

Juvenile Justice  
New York University  
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Dr. Miner

*Instructions:*

This is your final, take-home analysis. Consider your learning and how you can illustrate what you have learned. Each final will likely look unique because there is so much you have learned. I do not expect you to comprehensively apply every single concept, theory, statistic or idea you have learned. Instead, use your knowledge to write about 8-10-pages. If you would like to write more, you absolutely welcome! No maximum page limit. For you and me, please bold, underline or italicize your class concepts. They should be all over each page. In this way, you are sure that you are integrating your learning. Do not retell their stories. Make assumptions, but make sure to explain them and use your reasoning. For instance, you might assume that Erica has suffered trauma because data indicates that youth who are victims of sexual assault suffer deep trauma. You are free to consider whether a youth should be removed and discuss the foster system if you choose.

This is your last course opportunity to think deeply about a youth, their lives, risks, insulators and what the decisions we have made, upon what those decisions have been made, and what we are likely to do today based upon our evidence, Supreme Court cases, data, and societal pressures.

There are two case studies. Choose ONE. Regardless of your choice, please consider your learning and how you would approach Timothy or Erica, their history, present state and future. More specifically, consider that we are social scientists. We use evidence and data to understand, inform and make decisions. What data have you learned that would help you understand the context within which these youth are facing her risks and the youth justice system. For instance, what can you explain about system data and offending trends and who is placed in facilitates most often. As you move through the analysis, use your data wherever applicable to shed further light on her and our system. Do the same with regard to the historical context, evolution, and purposes of our system. In other words, How does the purpose and history of our juvenile justice system influence their futures and the decisions that will be made.

Next, consider your theoretical applications that help us understand possible correlates and risks of offending, including social processes, individual traits, social structures, and societal theories. Often, these are combined with environmental factors, such as gender, sexual orientation, race, age (consider brain development and our reliance of deterrence), families, peers, community, schools and society and should be an important portion of your analysis.

Next please walk Timothy or Erica through the youth justice system beginning with police intervention and make informed decisions about what is likely to happen to her or what you, based upon your learning and evidence, believe should happen to them. Don't use phrases such as "in my opinion." Instead, use phrases such as, "based upon our theoretical models..." Or, based upon our current trends, the court is likely to..." Make sure you include important issues, such as whether she can waive her rights to remain silent. HOWEVER, even if you argue that your youth should be treated informally and diverted, you will still need to move your youth through the system. You can transition by saying something like, "if Timothy is not diverted, she will likely be offered a plea bargain because (analytical transition words, such as because and therefore, or for that reason... help you illustrate your ability to apply your learning to new contexts and illustrate your higher-order thinking skills!) about 94% of all cases are plea bargained. But, if either did go to trial she has the following constitutional rights...

Finally, suggest programs, treatment, interventions that you argue would have helped prevent their offending and what programming could decrease risks for reoffending. The most important part of this section is to illustrate your understanding of how we choose a program (or should choose a program!), evaluate a program for its efficacy and the importance of utilizing programs that meet their stated goals, as well as providing wraparound services that meet the needs of your youth.

Adiba Chowdhury

December 19th, 2022

Youth Justice, Dr. Miner-Romanoff

*Final Exam Case Study: Timothy's Path Forward*

***Data Informed and Evidence-Based Decision-Making:***

First and foremost, a number of Timothy's family circumstances and individual traits are incredibly common **risk factors** for justice-involved youth. The most obvious is that his direct relatives, including his mother, father, and grandfather are all incarcerated. A 2008 Department of Justice report found that Latino children were two and a half times more likely than white children to have an incarcerated parent, which **reflects disproportionate minority impact** (Martin). According to a 2008 report from the Urban Institute, children of incarcerated parents can experience trauma related to their parents' arrest, financial hardship, and disadvantages relating to their educational prospects (La Vigne et al.).<sup>1</sup> Speaking to the latter, Timothy's family does indeed have a lower socioeconomic status, as evidenced by their living in subsidized housing, and reinforced by their community's lack of resources and underfunded schools. Speaking to the former, from a National Institute of Justice report, "The most common consequence of parental incarceration appears to fall under the umbrella of antisocial behavior, which describes any number of behaviors that go against social norms, including criminal acts and persistent dishonesty. One meta-analysis of 40 studies on children of incarcerated parents

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<sup>1</sup> This study is referenced on youth.gov, the main webpage of the federal Interagency Working Group on Youth Programs.

found that antisocial behaviors were present more consistently than any other factors, including mental health issues and drug use” (Martin). Timothy has been a otherwise model student, but around the same time his uncle committed suicide, his grades dropped from above average and he began getting in trouble for school fights. As the same report explains, “antisocial behavior resulting from parental incarceration may limit a child’s resilience in the face of other negative experiences, which could then compound the effects of exposure to other issues.” In other words, Timothy is at high risk of having behavioral issues due to the trauma of his parents’ incarceration and consequent lack of **parental engagement**, which itself may have lifelong repercussions.

