

## Narrative As Social Change: Public Storytelling To Legally Determine The Fate Of Juvenile Offenders

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Accepted 24 October, 2014.

### ABSTRACT

The rhetoric examined in this paper uses a David and Goliath-themed narrative as a lens to examine a battle over the fate of children in this country who commit crime. The different narrators, however, decide whom in their story David will represent and who or what will be represented by Goliath. These modifications in characters give the audience different perspectives from each narrator, which guide our beliefs. I seek to eavesdrop on some of the conversations about juvenile crime and punishment in America between 1995 and 2012 by tough-on-juvenile-crime supporters and those who oppose extreme sentencing of juveniles. I will apply a narrative analysis framework to this case study to show how each side is using rhetorical strategies that function to create changes in the public policies that determine how we punish children. Through this narrative analysis it will become evident that a David vs. Goliath-themed battle narrative is unfolding. This essay will demonstrate that rhetoric functions to create new realities. When words or ideas are put together, they become part of the rhetorical realm, which often shapes our mental and physical realities to create a new reality; this is demonstrated by the role that language has had in determining the fate of juvenile offenders. Inserting these narratives into a public discourse on the punishment of children becomes a way to move these judgments out of the courtroom and to engage a broader audience that will ultimately decide the fate of not just a single case or individual, but many individuals categorically and simultaneously. First, I will present the narrative analysis of the rhetoric from those who want tougher punishments for children who commit crimes, and next, from those who want to end the policies that mandate the trying and sentencing of children as adults. I will then compare how each narrative functions to create a reality that will determine how these children are punished by exploring the rhetors' use of pathos, binaries, and public narrative creation. To conclude, I will examine some possible effects of the rhetoric concerning juvenile offenders on the way we control the behaviors of children in general.

**Keywords:** rhetoric, juvenile justice, juvenile offenders, narrative analysis, juvenile crime and punishment, public discourse, pathos, binaries, public narrative, social change.

### Introduction

The biblical story of David and Goliath (1 Sam. 17) is a well-known narrative that is often used when referring to any battle of an underdog against a stronger enemy. There are several features of this narrative that operate to engage an audience and to put them in favor of the underdog. First, the tale constitutes a battle in which only one side can emerge as the victor. One character must conquer the other. Second, Goliath is strong and powerful, while David is small and ostensibly weak. This serves as a battle of brains vs. brawn. But not only is there a power difference, Goliath is also evil, while David is good. This serves as a battle of right vs. wrong, or moral vs. immoral. Next, the narrative is a story of hope. Even though David is up against great odds, he can overcome his limitations and become the winner of the battle. It is a tale of good triumphing over evil in spite of difficult obstacles. Finally, the narrator of the story has the power to tell only David's side, while leaving Goliath's point of view absent. Because the audience only receives one perspective, we are likely to favor the character that we better understand and have more of a connection to.

The rhetoric examined in this paper uses a David and Goliath-themed narrative as a lens to examine a battle over the fate of children in this country who commit crime. The different narrators, however, decide whom in their story David will represent and who or what will be represented by Goliath. These modifications in characters give the audience different perspectives from each narrator, which guide our beliefs. I seek to eavesdrop on some of the conversations about juvenile crime and punishment in America between 1995 and 2012 by tough-on-juvenile-crime supporters and those who oppose extreme sentencing of juveniles. I will apply a narrative analysis framework to this case study to show how each side is using rhetor-

ical strategies that function to create changes in the public policies that determine how we punish children. Through this narrative analysis it will become evident that a David vs. Goliath-themed battle narrative is unfolding. This essay will demonstrate that rhetoric functions to create new realities. When words or ideas are put together, they become part of the rhetorical realm, which often shapes our mental and physical realities to create a new reality; this is demonstrated by the role that language has had in determining the fate of juvenile offenders. Inserting these narratives into a public discourse on the punishment of children becomes a way to move these judgments out of the courtroom and to engage a broader audience that will ultimately decide the fate of not just a single case or individual, but many individuals categorically and simultaneously. First, I will present the narrative analysis of the rhetoric from those who want tougher punishments for children who commit crimes, and next, from those who want to end the policies that mandate the trying and sentencing of children as adults. I will then compare how each narrative functions to create a reality that will determine how these children are punished by exploring the rhetors' use of pathos, binaries, and public narrative creation. To conclude, I will examine some possible effects of the rhetoric concerning juvenile offenders on the way we control the behaviors of children in general.

There has been some scholarship on how narrative is used within the courtroom at criminal proceedings to affect the decision of the jury in determining the crime and punishment of an individual. Austin Sarat (1993), for example, has looked at how narratives of violence work in capital trials, and Jeffery D. Tatum (2002), has explored narrative use in trials of doctor-assisted suicides. A number of scholars have also examined ways in which public narratives affect

social change and social movements (Pollenta, 2002; Benford, 2002; Rice, 2002; Brown, 2002; Rothenberg, 2002; and Nolan, 2002). For example, James L.

Nolan Jr. (2002), has shown how a public narrative discourse on therapeutic culture has impacted drug courts starting and becoming so popular. In showing how a narrative can propel a social movement, he states, "The drug court phenomenon is a movement within the criminal justice system" and "it is cultural factors-ideas, beliefs, worldviews, the collective consciousness-that drive and give direction to social movements." Public narratives help to lay the foundation for our cultural and collective beliefs and worldviews. I seek to fill in the space between these two research focuses. My attempt is to further the research on the use of narratives in affecting social change and to also examine how the use of public narrative, versus narrative within the courtroom, can lead to the eventual punishment of an individual before they ever enter the courtroom. In other words, my research will focus on narratives that create the social changes that will determine punishment, but specifically public narratives that function on a large scale and focus on children who commit violent crimes.

### History Of The Juvenile Justice System

The juvenile justice system has gone through many changes since its establishment in 1899, and most of those changes have occurred in the last 25 years. It was during the late nineteenth century that we as a culture began to legally recognize the differences between adults and children. Before the juvenile justice system was put in place, those who committed crimes were punished equally, regardless of age. In the beginning stages of the juvenile justice system, it operated in accordance to a paternal rhetoric. This can be understood through the published words of Judge Julian Mack, who had a hand in the establishment of the juvenile justice system. In 1909, he stated that the juvenile justice system should treat juveniles "as a wise and merciful father handles his own child" (qtd. in Scott and Steinberg, 2008). Judge Mack viewed juveniles as children first. He envisioned a system that would protect and give treatment to these young offenders so that they could become productive adults, and saw no place for criminal responsibility and punishment within this system (Scott and Steinberg, 2008).

In the 1990s, the policies for treating juveniles began to change. During that decade, almost every state passed laws making it easier to try juveniles in adult criminal courts; 31 states passed laws expanding sentencing options; 47 states modified confidentiality provisions for juvenile courts; and 22 states passed laws increasing the victim's role in juvenile court processing. More than any time in recent history, the system is turning back toward treating juvenile offenders like adults. ("Juvenile Justice")

Some extreme statutes meant that there became an automatic or mandatory transfer of children away from the juvenile justice system and into the criminal justice system. As stated by Elizabeth Scott and Laurence Steinberg (2008), under these statutes:

Many youths are categorically treated as adults when they are charged with crimes-either generally (all six-

teen-year-olds) or for specific crimes (all...charged with murder). These legal reforms resulted in the wholesale transfer of youths into the adult criminal system-more than 250,000 a year by most estimates.

