lurking, and he’s out and he’s ready, and now the prey is stalked, now the prey is cornered, now the prey is in the garage, not on the road, the human prey.

In spite of the petition for clemency by the defense, which pointed out the racist overtones of this characterization, Beazley was executed on May 28, 2002.


Amnesty International offers this more typical profile of adolescents who commit murder as an indictment of the death penalty for juveniles:

The use of the death penalty against child offenders rejects any notion that wider adult society should accept even minimal responsibility in the crime of a child. The profiles of the condemned teenagers are often those of a mentally impaired or emotionally disturbed adolescent emerging from a childhood of abuse, deprivation and poverty. The backgrounds of child offenders executed in the USA since 1990 suggests that society had failed them well before it decided to kill them.23

The organization’s research continues to indicate that many adult and juvenile offenders on death row had deprived or abusive childhoods. In the case of the young offenders, however, their behavior may be more amenable to reform than in an older offender: “The 30-year-old has been out of the house for 10 years. He’s had time to form a new life. Almost all teenage offenders are still living at home. The damage done to them emotionally and mentally is not so far removed.”24

From its early inception, the juvenile system of corrections had been organized, in theory, around the rehabilitation of the child—in the shorthand of histories of juvenile law, this logic has been referred to as best interests, marking a difference between a focus on the child, on the one hand, and the freedom of parents to make decisions about the upbringing of their children or the freedom of a community to be protected from danger, on the other. With the increased tendency to try juvenile criminals as adults, the juvenile system has been reorganized around a new coveted object—the child as a social danger. The new and overriding objective is not the rehabilitation of the child, but the protection of the community.25 The child who kills helps to consolidate one pole of this new object.

Advocates of get-tough approaches frequently point to the fact that the juvenile


25. This shift in the discursive foundations of the juvenile criminal system has a much earlier relationship to rights discourse than other sites (e.g., schooling, recreation). Arguably this is because the child—as a legal person with the rights that implies—has a complex relationship to the public. This is typically mediated through the interests of the parents, other caregivers, experts, and the state. When the child is a social danger, criminal behaviors present a much easier path for states to intervene directly in the child’s behavior.
homicide rate doubled between 1984 and 1993, but such percentages can give the impression that increases are greater and more widespread than is actually the case. Critics counter that overall rates of violent crime have been stable over the past thirty years, that the rise in homicide rates can be attributed to better collection systems (computerization) rather than actual increases in crime, that arrest rates may not reflect the numbers involved in a crime, and that increases are localized to specific cities and neighborhoods. In 1994, for example, Los Angeles, Chicago, and Detroit accounted for one-third of national juvenile homicide arrests and only one-twentieth of the juvenile population, while 82 percent of cities experienced no juvenile homicides at all. Talk that the homicide rate had doubled was inaccurate and did not warrant the nationwide fear that it caused.26 The broader transformation in the juvenile criminal system, however, helps to explain why the current fascination with violent crimes by children is out of proportion to their actual occurrence. Debate on the appropriate age of criminal responsibility has crystallized around high-profile, internationally known cases such as the brutal and senseless murder of James Bulger, which resulted in ten-year-old perpetrators being tried in adult court.

Although these cases have garnered much recent publicity, in the United States the move to treat and try children as adults has an earlier history. Ironically, it was a demand for children’s rights that helped—at both ends of the continuum—to pry apart the connective logic between the status offender and the juvenile criminal, catalyzing separate logics of treatment and leading ultimately to increased demands that children be made responsible for their crimes. In the mid-1960s, child advocates began demanding that young criminal offenders be granted the same procedural rights with respect to arrest and representation as adult offenders. Somewhat later, by the mid-1970s and through the 1980s, advocates for status offenders grew concerned about “mixing” status offenders with young criminals in juvenile halls and prisons and began to push for their deinstitutionalization. In effect, the juvenile corrections system had begun to buckle under its own logic, as states such as California exhibited increasing zeal to incarcerate young people. The surfacing of instances of abuse in juvenile halls and correctional institutions intensified pressure to reduce the incarcerated juvenile population, as did fiscal concerns over rising costs of incarceration. The juvenile delinquent shifted in stature from coveted object to problematic object (pace Foucault) not because of the failure of the juvenile penal system to obtain and control it, but by virtue of that system’s very success.