Additionally, regional trends in the Bay Area majorly disadvantage Latino youth like Timothy, shaping the trajectory of his life through no fault of his own. For one, the Bay Area historically struggles with a major wealth gap, as people of color are disproportionately struggling with poverty; for example, according to the U.S. Bureau of Labor Statistics, Latinos, Native Americans, and African Americans have “the least access to high-opportunity jobs” (qtd. in PolicyLink and PERE 58) which may have played into his grandfather selling crack cocaine in the 80s, not coincidentally during the so-called War on Drugs. Timothy is also more likely to be pushed out of school: “during the 2017-2018 school year, two-thirds of schools in the San Francisco, Oakland, Berkeley and San Jose, Sunnyvale, Santa Clara metro areas reported unequal discipline practices, according to the Department of Education.”<sup>2</sup> The presence of SROs at his school and the fact that his community’s school is underfunded, on top of the existing issue of unequal discipline, indicate that though Timothy’s inciting event is outside of school, he could

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<sup>2</sup> Glover, Julian, and Lindsey Feingold. “18x More Likely to Be Suspended: Bay Area Schools Grapple with Excessive Discipline.” ABC, Inc., KGO-TV San Francisco, 20 Aug. 2021, [abc7news.com/black-and-latino-students-excessively-disciplined-in-bay-area-schools-student-discipline-suspended-more-san-francisco-unified-suspensions/10960540/](https://abc7news.com/black-and-latino-students-excessively-disciplined-in-bay-area-schools-student-discipline-suspended-more-san-francisco-unified-suspensions/10960540/).

easily have been driven through the **school-to-prison pipeline** had his getting into fights continued.

***Theoretical Application:***

Based on the implications of the aforementioned data for children of justice-involved parents, **attachment theory** — which posits that lack of proper attachments in early childhood is conducive to antisocial behavior, especially for males like Timothy — is both empirically backed and particularly applicable. Given the timeline, Timothy's father has been incarcerated since he was ten, and one can presume he and his mother may not have the strongest relationship as a consequence of her struggle with addiction. As such, we may look to alternative **social bonds** to insulate Timothy, as **social control theory** suggests that a strong attachment to education and community can prevent youth involvement in the justice system. However, there are evident limitations to this, considering that though Timothy's teachers are aware of his family circumstances and making efforts to help, they are not trauma informed and there are no mental health counselors to intervene. Additionally, there are **deviant** agents to push back on any strides made by Timothy's educators, as gangs in the area may coerce Timothy by presenting a presumably more **rational choice**: an opportunity to receive the support he wants without the long commute to and pressures of school.

**Social disorganization theory** expounds on this issue, as it presumes offending is a product of social forces in urban areas with high poverty rates, resulting in neighborhoods lacking internal control. While for Timothy's case, it is accurate to argue that his region is unable to support him, as a Latino youth, his community may be unwilling to support him at the same

time. Following the rise in popularity of **broken-windows policing** in the 1990s — which itself was a result of the intentional exaggeration of social disorganization theory, arguing that even small instances of social disorder create an “atmosphere of lawlessness” — many communities still grapple with its residual effects and the fraught relationships of law enforcement with people of color.<sup>3</sup> The Bay Area itself has a history of racial profiling, according to the *San Francisco Chronicle*:

“In San Francisco and Los Angeles, The Chronicle found, Black people were nearly 6 times more likely to be stopped by police than white residents in 2020, when factoring in the relative city populations of the racial groups. In Oakland, Black people were 5.3 times more likely to be stopped. In Sacramento, Black people were 3.7 times more likely to be stopped.” (Gardiner and Neilson)

Timothy has experienced this approach, having been racially profiled since he was 12/13. In such a state (reiterating prior references to empirically proven inequities in discipline and financial hardship), it is not unreasonable to argue that Timothy might expect nothing positive from or for his community if nothing good is expected of him. In other words, his social growth is also constrained by the **labels** placed on boys of color by justice system agents and others.

### ***The Youth Justice System:***

First, upon intake, due to his age and the value of the laptop, it would have been reasonable to expect that the police would not divert Timothy or use community alternatives.