More than half of the juveniles tried in criminal courts involve drug sales or property crimes, not violence against others. This late-twentieth-century change in juvenile crime policies shows the law's re-conceptualization of the culpability of children, who went from being conceptualized as pure, vulnerable, and capable of change, to being conceptualized as fully responsible adults who are incorrigible. This notion takes us back to treating children the way we did in the early 1800's and before, when children were not understood as different and were instead viewed as small adults.

But why this widespread enthusiasm for tougher punishments for children? These categorical and mandatory sentencing practices are not in line with criminal law sentencing: "Criminal law does not view culpability in such binary terms; the concept of mitigation plays an important role in the law's calculation of blame and punishment.... The distinction between excuse and mitigation seems straightforward, but it is often misunderstood" (Scott and Steinberg, 2008). It is mitigation that allows a court to view any contextual factors that surrounded the crime, but the use of mandatory practices in sentencing juveniles eliminates all mitigation in these cases. The use of mitigation began to disappear for juveniles and the idea of culpability was decidedly certain. The narrative explored in this essay from those who want tough punishments for juveniles should shed some light on how our culture went from protecting children to seeing them as a powerful enemy who is lacking morals, such as Goliath. In the past decade, some of these policies have been re-evaluated, and we are now seeing some juvenile offenders being released from mandatory adult sentencing practices. The narrative examined here by those who are working toward changing these tough sentencing practices for children should help illuminate why this may be happening.

### Narrative's Power

In order to explore how the use of a narrative may be working for each of the rhetors in this case study, I will now turn to how narratives function for the audience and what powers they may carry. Within all narratives, the audience is invited to make a moral decision about an event or situation. But it is the language as well as the chosen portrayal of the characters, the scene, and the relationship of events that the storyteller uses to craft desired responses from the audience. These narratives shape how we make sense of the world around us and how we decide to participate in that world. For example, the David and Goliath narrative does just this. It shapes how we view our oppressors, such as Goliath. They are large and powerful and they are also on the wrong side of morality. The story also tells us how to respond to our oppressors. We must use our wits and confront the oppressor, violently if necessary, in order to restore balance and harmony, as David does. We cannot work with our oppressors; they, or their power and control, must be eliminated. The story validates our participation in this way because we are on the right side of morality.

Jerome Bruner (1991), states that narratives work to form a "version of reality" that is accepted or unaccepted based not on logical verification, but on our conventional values and ideals. We will see this in the following narratives. The audience is being asked to accept whether or not a child is wholly responsible for their actions, whether or not they are on the right or wrong side of morality, and whether or not we are justified or not—that is on the right or wrong side of morality—in punishing them severely. Because statistical or other logical evidence cannot be provided to attest for the cause-and-effect relationship of why people engage in criminal behaviors, the narratives present a nature vs. nurture debate and the audience will consider each narrative true or false based on their feelings and beliefs on this debate.

Narratives' use of character development encourages us to become emotionally involved in the story. Joseph Davis (2002), states, "narratives reach beyond logic and proposition, working not by deduction and reflection but by suggestion and identification. Stories appeal to the intellect to be sure, but also to emotion and imagination, to moral and aesthetic intuition, as well as logical reasoning." We often become most involved with the characters that have been well developed or that we can identify with. For this reason, stories can do more than just statistics and logical reasoning can do. In the David and Goliath story, we are made to identify with David. He is therefore the character who we are most involved with; we want him to triumph. David's relationship with Goliath constitutes the audience's relationship with Goliath; we have an emotional dislike for him. Therefore, any narrative that depicts a character as Goliath will constitute an emotional dislike for this character in the audience; we will instinctively want to see this character fail and possibly even destroyed.

Also, narratives create an experience for the audience and expect responses as well. There is a transaction in narratives that involves the audience in the events of the narrative. This helps to account for their power to bring the reader to form a judgment about a character or a situation. Davis (2002), states, "Stories reconfigure the past, endowing it with meaning and continuity, and so also project a sense of what will or should happen in the future." Because narrators control the perspective of the story told, they attempt to bend our ideas about what should happen in the future. This makes them an excellent choice for both epideictic and deliberative rhetoric. And this also makes them useful when deciding why and how to punish criminals, as we see in the following case studies.

Although narratives may not be the traditional form of logical argument, Walter R. Fisher (1987), argues that narratives do contain a persuasive form of logic. He states that reason is not restricted to only traditional forms of argumentation and that "narrative rationality" is its own logic. He argues that it is not the form of argument that "is ultimately persuasive in discourse" and that "values are more persuasive", which narratives can more easily access. While a more traditional form of logical argument is often found in fields such as law and science, Fisher (1987), reminds us that in any argument there "will always be a story, an interpretation of some aspect of the world that is historically and culturally grounded and shaped by human personality." In the rhetoric examined

here, the narrators illustrate differing interpretations of the aspect of the culpability of children.

### **Tough-On-Juvenile-Crime Rhetoric**

It is my contention that a David vs. Goliath-themed narrative is being told through the language of those who support tough sentencing for children who commit crimes. This narrative is used in order to complete the objectives of reconstructing a new identity for our nation's youth and to encourage the audience to agree that our communities are in a state of chaos that we must restore order to. In 1995, an article titled "The Coming of the Super- Predators," written by John J. Dilulio Jr., a political scientist and professor, entered the world through the pages of *The Weekly Standard*, a conservative opinion magazine. This article worked to reconceptualize society's view of children who commit crime. Within the title of the article alone, we can see a redefinition of children and teenagers as "super-predators." In fact, Dilulio coined this term, which turns up again and again in print after this article is released ("Teenage Time Bombs," 1995; Zoglin, 1996; "Superpredators Arrive," 1996; Koprowski, 1996; Annin, 1996; and "The Invasion of the Superpredators," 1997).<sup>1</sup> Here, Dilulio is introducing one of the characters, which can be viewed as Goliath in this narrative. The victims and the possible victims of these super-predators are another character in this story, which can be seen as David, who is being oppressed by Goliath. The events of the narrative created are the ruthless acts of violence committed on unsuspecting victims. He sets the scene as "black inner-city neighborhoods...spill[ing] over into upscale central-city districts, inner-ring suburbs, and even the rural heartland." Here, he suggests that no place and no one is safe from these super-predators. Just as in the biblical story of David and Goliath, the community is in a state of fear because of the presence of a violent oppressor.

Dilulio goes further in describing this super-predator character. He categorizes these children as having "profound developmental defects" and declares that "they will do what comes 'naturally': murder, rape, rob, assault, burglarize, deal deadly drugs, and get high." With this categorization, Dilulio further imposes on them the label as "other," just as Goliath was seen as "other" in the biblical story. By suggesting that this violent and criminal behavior is "natural," he creates a scenario that these kids cannot ever adhere to our social values and conventions of non-violence and lawfulness, that they are so defective that we cannot treat them as we do other children. Dilulio's narrative in fact works to suggest that we cannot apply our modern dominant ideology—that children are naturally pure or innocent, the Apollonian view—any longer, and that the once commonly held belief that children are in fact evil by nature, the Dionysian view, which we must train out of them, is correct (Ansell, 2005). Because these children have not been trained properly, being raised in "abusive, violence-ridden, fatherless, Godless, and jobless settings," they have been deprived of moral training. Dilulio makes no attempt to suggest that since these individuals are still children they can change. He instead suggests that their "moral poverty" has ruined them to the point of being incapable of conforming to an orderly and moral society. By successfully

<sup>1</sup>Also, Bob Dole used the phrase in his presidential campaign in 1996.

redefining these children, categorizing them as different from the rest of society, and claiming that "we" and our values are in danger of "them," he sets the stage for us to do something about this, but what?.