With a move toward new sites and logics of treatment, status offenders were dislodged from the system with the promise of community service programs that rarely materialized, and juvenile criminal offenders remained in a correctional system that began to drift in substance and style toward adult court. Over the long term, this shift effectively consigned status offenders to a veritable no-man’s-land, with public schools entreated to expel or suspend students for the smallest infraction, and courts unable and unwilling to incarcerate.

The deinstitutionalization of status offenders marked a historical transformation in attitudes toward juvenile delinquency, essentially an abandonment of the courts’ interest in disciplining children for minor offenses. But a hardening of attitudes toward young criminal offenders swiftly followed.

The tendency to treat young criminals more like adults occurred earlier in the United States than elsewhere. Landmark cases such as Kent v. United States (1966) and In re Gault (1967) introduced Fourteenth Amendment rights to children in criminal juvenile court, followed in the mid-1980s by a lowering of the age at which children could be tried as adults, and the reintroduction in many states of the juvenile death penalty. Other countries have toyed with similar moves. In Canada, the introduction of the Young Offenders Act in 1984 marked a “get-tough” approach and moved away from the more rehabilitative orientation of the 1908 Juvenile Delinquent Act (although it was later replaced by more measured legislation—the Youth Criminal Justice Act of 2002). In the United Kingdom, the ten-year-olds who murdered James Bulger were tried as adults—although this was later challenged by the European Court on Human Rights.

Overall, the ease with which juveniles can be tried in adult courts in the United States has climbed steadily over the last fifteen years. Between 1989 and 1999 there was a substantial increase in transfers of juveniles to adult courts for nonviolent drug-related and property crimes, which peaked in the early to mid-1990s.

This reorientation of the juvenile courts system is a cautionary tale about the role of rights discourse. Although originally championed with the best of inten-

Destabilizing Discourses

It has now become a destabilizing mechanism, shifting treatment of children from an approach founded on their best interest to one focused on the social dangers they pose. The more recent reorientation of the public school systems in the United States and other Anglo-American countries is repeating this process. These changes are mirrored in public opinion. The current intensity of public fascination with acts of violence committed by children is significant not because of the nature of the crimes, nor the perception that youth violence is on the rise. It is significant because it signals, at once, the emergence of a new series of coveted objects (pace Foucault) in the treatment of children, a new form of grotesque as organizing discourse, and a new moral economy of punishment.

The Child in School

Why do kids turn to violence? And why do social workers and school authorities find it so difficult to identify children with the potential to harm other children? Often it can be traced back to Attachment Disorder—a mental and emotional condition occurring during the first three years of life that causes a child not to attach, bond or trust his primary caretaker. It's often the result of abuse, severe neglect or a foster care system unable to prevent children from bouncing from one placement to another. Attachment Disorder and its treatment have been hot topics in the news recently. “Children with this condition often wind up thieves, drug addicts or even murderers,” said Terri Adams, president of Heal the Hearts Foundation. Yet today they are sitting in schoolrooms, playing in community parks, even eating at the family table. There is a critical window in which they have a chance to be treated—but for many, their condition is misdiagnosed. And they never receive the help they need.

—PR Newswire, March 6, 2001

A wooden baseball bat, no longer than 8 inches and visible through a car window, spurred Diamond Hill—Jarvis High School officials to call sophomore Cory Henson out of class Monday so they could search his vehicle. Under the Fort Worth school district’s zero-tolerance policy, Henson was immediately suspended. “First I was stunned,” said Cory’s mother, Sheila Henson. . . . Henson said it was “humiliating” for her son to be pulled out of class and have his car searched while other students peered out of the classroom windows. District policy calls for immediate suspension of a student if a prohibited or hazardous item is found in the student’s vehicle. The bat found in Cory’s car broke off a trophy . . .