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<sup>3</sup> “Shattering Broken Windows.” *Columbia Law School*, The Trustees of Columbia University in the City of New York., 0 Apr. 2015, [www.law.columbia.edu/news/archive/shattering-broken-windows#:~:text=First%20proposed%20by%20the%20late,that%20encourages%20more%20serious%20crimes](http://www.law.columbia.edu/news/archive/shattering-broken-windows#:~:text=First%20proposed%20by%20the%20late,that%20encourages%20more%20serious%20crimes).

Police discretion can also be influenced by other situational factors, including the preference of the victim and the suspect's demeanor, but in San Francisco, theft of items valued at more than \$960 is a felony (Nechay). As such, the crime is presumably too serious, but were the officer able to decide what to do as opposed to being required to ask for charges filed, it would have been more likely that Timothy would be placed on informal probation due to the seriousness of the crime but in consideration of his circumstances.<sup>4</sup> This could include Timothy's required attendance in counseling or community programs, and consistent attendance at school.

Based on the scenario, Timothy was arrested and granted bail which he could not afford; in August 2022, the San Francisco District Attorney announced that they would pursue "less restrictive alternatives" to pre-trial detention, adding that "Cash bail unfairly penalizes those with less financial means and disproportionately affects defendants of color," (qtd. in Ferrannini). This qualifying factor should have been recognized in this case according to our **detention assessment tools**, in addition to recognizing that Timothy poses no danger to the public and that both he and his community would be better served with him staying at home prior to his appearance in court. At the same time, youth are not granted the right to bail in America in the first place, so there are warring influences on the Court's choices.

To further contextualize what the Court will and won't do, it is critical to recognize that detention and incarceration have historically rested on **deterrence** and punitive ideologies. Using discretion to keep Timothy at home is at odds with the goals of being consistent and certain in punishment and to communicate clear consequences for criminal activity, to paraphrase from our class presentation. The youth justice system also draws from the doctrine of **parens patriae**,

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<sup>4</sup> This ability for the officer to choose may be dependent on location in the Bay Area; for example, according to the Superior Court of California, County of Santa Clara's website, "The officer has to know the facts. If the crime is very serious, the officer HAS TO ask that charges be filed. If the charges are not serious, the officer can decide what to do" ("Juvenile Justice Hearings").

which reserves the right of the state to serve as a guardian for children, which, considering that many statutes originated from a paternalistic or otherwise discriminatory perspective, can itself pose risks to restoring the rights of a child. **Restorative justice** poses a progressive alternative, which measures its results in how much repair is done for both the victim and offender. For example, in May 2019, Contra Costa County became the fourth county in California to agree to implement **diversion through mediation** for youth; according to the Impact Justice organization's press release, "this means when a young person is arrested for a serious misdemeanor or a felony, such as robbery, burglary, or assault, the district attorney may refer the case to RYSE Youth Center to hold a facilitated face-to-face meeting with the consent of the person harmed, the responsible youth, respective family members, and other impacted community members" (Lee).

With that said, since the scenario indicates Timothy is unable to pay bail and thus currently detained, the next step in the process would usually be a transfer hearing. However, as of January 2019, youth in California can only be transferred to adult court if they were 16 or 17, so Timothy does not face that particular obstacle (Pacific Juvenile Defender Center). Moving ahead, before the jurisdiction hearing, the prosecutor and Timothy, represented by his defense counsel, may reach an agreement for Timothy to plead guilty and go straight to sentencing. This rationale behind making this decision, how the prosecutor moves forward, and how the judge sentences would change if Timothy committed the theft violently or by threatening the victim — which would then be considered robbery — since it is his first time offense, we will proceed under the assumption that this is not the case. As the vast majority of cases do not go to trial, and considering that Timothy would likely be found guilty during trial, the choice to **plea bargain** would then dependent on whether the prosecution offers a "good enough" deal or if there were



circumstances surrounding the arrest or crime that the defense decides cast doubt on the validity of the charges.

Either way, Timothy now faces a few different outcomes, including informal probation, formal probation, and deferred entry of judgement. This does not include incarceration, because according to California's penal code, Timothy cannot be committed to the Division of Juvenile Facilities, not having committed a "Section 707(b)" offense (Shouse Law Group). If informal probation is decided on by the judge — or prosecutor, in the case of the plea bargain — the charges are dismissed and Timothy's record sealed so long as Timothy fulfills the set conditions. This is a more likely outcome if the victim offers an impact statement in Timothy's favor. Deferred entry of judgement is a similar option, in that the charges will be dismissed given participation in a DEJ program. The only differences are the length, as DEJ lasts from one to three years, and should Timothy perform poorly, deferred entry may be lifted and the charges sustained (Shouse Law Group). Formal probation results in commitment to a probation camp, and will be the result of Timothy's trial if the Court declares Timothy a ward of the court. This is both unlikely and entirely undesirable, given that Timothy being removed from his home and community and sent to a probation camp is uncondusive to his growth and development; it also requires that he pay restitution for the laptop, in which case his grandmother will need to prove an inability to pay, as is likely the case.