The other character in this narrative is, of course, the rest of society. That is, the possible victims of these super-predators. The audience for this narrative is also these possible victims who should fear ever coming in contact with these children. Society can be seen as David in this narrative because it is society that is moral as compared to the super-predators and that is shown to be the weaker party that is being oppressed. He makes several attempts to show the differences between the kids today and the kids of the 1950s. For example, he states, "the Bloods and Crips were so much more violent, on average, than their 50s counterparts, and the next class of juveniles will be even worse...." He is again creating a division in which the kids today can be seen as "the other." This division will make it easier for us to treat them differently than we would have been treated as children. In this narrative, Dilulio gives full agency to the children, the super-predators. They are in control of their behaviors and over society, and it is the rest of society that is without agency, being forced to live in fear of possible violence. But Dilulio recommends that citizens should work to have more agency in this narrative, just as David acted to have more agency in order to take back control and end the torment being caused by Goliath, by establishing retributive justice.

Dilulio crafts a desired response in his audience for how they should stop the chaos that these super-predators are causing, and take back agency, by using a consistent war metaphor that characterized these "juvenile super-predators" as the enemy and that we must fight against them. He creates this war metaphor with specific language. For example, he says that we are on top of a "demographic crime bomb" and that the "bomb [is] ticking"; that he has heard "war stories" about these juvenile criminals; and that in the coming years there will be "an army" of these young criminals. This war metaphor puts us in a war that he suggests the juveniles have started, and we must simply defend our values and ourselves. By using this metaphor, Dilulio creates a structure to establish our perceptions and our ultimate actions in the specific terms of a war or battle. George Lakoff and Mark Johnson (1980), who have done extensive research on the power of metaphors, theorize that our concepts structure the way we interpret the world and how we relate to that world and the people in it. The conceptual systems of metaphors then are central in characterizing our everyday realities. This metaphor of war works to organize the way we think about the situation that he is discussing; in our minds, we establish a relationship between this issue and a war. This metaphor does not merely illustrate how we perceive the situation; instead, it constitutes it. This brings us back to the David and Goliath story, as it too was about a war. Dilulio closes his article with a statement about a "need to incarcerate" and that "we will have little choice but to pursue genuine get-tough law-enforcement strategies against the super-predators." These tough sentencing practices will be the weapon of choice used by David to fight the battle with Goliath.

Because Dilulio has used a David and Goliath-themed narrative and has established "us" as David and "them" as Goliath,

we feel justified in going to war with these children. After all, the narrative has shaped our understanding that we, David, are on the right side of morality and must do what is necessary to regain control from our oppressors. And because they are on the wrong side of morality, they are therefore deserving of whatever we must do to win the battle.

Dilulio's narrative re-defines children as predators, creating a division; tells of these super-predators preying violently on innocent victims; and incorporates a war metaphor before introducing a single piece of statistical evidence of crime rates among adolescents. When he does bring in statistics, they are initially compelling, stating that juvenile crime rates have been on the rise between 1985 and 1992, but he then tells us that it is only 6% of these juvenile criminals who contribute to 50% of the crime. This does not add up to the "army" of predators that he has predicted. Dilulio's statistics do not support the visual images or the narrative that he has created. However, by the time he establishes any logical support for his argument, the audience already has an image and a story developed and a fear of the threat of violence. Therefore, it seems to be the language used and the narrative created that hold all of the persuasion for this argument. It is his ability to appeal to the audience's emotions that has done the work for him. And the public did not dismiss this article for its lack of logic; instead this narrative was publicly embraced ("Teenage Time Bombs," 1995; Zoglin, 1996; "Super-predators Arrive," 1996; Koprowski, 1996; Annin, 1996; and "The Invasion of the Superpredators," 1997.).

In 1996, James Wooten and Robert O. Heck introduced a report titled "How State and Local Officials Can Combat Violent Juvenile Crime" through *The Heritage Foundation*, which is a conservative think tank. They take advantage of some of the same rhetorical moves that Dilulio makes. They, too, use a war metaphor throughout the report, suggesting that we need to go to war with these juvenile offenders. For example, the title contains the word "combat." Wooten and Heck also include language such as "effective ways to *attack* the juvenile crime explosion," "*target*...teenage criminals," and "the best *weapon* against violent crime" (emphasis added). They, too, work to re-classify these children into something other than an image of a child. Instead, they choose to refer to these children as "SHOs" (serious habitual offenders) and state they are "vicious," "damaged," and "the ultimate urban nightmare." The image created is not of a teenager with a face and emotions, but of a dangerous predator.

Additionally, in 1997, Dr. Don Boys, an evangelist and former Indiana House Representative, published "Criminal Children: The Lunacy of Leniency" in *Common Sense for Today*, an online Bible-based news site, which was created by Boys. He begins, "Our city streets are dark, dirty, dangerous and are often dominated by raping, robbing and rampaging children." There is more than simple alliteration in this opening statement; Boys is setting the stage for a similar narrative used by Dilulio and a visual similar to both Dilulio's and Wooten and Heck's. Boys supports the ideology that people are born bad and have to be taught morality, stating, "the fact is, there is no such thing as a good boy (or girl)...[i]t is human nature...men have been conned into believing all people are basically good." This claim is a direct refutation of the now dominant cultural premise that people are inherently good

and also supports Dilulio's premise that these children have not had proper moral training and are therefore incorrigible.

Furthermore, he dismisses social scientists that blame this criminal behavior on "poor potty training, low self-esteem, and poor living conditions." Here he attempts to make light of the abuse, violence, and neglect of children that concern social scientists. Instead, he assigns these children full agency for acting violently, stating, "Juveniles, like adults, commit crimes because they choose to do so. And they must be held accountable. When young criminals kill and rape, they should be treated like adults, even executing them." Boys' argument places agency on the child, and because of this agency, children who choose not to comply with the way that society expects children to act, that is, violently and lawlessly, they should be legally re-defined as adults.

All three of these articles create a state of fear by the use of narrative, metaphor, and vivid language. They all give full agency to the children they speak of, and they all seek to re-define children based on their behaviors, not their age and not their vulnerabilities. Our society has traditionally categorized children as being innocent, vulnerable, and harmless. But these authors suggest that if children do not meet that societal image and behaviors, if they do not fit neatly into that category of what it is to be a child, they must be re-categorized. We have two binary oppositional categories, children and adults. So if they do not fit into the children category, we must place them into the opposing adult category. Because the category of a child has been stripped by the images created through language and the narrative used by these authors, the public does not characterize these youths as children. This allows the law, too, to re-define and re-categorize these individuals as adults.