—Jane Garva, online article for the Fort Worth Star-Telegram, May 19, 2004
If the first coordinate of the new normal is the child as a social danger, the second is the idea of the flawed or defective child, who is not yet, but may potentially be, a murderer. The current focus on children with attachment disorders resonates with these concerns. Symptoms of the disorder are so broadly defined as to defy accurate diagnosis. They are wide-ranging and variable, from petty peculiarities (hoarding food, poor eye contact, or refusing to answer questions) to poor social skills (limited friendships, over-affection toward strangers) to destructive actions (self-injury, vandalism, preoccupations with violence). There are young people in serious need of help: since the 1980s there has been a 300 percent increase in the reported number of children abused or seriously maltreated in the home, a drop in the age at which disturbed youths commit violent crimes, and an increased availability of weaponry to violent youth. Analysts trace the increase in numbers of children with attachment disorder to a combination of circumstances, including abuse in the home and an overburdened Child Protective Services that is unable to keep pace with caseload demands.

These children are not a “problem” for psychiatry; on the contrary, they help to constitute a new mode of intervention that disavows the continuum of treatable behaviors enshrined in the concept of juvenile delinquency and its universalizing institutions.

The emergence of this condition has had a spillover effect in the schools. As the new coveted object, these children serve to entrench, as the norm, the idea of irrevocable, physiologically constituted difference: difference as a defect that must be medically managed. Scholars have commented more generally on the current tendency in schools to adopt a disaster-oriented language to describe young people’s misbehaviors. The use of terms like “meltdowns” and “containments” tends to naturalize the division between “normal” youth and youth in trouble, influencing modes of treatment. Consider, for example, the language of a self-help network devoted to parents of adopted children with possible attachment disorder.

The Attachment Disorder Network believes many families are expecting to foster or adopt a cute little Shetland pony, but instead find themselves


living with an undomesticated zebra! How could this possibly happen? After all, they look so much like horses. But when you live with one for a while you realize that this child is not the same breed as the others. . . . Many parents are adopting zebras, both domestically and internationally, and believing that they are getting horses. And many mental health professionals have little to no experience in recognizing the stripes of our attachment-disordered equine. . . . With the right help in place — the right therapies, doctors, support — families may be successful in taming their little zebra, but the child’s tendency to be the first to startle and the last to relax will always remain. Additionally, the veterinarian who treats domesticated equines is not usually the same professional who tends to the horse’s less domesticated cousins in the zoo. Families learn that mental health professionals who do not understand grief, loss, adoption, and attachment issues will probably not adequately meet the needs of “zebra families.”

Prevailing wisdom in the medical profession is that one in every five children in the United States suffers from a treatable mental disorder and one in every ten suffers from depression. The proliferation of acronyms that describe a child’s condition as a disorder has created a virtual alphabet soup of ailments, including ADD (attention deficit disorder), ADHD (hyperactivity), AD (attachment disorder), and CD (conduct disorder), to name a few. The inclination to medicate children rather than explore environmental conditions that might contribute to these disorders (poverty, malnutrition, overcrowding in schools, lack of parental support) attests to the shrinking public funds available to tackle these issues. In the United States the decrease in money for children’s basic needs has been associated with a series of federal initiatives that instead allocate much-needed funding to new regimes of control — regimes that, on the one hand, expel or suspend children for the slightest misbehavior and, on the other, enhance school funding according not to need, but, perversely, to performance. The model (although unspoken) is school-as-corporation — those schools that perform best in systemwide grading reap rewards through enhanced funding packages, and those that don’t are penalized.