In the best case, Timothy should be placed on informal probation or in DEJ. This prevents excessive involvement with the carceral system relative to the severity of his offense and given the various disadvantages and challenges he's faced before offending; given what we've learned about **protective factors**, probation at home is also amenable because it preserves the stability of his life in remaining with his family and in his community, and protects his future

success by avoiding a record. On the other hand, the judge may note the presence of gangs and possible influential **subcultures** (especially if the judge is made aware that Timothy drinks and smokes with his friends), as well as the instability of his parents' presence and the difficulties his grandmother faces in guardianship; this may lead the judge to choose to declare Timothy a ward and/or place more restrictive conditions following his sentencing, reasoning that removing him from that environment is necessary to ensure rehabilitation.

### ***Prevention and Aftercare:***

In order to ensure that appropriate conditions are set for Timothy should he be placed on probation or placed in a DEJ program structure, both for his success and to prevent reoffending, there are a number of best practices that the Court should follow. Timothy's background indicates that he has a high level of **criminogenic need**: that is, characteristics like substance use, a lack of social bonds, and certain anti-social behaviors that can be changed or improved upon through treatment and support services. Consequently, to create a program structure that best serves Timothy and the community at large, the judge, prosecution, and defense should conduct a comprehensive assessment and focus on his forming **prosocial connections**.

**Routine activities theory** and **social bonds theory** may again play into what programs Timothy is placed in, as the judge may believe that as this theory suggests, as in the absence of a truly capable or supportive guardian or a strong attachment to school, Timothy will be more likely to reoffend. For this concern, Timothy may be placed in a program like Santa Clara County's truancy abatement program, in which schools meet with families and their youth to reduce the youth's absences, and directs them to mediation if need be ("Community Programs").

Timothy was also diagnosed with bipolar disorder on intake, **neurological theory** explains that leaving this illness untreated can disadvantage Timothy's stability and contribute to antisocial behavior. Consequently, Timothy should participate in services offered by the Center on Juvenile Criminal Justice, which serves Bay Area populations and one of whose options include "Community Options for Youth"; this particular service includes therapy and intervention and can be hosted at home, thus removing the need for a clinical setting that may be intimidating and inaccessible for Timothy and his family (Cochrun). This follows the **risk principle**, which tells us that the intensity and duration of services should match the child's risk level.

To produce the best outcome, Timothy may also be well served by participating in the Fresh Lifelines for Youth program; considering that throughout his life, Timothy has struggled with being labeled and experiences financial hardship, participating in F.L.Y. could encourage and develop his growth and upward mobility, given that it offers a combination of legal education, leadership training, and one on one mentorship ("Community Programs"). This would **insulate** him from reoffending as he grows older and more independent, especially if he chooses to stick with it after he completes the required period of participation. With these programs, Timothy may move forward without experiencing **strain** and stress over achieving his dreams.

As for programs that may have reduced or removed Timothy's risk of offending, according to the National Institute for Justice, "More research is needed to tease out when, for whom, and in what circumstances parent-child visitation should be encouraged...further research may show that visits may be beneficial — or detrimental — at certain ages and stages of childhood development" (Martin). This is critically relevant for Timothy, as recommendations

around visitation would drastically affect his relationship with his dad during his dad's incarceration.

Bearing in mind both **rational choice theory** and **learning theory**, programs that could have prevented Timothy's offending must offer alternatives to the opportunities offered by gangs, reinforce his mental health and strengthen his relationship with institutions responsible for his socialization, even if his community itself does not improve. Consequently, Timothy would have benefited from participating in programs offered by the HOMEY nonprofit, rooted in San Francisco. HOMEY supports Latino youth empowerment and community building through the Kalpulli Leadership Program, which teaches civic engagement and assists within graduating and college applications, and CALLES (named in Spanish for "streets"), which provides street-level interventions to reduce the influence of gang violence and encourage prosocial youth development (HOMEY). For his mental health and school absences, Timothy could have also been directed to participate in the Delinquency Prevention Network, which provides counseling and truancy mediation services in Alameda County, or the San Francisco Health Network, which does the same for free and confidentially. It stands to reason that with his story, Timothy deserves every opportunity to reach his full potential, and given these services beforehand or following involvement with the justice system, he is fully capable of a more hopeful trajectory.

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