In 1996, within months of Dilulio's article being published, Representative Bill McCollum (R-FL) sponsored the "Violent Youth Predator Act of 1996" (Wooten and Heck, 1996). This bill used Dilulio's original term of "predator" directly in the title. As previously stated, this term for describing youth who committed a crime did not exist until Dilulio's 1995 article. This is a clear example of how his rhetoric took shape to produce a public policy. This federal bill stated that juveniles as young as 13 who were being charged for the federal crime of a serious violent act or a major drug trafficking charge *must* be tried as adults, without consideration of circumstances around the crime (Wooten and Heck, 1996). It is important to understand what crimes the federal government defines as violent: "Acts that are considered 'violent crimes' regardless of whether they were committed by a juvenile or an adult include: robbery and armed robbery; arson; assault and battery; carjacking; child abuse; domestic violence; manslaughter; murder; and other crimes defined by U. S federal law" (Falk and Ross Law Firm, 2013). By law, children who engage in any of these acts would be re-defined as adults.

Other similar bills followed, and by 1997, 28 states had mandates for trying juveniles who commit violent crimes as adults, and 22 states "had provisions for transferring juveniles to criminal court which did not specify a minimum age. For those that did specify a minimum age, the most common (16 states) was age 14. Two states, Kansas and Vermont, set

the minimum age as low as 10" ("Juvenile Justice"). These public policies are mirroring the re-categorizing rhetoric that takes place in the articles written by Dilulio, Wooten and Heck, and Boys. Age becomes not the deciding factor on defining a child; their behaviors do. A 10-year-old who commits arson is re-defined, by law, an adult.

### Sentencing Reform Rhetoric

I will now turn to the rhetoric by those who seek to reform these policies and practices of trying and sentencing children as adults. Here, too, a David vs. Goliath-themed battle narrative is marshaled in order to reach the objectives of challenging current perceptions of our sentencing practices of children, to establish who or what has or lacks agency, and to reconstruct the identity of juveniles who commit crimes. The characters in this narrative are the children, who will represent David, and the laws that work to punish these children, which will represent Goliath. The scenes that are created in this narrative are the backgrounds and circumstances that surrounded the majority of children who commit crimes. The events are the violence and neglect that are inflicted upon these children in their lives and the act of trying and sentencing them as adults rather than children. The battle that is taking place is the fight to end the unfair punishments of children.

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In 2008, Equal Justice Initiative (EJI), a human rights advocacy group, released a report titled "Cruel and Unusual: Sentencing 13- and 14-Year-Old Children to Die in Prison." This report speaks directly about the policy of trying children under the age of 15 as adults and applying mandatory sentences of life in prison without the possibility of parole. This report develops the character of the children not as violent psychopaths, but as young victims themselves. One strategy employed is to consistently refer to them as "children," specifically "young children" or "kids." They also put a name and a face to this character by introducing thirteen children who have been sentenced to life in prison without parole for crimes committed when they were either 13 or 14 years old and by sharing their personal stories. Included in the report are photographs of each of these children. These photos do not fit the image of a violent criminal. Instead, they show a small, scared, and lonely child (see Figure 1). This seems to be a rhetorical response to contrast the abstract notion of an

evil super-predator force that is said to exist, and functions to offer something concrete instead. These photos show the audience a real person, not just an idea—a human, not a soulless predator. Whereas Dilulio's narrative created an image of these very children as Goliath, these photos seem to show something different. These images act as an argument for the

particular narrative of a child as helpless. They give the audience a visual of characteristics that we associate with David—small and weak and an easy target for an aggressive oppressor. EJI's sharing of the personal stories of these children and their images makes it more difficult for the audience to treat these individuals as a concept, or as Goliath.



**Figure 1.** Children inmates in their cells. Source: "Cruel and Unusual: Sentencing 13- and 14-Year-Old Children to Die in Prison." Equal Justice Initiative. Equal Justice Initiative, 2008. Web. 4 March 2013

These photos seem to show something different. These images act as an argument for the particular narrative of a child as helpless. They give the audience a visual of characteristics that we associate with David—small and weak and an easy target for an aggressive oppressor. EJI's sharing of the personal stories of these children and their images makes it more difficult for the audience to treat these individuals as a concept, or as Goliath.

EJI continues to create an image of these children as the character of David, stating, "kids too young to drive a car or go to a scary movie by themselves are sentenced to imprisonment until they die..." "incapable of making mature choices ...vulnerable to negative influences and peer pressure ...powerless to protect themselves from dysfunctional and dangerous home environments." Through the development of this character, EJI tells the audience that children are some of the most vulnerable individuals in our society and are powerless and need protection, even the ones who "have been involved in tragic, horribly misguided violence and dangerous behavior, and ...need intervention and correction."

They create in their audience a role of protector, that we must protect children, even the children who act violently and need to be redirected. Since the narrative asks the audience or society to take this role of protector of all children, we become the weapon for David in his battle with Goliath; we must be the agents for these children. The narrative created here removes agency from the child because they are "not fully developed physically, mentally, or emotionally." EJI appeals not only to pathos, but also makes appeals to logic by

incorporating science to their argument that children are without agency to show that children will in fact change as they mature. They state, "[u]sing state-of-the-art imaging technology, scientists have revealed that adolescents' brains are anatomically undeveloped in parts of the cerebrum associated with impulse control, regulation of emotions, risk assessment, and moral reasoning." EJI's characterization of these individuals seeks to place them back into the category of children, from which they have been removed.

The policies of trying and sentencing children as adults are personified by EJI as the evil character that has agency in this narrative; these policies represent Goliath, who is on the wrong side of morality. For example, to describe mandatory life in prison sentences, they say, "cruel and unusual punishment inflicted on children," "condemned to death in prison," "an irresponsible, thoughtless, and uninformed response to kids in crisis," and "violates standards of decency in this country." It is these powerful policies that are the immoral oppressors of David, the children. They are also the enemy of our values of protecting children. EJI reminds the audience of the cultural ideology of a child having the greatest "capacity for growth, change, and redemption," which is why we must protect them from laws that ignore this. Although we have laws that protect children from making poor decisions, such as laws that prohibit them from getting married or getting a driver's license, or that require they attend school, these sentencing laws are in conflict with this message that society should offer protection because they suggest that when a child does make a horrible decision, they are solely responsible for that decision and forfeit the government's protection.

The report also shows these policies of treating children as adults to be the immoral character because of what often happens to children inside of an adult prison.

They share the personal story of one child inmate in Alabama:

Since being incarcerated in an adult prison, this boy has been repeatedly raped. He was forced to prostitute himself in exchange for protection from physical beatings and sexual assault by other inmates. His 'protectors' forced him to have their names tattooed on his body to signify their ownership of him. Prison guards target him for beatings and harassment because of the sexual relationships into which he has been forced. ...This boy's story is not unusual. (2008).

This story functions in several ways. First, it constructs an identity of children as vulnerable victims without the ability to protect themselves. It also shows that the scene itself is functioning as the victimizer of the child. And it tells us that the policies that place children in an adult prison are not protecting them, that they are in fact an immoral form of punishment. The criminal's punishment should be their removal from society, not being forced to endure abuse and assault. This story exposes some of the violence that is part of the sentence itself.