Rates of criminal activity have remained virtually unchanged in American public schools since the 1970s. But spectacular school shootings in white middle-

class schools in the early 1990s provoked the introduction of a federal antiweapons act. In order to be eligible for federal funding through the Elementary and Secondary Education Act (ESEA), the 1994 Gun-Free Schools legislation calls for states to implement stricter policies regarding the disciplining of students who bring weapons to schools. Commonly known as zero-tolerance policies, they require the mandatory one-year expulsion of students who carry weapons into school. However, the lack of clarity as to what a “weapon” is allows for considerable broadening of the mandate of local acts.35

School boards wield huge powers in this area, particularly as they operate in a gray zone outside the formal court system. Rights to fair representation and trial do not apply here. Stories abound about the overzealous application of zero-tolerance policies, including the suspensions of a third grader in Branson, Missouri, for kissing a classmate on the cheek;36 a high-school student in Dupo, Illinois, for signing off a morning school radio broadcast with “God Bless”;37 and another high-school student suspended for one year for having Advil in her purse.38 Concerns about knee-jerk applications of zero-tolerance policies have even spawned new urban legends about a student being suspended when he was overheard confiding to another student that he was using PHP (which turned out to be not a PCP derivative, but a high-speed computer processor).

Hypervigilance about proper conduct is driven not by the impulse to educate, but by fears about the immanent social danger lurking behind the smallest infraction. In a 2003 debate in the Savannah-Chatham Board of Education in Georgia, for instance, dress codes were finally relaxed to allow shirttails to hang out after one committee member observed, “We cannot find evidence that tucking in shirts deters bringing a weapon to school. It hasn’t done locally what we wanted it to do.”39


These stories are laughable, and in that sense grotesque, as they invoke a juridical discourse that would be inadmissible within the court system, where these behaviors could not be classified as problematic. But teachers who might have previously ignored these behaviors, or would have treated them as an opportunity for instruction, rather than expulsion or suspension, now invoke a language of criminality. Most important, the stories signal a shift in the way that the child figures in contemporary imagination—not as innocent and susceptible, but as profoundly amoral at the outset. Misbehaviors, whether real or imagined, become proof of incorrigibility rather than a springboard for teaching.

Minor misbehaviors are interpreted as the prelude to a more serious crime. The child is treated as if this crime had already been committed, or were on the verge of being committed—as if the child has somehow betrayed the intention of committing the more serious crime. There is no measured response, there is no longer a precise moral economy of punishment: instead, suspensions and expulsions are routinely handed out as the punishment of first choice. Drawing a picture of a gun is treated as if a gun had been brought into school, and the awkward romantic advances of an elementary school child acquire the language and intent of sexual harassment. Behind this hysteria is the fusion of the child who has affective disorders with the child who kills. And the hysteria coalesces around a series of recent, highly delimited, horrific incidents in middle-class schools in the United States—the act of murder by white middle-class students in white middle-class neighborhoods. These incidents presented a limit condition to the concept of juvenile delinquency. Until this time, juvenile delinquency was commonly thought of as a product of deficient inner-city environments, which lacked the amenities (and family structure) of the white middle-class suburb.

The Columbine massacre—the shooting of twelve high-school students and a teacher by two other students—and the murder of Reena Virk in Vancouver by some of her high-school classmates are two examples that led to the constitution of a new object: a child whose actions are not a product of the school system or alienation, poor environment or parental abuse, but who is fundamentally amoral. Moreover, in spite of the limited occurrence of these violent crimes in white middle-class neighborhoods and the improbability of their repetition, the nature of media coverage (fig. 1) has helped to lift them out of a localized space (i.e., the problem of the “ghetto”) and into a national social imaginary. It drives home the mes-

40. Ruddick, Young and Homeless, 149–54.
sage that violence in schools is everyone’s problem (i.e., the problem of the white middle-class community) and it is everywhere.