By describing the scene of the punishment, EJI takes the idea of punishment out of the abstract and attempts to make it something more tangible or more visible. In our justice system, we seek to justify that the punishment fit the crime. We cannot do this unless we examine not just the crime, but also the punishment. EJI is asking that we do this. They attempt to expose the law's violence and ask us to make a judgment: is law's violence to be accepted without question because it is assumed to be on the right side of morality? (For more detailed research on this topic, see Robert Cover, 1995.) Because the violence of punishment is typically hidden from view, the only way to expose it is to bring it into public discourse. The crime is often visible either through physical wounds or physical destruction. It becomes a rhetorical hurdle, however, to make the punishment visible, especially when much of punishment leaves wounds on the mind or the soul that cannot be captured visibly. This, too, is what makes showing the pain and suffering that years of past abuse and neglect that the criminal has suffered a rhetorical challenge that cannot be made visible except through language. (See Elaine Scarry, 1985, for more research in this area).

This narrative also assigns agency to the scene, which is the abuse and neglect that many of these children have been exposed to. EJI goes into detail to create an image of this scene for the audience: "They have been physically and sexually *abused*, *neglected*, and *abandoned*; their parents are prostitutes, drug addicts, and crack dealers; they grew up in lethally violent, extremely poor areas where health and safety were luxuries..." (emphasis added), and includes the more specific example, "Ashley Jones was repeatedly *threatened* at gunpoint by her parents, sexually *assaulted* by her stepfather, *forced* into crack houses by an addicted mother, physically *abused* by family members, and *abducted* by a gang shortly before her crime" (emphasis added), to suggest that these children are acting violently in response to their violent and chaotic lives. Not only do these statements create an image of

victims with words such as "abused," "neglected," and "abandoned," but the words "threatened," "forced," and "abducted" also show an individual who was being acted upon and was not in control of her surroundings or the actions that were taking place. The events of abuse and neglect become part of the scene, which is also the agent in this narrative.

EJI suggests that no one has been an agent for these children, stating, "Children sentenced to die in prison have in common the disturbing failure of police, family courts, child protection agencies, foster systems, and health care providers to treat and protect them." This further encourages the audience and society to make up for these failures by now coming to the realization that these children need protection from the violence of these laws, and to offer these children some agency of protection by challenging the current mandates in sentencing children with the same harshness of adult sentences. Otherwise, these mandatory sentencing laws will become just another event in the scene that is forced on these children. Again, we must work as the weapon to help David win the battle that he has been forced into.

Lilo Kaiser, a law clerk and constitutional literacy instructor, also suggests that her audience consider the ethics of our harsh punishments on children in her 2012 *Hennepin Lawyer* article "Throwing Away the Key: Sentencing Juveniles to Life in Prison Without Parole." She asks, "Have we, as a society, confused vengeance with justice?" and states, "...when a juvenile has never truly felt safe in the world nor has ever had basic needs met, this message is no longer appropriate; it is vindictive." This suggestion questions the retributive justice that Dilulio seems to advocate for. Her story shows the law's character as the immoral, violent, and oppressive agent because of its severity and its use of binaries to redefine children as adults because their behaviors do not fit into the socially crafted category of the behaviors that are typically associated with children. Again, it is Goliath who represents these powerful and immoral policies and David representing the children who are subject to Goliath's supreme force. Kaiser, too, assigns the scene as agent in her article. She argues that many of the youngest children who are sentenced to life without parole are "caught in crimes" that are being perpetuated by older teens or adults. With the scene as the agent, the children are without agency. And by asking the audience and society to give a voice to these children and consider the morality of mandatory sentencing of children as adults, she is assigning us as the only weapon these children have to stand up against Goliath.

This side of the rhetorical battle seeks to deconstruct the binary opposition of evil child and pure child to show that there are grey areas. Good people can do bad things and bad people can do good things. They advocate for laws that treat people not categorically, but individually. This side is also asking the audience to evaluate their own identity. EJI (2008), states, "The denial of all hope to a child whose brain-much less his character and personality-is not yet developed cannot be reconciled with society's commitment to help, guide, and nurture our children." As a society, we claim to have this value, yet these children need help, guidance, and nurturing, and we must practice our values, not simply talk about them. This side is also using the topos of definition to redefine the current policies of sentencing these young chil-

dren to life without parole as "cruel and unusual punishment," and as a "non-lethal form of death."

In June of 2012, in *Miller v Alabama*, the US Supreme Court ruled in a 5-4 split decision mandatory sentences of life without parole for juveniles unconstitutional under the Eighth Amendment, which prohibits cruel and unusual punishment (Miller, 2012). Justice Kagan delivered the opinion of the court:

Imposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were not children....Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features- among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him-and from which he cannot usually extricate himself-no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for in competencies associated with youth-for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it....By making youth (and all that accompanies it) irrelevant to imposition of that harshest prison sentence, such a scheme poses too great a risk of disproportionate punishment. (Miller, 2012)

This decision was a reaction to the harshness of sentencing of children and also acknowledges that children cannot be automatically re-categorized as adults based on their actions alone. The question of agency must now be a part of the sentencing decision. The courts must examine a juvenile criminal not categorically, but individually: "Now, before a juvenile can be sentenced to life without parole, certain factors must be considered, like the individual youth's background, life circumstances, and the nature of the crime" ("US Supreme Court Bans Mandatory Life Without Parole for Youth"). This question of agency and of the nature of the extreme punishments that comes from automatically redefining children as adults was a large part of the narrative that was exemplified in the EJI report and in Kaiser's article.

### Comparing The Narratives

Both these sides of the debate are effective because of their use of narrative to introduce the characters, the scene, the agent, and the events. These narratives relied heavily on the use of pathos over the use of logos or ethos. In judicial rhetoric, which concerns whether or not a thing happened, logos is used heavily. But because these arguments deal with punishment and are therefore epideictic and then deliberative, that is, they are asking the audience to examine their values and to assign blame, and then to keep both in mind when determining what or how we should handle this issue in the future, the rhetors turn more toward the use of pathos. In this paper,

I have included a discussion of texts that I consider especially persuasive. In my research, however, I found texts that I believe to be ineffective. One example is Heather Ann Thompson's (2011) article "Criminalizing Kids: The Overlooked Reason for Failing Schools." While this article was extremely informative, it was not particularly effective because it relied heavily on logos alone. For example, she begins with statistics on dropout rates and incarceration rates, but it is not until the third page of her five-page article that she establishes an image of a child being criminalized and gives an example. It is the use of narrative and the heavy use of pathos combined with logos that make the texts presented here especially effective.

Our values are not determined by our sense of logic and reason alone; emotions are key. Ellen Quandahl (2006), reminds us that for Aristotle, virtues become imprinted by a "habit (*hexis*) of action and *feeling*" (emphasis added). And in the question of who to assign blame or agency to, the rhetors find it more persuasive to create an image of violence and suffering of different characters in their narratives to engage the audience's emotions. One must be impassioned through emotions in order to act. Jonathan Lear also reminds us that Aristotle viewed emotions as a framework that individuals use to view the world and to establish their place in that world. So, suggests Lear, by manipulating that emotional frame used by the audience, "the battle of persuasion is virtually won" (Quandahl, 2006). Quandahl states that it is through our emotions that we have a sense of the way that things should be or should not be; individuals find their ethics within their emotions because what one experiences or *feels* is determined to be justified and therefore the cause of those emotions is deemed to have either goodness or badness. In other words, we feel justified enough in our specific emotions to make judgments about what surrounds or what is associated with those emotions. For example, if something initiates a feeling of fear, we will place a negative value on it, or deem it as unethical. Both sides of this debate engage our emotions in order to influence our values. The tough-on-juvenile-crime camp does this with the use of fear while the sentencing reform camp does this with empathy.

Each of these narratives is also effective because of the binary opposition of child/adult and victim/victimizer revealed in both. Binaries present a duality of subjects, in which each will carry a particular meaning based on its polar opposite (Kowaleski-Wallace, 1997). For example, the concept of child exists in its relationship, or its opposition, to adult and the concept of victimizer can only exist in its relationship to victim. Our ideas about and attitudes toward victimizer are shaped by the idea of a victim. Our ideas about child are shaped in opposition to our views about adult. According to Ferdinand de Saussure, binary terms are related but carry opposite meanings and it is with these opposing terms that we structure our world. According to Jacques Derrida, one binary is always privileged over the other; there is a hierarchy at work. Because of this hierarchy, one binary will have dominance over its opposite (Kowaleski-Wallace, 1997). The ingrained attitudes that we have about each binary are our judgments and ideologies that we carry with us. For example, we have certain judgments about what is meant to exist in the category of child or the category of victimizer. We have a

particular response to the label of child as being innocent and in need of protecting. We generally respond positively to the idea of child. We also have a particular response to the label of victimizer as being immoral and guilty of causing pain and suffering. Our sympathies are reserved for the victim and we have a negative response to the idea of victimizer.

I will first examine the binary of child/adult. In our culture, we use binaries to set up our legal system. We structure our justice system to acknowledge whether an individual is categorized as a child or an adult, and punishment is of course based on guilt or innocence. Binary opposition creates a space where there can be only an either/or relationship between the two binaries. We have legally placed individuals into one of two categories: juvenile or adult. Legally and culturally a child is decidedly someone who is under the age of 18; it is their age that determines their category. The idea of child is seen as a position of powerlessness, of naiveté, and of innocence. It is the category of adult that is typically seen as having power, of being aggressive, and as being in control. And in our society, adults make the rules that children must follow.

In Dilulio's narrative, the rhetor is attempting to categorize children by their behaviors instead of their age. By re-defining them as super-predators and showing them as violent, he is taking them out of the category of child. For example, he states that these children have "defects" and that "they will do what comes 'naturally': murder, rape, rob, assault, burglarize, deal deadly drugs, and get high." This is not the "natural" behavior that we associate with children. It is his suggestion that if a child does not display the behaviors of powerlessness, naiveté, and innocence, then we should not define them as children. And if society does not view them as children, we cannot punish them as children. The only other category we have is adult.

Dilulio does this re-defining for several reasons. First, in order for us to make sense of why or how a child, which we only see as without power and control, can be capable of behaviors that we understand as something that only adults, who are seen as having power and control, engage in, we find it easier to reconcile this dissonance by suggesting that these individuals are fundamentally different than other children. By defining children by their actions, we can release the consequences that lie with the idea that something has gone terribly wrong to make a child act out in this way. It is much easier for us to simply reassign them into the binary category of adult. Another reason Dilulio seeks to recategorize them as adults is because it then justifies harsher and more direct punishments for these children. Our interest is in punishing the crime, not understanding the factors that may have led to the crime. If we can understand these individuals as not children, but adults, we feel more comfortable, that is less guilty, and justified in punishing them. In the 1990s, it becomes decided that if children act out, especially violently or criminally, they have sought to move outside of their category and they must be punished in a way that shows them and society that attempting to step out of their category will have severe and violent consequences. This is a way to control. A way to establish order. These categories, however, only represent one perspective or one interpretation of the world. We are influenced by these categories and expect that people

should be able to compartmentalize. When this doesn't happen, we see it as chaos. We then seek to establish order. The fact that mere children are causing chaos in our society and are acting as oppressors of us where we must live in fear, becomes another concept that we struggle to come to terms with. We cannot make sense of a world where the ones without power are capable of upsetting our status quo, and so again, we simply assume that these individuals cannot be recognized as children. Rhetorically recategorizing children makes it easier for the law to also recategorize these children as adults.

In EJI's narrative, the rhetor attempts to show that these children are in fact powerless, vulnerable, and while not innocent of their crimes, they are not culpable, or blameworthy. The characterization of these individuals by EJI seeks to place them back into the category of children from where they have been previously removed. This side of the rhetorical battle also seeks to deconstruct the view that children can be redefined based on their behaviors alone, suggesting that people cannot be defined by a single action alone. Again, "good" people can do "bad" things and "bad" people can do "good" things. If we begin to categorize people as adults or children based only on whether or not they display power, or aggression, or submissiveness, our legal construction of the categories will then break down altogether. We would have to also redefine adults who display a lack of power, as children. And, of course, these definitions would continuously change since individuals often display dominance as well as submissiveness, depending on the circumstances. EJI urges for laws to treat people not categorically, but individually-to do away with *mandatory* sentencing policies for children that are based on one action alone.

Another binary revealed within Dilulio's narrative is that of victim/victimizer. This seems to be a chosen framework to make sense of how children can act violently, of who is to blame, and how we can restore order. The suggestion is that the reason these children act violently is because they are naturally victimizers. Dilulio is very much in favor of keeping these two binaries within their established categories. His narrative supports the idea that if an individual committed a crime, they are guilty of being a victimizer, and must take the full blame as well as the punishment for it. In this structure, one is only innocent if they are the victim. For this reason, Dilulio highlights these children as victimizers and diminishes the fact that because many of them were brought up in abusive or neglectful environments, they could be seen as victims themselves. Even though Dilulio states that these children have been raised in "abusive, violence-ridden, fatherless, Godless, and jobless settings," he is clear in not giving them the label of victim. Throughout his article, they are characterized as victimizer. By redefining these children as "super-predators," they are clearly given the label of victimizer. Also, Dilulio states, "[t]hey are perfectly capable of committing the most heinous acts of physical violence for the most trivial reasons...the things that super-predators get by their criminal behavior-sex, drugs, money-are their own immediate rewards." This person he is describing cannot possibly be interpreted as a victim, and is clearly one who makes others their victim. And by also giving them full agency, they cannot be seen as victims of others. Dilulio shows society as

being the victim of these predators. We cannot see these children as victims of a society who failed them because that would implicate us as victimizer. If someone is the victim, it must be "us" and if someone is the victimizer, it must be "them."

Our idea of victim releases in us an emotional sympathy and a need to protect and take sides with the victim. Our natural response to the victimizer is one of anger, judgment, and wrath. Dilulio must show these children as only victimizers so that it becomes easier to give them agency. After all, they are responsible for disrupting our society, and only one with agency could possibly do this; only a victimizer can cause this turmoil. Dilulio ignores the fact that many of these children have themselves been victims of abuse and neglect and are often reacting violently in response to this place of disempowerment, allowing us to neatly assign the responsibility of a crime to one party that can then easily be punished, which is what we demand in our criminal justice system. Keeping the categories of victim and victimizer separate creates a sense of order. We understand how to feel about a victim and how to feel about a victimizer, but we have a much harder time understanding how to feel about an individual who is capable of being both victim and victimizer. How can these two categories, one dominant and one subservient, exist within the same person? More importantly, how can one be expected to compartmentalize that person, which is what we seek to do so that things are orderly. Because we sentence criminals based on guilt and innocence, we can easily assign guilt to one who fits neatly into the category of victimizer and can more easily assume innocence of one who fits into the victim category. Assigning blame is of clear importance in criminal proceedings, but it also seems to be of psychological importance in removing chaos from our world and establishing order.