Rather than using the “child innocent” as the imagery in which to ground criminal acts, it is now the image of “child as monster” that organizes approaches to small misbehaviors. Evidence for this shift can be found in documentation of a spate of offenses (table 1) that resulted in suspensions or expulsions after the signing of the Gun-Free Schools Act in October of 1994.42

The circumstances leading to the problem child’s behavior are no longer the focus of attention. It is rather the impact of this behavior on other children, and also the teachers themselves. “You have no idea what they have to deal with” is a

Table 1  Selected school events leading to suspension or expulsion as reported in the national news

<table>
<thead>
<tr>
<th>Location and Date</th>
<th>Description of Incident</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weapon-Related</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Columbus, OH, May 1998</td>
<td>Nine-year-old on way to school found a manicure kit with one-inch knife.</td>
<td>Suspended for one day for violating school’s antiviolence policy.</td>
</tr>
<tr>
<td>Chicago, May 1998</td>
<td>Seventeen-year-old junior shot a paper clip with a rubber band at classmate, missed, and broke skin of cafeteria worker.</td>
<td>Expelled from school; taken to county jail for seven hours and charged with misdemeanor battery; advised by school officials to drop out of school.</td>
</tr>
<tr>
<td>Phoenix, October 1997</td>
<td>Sixteen-year-old sophomore pulled skeet-shooting gun out of trunk of car after school to lend to a seventeen-year-old senior.</td>
<td>Both boys expelled for violating zero-tolerance weapons policy; charged by local police with misconduct with a firearm.</td>
</tr>
<tr>
<td>Woonsocket, RI, March 1997</td>
<td>Twelve-year-old brought and flashed toy gun in class.</td>
<td>Suspended; principal stated that suspension “sends an unambiguous message to students and protects the school from possible legal action.”</td>
</tr>
<tr>
<td>Alexandria, LA, February 1997</td>
<td>Second-grader brought grandfather’s watch for show and tell; had one-inch pocket-knife attached.</td>
<td>Suspended and sent for one month to local alternative school.</td>
</tr>
<tr>
<td>Columbia, SC, October 1996</td>
<td>Sixth-grader brought steak knife in her lunch box to cut chicken; asked teacher if she could use it.</td>
<td>Police called; girl taken in cruiser; suspended even though never took knife out; threatened with expulsion.</td>
</tr>
<tr>
<td>Centralia, CA, November 1994</td>
<td>Five-year-old found a razor blade at his bus stop and brought it to school to show teacher.</td>
<td>Expelled for violation of district’s zero-tolerance weapons policy; transferred to another school.</td>
</tr>
<tr>
<td><strong>Drug-Related</strong></td>
<td></td>
<td></td>
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<tr>
<td>Cherry Creek, CO, May 1998</td>
<td>Fourteen seventh and eighth-graders sipped a thimble of wine as part of trip to Paris.</td>
<td>Principal suspended and banished to a teaching job in another district for violating school’s zero-tolerance policy on alcohol.</td>
</tr>
</tbody>
</table>

(continued)
<table>
<thead>
<tr>
<th>Location and Date</th>
<th>Description of Incident</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mount Airy, MD, April 1998</td>
<td>Twelve-year-old honor student shared her inhalers with student suffering asthma attack on bus.</td>
<td>Student barred from participation in extracurricular activities; violation of district’s zero-tolerance drug policy noted in her record.</td>
</tr>
<tr>
<td>Belle, WV, November 1997</td>
<td>Seventh-grader shared zinc cough drop with classmate.</td>
<td>Suspended three days under school anti-drug policy since cough drop was not cleared with the office.</td>
</tr>
<tr>
<td>Colorado Springs, CO, October 1997</td>
<td>Six-year-old shared organic lemon drops with fellow students on playground.</td>
<td>Suspended for possession of “other chemical substances”; mother complained of administrator’s use of scare tactics when she was called in.</td>
</tr>
<tr>
<td>Fairborn, OH, September 1996</td>
<td>Fourteen-year-old shared two Midol tablets with thirteen-year-old classmate.</td>
<td>Fourteen-year-old suspended for ten days with expulsion forgiven; thirteen-year-old allowed back after nine days of ten-day suspension after agreeing to attend drug awareness classes.</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>San Diego, October 1997</td>
<td>Twelve-year-old scuffled with classmates when they taunted him for being fat.</td>
<td>Expelled for violation of zero-tolerance policy toward fighting.</td>
</tr>
<tr>
<td>San Diego, September 1997</td>
<td>Third-grader engaged in two incidents: twisted finger of girl he said was “saying bad things in line” and got into scuffle with boy on playground during tetherball.</td>
<td>Suspended for five days for each incident; expelled after second suspension; principal stated she had no choice under district’s zero-tolerance policies</td>
</tr>
<tr>
<td>Newport News, VA, October 1996</td>
<td>Five-year-old brought beeper from home and showed it to classmates on field trip.</td>
<td>Suspended for violation of school rule forbidding students from bringing pagers to school.</td>
</tr>
<tr>
<td>Lexington, NC, September 1996</td>
<td>Six-year-old kissed classmate; said the girl asked him to.</td>
<td>One-day suspension for violation of school rule prohibiting “unwarranted and unwelcome touching.”</td>
</tr>
</tbody>
</table>

_Source: Skiba and Peterson, “The Dark Side of Zero Tolerance.” Data used with permission of Phi Delta Kappa International._
Destabilizing Discourses

common refrain. Children remain one of the few social groups whose dependency on state support is not vilified. However, the challenges arising from cutbacks to school resources, fewer teachers’ assistants, increased numbers of students in the classroom, lower teacher-to-student ratios, and more demanding curricula are no longer laid at the door of the state. Rather, the children themselves are expected to measure up or ship out.

Within this context, children’s rights, as they are mobilized in American public schools, are constricted to children’s treatment of each other, reduced to proper interpersonal behaviors. Each public school now develops a “code of conduct”—read by every parent and signed by every child from kindergarten to grade 12. This is the guiding document around which children’s rights are instantiated. It emphasizes expectations about freedom from bullying and tolerance for difference, but the procedural measures that deal with transgressions are not open to discussion.

Curricula on rights, moreover, defer exploration of children’s rights to a focus on their future rights as adults, or displace it to discussions of children in other countries—promoting obedience at home and activism abroad. These strategies exemplify the restriction, deferral, and displacement of children’s rights. They also hinder the consideration of rights as social entitlements and deflect protest against the immediate causes of diminished school resources and higher student-teacher ratios.

Through codes of conduct, the language of the courts has migrated into the school system. Terms like “plea bargain” are part of a new language of discussion about school discipline. The codes have reorganized student-teacher relations and the disciplinary space of the school, but leave students with little legal recourse to contest punishment. They create the illusion of a legal procedure in a space where, in fact, children have few rights and are not expected to exercise those that they do have. In the name of children’s rights, zero-tolerance policies and accompanying codes of conduct introduce the child-as-criminal into the space of the school.

The racialized implications of these changes should not be underestimated. In 1954, Brown v. Board of Education created legislation requiring the desegregation of the public school system and affording racialized children access to

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(often better equipped) white schools.\textsuperscript{45} Half a century later, zero-tolerance policies provide a new mechanism of exclusion. Although, curiously, it was violence in white schools that prompted federal legislation, the suspension or expulsion of children from school has tended disproportionately to target and disfavor young black males, leading to questions about racist assumptions embedded in the very policies that are purported to address discrimination. The rates of school suspension have risen disproportionately in the United States in relation to infractions (fig. 2), and racialized children are more routinely suspended for less serious infractions.\textsuperscript{46}

In some cases the codes of conduct have been worded in such a way as to limit children’s First Amendment rights and free expression as political subjects. High-school students in several schools across the United States have been suspended, expelled, or otherwise disciplined for wearing antiwar T-shirts or participating in antiwar walkouts that were considered to disrupt the daily activities of the school.