So what about those individuals who do display characteristics of both victim and victimizer? EJI seeks to disrupt these two categories and show that these children do not fit neatly into the compartment of victimizer because they are also victims. By showing these children as victims, the public cannot so easily mark them and therefore assign full guilt to them. This narrative gives us a chance to wrestle with the idea of how to feel about someone who is both victim and victimizer. Our neatly structured binary then becomes problematic. Our natural responses to each of these categories becomes unstable; we now feel both sympathy and anger for a single individual. EJI's narrative causes us to examine the grey areas of these categories more closely and decide if we can assign blame and punishment as easily as we could when the individual fit into the category of victimizer alone. By complicating these categories, EJI shows that the law is not fair or just if it only treats individuals categorically and not individually.

The narratives presented here are effective at causing a social change in punishment policies because they do not take place in a single courtroom. Instead, they are public narratives that cast a much wider net and are capable of affecting the sentencing of not a single individual, but of thousands of juveniles. The public narrative created by Dilulio is clearly attempting to show the violence within the character of these individuals and the violence of the crimes they are capable of

committing. He is consistent in presenting this particular character. What he does not do is isolate and discuss any individual victims in order to illuminate their pain and suffering. Nor does he isolate any one juvenile to show them as having a dangerous character and being incapable of change. This absence of an individualized victim allows the audience to generalize and therefore identify as a possible victim of one of these super-predators. And by categorizing the character of these children instead of looking at their character on an individual basis, Dilulio is able to cast judgments on a group rather than a single person while also dehumanizing them in order to justify harsher punishments. His attempt is to show that harsh punishments are justified for these children. What is absent from his narrative is the actual violence of these punishments. The audience gets an image of the possibility of crimes and the mind of the criminal, but they do not get an idea of the harshness of the punishments that he is suggesting.

The public narrative of EJI attempts to persuade that these harsh punishments are in fact *not* justified. This narrative leaves absent the violence of the crimes committed and focuses on the violence that surrounded these children before their crimes, as well as the violence of these harsh punishments. Within this narrative, select individuals are highlighted and discussed. For example, as stated earlier, to show the violence that surrounded one individual they state, "Ashley Jones was repeatedly threatened at gunpoint by her parents, sexually assaulted by her stepfather, forced into crack houses by an addicted mother, physically abused by family members, and abducted by a gang shortly before her crime" ("Cruel and Unusual," 2008). This shows her as having the character of a victim, not a super-predator. Through language, EJI attempts to "show" the reader what this young girl endured before she reacted criminally to her environment. In order to illustrate the violence of the current sentencing practices, they define some of these mandatory sentences as "cruel and unusual punishment," and as a "non-lethal form of death." They also include some of the violence that takes place within the prison to these children. Again, they highlight the experiences of an individual such as the boy mentioned earlier in an Alabama prison. By selecting individuals to focus on, they are attempting to humanize these children so that the audience will have a harder time justifying these violent punishments. And EJI is required to use language to attempt to make law's violence visible because this violence is often hidden and often has no wound that can be seen. They must face the challenge of expressing a physical and mental experience through descriptive language alone. (Austin Sarat, 1993, has also included much work on law's violence in his scholarship.)

Each of these narratives also assigns agency, or blame, to different sources. The first narrative presented by those who put agency on the child is telling the story in a way that magnifies society's perspective. By doing such, this justifies the punishment of the individual. The opposing side, which assigns the blame to the scene instead of the individual, is giving the child's perspective, enabling the rhetor to cast the punishment as the harsher character of the narrative. Each story is asking the audience to determine how we should treat and punish children in the future. Each narrative makes

a persuasive case for their arguments by describing a character in a particular light and showing a specific perspective. Narratives have been effective in creating social change because, as stated by Davis, 2002, "through stories, participants are called to take an evaluative stance toward social conditions ...and imagine together an alternative social order."

While both of these narrations can be seen through a David and Goliath framework, the narrators take care in creating a particular story that they want presented to the audience. Both are told from the perspective of David, but each side assigns something or someone different to be represented by David. This gives the audience a different perspective and a different way to view the issue of punishment for children. The tough sentencing side portrays society as the weaker party and the "super-predators" as the character with power; they are also portrayed as evil, making them Goliath and society, David. Society is given hope that if we change our policies for trying and sentencing juveniles, we can defeat the super-predators. Just as in the biblical story, Dilulio's narrative is one of good vs. evil. Here, the narrator only tells the story from society's perspective, and the children's side is left untold. On the other hand, those who advocate for these children show the trying and sentencing policies as Goliath, and the children as David. The policies have the power and are immoral, while the children are the weaker party and are inherently good. By giving a voice to these children, this encourages the hope that they can win the battle against these extreme sentencing practices. The narrator tells the children's side of the story, and the policies' side is left absent.

### Reflections

These narratives give us the language and a framework with which to understand the relationships among society, children, and punishment. By providing different perspectives on the same issue, the narrators have the power to build a story that will constitute for the audience a particular reality that will guide our social decisions. For those who are persuaded by the tough-on-juvenile narrative, a fear of super-predators moves from being a piece of rhetoric to being a reality, as does the viewpoint that society is in a state of chaos because of these juvenile offenders. The idea that all individuals are fully responsible for their actions, that individuals must be punished severely when they harm society, and that removing these individuals from society will bring back order are the ideologies that are promoted through this narrative. These ideologies together with the constituted realities of fear and chaos create a situation that drives the social policies of mandatory sentencing of children as adults.

The sentencing reform narrative also builds a story that will constitute for the audience a particular reality that will guide our social decisions. That is, for those who are persuaded by this narrative, guilt or sympathy for these children becomes more than a rhetorical strategy; it becomes a constituted reality. This sympathy is furthered by the realities of the abuse and neglect that many of these children have suffered, the violence of their punishments, and by the promoted ideology that it is society's responsibility to protect children because they are not capable of acting as agents themselves. These realities combined with these ideologies work to

change our social policies that establish how we punish children who commit crimes.

The social realities that are created and reinforced by these rhetorical acts are significant because they have the power to establish the fate of thousands of children. By moving these narratives out of the courtroom and into the public sphere, they engage a much broader audience by which these children are judged publicly. And the broad social policies-such as mandatory juvenile sentencing and the Supreme Court decision that established sentencing juveniles to life without parole as cruel and unusual punishment, which are an effect of such rhetorical narratives-affect the sentencing of many rather than just one individual, such as in a courtroom trial. These narratives are also significant for the trickle-down effect that these policies have on how we treat misbehavior from children in general. For example, Zero-Tolerance policies in schools were adopted in several states as early as 1989, which were established specifically to control drugs and weapons in schools. However, by the mid-90s, when headlines of super-predators were introduced, schools were using this same Zero-Tolerance policy to justify punishments for all behavioral violations (Skiba, 2000). The number of suspensions and expulsions for common juvenile behavior is worrisome, but even more alarming is the number of students who are handcuffed, pepper-sprayed, tasered, and even arrested in schools for juvenile behaviors (Snyder, 2012). For some time, children have been treated in schools as the enemy, with punitive measures to establish behavior control. However, in more recent years, these zero-tolerance policies have come under scrutiny, as narratives of juvenile punishment reform have been established (Skiba, 2000; "Position Statement 46: Zero Tolerance Policies in Schools," 2013; and Boylan, 2002). This re-examination may work to begin protecting students from severe penalizations.