Against this movement of political repression, an intimate counterdiscourse of children’s legal rights has emerged. Advocates against zero-tolerance policies encourage parents to teach their children to be assertive about their rights: to verbally invoke their rights, to refuse to answer questions that are nonacademic


in nature, to refuse the search of their person or locker-room spaces, and to carry on their person at all times a card announcing their rights. Indeed, the space of rights for children has been reduced to a wallet-sized index card (fig. 3), the only immediate avenue available to remind authorities of larger legal protections.\textsuperscript{47}

What is clear is that policies like zero tolerance and the correlation of school funding to student performance invert the century-old tenets of child saving and earlier principles of schooling, which evolved, in a sense, to discipline the undis- ciplined child. Disciplining is no longer required in a system that expects discipline at the outset—a right disposition, an already disciplined child—and that effectively expels those who fail to live up to performance criteria. The result is to hold children responsible for their relationship to one another without empowering them to challenge the erosion of entitlements that had once been part of schooling. The school thus undergoes a fundamental shift in its orientation: the undisciplined child is no longer its raison d’être. Good behavior becomes a guar- antor of access to education and codes of conduct contain the broader subtext that social entitlements such as the right to education can be readily withdrawn from those who do not conform.

\section*{Conclusion}

The normalizing technologies characteristic of institutions over the past century were constituted in and around a particular sense of the abnormal and a particular moral economy of punishment and correction, which through expert psychiatric testimony “pass[ed] from action to conduct, from an offense to a way of being . . .

which [shifted] the level of reality of the offense,” making it “possible to constitute a psychological ethical double of the offense.” Foucault demonstrates that the evolution of psychiatric testimony in relation to juridical discourses reconstructs, in hindsight, an individual who “already resembles his crime before he has committed it. The simple repetitive use of the adverb already . . . is in itself a way of linking together simply through analogy, a whole series of illegalities below the threshold, of improper acts that are not illegal and of piling them up in order to make them resemble the crime itself.”

In modern institutions of correction and training, this piling up of illegalities was captured in the concept of the juvenile delinquent, whose path to crime was marked along a continuum from small misbehaviors through status offenses to violent criminal acts. It was the legal construct and category of status offender that acted as the connective tissue between the normal child and the juvenile criminal. When fiscal pressures and concerns about mixing different categories of offenders led to the deinstitutionalization of the status offender, the connective logic enshrining universal modes of treatment for young people began to unravel and the concept of juvenile delinquency was abandoned in favor of two new objects: the response-ready, already disciplined, self-sufficient child; and the young, amoral criminal.

In the past forty years a new normal has emerged signaling a new moral economy of punishment. The relationship between petty transgression and crime—once tracked over the lifetime of the accused—has been telescoped so that any transgression, however small, is made to signal the immanence of a serious criminal act; the child is hailed as if he or she is about to commit the crime and is already cognizant of the connection between the misstep and criminal behavior. In both the schools and the courts a perversion of the discourse of rights has been a key destabilizing mechanism clearing the path for these transformations. In the juvenile courts, rights discourses functioned first to remove status offenders from the juvenile court system. But, in the absence of alternative programs, it relegated them to a no-man’s-land. And victim’s rights function as a new grotesque in the practice of sentencing juvenile criminals by favoring retribution over rehabilitation. In schools, the grotesque has taken the form of the adoption of a quasi-legal discourse that constructs young people who misbehave in the form of criminals and constricts their rights almost to the point of erasure, limited to codes of conduct that elaborate their rights toward each other. But these codes afford them no

48. Foucault, Abnormal, 16.
49. Foucault, Abnormal, 19.
legal recourse to challenge schools’ practices of suspension or expulsion, and no forum to challenge the shrinking of social entitlements caused by declining funds for public schooling.

The rise of the new normal has transformed these institutions from within. No longer a means of training for all, they function at the outset as mechanisms of exclusion: no longer sites of possibility but sites of marginalization. They act as powerful mechanisms that normalize, naturalize, and embed—in the everyday space of the classroom and the spectacular space of the juvenile courts—new ways of being and behaving, and new cultures of expectation and responsibility, as they relate not only to the limited landscape of childhood, but also to the larger social world.