My hope is to expose the power of narratives in constituting realities that affect broad social controls that have an impact on the children of this country. It is important that those who produce this rhetoric as well as those who consume it understand the realities that are being created so they can better understand the effects that are possible and manage those effects in a responsible manner. In fact, John Dilulio, who coined the term super-predator, publicly announced in 2001 that, "he wished he had never become the 1990's intellectual pillar for putting violent juveniles in prison and condemning them as 'superpredators.' 'If I knew then what I know now, I would have shouted for prevention of crimes'" (Becker, 2001). I also hope that those in the field of juvenile justice and all areas of juvenile advocacy will continue the research into the rhetorical strategies that are effective in creating fair and just outcomes for children.

### Reference

1. Annin, Peter. "Superpredators Arrive: Should We Cage the New Breed of Vicious Kids?" *Newsweek*. Newsweek, 21 Jan.1996. Web. 3 March 2013.
2. Ansell, Nicola (2005). *Children, Youth and Development*. New York: Routledge. Web. 10 May 2013.
3. Becker, Elizabeth . "As Ex-Theorist on Young 'Superpredators,' Bush Aide Has Regrets." *New York Times*. New York Times, 9 Feb. 2001. Web. 3 March 2013.

4. Benford, Robert D (2002). "Controlling Narratives and Narratives as Control Within Social Movements." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 53-78. Print.
  5. Boylan, Ellen M (2002). "Advocating for Reform of Zero Tolerance Student Discipline Policies: Lessons from the Field." Education Law Center. N.p.. Web. 5 March 2013.
  6. Boys, Don (1997). "Criminal Children: The Lunacy of Leniency." *Common Sense for Today*. Cornerstone Communications. Web. 16 May 2013.
  7. Brown, Michael F (2002). "Moving Toward the Light: Self, Other, and the Politics of Experience in New Age Narratives." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 101-122. Print.
  8. Bruner, Jerome (1991). "The Narrative Construction of Reality." *Critical Inquiry* 18.1: 1-21. Web. 17 April 2013.
  9. "Cruel and Unusual: Sentencing 13- and 14-Year-Old Children to Die in Prison." Equal Justice Initiative. *Equal Justice Initiative*, 2008. Web. 4 March 2013.
  10. Davis, Joseph E (2002). "Narrative and Social Movements: The Power of Stories." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 3-30. Print.
  11. Dilulio, John J. "The Coming of The Super-Predators." *The Weekly Standard*. The Weekly Standard, 27 Nov. 1995. Web. 3 March 2013.
  12. Falk and Ross Law Firm (2013). "What is The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act?". Falk & Ross, PA. Web. 4 April 2013.
  13. Fisher, Walter R (1987). *Human Communication as Narration*. Columbia: U of South Carolina P. Print.
  14. "The Invasion of the Superpredators." *London Times*. London Times, 16 Feb. 1997. Web. 14 March 2013.
  15. "Juvenile Justice: Facts and Stats." *Frontline PBS*. PBS, 2013. Web. 6 April 2013.
  16. Kaiser, Lilo. "Throwing Away the Key: Sentencing Juveniles to Life in Prison Without Parole." *Hennepin Lawyer*. Hennepin County Bar Association, 1 March 2012. Web. 3 March 2013.
  17. Koproowski, Gene. "The Rise of the Teen Super-Predator." *Washington Times*. Washington Times, 23 Oct. 1996. Web. 8 March 2013.
  18. Kowaleski-Wallace, Elizabeth (1997). *Encyclopedia of Feminist Literary Theory*. New York: Garland Publishing, Inc. Print.
  19. Lakoff, George, and Mark Johnson (1980). *Metaphors We Live By*. Chicago: U of Chicago P. Print.
  20. Miller v Alabama. US 10-9646. Supreme Court of the US. 2012. Legal Information Inst., Cornell U Law School, n.d. Web. 20 April 2013.
  21. Nolan, James L. Jr. (2002) "Drug Court Stories: Transforming American Jurisprudence." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 149-178. Print.
  22. Pollenta, Francesca (2002). "Plotting Protest: Mobilizing Stories in the 1960 Student Sit-Ins." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 31-52. Print.
  23. "Position Statement 46: Zero Tolerance Policies in Schools." Mental Health America, 2013. Web. 6 May 2013.
  24. Quandahl, Ellen (2006). "On a Rhetorical *Techne* of the Moral-Emotions." *Rhetorical Agendas: Political, Ethical, Spiritual*. Ed. Patricia Bizzell. Mahwah: Lawrence Erlbaum Associates: 151-156. Print.
  25. Rice, John Steadman (2002). "'Getting Our Stories Straight': Culture, Narrative, and Identity in the Self-Help Movement." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 79-100. Print.
  26. Rothenberg, Bess (2002). "Movement Advocates as Battered Women's Storytellers: From Varied Experiences, One Message." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 203-228. Print.
  27. Sarat, Austin (1993). "Narratives of Violence in Capital Trials." *Law and Society Review* 27.1: 20-55. Web. 26 April 2013.
  28. Scott, Elizabeth S., and Laurence Steinberg (2008). "Adolescent Development and the Regulation of Youth Crime." *Juvenile Justice* 18.1: 15-33. Web. 8 April 2013.
  29. Skiba, Russell J (2000). "Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice." ERIC. Indiana Education Policy Center. Web. 6 May 2013.
  30. Snyder, Michael. "19 Crazy Things that School Children Are Being Arrested for in America." *The American Dream*. N.p., 31 Jan. 2012. Web. 6 May 2013.
  31. "Superpredators Arrive." *Newsweek*. Newsweek, 21 Jan. 1996. Web. 14 March 2013.
  32. Tatum, Jeffery D (2002). "Compassion on Trial: Movement Narrative in Court Conflict over Physician-Assisted Suicide." *Stories of Change: Narrative and Social Movements*. Ed. Joseph E. Davis. Albany: State U of New York P: 179-202. Print.
  33. "Teenage Time Bombs." *U.S. News & World Report*. N.p., Dec. 1995. Web. 14 March 2013.
  34. Thompson, Heather Ann (2011). "Criminalizing Kids: The Overlooked Reason for Failing Schools." *Dissent* 58.4: 23-27. Web. 8 March 2013.
  35. "US Supreme Court Bans Mandatory Life Without Parole for Youth (2013)." National Center for Youth Law. Web. 14 April 2013.
  36. Wooten, James, and Robert O. Heck (1996). "How State and Local Officials Can Combat Violent Juvenile Crime." The Heritage Foundation. Web. 6 March 2013.
  37. Zoglin, Richard. "Now For the Bad News: A Teenage Time Bomb." *Time*, 15 Jan. 1996. Web. 10 March 2013.
- Works Consulted**
1. Cover, Robert (1995). *Narrative, Violence, and The Law: The Essays Of Robert Cover*. Ed. Martha Minow, Michael Ryan, and Austin Sarat. Anne Arbor: U of Michigan. Web. 14 April 2013.
  2. Scarry, Elaine (1985). *The Body in Pain: The Making and Unmaking of the World*. New York: Oxford UP. Print.